



MONTGOMERY COUNTY FIRE CODE

AS

ADOPTED: November 19th , 2007

EFFECTIVE: January 1st, 2008

Montgomery County Commissioner's Court

Hon. Alan Sadler, County Judge

Hon. Mike Meadors
Commissioner, Pct. #1

Hon. Ed Chance
Commissioner, Pct. #3

Hon. Craig Doyal
Commissioner, Pct #2

Hon. Ed Rinehart
Commissioner, Pct. #4

Montgomery County Fire Marshal's Office

Jimmy Williams,
Montgomery County Fire Marshal

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

**ADOPTION OF COUNTY FIRE CODE
BY MONTGOMERY COUNTY COMMISSIONERS' COURT**

WHEREAS, §233.061 of the Texas Local Government Code governs the county authority to adopt a fire code and rules necessary to administer and enforce the fire code;

WHEREAS, It is hereby found by the Commissioners Court of Montgomery County that fires have occurred in the past within its jurisdiction and are likely to occur in the future, and that damage to property and loss of life occurs for many reasons including fires that could have been prevented or minimized by providing additional safety guards to provide adequate egress time and protection for people exposed to fire.

WHEREAS, The purpose of this Code is to provide minimum requirements, with due regard to function, for the design and Construction or Substantial Improvement of Public Buildings, Commercial Establishments, and multifamily residential dwellings consisting of four or more units to reduce the risk to life and property from fire

WHEREAS, The County shall inspect a building subject to this subchapter to determine whether the building complies with the fire code.
Tex. Loc. Gov. Code §233.064(a).

NOW, THEREFORE, BE IT ORDERED that the Commissioners Court of Montgomery County hereby adopts the Montgomery County Fire Code:

IT IS FURTHER ORDERED that the Montgomery County Fire Code shall be effective January 1st, 2008 and the Montgomery County Fire Code adopted by this Order shall apply to all buildings upon which Construction or Substantial Improvement begins after that date, provided that the fee schedule adopted under this order shall apply to all fees coming due after that date regardless of the date upon which Construction or Substantial Improvement begins for the building subject to the fee.

ORDERED, as witnessed by our hands, this 19th day of November, 2007 by Commissioners Court acting in REGULAR session.

Hon. Alan Sadler, County Judge

Hon. Mike Meador
Commissioner, Pct. #1



Hon. Ed Chance
Commissioner Pct. #3

Hon. Craig Doyal
Commissioner, Pct. #2

Hon. Ed Rinehart
Commissioner, Pct. #4

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EXHIBITS

EXHIBIT A - ADDITIONS, INSERTIONS, DELETIONS AND CHANGES TO INTERNATIONAL FIRE CODE, 2006 EDITION	
EXHIBIT B – PERMIT FEE SCHEDULE EFFECTIVE JANUARY 1 ST , 2008	

**MONTGOMERY COUNTY
FIRE CODE**

PART 1 – ADMINISTRATION AND PRELIMINARY PROVISIONS

SECTION 101.1 - AUTHORITY

This Code is adopted as a fire code by the Commissioners Court of Montgomery County, Texas, acting in its capacity as the governing body of Montgomery County. The authority of Montgomery County to adopt this Code and the contents hereof is derived from Chapter 233, Subchapter C, Texas Local Government Code, Section, §233.061 et seq., as amended. The Montgomery County Fire Code as adopted on November 5th, 2007 and which became effective on January 1, 2008 shall apply to the construction or substantial improvement of buildings for which construction or substantial improvement begins after the effective date of this Code.. This Code may be amended at any time by a majority of Commissioners Court.

SECTION 101.2 – SCOPE OF REGULATIONS

This Code applies in unincorporated areas of Montgomery County, Texas after the effective date of this Code.

SECTION 101.3 - PURPOSE

The purpose of this Code is to provide minimum requirements, with due regard to function, for the design and Construction or Substantial Improvement of Public Buildings, Commercial Establishments, and multifamily residential dwellings consisting of four or more units to reduce the risk to life and property from fire. Fire safety in regard to operation and use of buildings and structures after construction, whether or not their construction was subject to this Code, shall be enforced independent of this Code by the County Fire Marshal in accordance with applicable law, including but not limited to his independent authority to inspect for the presence of fire and life safety hazards and order their correction under Chapter 352 of the Texas Local Government Code. This Code is not intended in any way to limit the statutory authority of the Fire Marshal, and it is intended that such authority be retained to the fullest extent that the law would authorize.

SECTION 101.4 - CONSTRUCTION OF REGULATIONS

This Code is to be construed liberally to accomplish its purpose. Where no applicable standards or requirements are set forth in this code, or are contained within other laws, codes, regulations, ordinances or order adopted by the County, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards, as approved, shall be deemed as prima facie evidence of compliance with the intent of this Code. Nothing herein shall derogate from the authority of the Fire Code Official to determine compliance with codes or standards for those activities or installations within the Code Official's jurisdiction or responsibility. Requirements that are essential for the public safety of a building or structure or for the safety of the occupants thereof or the general public which are not specifically provided for by this Code shall be determined by the Fire Code Official. The codes and standards referenced in this Code shall be those that are listed in Chapter 45 of this Code, and such codes and standards shall be considered part of the requirements of this Code to the prescribed extent of such reference. Where differences occur between the provision of this Code and the referenced standards, the provisions of this Code shall apply. Where there is a conflict between a general requirement and a specific requirement within this Code, the specific requirement shall be applicable.

SECTION 101.5 - ABROGATION AND GREATER RESTRICTIONS

This Code is not intended to repeal, abrogate, or impair any existing laws, regulations, easements, covenants, or deed restrictions. Except as provided in Part 9, where this Code and other legal requirements conflict or overlap, whichever imposes the more stringent restrictions shall prevail. \

SECTION 101.6 - WARNING AND DISCLAIMER OF LIABILITY

The degree of fire protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. This Code does not imply that any building or the uses permitted within any building will be free from a fire hazard. This Code shall not create liability on the part of Montgomery County or any officer or employee thereof for any damages that result from reliance on this Code or any administrative decision lawfully made there under. The granting of a permit or issuance of a Certificate of Compliance does not imply that the building can be insured for fire coverage.

SECTION 101.7 - FINDINGS OF FACT

It is hereby found by the Commissioners Court of Montgomery County that fires have occurred in the past within its jurisdiction and are likely to occur in the future, and that damage to property and loss of life occurs for many reasons including fires that could have been prevented or minimized by providing additional safety guards to provide adequate egress time and protection for people exposed to fire.

SECTION 101.8 - BASIS FOR REGULATION

The Montgomery County Fire Code shall consist of this Code plus the *International Fire Code*, 2006 Edition, including appendix chapters B, C, D and F thereto, along with a new Appendix H added by this Order, which code and appendices are incorporated herein as if fully set out herein, with the additions, insertions, deletions and changes, prescribed in Exhibit A hereto.

SECTION 101.9 – ALTERNATIVE MATERIALS AND METHODS

The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code, provided that any such alteration has been approved by the Fire Code Official. The Fire Code Official is authorized to approve an alternative material or method of construction where the Fire Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety.

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PART 2 - USE OF TERMS

SECTION 102.1 - CERTIFICATE OF COMPLIANCE

A “Certificate of Compliance” means a certificate issued by Montgomery County indicating Construction or Substantial Improvement is in compliance with the Montgomery County Fire Code as of a specific date and for a specific occupancy. The certificate may be filed in the Real Property Records as outlined in Section 107.1 of this Code. A Certificate of Compliance under this Fire Code shall not be construed as authorizing the owner or operator of any building to afterward operate or maintain such building in such a way as to create, cause or allow the existence of a fire or life safety condition, which condition shall be subject to the independent enforcement authority of the County Fire Marshal.

SECTION 102.2 - CERTIFICATE OF NON-COMPLIANCE

A “Certificate of Non-Compliance” means a certificate issued by Montgomery County indicating Construction or Substantial Improvement is not in compliance with the Montgomery County Fire Code as of a specific date. This certificate may be filed in the Real Property Records as outlined in Section 107.1 of this Code.

SECTION 102.3 - CONSTRUCTION

“Construction” means the initial permanent construction of a public building, a commercial establishment, or a multifamily residential dwelling consisting of four or more units, and all related improvements on a site. A permit is required prior to the start of any construction. For purposes of this Code, construction begins on the date that ground is broken for a building, or if no ground is broken, on the date that:

- (a) the first materials are added to the original property;
- (b) foundation pilings are installed on the original property; or
- (c) a manufactured building or relocated structure is placed on a foundation on the original property.

SECTION 102.4 - COUNTY BUILDING OFFICIAL

“County Building Official” means the individual appointed by Commissioners Court to administer the County Fire Code, and who is an employee of the County, or a designee of such individual.

SECTION 102.5 - COUNTY ENGINEER

“County Engineer” means the holder of the statutory office of County Engineer for Montgomery County or the employee(s) designated by the County Engineer to perform a task required by this Code.

SECTION 102.6 - COUNTY FIRE MARSHAL

“County Fire Marshal” means the holder of the statutory office of County Fire Marshal for Montgomery County or the employee(s) designated by the County Fire Marshal to perform a task required by this Code.

SECTION 102.7 - PERSON

“Person” includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and Local governments and agencies thereof.

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SECTION 102.8 - PUBLIC BUILDINGS AND COMMERCIAL ESTABLISHMENTS

“Public Buildings and Commercial Establishments” include any building where the public may gather or where a good or service is provided for compensation. This definition includes, but is not limited to auditoriums, classrooms, churches, libraries, restaurants, theaters, schools, daycare facilities, nursing homes, hospitals, correctional facilities, hotels, motels, dormitories, department stores, shopping centers, doctor offices, general offices, laundries and warehouses. Not included in this definition is an industrial facility having a fire brigade that conforms to requirements of the Occupational Safety and Health Administration or apartment buildings.

SECTION 102.9 - SUBSTANTIAL IMPROVEMENT

A “Substantial Improvement” is

- (a) the repair, restoration, reconstruction, improvement, or remodeling of a public building, a commercial establishment, or a multifamily residential dwelling consisting of four or more units for which the cost exceeds 50% of the building’s value according to the certified tax appraisal roll for the county for the year preceding the year in which the work was begun; or

- (b) a change in occupancy classification involving a change in the purpose or level of activity in a building, including the renovation of a warehouse into a loft apartment. For purposes of determining if an improvement is a Substantial Improvement, the applicant for a permit must submit data reflecting cost of the improvement, restoration, reconstruction, improvement or remodeling. Costs shall include the value of all labor and materials. A permit is required prior to the start of any Substantial Improvement. For purposes of this Code, Substantial Improvement begins on the date that the repair, restoration, reconstruction, improvement, or remodeling or the change in occupancy classification begins or on the date materials are first delivered for that purpose.

The County Building Official may require the submittal of an independent certified damage assessment in cases where the structure has suffered other than minor damage.

SECTION 102.10 - UNINCORPORATED AREA

“Unincorporated Area” means the area in Montgomery County, Texas, which is not within an incorporated area of a city, town, or village.

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PART 3 - GENERAL PROVISIONS

SECTION 103.1 - ADMINISTRATION BY THE COUNTY BUILDING OFFICIAL

The County Building Official or the County Building Official's designee is responsible for the administration of this Code, issuance of permits required by this Code, enforcement of this Code and maintenance of proper records.

SECTION 103.2 - RESPONSIBILITY OF THE COUNTY FIRE MARSHAL

The County Fire Marshal or the County Fire Marshal's designees may conduct inspections provided for in this Code.

SECTION 103.3 - RESPONSIBILITY OF OTHER OFFICIALS

Under this Code the County Building Official is responsible for all administrative decisions, determinations and duties. The County Building Official may seek and secure the assistance of other officials of Montgomery County in making decisions and determinations and in performing the administrative duties but is not required to conform to the recommendations of others, provided however, any decision by the County Building Official may be appealed by the process in Section 106.1 et seq. of this Code.

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PART 4 - PERMITS

SECTION 104.1 - PERMITS REQUIRED No person shall perform or authorize Construction or Substantial Improvement within the unincorporated areas of Montgomery County without first securing a permit under this Code, and no person shall occupy or allow occupancy of a structure for which such permit is required unless and until a Certificate of Compliance has been issued under this Code for such Construction or Substantial Improvement.

SECTION 104.2 - APPLICATION FOR PERMIT

The application for a permit will be on a form prescribed by the County Building Official and must be supported by the following:

(a) a completed Fire Code Design and Compliance Review Sheet provided by the County Building Official and signed and sealed by a duly licensed architect or engineer authorized to practice in the State of Texas;

(b) a floor plan to scale for each level of the building including the following:

- (1) types of construction materials and class of interior finish;
- (2) location of all exits with distances between exits called out – exit width, type and any special requirement shall be stated; and
- (3) location of any fire alarm equipment, automatic sprinklers, emergency lighting, etc. required to meet this Code.

If unable to determine from the information submitted whether a permit should be issued, the County Building Official may require the submission of additional information, drawings, specifications or documents.

SECTION 104.3 - DETERMINATION OF PERMIT ELIGIBILITY

After the application is filed, the County Building Official shall determine if the proposed public building, commercial establishment, or multifamily residential dwelling consisting of four or more units meets the minimum requirements of this Code based on the information provided.

- (a) If it is determined the proposed Construction or Substantial Improvement meets the requirements, then a permit will be issued after the collection of the appropriate fees outlined in Section 108.3.
- (b) If it is determined that the proposed Construction or Substantial Improvement does not comply with the requirements of this Code, then the application package shall be returned to the applicant with an explanation of why it was not approved.

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SECTION 104.4 - ISSUANCE OF PERMITS

When the County Building Official determines a permit shall be issued, the County Building Official shall issue the permit after the proper fee is collected. The permit shall be issued as an addendum to the development permit issued under the Regulations of Montgomery County, Texas for Flood Plain Management.

SECTION 104.5 - TERM OF PERMITS

Construction or Substantial Improvement must be started within 180 days of the date the permit is issued or the permit shall be null and void. Upon written request, two six-month extensions may be obtained.

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PART 5 - PERMITTEE

SECTION 105.1 - RESPONSIBILITIES OF ALL PERMITTEES

All permit holders, must:

- (a) post the permit on the jobsite in a place visible from the nearest road or street;
- (b) post and maintain the street number on the jobsite in a place visible from the road or street and in a manner meeting the requirements of the standards for permanent numbers set forth in The International Fire Code Section 505.1; and
- (c) allow the County Building Official or County Fire Marshal to inspect the work pursuant to a permit. The County Building Official or County Fire Marshal may make as many scheduled or unscheduled inspections as deemed necessary to enforce this Code.

All holders of a permit issued pursuant to this Code that wish to make a change to the proposed Construction or Substantial Improvement of the public building, commercial establishment, or multifamily residential dwelling consisting of four or more units or to perform any Construction or Substantial Improvement other than as authorized by the permit must submit supplemental drawings and/or specifications to the County Building Official for review.

If the changes do not comply with this Code, the County Building Official shall not approve the change. If a change complies with this Code and is approved, a copy of the supplemental drawings and/or specifications shall be added to the permittee's file, and the County Building Official shall amend the permit.

SECTION 105.2 - INSPECTIONS

(a) The permittee shall ensure their Engineer, Architect, or International Code Council Certified Building Official (ICC-CBO) has made sufficient inspections so that they can complete the as-built certificate as outlined below.

(b) When the Construction or Substantial Improvement is complete and ready for occupancy, an as-built certification form supplied by the County Building Official must be completed, signed and sealed by a licensed engineer authorized to practice in the State of Texas, a registered architect authorized to practice in the State of Texas, or an ICC-CBO, indicating that, to the best of his or her knowledge, all the minimum requirements of this Code have been met.

If the building has an automatic fire protection system, a completed Form 009 as promulgated by the State Fire Marshal's office shall be included with the as-built certificate.

Receipt by the County Building Official of a completed, signed and sealed as-built certificate will serve as a request for final inspection.

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Section 105.2 Inspections continued

(c) Once a completed, signed and sealed as-built certificate has been turned into the County Building Official, and the County Building Official determines, after a final occupancy inspection is conducted, that the Construction or Substantial Improvement complies with this Code, the County Building Official will issue a Certificate of Compliance.

The County Building Official, at such time, will provide a release of final utilities to the appropriate utility company. Should the County Building Official determine that the applicable certifications have not been provided and/or the provisions of Section 105.1 of this Code were not followed, then enforcement procedures as outlined in Part 7 shall commence.

No person shall occupy a public building, a commercial establishment, or a multifamily residential dwelling consisting of four or more units that the County Building Official determines, after inspection, not to be in compliance with this Code unless and until a Certificate of Compliance is subsequently issued for such building, establishment or dwelling.

(d) Should the County Building Official or County Fire Marshal have to make additional inspections due to non-compliance with this Code, additional fees may be assessed as outlined in Section 108.3 hereof.

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PART 6 - APPEALS AND HEARING PROCEDURES

SECTION 106.1 - APPEALS

If a permit applicant is denied a permit, the applicant may appeal the denial as provided in this Section. The term “appellant” is used to refer to the appealing party. An appellant must seek remedy under this procedure before seeking remedy in court. Application for a permit is deemed to be a waiver of the right to challenge this Code before exhausting remedies herein provided.

(a) To initiate an appeal an appellant must submit a written request for an exception to this Code to the Hearing Examiner who has been appointed by Commissioners Court.

(b) A Hearing Examiner appointed by Commissioners Court will set a time for a hearing, which will be scheduled as soon as practicable, preferably 15 days of the receipt of the written request, and shall prepare a Notice of Public Hearing naming the time and date of the hearing. Copies shall be distributed as follows:

(1) The original copy and the Certificate to Commissioners Court will be filed with the Clerk of Commissioners Court and the Clerk will prepare a file for the Hearing Notice.

(2) The Examiner will create a working or hearing file with one copy contained therein.

(3) The Examiner will give one copy to the Appellant.

(4) The Examiner will deliver one copy to the County Building Official and another copy to the Fire Marshal. The hearing will be conducted as provided in Section 106.2 below.

(c) An appeal will not abate the decision of the County Building Official pending the decision of the Hearing Examiner.

SECTION 106.2 - HEARING BEFORE THE EXAMINER

At hearings before the Examiner, the Examiner will hear the testimony of the County Building Official and any witnesses called by the County Building Official. The Examiner will hear the testimony of the appellant and any witnesses called by the appellant. The Examiner will review all documents and exhibits submitted by the parties. The Examiner will not be bound by formal rules of evidence and will control the evidence, reserving the power to exclude testimony or exhibits he or she does not consider relevant. The Hearing Examiner will maintain an accurate record of the evidence introduced at the hearing.

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SECTION 106.3 - FILING OF EXAMINER'S DECISION

The Examiner will prepare a written decision as soon as possible, preferably within three working days of the hearing. A copy of the decision will be filed with the Clerk of Commissioners Court, the members of the Commissioners Court, with the County Building Official, and with the Fire Marshal. The original will be sent to the appellant's address shown on the permit or permit application. If a variance is granted, the County Building Official shall prepare the appropriate permit with any special requirements that may be required by the conditions of the variance.

SECTION 106.4 - REVIEW BY COMMISSIONERS COURT

If the County Building Official or the appellant wishes to appeal the Examiner's decision, a written objection must be filed with the Clerk of Commissioners Court within ten (10) days of the date the Examiner's decision is filed. The Clerk will notify the Hearing Examiner who will place the matter on the Agenda of Commissioners Court for review at the next meeting of Commissioners Court. If the objection is filed by the County Building Official, notice that the matter is on the Agenda will be sent to the appellant by mail at the appellant's address shown on the permit or application. Commissioners Court will review the matter. The Commissioners Court may either affirm or reverse the decision of the Hearing Examiner. The County Building Official's decision will remain in effect pending the review by Commissioners Court.

SECTION 106.5 - VARIANCES

If any person wishes an exception to any provision of this Code, that person shall request a variance in the manner prescribed for the filing of an appeal. The Hearing Examiner shall hold a hearing, and deny or grant the variance. Variances will be granted only if the following are met:

- (a) the applicant has shown good and sufficient cause;
- (b) it has been determined that failure to grant the variance would result in an exceptional hardship to the applicant;
- (c) the granting of a variance will not result in an increased risk of fire, additional threats to public safety, extraordinary public expense, or create nuisances, cause fraud or victimization of the public; and
- (d) variances shall only be issued upon a determination that a variance is the minimum necessary, considering the fire hazard, to afford relief.

Economic hardship shall not constitute the sole basis for granting a variance. A hearing before Commissioners Court regarding variances shall be requested in the manner provided in Section 106.4 of this Code. If a variance is granted a permit shall be issued and the permittee shall conform to all applicable provisions of this Code except the Sections for which a variance is granted.

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PART 7 - ENFORCEMENT

SECTION 107.1 - ENFORCEMENT

If any person violates any provisions of this Code, the County Building Official may notify the County Attorney and request that the County Attorney take whatever action is necessary to remedy the violation, including but not limited to filing suit to enjoin the violation and/or seek a civil penalty under Texas Local Government Code § 233.067 of up to \$200 for each day a violation exists. If a violation continues, Montgomery County may file a Certificate of Non-Compliance in the Real Property Records of Montgomery County. Once the violation has been resolved any individual may request a Certificate of Compliance be filed in the Real Property Records of Montgomery County. A fee for this action will be charged in accordance with Section 108.3 of this Code. The violator shall bear this and all other costs of effecting compliance.

The enforcement procedures set forth in this Code shall not be construed to limit the Fire Marshal's inspection and enforcement authority under Section 352.016 of the Texas Local Government Code or the availability of criminal penalties under Section 352.022 of the Texas Local Government Code.

SECTION 107.2 - VIOLATION OF CONDITIONS OF REGULATIONS

Any person having knowledge of a violation of this Code may file a complaint with the County Building Official or the County Fire Marshal.

SECTION 107.3 - CONTEMPT OF COMMISSIONERS COURT

Commissioners Court may punish contempt by fine or imprisonment in accordance with the provisions of Section 81.023, Texas Local Government Code, as amended. Any person securing a permit under this Code does so on the representation to Commissioners Court that he or she will comply with the terms of the permit and with these requirements and other County regulations. Violations of such representations to Commissioners Court constitute contempt of Commissioners Court. Additionally, Commissioners Court has the power to enforce its Orders by civil contempt. If the Commissioners Court finds the defendant to be guilty of contempt, it will enter such Orders consistent with general law as it deems appropriate to punish the person guilty of contempt, and will enter such other and further Orders enforceable by civil and criminal contempt, and consistent with its authority under general laws, as Commissioners Court deems necessary to enforce and protect its jurisdiction over the matter, and to uphold the integrity of this Code. Procedures for contempt proceedings before Commissioners Court will be consistent with procedures in actions before other courts in this State for enforcement of Court Orders, and for the protection of the jurisdiction of Courts by the process of contempt.

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PART 8 - FORMS AND RECORDS SECTION 108.1 - FORMS

Forms to be used in the administration of this Code shall be promulgated by the County Building Official.

SECTION 108.2 - MAINTENANCE OF RECORDS

All applications for, and file copies of, permits must be maintained by the County Building Official for a retention period of three (3) years. Drawings and specifications on file with the County Building Official may be destroyed after completion of the structure.

SECTION 108.3 - FEES

Fees for permits and inspections are to be set by Commissioners Court. Fees shall be paid by cash, cashiers check, money order, or personal check. Should the check be returned for insufficient funds the permit(s) issued becomes null and void.

Fees shall be paid at the time permit is delivered to the permittee unless other arrangements have been made and approved by the County Auditor. The fees are those fees set forth in Exhibit B hereto:

PART 9 – SEVERABILITY AND CONSTRUCTION

SECTION 109.1

The provisions of this Code are severable. If any word, phrase, clause, sentence, section, provision, or part of this Code should be invalid or unconstitutional, it shall not affect the validity of the remaining portions and it is hereby declared to be the intent of the Commissioners Court that this Code would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any provision of this Code might be interpreted in such a way as exceeding the County's authority, such provision should be construed to apply only to the extent authorized by law.