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HAYS COUNTY FIRE CODE

PART 1 - ADMINISTRATION AND PRELIMINARY PROVISIONS

SECTION 1.1 - AUTHORITY

This Code is adopted as a fire code by the Commissioners Court of Hays County, Texas, acting in its capacity as the governing body of Hays County, Texas. The authority of Hays County to adopt this Code and the contents hereof is derived from Chapter 233, Subchapter C, Texas Local Government Code, §233.061 et seq., as amended. The Code shall apply to public buildings, commercial establishments, and multifamily residential dwellings with four or more units for which construction or substantial improvement, as defined in this Code, begins on or after the effective date of this Fire Code. This Code may be amended at any time by a majority of the Commissioners Court.

SECTION 1.2 - SCOPE OF REGULATIONS

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

SECTION 1.3 - 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 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 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 County Fire Marshal, and it is intended that such authority be retained to the fullest extent authorized by law.

SECTION 1.4 - CONSTRUCTION OF REGULATIONS

This Code is to be construed liberally to accomplish its purpose. 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 Fire Code Official's jurisdiction or responsibility. Requirements that are essential for the public safety of a building or structure referenced in this Code shall be those that are listed in Chapter 47 of the International Fire Code 2018 Edition, 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 specific requirement within this Code, the specific requirement shall be applicable.

SECTION 1.5 - ABROGATION

This Code is not intended to repeal, abrogate, or impair any existing laws, regulations, easements, covenants, or deed restrictions.

SECTION 1.6 - 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 fire hazard. This Code shall not create liability on the part of Hays County or any officer, employee, or agent 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 1.7 - BASIS FOR REGULATION

The Hays County Fire Code shall consist of this Code plus the International Fire Code 2018 Edition, and all of its references, 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 1.8 - INCORPORATION OF DEFINED WORDS AND PHRASES

If a word or phrase is defined in the International Fire Code, 2018 Edition, the definitions in that code apply to that word or phrase when it is used in this Code unless otherwise defined in Part 2 of this Code.

PART 2 - USE OF TERMS

SECTION 2.1 - CERTIFICATE OF COMPLIANCE

A "Certificate of Compliance" means a certificate issued by the Fire Code Official indicating construction or substantial improvement is in compliance with the Hays 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 7.1 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 2.2 - CERTIFICATE OF NON-COMPLIANCE

A "Certificate of Non-Compliance" means a certificate issued by the Fire Code Official indicating construction or substantial improvement is not in compliance with the Hays County Fire Code as of a specific date. This certificate may be filed with the Real Property Records as outlined in Section 7.1 of this Code.

SECTION 2.3 - CONSTRUCTION

"Construction" means the initial permanent construction of a public building, a commercial establishment, or a multifamily residential dwelling, and all related improvement on a site as specified in Texas Local Government Code § 233.0615(c). A permit is required prior to the start of any such construction. For purposes of this Code, construction begins on the date that ground is broken for a building, or if no ground is broke, 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 2.4 - COUNTY FIRE MARSHAL

"County Fire Marshal" means the holder of the statutory office of County Fire Marshal for Hays County or the employee(s) designated by the County Fire Marshal to perform a task required by this code. The terms "County Fire Marshal," "Fire Marshal," and "Hays County Fire Marshal" shall be interchangeable.

SECTION 2.5 - FIRE CODE

"Fire Code" means the Hays County Fire Code and the codes and standards in the attached document, known as the International Fire Code, 2018 Edition, including Appendix Chapters B, C, D, F, G, I and J as published by the International Code Council, except for the portions deleted, modified or amended by Exhibit A.

SECTION 2.6 - FIRE CODE OFFICIAL

"Fire Code Official" means the Fire Marshal of Hays County, or a designee of such individual.

SECTION 2.7 - MULTIFAMILY RESIDENTIAL DWELLING

"Multifamily Residential Dwelling" means a multifamily residential dwelling consisting of four or more units as specified in Texas Local Government Code § 233.062(a).

SECTION 2.8 - PERSON

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons. Not included is a State Agency that is authorized to prevent and extinguish forest and grass fires.

SECTION 2.9 - PUBLIC BUILDINGS AND COMMERCIAL ESTABLISHMENTS

"Public Buildings and Commercial Establishments" 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, warehouses, temporary tents and membrane structures. Not included in this definition is an industrial facility having a fire brigade that conforms to requirements of the Occupational Safety and Health Administration.

SECTION 2.10 - 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 for which the cost exceed 50 percent 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.

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, reconstructions, improvement, remodeling, or the change in occupancy classification begins or on the date materials are first delivered for that purpose. This definition is in accordance with Texas Local Government Code § 233.0615(a), (b).

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

SECTION 2.11 - UNINCORPORATED AREA

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

PART 3 - GENERAL PROVISIONS

SECTION 3.1- ADMINISTRATION BY THE FIRE CODE OFFICIAL

The Fire Code Official or the Fire Code 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 3.2 - RESPONSIBILITY OF THE FIRE CODE OFFICIAL

Under this Code, the Fire Code Official is responsible for all administrative decisions, determinations, and duties. The Fire Code Official or the Fire Code Official's designee may conduct inspections provided for in this Code.

SECTION 3.3 - RESPONSIBILITY OF OTHER OFFICIALS

The Fire Code Official may seek and secure the assistance of other officials of Hays 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 Fire Code Official may be appealed by the process in Section 6.1 of this Code.

PART 4 - PERMITS

SECTION 4.1 - PERMITS REQUIRED

No person shall perform or authorize construction or substantial improvement within the unincorporated areas of Hays County without first securing a permit under this Code.

SECTION 4.2 - APPLICATION FOR PERMIT

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

- (a) One complete set of construction and site plans electronically submitted, drawn to scale for the proposed building or system containing all specifications, including the following:
 - (1) The types of construction materials and class of interior finish;
 - (2) The location of all exits with distances between exits called out -exit width, type and any special requirement shall be stated; and
 - (3) The location of any fire alarm equipment, automatic sprinklers, emergency lighting, and any other necessary safety measures required to meet this Code; and,
- (b) A permit fee in accordance with Section 8.3 and Exhibit B. If unable to determine from the information submitted whether a permit should be issued, the Fire Code Official may require the submission of additional information, drawings, specifications, and/or documents.

SECTION 4.3 - DETERMINATION OF PERMIT ELIGIBILITY

After the application is filed, the Fire Code Official shall determine if the proposed public building, commercial establishment, or multifamily residential dwelling 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 8.3 and Exhibit B.
- (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.

SECTION 4.4 - ISSUANCE OF PERMITS

Within 30 days after the date the Fire Code Official receives an application and fee in accordance with this Code, the Fire Code Official shall:

- (a) issue the permit if the application complies with this Code; or
- (b) deny the application if the application does not comply with this Code. If the Fire Code Official receives an application in accordance with Section 4.2 and fee in accordance with Section 8.3 and the Fire Code Official does not issue the permit or deny the application within 30 days after receiving the application and fee, the

construction or substantial improvement of the building that is the subject of the application shall be approved for purposes of this Code.

SECTION 4.5 - TERMS 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 from the Fire Code Official.

PART 5 - PERMITTEE

SECTION 5.1 - RESPONSIBILITY OF PERMITTEE

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 standard for permanent numbers set forth in the International Fire Code 2018 Edition, Section 505.1; and
- (c) allow the Fire Code Official to inspect the work pursuant to a permit. The Fire Code Official 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 or to perform any construction or substantial improvement other than as authorized by the permit must submit supplemental drawings and/or specifications to the Fire Code Official for review. If the 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 Fire Code Official shall amend the permit.

SECTION 5.2 - 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 a "Request for Final Inspection" form as outlined below.
- (b) When the construction or substantial improvement is complete and ready for occupancy, a "Request for Final Inspection" form supplied by the Fire Code 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. Receipt by the Fire Code Official of a completed, signed and sealed request form will serve as a request for final inspection.
- (c) Once the Fire Code Official receives a request for final inspection and determines, after a final occupancy inspection is conducted, that the construction or substantial improvement complies with this Code, the Fire Code Official will issue a Certificate of Compliance. Should the Fire Code Official determine that the applicable permits have not been provided and/or the provisions of Section 5.1 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 that the Fire Code 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 Fire Code Official have to make additional inspections due to non-compliance with this Code, additional fees may be assessed as outlined in Section 8.3 and Exhibit B.

PART 6 -APPEALS AND HEARING PROCEDURES

SECTION 6.1 - BOARD OF APPEALS

- (a) The Board of Appeals is hereby established in order to hear and decide appeals of orders, decisions or determinations made by the Fire Code Official relative to the application and interpretation of this Code.
- (b) The Commissioners Court appoints the members of the Board of Appeals. The Fire Code Official shall be an ex officio member of said board but shall have no vote on any matter before the board.
- (c) An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall meet as needed to review recommendations of the Fire Marshal about variances and denials of building permits. The board shall have no authority to waive requirements of this Code.
- (d) The Board of Appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems and are not employees of County. Members shall serve without remuneration or compensation, and shall be removed from office prior to the end of their appointed terms only for cause. The members of the board shall consist of five members having the following qualifications:
 - (1) One member shall be a practicing design professional registered in the practice of engineering or architecture in Texas.
 - (2) One member shall be a qualified engineer, technologist, technician or safety professional trained in fire protection engineering, fire science or fire technology. This representative may be fire protection contractors and certified technicians engaged in fire protections system design.
 - (3) One member shall be a registered industrial or chemical engineer, certified hygienist, certified safety professional, certified hazardous materials manager or comparably qualified specialist experienced in chemical process safety or industrial safety.
 - (4) One member shall be a contractor regularly engaged in the construction, alteration, maintenance, repair or remodeling of buildings or building services and systems regulated by this chapter.
 - (5) One member shall be a representative of business or industry not represented by a member from the other categories of board members described in this section.

- (e) Members shall be appointed for terms of four years. No member shall be reappointed to serve more than two consecutive full terms. Of the members first appointed, two shall be appointed for a term of 1 year, two for a term of 2 years, and one for a term of 3 years.
- (f) Vacancies shall be filled for an unexpired term in a manner in which original appointments are required to be made. Members appointed to fill a vacancy in an unexpired term shall be eligible for reappointment to two full terms.
- (g) Continued absence of any member from regular meetings of the board shall, at the discretion of the Commissioners Court, render any such member liable to immediate removal from the board.
- (h) Three members of the board constitute a quorum. In recommending a variance in the application of any provisions of this chapter or the Fire Code or in modifying a recommendation of the Fire Marshal, affirmative votes of at least three members are required.
- (i) The Fire Marshal acts as secretary of the board and shall keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, and the absence of a member and any failure of a member to vote.
- (j) The Commissioners Court shall furnish legal counsel to the board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at county expense in all matters arising from service with the scope of their duties.
- (k) Members with a material or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.
- (l) Every decision of the Board of Appeals shall be promptly filed in writing in the office of the Fire Marshal and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the office of the Fire Marshal for a 2 weeks after filing.

SECTION 6.2 - REVIEW BY COMMISSIONERS COURT

If the Fire Code Official or the appellant wishes to appeal the Board of Appeals' decision, a written objection must be filed with the Clerk of the Commissioners Court within ten days of the date the Board of Appeals' decision is filed. The Clerk will notify the Board of Appeals who will place the matter on the Agenda of the Commissioners Court for review at the next meeting of Commissioners Court. If the Fire Code Official files the objection, 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 Board of Appeals. The Fire Code Official's decision will remain in effect pending the review of Commissioners Court.

SECTION 6.3 - 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 Board of Appeals 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 for a variance;
- (b) failure to grant the variance would result in exceptional hardship to the applicant;
- (c) granting the 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 6.2 of this Code. If a variance is granted a permit shall be issued and the permittee shall conform to all applicable provision of this Code except the Sections for which a variance is granted.

PART 7 - ENFORCEMENT

SECTION 7.1 - ENFORCEMENT

- (a) If any person violates any provisions of this Code, the Fire Code Official may notify the Criminal District Attorney and request that the Criminal District 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.
- (b) If a violation continues, Hays County may file a Certificate of Non-Compliance in the Real Property Records of Hays County, Texas. Once the violation has been resolved any individual may request a Certificate of Compliance be filed in the Real Property Records of Hays County. A fee for this action will be charged in accordance with Section 8.3 and Exhibit B herein. The violator shall bear this and all other costs of effecting compliance.
- (c) Should the building be occupied without final occupancy inspection as required under this Code, the County Fire Marshal may file a complaint with the Criminal District Attorney's Office under Texas Local Government Code §§ 352.016 and 352.022. The Criminal District Attorney may take any and all action necessary to remedy the violation.

SECTION 7.2 - VIOLATION OF CONDITIONS OF REGULATIONS

Any person having knowledge of a violation of this Code may file a complaint in writing with the Fire Code Official.

PART 8 - FORMS, RECORDS, AND FEES

SECTION 8.1 - FORMS

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

SECTION 8.2 - MAINTENANCE OF RECORDS

The Fire Code Official must maintain all applications for and file copies of permits for a retention period of three years. Drawings and specifications on file with the Fire Code Official may be destroyed after 180 days from the date of completion.

SECTION 8.3 - FEES

Fees for permits and inspections are to be set by the Commissioners Court. Fees shall be paid by exact 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 plans are submitted for review unless other arrangements have been made and approved by the County Auditor. The County shall deposit all fees received under this section in a special fund in the county treasury, pursuant to Texas Local Government Code § 233.065(c), and money in that fund shall be used only for the administration and enforcement of the Hays County Fire Code. The fee schedule is shown in Exhibit B.

PART 9 -SEVERABILITY AND CONSTRUCTION

SECTION 9.1 - SEVERABILITY AND CONSTRUCTION

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 Hays County 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.

SECTION 9.2 - HEADINGS

The headings of sections of this Code are for convenience of reference only and shall not affect in any manner any of the terms or conditions herein.

SECTION 9.3 - GENDER

Whenever the context hereof shall so require the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

EXHIBIT A

EXHIBIT A
ADDITIONS, INSERTIONS, DELETIONS AND CHANGES TO THE
INTERNATIONAL FIRE CODE, 2018 EDITION

The International Fire Code is amended in the following respects:

(1) Subsection 101.1 is revised as follows:

101.1 Title.

These regulations shall be known as the *Fire Code of Hays County*, hereinafter referred to as "this code."

(2) Subsection 103.2 is revised as follows:

103.2 Appointment.

The *Fire Code Official* shall be appointed in accordance with the prescribed procedures of this jurisdiction; and the *fire code official* shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

(3) Subsection 105.3.3 is revised as follows:

105.3.3 Occupancy prohibited before approval.

The building or structure shall not be occupied prior to the Fire Code Official conducting associated inspections indicating the applicable provision of this code have been met for any new structure or a change in an existing occupancy and issuing a certificate of compliance.

(4) Subsection 107.4 is revised as follows:

107.4 Rendering Equipment Inoperable.

A. Portable or fixed fire-extinguishing systems or devices and fire-warning systems shall not be rendered inoperative or inaccessible except as necessary during emergencies, maintenance, repairs, alterations, drills or prescribed testing.

B. No fire protection system may be taken out of service or allowed to remain out of service beyond normal working hours without the prior approval of the Fire Code Official. The Fire Code Official shall be notified prior to any fire sprinkler or standpipe system being temporarily or permanently removed from service. No operation protected by a fire suppression system may be used or operated while the fire suppression system is out of service

(5) Subsection 108 is deleted in its entirety.

(6) Subsection 109.4 is revised as follows:

109.4 Violation penalties.

Persons who violate a provision of this code or fail to comply with the requirements of it or who erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official or of a building permit or certificate used under the provisions of this code shall be subject to injunctive relief and civil penalties not to exceed \$200 for each day on which the violation exists. Each violation is considered a different offence of this code.

(7) Subsection 111.4 is revised as follows:

111.4 Failure to comply.

Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to injunctive relief and civil penalties not to exceed \$200 for each day on which the violation exists.

(8) The following definition in Section 202 is amended to read as follows:

[M] Commercial Cooking Appliances.

Appliances used in a food service establishment for heating or cooking food and which produces grease vapors, steam, fumes, smoke, or odors that are required to be removed through a local exhaust ventilation system. Such appliances include but are not limited to: deep fat fryers, upright broilers, griddles, broilers, steam-jacketed kettles, hot-top ranges, under-fired broilers (char-broilers), ovens, barbeques, rotisseries, and similar appliances. For the purpose of this definition, a food service establishment shall include any building or portion thereof used for the preparation of food intended to be delivered or served to others.

(9) Within the definitions of “Fire Chief” and “Fire Code Official” in Section 202 are revised as follows:

The Fire Marshal of Hays County, or a designee of such individual. In place of “Chief Officer of the fire department” and “Fire Chief.”

(10) Subsection 307.1.1 is revised as follows:

307.1.1 Prohibited open burning.

Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous, as determined by the Fire Code Official, shall be prohibited.

(11) Subsection 307.2 is revised as follows:

307.2 Permit Required

For any burning, other than residential maintenance and burning of household waste, a permit shall be obtained from the Fire Code Official prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pest, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land, or their designee, upon which the fire is to be kindled.

Issued permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous place on the premises, or shall be kept on the premises location designated by the Fire Code Official. The Fire Code Official may revoke any permit that is found not to be in compliance with this section, causing said permit to be null and void and any fees related to the permit shall not be refunded. This action may lead to additional fees.

(12) Subsection 307.2.1 is revised as follows:

307.2.1 Authorization.

All outdoor burning shall be done in accordance with this code and the Texas Outdoor Burning Rule Title 30 Texas Administrative Code (30 TAC) Sections 111.201 through 111.221 (Exhibit C - 1). If a conflict should arise between this code and the Texas Outdoor Burning Rule Title 30 Texas Administrative Code (30 TAC) Sections 111.201 through 111.221, then the more stringent rule shall apply.

(13) Subsection 307.2.2 is added as follows:

307.2.2 Restricting outdoor burning.

It shall be unlawful for a person, firm, or corporation to ignite or burn materials when the Hays County Commissioner’s Court has a “Burn Ban” in effect.

(14) Subsection 307.4 is revised as follows:

307.4 Location.

- A. The location for open burning shall not be less than 300 feet from any structure located on *adjacent properties*, unless prior written approval is received from the occupant of the adjacent property. Provisions shall be made to prevent the fire from spreading to within 300 feet of any structure.
- B. At no time shall open burning be less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.

Exceptions to B above:

- 1. Fires in approved containers that are not less than 25 feet from a structure.

(15) Subsection 307.4.1 is revised as follows:

307.4.1 Bonfires.

Unless otherwise approved by the Fire Code Official, a bonfire shall not be conducted within 300 feet of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 300 feet of a structure shall be eliminated prior to ignition.

(16) Subsection 307.5 is revised as follows:

307.5 Attendance

Open burning, bonfires, recreational fires or use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished with no remaining embers. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. The fire-extinguishing equipment that is available on site shall be comparable to the size of the fire.

(17) Subsection 308.1.4 is revised as follows:

308.1.4 Open-flame cooking devices.

Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 ft. of combustible construction.

Exception: (1) One-, two- and three-family dwellings.

(2) Where buildings, balconies and decks are protected by an automatic sprinkler system.

(3) LP-gas cooking devices having an LP-gas container with a water capacity not greater than 2½ pounds [nominal 1 pound (0.454kg) LP-gas capacity].

(18) Subsection 401.8 is revised as follows:

401.8 Interference with fire department or county fire marshal operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of or block the path of travel of a fire department, county fire marshal or other emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any fire department or county fire marshal operation.

(19) Subsection 403 is amended by adding following:

403.1.1 Enforceability.

The fire safety plan, as described in 403 and approved by the Fire Code Official, shall be complied with and is enforceable under provisions of this code.

(20) Subsection 503.6 is revised as follows:

503.6 Security Gates.

The installation of security gates across a fire apparatus road shall be in accordance with this code and the latest version of Chapter 352 Subchapter E of the Local Government Code (Exhibit C - 2). If a conflict should arise between this code and Chapter 352 Subchapter E of the Local Government Code, then the more stringent rule shall apply. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained in an operable condition so they can be opened by the fire department or other emergency services at all times. Electric gate operators, where provided, shall be listed in accordance with UL325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200

(21) Subsection 503 is amended by adding following:

503.7 Maintenance.

Failure to maintain these gates in an operable condition may result in the imposition of a fine and/or the required removal of the gate.

(22) Subsection 505.1 is revised as follows:

505.1 Address Numbers

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inches. Where access is by means of a private road and the building cannot be viewed from the public way or if a building is located more than 150 feet from the street, a monument, pole or other sign or means shall be posted at the street entrance to identify the structure.

(23) Subsection 507 is amended by adding following:

507.5.7 Marking.

The location of all fire hydrants shall be identified with a blue reflective road dot placed near the center of the roadway in front of the hydrant.

(24) The exception to Section 603.4 is amended to read as follows:

Exception:

1. Listed and approved unvented fuel-fired heaters, including portable outdoor gas-fired heating appliances, in one-, two-, and three-family residential dwellings.
2. Portable outdoor gas-fired heating appliances shall be allowed in accordance with Section 603.4.2.

(25) In Appendix D the following exception is added to Section D103.1 as follows:

Exception: Widths less than 26 feet as approved by the Fire Code Official.

(26) In Appendix D the exception to Section 103.2 is revised as follows:

Exception: Grades steeper than 10 percent as approved by the Fire Code Official.

EXHIBIT B



Hays County Fire Marshal's Office

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EXHIBIT B

FEE SCHEDULE (EFFECTIVE 1/1/2020, AMENDED 3/23/2021)

The following fees are hereby established for obtaining permits from the Hays County Fire Marshal's Office. Acceptable forms of payment are check (made out to Hays County Fire Marshal) or credit card. Fees will be paid prior to the start of the particular process for which the fee is charged. All fees paid to the Hays County Fire Marshal's Office are **non-refundable**.

It may be difficult to calculate total permit fees. It is best to call the Code Enforcement section to obtain the exact permit fee when scheduling an appointment to submit plans. All permit fees paid are **non-refundable**, so accuracy is critical!

The total fee for commercial building permits is made up from **three** separate fees; the plan review fee, the building permit and inspection fee, and the final inspection and Certificate of Compliance fee.

Construction/Building Fee (all occupancy types): up to 5,000 sq. ft. \$250.00

This fee includes the plan review of submitted building plans to ensure compliance with the adopted fire and Building codes and includes the fee for processing approved building plans, issuance of building permit and a maximum of three construction site visits and/or inspections. **This fee also includes a \$100 fee for the final inspection and Certificate of Compliance.** Note: a separate building permit is required for each structure or building to be constructed. New cellular sites are regulated as a new building project. All public utility projects must also apply for permits (reference discount below if applicable).

Construction/Building Fee (all occupancy types): >5,000 sq. ft. \$250.00 + \$0.05 sq. ft (\$1000 max.)

This fee includes the plan review of submitted building plans to ensure compliance with the adopted fire and Building codes and includes the fee for processing approved building plans, issuance of building permit and a maximum of three construction site visits and/or inspections. **This fee also includes a \$100 fee for the final inspection and Certificate of Compliance.** Note: a separate building permit is required for each structure or building to be constructed. New cellular sites are regulated as a new building project. All public utility projects must also apply for permits (reference discount below if applicable).

- a. Discount for taxing entities: **Total Permit Fee (less) 50%*** - *New construction projects for taxing entities will receive a 50% discount. Renovations, alterations, and modifications will be charged regular fees. Discount is not applicable for the review and permitting of any fire protection system. *Payment must come directly from taxing district to be eligible for discount.*



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OTHER COMMERCIAL/PUBLIC ACCESS BUILDING PERMITS AND FEES

Conditional Certificate of Compliance (CCC or for FFE):

\$100.00

If circumstances warrant, the Fire Marshal may grant limited use of a structure or portion of a building under permit, provided the area has been inspected and found to be in compliance with the adopted Fire and Building Codes. A written request (accompanied by a floor plan drawing) must be submitted by the contractor or the owner's representative indicating the area of the building requested to be occupied. All required fire protection systems, as indicated on the original building permit, must be fully operational and tested. This fee must accompany the written request. This CCC is valid for up to 90 days, and a final Certificate of Compliance must be obtained within this 90 day period.

Tents and Membrane Structure Permits:

400 to 600 sq. ft. = \$50.00*

601 to 1000 sq. ft. = \$75.00

>1000 sq. ft. = \$100.00

This fee is for registration and inspection of tents and membrane structures.

Valid up to 365 days (1 yr.) as determined by the code official. (No permits required for tents and membrane structures under 400 sq.ft. as defined in Section 105.7.25 in the adopted fire code.)*

Temporary Structure Permits:

400+ sq. ft. = \$50.00

This fee is for registration and inspection of temporary structures (canopies, outdoor retail fireworks sites, construction trailers, etc.).

Valid up to 365 days (1 yr.) as determined by the code official. (No permits required for tents and membrane structures under 400 sq.ft. as defined in Section 105.7.25 in the adopted fire code.)*

Modular/Mobile Structure Installation Permit:

\$100.00

This fee is for the installation of a mobile or modular structure that will be used for commercial or public access purposes. It will include the plan review of the structure, inspection and **issuance of Certificate of Compliance** after installation to ensure the structure meets the intent of the adopted Fire Code. This is for mobile/modular structures that will be used for greater than 365 days (1 yr.).

Site Preparation and Foundation Permit (Site and Foundation Plan Review):

\$200.00

This permit is for "phased" construction projects, or where the construction timeline requires immediate start of construction before a building permit can be obtained. This allows the contractor to begin site clearing and preparation, as well as form, rough-in, and pour foundation prior to the issuance of a building permit. **BECAUSE THIS IS A SPECIAL PERMIT, THE COST OF THIS CONSTRUCTION WILL NOT BE DEDUCTED FROM THE OVERALL BUILDING CONSTRUCTION COSTS.** Permit expires in 180 days if work has not commenced.

EXPEDITED PLAN REVIEW/OUTSIDE 3RD PARTY PLAN REVIEWS

3rd Party Plan Reviews

Actual 3rd party fee + HCFMO permit/inspection fee

If a plan review is needed within 10 business days or if a proposed building/project contains a high-hazard occupancy, contains a storage area for hazardous materials or aerosol products, or has in-rack/high piled storage, the plans require an outside-3rd party plan review. Plans of this nature must be coordinated with the Hays County Fire Marshal's office as this ensures we can track who is reviewing the project, the dates the plans were submitted to the outside reviewer, and the date we receive the plans back for permitting. All outside-3rd party plan reviews must be conducted by an agency from the HCFMO approved vendor list in order to ensure they meet state standards and are capable of submitting plans and comments back to us in the approved format. All 3rd party fees must be paid directly to the vendor. The Hays County Fire Marshal's Office will collect the appropriate county fees during the project coordination meeting.



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SYSTEMS & OPERATIONAL PERMITS AND FEES

- | | |
|---|-------------------|
| a. Vent/Hood Installation (Special Permit): | \$50.00 |
| This fee covers reviewing plans, witnessing the testing, and inspection of kitchen vent hoods and exhaust ducts systems. | |
| b. Vent-Hood Suppression System permit: | \$150.00 |
| This fee covers the reviewing of plans, witnessing the testing, and inspection of commercial/restaurant vent hood fire suppression systems. | |
| c. Fire Sprinkler System permit: | \$500.00+ |
| This fee covers plan review, rough-in inspections, and witnessing the 2 hour hydrostatic testing of the sprinkler/standpipe system.
The fee is \$500.00 (+ \$0.50 per sprinkler head over 100 heads). | |
| d. Fire Sprinkler Modification permit: | \$75.00+ |
| This fee covers plan review of the modification.
The fee is \$75.00 (+ \$0.50 per sprinkler head over 20 heads). | |
| e. Underground Fire Line (UFL) permit: | \$250.00 |
| This fee covers plan review, rough-in inspections, and witnessing the 2 hour hydrostatic testing on UFLs for fire sprinkler systems, fire protection standpipes, and fire hydrants installed on both public and private water systems. | |
| a. Underground Inspections: | \$50.00/ea |
| Where an UFL system requires multiple inspections, the first inspection is covered in the permit fee (line E above), and each additional inspection will be charged an additional inspection fee. | |
| f. Fire Alarm System / Dedicated Function permit: | \$200.00+ |
| This fee covers plan review, rough-in inspections, and witnessing the fire alarm acceptance testing. The fee is \$200.00 plus \$0.50 per device over 50 devices.
(Maximum fee of \$1,500). | |
| g. Fire Alarm Panel Change: | \$50.00 |
| This fee applies when a fire alarm panel must be changed out due to malfunction or failure. This fee covers the inspection and witnessing of the acceptance test. | |
| h. Fire Sprinkler/Fire Alarm Modification permit: | \$75.00 |
| This fee is for the modification or repairs of existing fire alarm or sprinkler systems up to twenty (20) heads, not including the fire alarm control panel. This fee includes the inspection and witnessing of testing. (Addl. \$0.50 per device/head when over 20). | |



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- i. Paint/Spray Booth or Mixing Booth System:** **\$150.00**
This fee covers plan review, inspections, and witnessing of the acceptance test for commercial paint/spray/mixing booth fire suppression systems.
- j. Smoke Control System permit:** **\$150.00**
This fee covers plan review and witnessing the testing of smoke control systems to include fire and smoke dampers.
- k. System Retest/Multiple System Test Fee (per system) (addl. inspections):** **\$50.00**
This fee will be assessed when the failure of a required fire protection system requires a retest to ensure operational compliance with the adopted Fire Code and NFPA requirements. This fee also applies when a fire protection system with a single permit is broken into multiple visual inspections and/or system tests.
- l. Alternative Fire Protection System permits (per system):** **\$150.00**
This fee covers plan review, inspections, and witnessing the acceptance testing of alternative fire protection and fire suppression systems, including water tank systems, and any other fire protection system(s) not listed previously.
- m. Fire Pumps and/or Standpipe System permits (per system):** **\$250.00**
This fee covers plan review, inspections, and witnessing the acceptance testing of fire pumps and/or any standpipe system.
- n. Electrical / Gas Plumbing / HVAC Work Authorizations (Special permit):** **\$50.00 (annual)**
This fee is for the annual verification and documentation of state licenses of applicants and for the issuance of a County Authorization to Work permit. This applies to individuals holding a TCEQ or TDLR required license. **A separate permit will be issued for each project that the licensee works on and there will be no fee for that permit.**
- o. Emergency responder radio coverage system permits (per system):** **\$50.00**
This fee covers plan review, inspections, and witnessing the acceptance testing of emergency responder radio coverage systems and related equipment.
- p. Gates/Barricade permit:** **\$50.00**
This fee covers the plan review and inspection of the installation or modification of a gate or barricade across a fire apparatus access road.
- q. Permit Renewals (Special Permit):** **\$50.00**
This fee is for permits that have not expired and are being renewed for an additional 180 day time period. If permit has expired, submittal of original permit fee is required to renew the permit.



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- r. Other Construction-related permits required by the adopted Fire Code:** **\$50.00**
This fee is for the other required permits that are not individually named here as listed in Section 105 of the 2018 IFC and adopted amendments.
- s. Other Operational-related permits required by the adopted Fire Code:** **\$100.00**
This fee is for the other required permits that are not individually named here as listed in Section 105 of the 2018 IFC and adopted amendments.

CHANGE OF OCCUPANCY USE AND SUBSTANTIAL IMPROVEMENT FEES

- a. Improvements with Substantial Structural Modifications:** **same as new construction**
This fee covers plan review of the structural modification and/or finish out plans and issuing the permits to modify an existing structure from one occupancy classification to another in order to ensure the new occupancy complies with the adopted Building and Fire Codes. It includes the associated inspections and issuing of a new Certificate of Compliance.
- b. Change of Occupancy Use Inspections:** **\$150.00**
This fee covers the required inspection necessary to ensure compliance with the adopted Fire and Building Codes, and includes a \$100 fee for the issuance of a new Certificate of Compliance for an occupancy area that has changed from one occupancy classification to another.
- c. Change of Owner and/or Business Name (same occupancy classification):** **\$100.00**
This fee applies when the owner name or business name on a Certificate of Compliance is changed from one owner to another or a change in business name occurs. It is for a new Certificate of Compliance and includes an associated inspection.

FLAMMABLE COMBUSTIBLE AND GAS PERMITS AND FEES

- a. Underground Fuel Tank Installation/Removal (per tank – including LPG):** **\$250.00**
This fee is for inspecting each aboveground fuel tank to ensure continued safety and compliance with the adopted Fire Code requirements.
- b. Aboveground Fuel Tank Installation/Removal (per tank – including LPG):** **\$250.00**
This fee is for inspecting each aboveground fuel tank to ensure continued safety and compliance with the adopted Fire Code requirements.
- c. UG Fuel Line/Fuel Dispensing Installation/Testing (per fuel line/dispenser):** **\$50.00**
This fee will be assessed for witnessing the installation and pressure test of modified or newly installed fueling system supply lines and/or dispensers.



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- d. Aboveground Fuel Tank Renewal (Annual – per tank):** **\$100.00**
This fee is for inspecting each aboveground fuel tank to ensure continued safety and compliance with the adopted Fire Code requirements.

- e. Fuel Dispensing Facility Inspection and Registration** **\$100.00 (annual)**
This fee is applicable for the registration of all facilities in the jurisdiction where flammable or combustible liquid or gas are dispensed. This fee includes the annual fire/safety inspection.

INSPECTION FEES

- a. Fire/Life Safety Inspection Fee** **\$50.00**
This fee will be assessed for all fire and life safety inspections conducted by county fire marshal personnel to ensure a building or occupancy is in compliance with the adopted fire code, state laws and County Commissioner's Court Orders. This fee is applicable for each building inspected.

- b. Reinspection Fees:** **\$75-\$300**
This fee will be assessed for each reinspection required to bring a previously identified fire hazard related problem into compliance with the adopted fire code, state laws and County Commissioner's Court Orders. All inspection fees shall be paid before the reinspection will be performed. This fee will also be assessed for failure to show up for a scheduled fire inspection without prior notice or if a scheduled fire inspection is not canceled within 1/2 business day of the scheduled time and date. This fee is applicable for each building inspected.
 - First re-inspection: **\$75.00** / Second re-inspection: **\$150.00**
 - Third and subsequent re-inspections: **\$300.00**

- c. State Licensed Facility Fire and Life Safety Inspection:** **\$50-\$200**
This fee will be assessed for all fire and life safety inspections conducted by county fire marshal personnel for inspections of state licensed or regulated facilities to ensure a building or occupancy is in compliance with the adopted fire code, state laws and County Commissioner's Court Orders. This fee is applicable for each building inspected.
 - Private Schools / Day Care (25 or less occupants): **\$50.00**
 - Private Schools / Day Care (26 to 100 occupants): **\$100.00**
 - Private Schools / Day Care (Greater than 100 occupants): **\$200.00**
 - Nursing / Assisted Living Centers: **\$150.00**
 - Hospitals / Emergency Rooms: **\$200.00**
 - Medical and Dental Offices: **\$50.00**
 - Institutional (Restrained): **\$200.00**
 - Licensed Group Homes: **\$75.00**
 - Foster/Adoption Homes, 501c3's and/or taxing entities: **No Charge**



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- d. Mobile Food Vendor Inspection and Registration:** **\$100.00 (annual)**
This fee is applicable to all mobile food service vendor vehicles operating in unincorporated Hays County. The fee is for the permitting and inspection of the vehicle to ensure compliance with the adopted fire code.
- e. Preliminary Fire Protection Development Review:** **\$50.00/hr***
This fee will be assessed for the fire protection reviews of subdivisions and areas under development to determine required fire flows, number of required fire hydrants, fire hydrant distance requirements, and the evaluation of grade increase approvals.
*(\$50 per hour with a one hour minimum rounded up to the nearest 15 minute increment).
- f. Mass Gathering and/or Outdoor Music Festival Permit Processing/Inspection:** **\$300.00**
This fee is for the processing of a mass gathering and/or outdoor music festival permit application, the required site inspection, and the processing of the associated documents required to obtain Commissioners Court approval to conduct a Mass Gathering and/or Outdoor Music Festival permit as required by State Law. If the permit application is not submitted within the timeline defined by state statute, fees will be tripled if lesser timeline can still be accommodated. This fee is in addition to the filing fee as defined by statute.
- g. Other Inspections:**
For any additional inspections which are requested that are not part of a permit:
- Fire Sprinkler Systems (1 to 50 heads): **\$50.00**
 - Fire Sprinkler Systems (51 to 100 heads): **\$100.00**
 - Fire Sprinkler Systems (greater than 100 heads): **\$200.00**
 - Fire Sprinkler Modification (up to 20 heads): **\$50.00**
 - Fire Sprinkler Modification (greater than 20 heads): **\$75.00**
 - Underground Fire Protection: **\$50.00**
 - Fire Pump (per pump): **\$200.00**
 - Standpipes (per system): **\$200.00**
 - Fire Protection Water Tanks (per tank): **\$50.00**
 - Fixed Fire Suppression System (per system): **\$50.00**
 - Fire Alarm Systems (1 to 50 devices): **\$50.00**
 - Fire Alarm Systems (51 to 100 devices): **\$100.00**
 - Fire Alarm Systems (greater than 100 devices): **\$200.00**
 - Fire Alarm Modification (up to 20 devices): **\$50.00**
 - Fire Alarm Modification (greater than 20 devices): **\$75.00**
 - Smoke Control Systems (per system): **\$50.00**
 - Fuel Tanks (per tank): **\$50.00**
 - Other Operational Permit inspections: **\$50.00**



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FIREWORKS AND EXPLOSIVES PERMITS AND FEES

- a. Retail Fireworks Site Inspections: All buildings \$100.00 + \$25 ea. addl. bldg.**
This fee is for the inspection of both indoor and outdoor retail fireworks sites to ensure compliance with the county adopted fire code and state statutes in compliance with Texas Occupations Code 2154. This fee is only charged once per calendar year for each retail fireworks site. If several retail fireworks stands are chained together to form one continuous stand, each stand will count as an additional building. **These inspections fees are in addition to the temporary structure fee.**
- b. Pyrotechnic/Flame Effects Authorization: \$100.00 (per event)**
The fee is for the review of a proposed pyrotechnics or flame effect display, inspection of the proposed display site, and to verify the Pyrotechnician or Flame Effect Operators' license. This fee is applicable for any public or private fireworks display utilizing any class of regulated fireworks or flame effects devices (including "cold spark" effects). The fee **does not** include the fees for a Fire Watch that may be required by the Fire Marshal.
- c. Explosives Storage Permit (Operational): \$100.00 (annual)**
This fee is for the storage of items listed in the adopted fire code as "Prohibited Explosives" (Nitroglycerine, etc.)
- d. Special Storage Permit: \$50.00 (annual)**
This fee is for the review of a proposed explosives storage building or container and site inspection to ensure compliance with the adopted fire code, state and federal law.
- e. Quarry Operational Permit: \$100.00 (annual)**
This fee is for a quarry operational permit where explosives are used during blasting operations. All quarry operations are subject to review of blasting statistical reports if citizen complaints are registered.
- f. Explosives Excavation/Demo Permit (Operational): \$100.00**
This fee is plan review and site inspections for the use of explosives for construction related projects. These include swimming pool excavations, utility installations, site leveling, and all short term projects requiring the use of explosives. **Permit is valid for up to 60 days.**



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MISCELLANEOUS FEES

- a. Project and/or Plan Consultation Fee:** **\$50.00/hr - 1 hr. minimum**
This fee shall be applied to all written requests made to the county fire marshal's office for site assessments which require research of various county records and documents to determine the status of the identified property and for project and plan consultations.
- b. Copies of Reports / Document Fee:** **\$1.00 per page**
- c. Code Modification/Variance Request (CMVR) Application Fee:** **\$250.00 (each application)**

SERVICE FEES, PENALTY ASSESSMENTS, AND FINES

A. Fire Watch/Crowd Management Fees (3 hour minimum)

Fire Marshal or designee	\$50.00 per hour (rounded up to nearest 15 minutes)
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B. Fire Code Fines

<u>Code</u>	<u>Section</u>	<u>Offense</u>	<u>Fine</u>
Fire	All	Violations of the fire code (per offense/per day)	\$200.00 to \$500.00 + Court Costs

C. Penalty Assessment – Misc. Violations

<u>Offense</u>	<u>Penalty Assessment</u>
The Fire Marshal may impose triple fees if any construction, activity or occupancy requiring a permit exists and no permit has been issued.	3x original permit fee

EXHIBIT C

(REFERENCED STATE STATUTES)

EXHIBIT C-1

OUTDOOR BURNING

TEXAS ADMINISTRATIVE CODE
TITLE 30 - ENVIRONMENTAL QUALITY
PART 1 - TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHAPTER 111 - CONTROL OF AIR POLLUTION FROM VISIBLE EMISSIONS AND
PARTICULATE MATTER
SUBCHAPTER B: OUTDOOR BURNING

§111.201. General Prohibition.

No person may cause, suffer, allow, or permit any outdoor burning within the State of Texas, except as provided by this subchapter or by orders or permits of the commission. Outdoor disposal or deposition of any material capable of igniting spontaneously, with the exception of the storage of solid fossil fuels, shall not be allowed without written permission of the executive director. The term "executive director," as defined in Chapter 3 of this title (relating to Definitions), includes authorized staff representatives.

§111.203. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Commission on Environmental Quality (commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, the following terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Extinguished**--The absence of any visible flames, glowing coals, or smoke.
- (2) **Land clearing operation**--The uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access, or production. It does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other wastes from routine property clean-up activities, nor does it include burning following clearing for ecological restoration.
- (3) **Neighborhood**--A platted subdivision or property contiguous to and within 300 feet of a platted subdivision.
- (4) **Practical alternative**--An economically, technologically, ecologically, and logistically viable option.
- (5) **Prescribed burn**--The controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and confined to a predetermined area, following appropriate planning and precautionary measures.
- (6) **Refuse**--Garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

- (7) **Structure containing sensitive receptor(s)**--A man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term "man-made structure" does not include such things as range fences, roads, bridges, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds. The term "sensitive live vegetation" is defined as vegetation that has potential to be damaged by smoke and heat, examples of which include, but are not limited to, nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.
- (8) **Sunrise/Sunset**--Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.
- (9) **Wildland**--Uncultivated land other than fallow, land minimally influenced by human activity, and land maintained for biodiversity, wildlife forage production, protective plant cover, or wildlife habitat.

§111.205. Exception for Fire Training.

- (a) Outdoor burning shall be authorized for training fire-fighting personnel when requested in writing and when authorized either verbally or in writing by the local air pollution control agency. In the absence of such local entities, the appropriate commission regional office shall be notified. The burning shall be authorized if notice of denial from the local air pollution control agency, or commission regional office is not received within 10 working days after the date of postmark or the date of personal delivery of the request.
- (b) Facilities dedicated solely for fire-fighting training, at which training routinely will be conducted on a frequency of at least once per week, shall submit an annual written notification of intent to continue such training to the appropriate commission regional office and any local air pollution control agency.
- (c) Facilities dedicated solely for fire-fighting training, at which training is conducted less than weekly, shall provide an annual written notification of intent, with a telephone or electronic facsimile notice 24 hours in advance of any scheduled training session. No more than one such notification is required for multiple training sessions scheduled within any one-week period, provided the initial telephone/facsimile notice includes all such sessions. Both the written and telephone notifications shall be submitted to the appropriate commission regional office and any local air pollution control agency.
- (d) Authorization to conduct outdoor burning under this provision may be revoked by the executive director if the authorization is used to circumvent other prohibitions of this subchapter.

§111.207. Exception for Fires Used for Recreation, Ceremony, Cooking, and Warmth.

Outdoor burning shall be authorized for fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather. Such burning shall be subject to the requirements

of §111.219(7) of this title (relating to General Requirements for Allowable Outdoor Burning).

§111.209. Exception for Disposal Fires.

Except as provided in Local Government Code, §352.082, outdoor burning is authorized for the following:

- (1) domestic waste burning at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided or authorized by the local governmental entity having jurisdiction, and when the waste is generated only from that property. Provision of waste collection refers to collection at the premises where the waste is generated. The term "domestic waste" is defined in §101.1 of this title (relating to Definitions). Wastes normally resulting from the function of life within a residence that can be burned include such things as kitchen garbage, untreated lumber, cardboard boxes, packaging (including plastics and rubber), clothing, grass, leaves, and branch trimmings. Examples of wastes not considered domestic waste that cannot be burned, include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances;
- (2) diseased animal carcass burning when burning is the most effective means of controlling the spread of disease;
- (3) veterinarians in accordance with Texas Occupations Code, §801.361, Disposal of Animal Remains;
- (4) on-site burning of trees, brush, grass, leaves, branch trimmings, or other plant growth, by the owner of the property or any other person authorized by the owner, and when the material is generated only from that property:
 - (A) in a county that is part of a designated nonattainment area or that contains any part of a municipality that extends into a designated nonattainment area; if the plant growth was generated as a result of right-of-way maintenance, land clearing operations, and maintenance along water canals when no practical alternative to burning exists. Such burning is subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning). Commission notification or approval is not required; or
 - (B) in a county that is not part of a designated nonattainment area and that does not contain any part of a municipality that extends into a designated nonattainment area; this provision includes, but is not limited to, the burning of plant growth generated as a result of right-of-way maintenance, land clearing operations, and maintenance along water canals. Such burning is subject to local ordinances that prohibit burning inside the corporate limits of a city or town and that are consistent with the Texas Clean Air Act, Chapter 382, Subchapter E, Authority of Local Governments, and the requirements of

§111.219(3), (4), (6), and (7) of this title. Commission notification or approval is not required.

- (5) at a site designated for consolidated burning of waste generated from specific residential properties. A designated site must be located outside of a municipality and within a county with a population of less than 50,000. The owner of the designated site or the owner's authorized agent shall:
 - (A) post at all entrances to the site a placard measuring a minimum of 48 inches in width and 24 inches in height and containing, at a minimum, the words "DESIGNATED BURN SITE - No burning of any material is allowed except for trees, brush, grass, leaves, branch trimmings, or other plant growth generated from specific residential properties for which this site is designated. All burning must be supervised by a fire department employee. For more information call {PHONE NUMBER OF OWNER OR AUTHORIZED AGENT}." The placard(s) must be clearly visible and legible at all times;
 - (B) designate specific residential properties for consolidated burning at the designated site;
 - (C) maintain a record of the designated residential properties. The record must contain the description of a platted subdivision and/or a list of each property address. The description must be made available to commission or local air pollution control agency staff within 48 hours, if requested;
 - (D) ensure that all waste burned at the designated site consists of trees, brush, grass, leaves, branch trimmings, or other plant growth;
 - (E) ensure that all such waste was generated at specific residential properties for which the site is designated; and
 - (F) ensure that all burning at the designated site is directly supervised by an employee of a fire department who is part of the fire protection personnel, as defined by Texas Government Code, §419.021, and is acting in the scope of the person's employment. The fire department employee shall notify the appropriate commission regional office with a telephone or electronic facsimile notice 24 hours in advance of any scheduled supervised burn. The commission shall provide the employee with information on practical alternatives to burning. Commission approval is not required;
- (6) crop residue burning for agricultural management purposes when no practical alternative exists. Such burning shall be subject to the requirements of §111.219 of this title and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of the intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required. This section is not applicable to crop residue burning covered by an administrative order; and
- (7) brush, trees, and other plant growth causing a detrimental public health and safety condition burned by a county or municipal government at a site it owns

upon receiving site and burn approval from the executive director. Such a burn can only be authorized when there is no practical alternative, and it may be done no more frequently than once every two months. Such burns cannot be conducted at municipal solid waste landfills unless authorized under §111.215 of this title (relating to Executive Director Approval of Otherwise Prohibited Outdoor Burning), and shall be subject to the requirements of §111.219 of this title.

§111.211. Exception for Prescribed Burn.

Outdoor burning shall be authorized for:

- (1) Prescribed burning for forest, range and wildland/wildlife management purposes, with the exception of coastal salt-marsh management burning. Such burning shall be subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning), and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required.
- (2) Coastal salt-marsh management burning conducted in Aransas, Brazoria, Calhoun, Chambers, Galveston, Harris, Jackson, Jefferson, Kleberg, Matagorda, Nueces, Orange, Refugio, and San Patricio Counties. Coastal salt-marsh burning in these counties shall be subject to the following requirements:
 - (A) All land on which burning is to be conducted shall be registered with the appropriate commission regional office using a United States Geological Survey map or equivalent upon which are identified significant points such as roads, canals, lakes, and streams, and the method by which access is made to the site. For large acreage, the map should be divided into manageable blocks with identification for each defined block. The information must be received for review at least 15 working days before the burning takes place.
 - (B) Prior to any burning, notification, either verbal or written, must be made to, and authorization must be received from the appropriate commission regional office. Notification must identify the specific area and/or block to be burned, approximate start and end time, and a responsible party who can be contacted during the burn period.
 - (C) Such burning shall be subject to the requirements of §111.219 of this title.

§111.213. Exception for Hydrocarbon Burning.

Outdoor burning shall be authorized for hydrocarbon burning from pipeline breaks and oil spills only upon proper notification as set forth in §101.6 of this title (relating to Notification Requirements for Major Upset), and if the executive director has determined that the burning is necessary to protect the public welfare. Sampling and monitoring may be required to determine and evaluate environmental impacts.

§111.215. Executive Director Approval of Otherwise Prohibited Outdoor Burning.

If not otherwise authorized by this chapter, outdoor burning may be authorized by written permission from the executive director if there is no practical alternative and if the burning will not cause or contribute to a nuisance, traffic hazard or to a violation of any federal or state primary or secondary ambient air standard. The executive director may specify procedures or methods to control or abate emissions from outdoor burning authorized pursuant to this rule. Authorization to burn may be revoked by the executive director at any time if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.

§111.219. General Requirements for Allowable Outdoor Burning.

Outdoor burning which is otherwise authorized shall also be subject to the following requirements when specified in any section of this subchapter.

- (1) Prior to prescribed or controlled burning for forest management purposes, the Texas Forest Service shall be notified.
- (2) Burning must be outside the corporate limits of a city or town except where the incorporated city or town has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments.
- (3) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).
- (4) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads.
- (5) Burning must be conducted downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.
- (6) Burning shall be conducted in compliance with the following meteorological and timing considerations:
 - (A) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.

- (B) Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period.
 - (C) Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.
- (7) Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

§111.221. Responsibility for Consequences of Outdoor Burning.

The authority to conduct outdoor burning under this regulation does not exempt or excuse any person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this regulation.

ENFORCEMENT:

The rules above were adopted by TCEQ under the Texas Clean Air Act, Chapter 382 of the Health and Safety Code. A violation of these rules is an offense under Sec. 7.177 of the Water Code, with the range of punishment set out in Section 7.187 (1b, 2c or both) of the Water Code.

A person commits an offense if the person intentionally or knowingly, with respect to the person's conduct, violates the General Requirements for Allowable Outdoor burning or any other rule promulgated by the Texas Commission on Environmental Quality regarding outdoor burning. An offense is punishable for an individual by a fine of not less than \$1,000.00 or more than \$50,000.00, confinement in the county jail for a period not to exceed 180 days, or both. An offense is punishable for a person other than an individual by fine of not less than \$1,000.00 or more than \$100,000.00.

EXHIBIT C-2
GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS

TEXAS LOCAL GOVERNMENT CODE
TITLE 11: PUBLIC SAFETY
SUBTITLE B: COUNTY PUBLIC SAFETY
CHAPTER 352: COUNTY FIRE PROTECTION
SUBCHAPTER E: GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS

Sec. 352.111. GATED COMMUNITY OR HOUSING PROJECT SUBJECT TO SUBCHAPTER.

This subchapter applies only to a gated community, or to a multi-unit housing project that controls access to the project by a pedestrian or vehicular gated, located outside municipal boundaries in an area not already subject to municipal regulations regarding vehicular or pedestrian gates.

Sec. 352.112. DEFINITIONS. In this subchapter:

- (1) "gated community" means a residential subdivision or housing development with a vehicular or pedestrian gate that contains two or more dwellings not under common ownership. The term does not include a multi-unit housing project.
- (2) "Multi-unit housing project" means an apartment, condominium, or townhome project that contains two or more dwelling units.

Sec. 352.113. COUNTY AUTHORITY TO REGULATE VEHICULAR OR PEDESTRIAN GATES TO GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS.

To assure reasonable access for fire-fighting vehicles and equipment, emergency medical services vehicles, and law enforcement officers, a county may require the owner or the owners association of a gated community or multi-unit housing project to comply with this subchapter.

Sec. 352.114. LOCKBOX REQUIREMENTS.

- (a) Each vehicular gate to the gated community or multi-unit housing project must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, or code to open the gate or a key switch or cable mechanism that overrides the key, card, or code that normally opens the gate and allows the gate to be opened manually.
- (b) If there are one or more pedestrian gates, at least one pedestrian gate must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, code, key switch, or cable mechanism to open the gate.
- (c) If different pedestrian gates are operated by different keys, cards, or codes, the lockbox must contain:
 - (1) each key, card, or code, properly labeled for its respective gate; or
 - (2) a single master key, card, or code or a key switch or cable mechanism that will open every gate.

- (d) Access to a lockbox required by this section shall be limited to a person or agency providing fire-fighting or emergency medical services or law enforcement for the county.
- (e) If a gate is powered by electricity, it must be possible to open the gate without a key, card, code, or key switch if the gate loses electrical power.

Sec. 352.115. ADDITIONAL ACCESSIBILITY REQUIREMENTS.

- (a) In a gated community or multi-unit housing project that has one or more vehicular gates:
 - (1) at least one vehicular gate must be wide enough for fire-fighting vehicles, fire-fighting equipment, emergency medical services vehicles, or law enforcement vehicles to enter; and
 - (2) at least one driveway apron or entrance from the public right-of-way must be free of permanent obstacles that might impede entry by a vehicle or equipment listed in Subdivision (1).
- (b) The county fire marshal or other authority shall waive the vehicular gate width requirements of Subsection (a) for a multi-unit housing project completed before January 1, 2002, if the requirements cannot readily be met because of space limitations or excessive cost. For purposes of this subsection, \$6,000 per entrance based on the value of the dollar on January 1, 2000, is considered an excessive cost for expanding gate width and achieving an obstacle-free driveway apron or entrance.
- (c) A pedestrian gate in a gated community or multi-unit housing project must be located so as to provide firefighters, law enforcement officers, and other emergency personnel reasonable access to each building.
- (d) This section does not require a multi-unit housing project to have a vehicular gate or a pedestrian gate.

Sec. 352.116. BUILDING IDENTIFICATION.

A county may require each residential building in a multi-unit housing project to have a number or letter in a contrasting color on the side of the building and placed so that the number or letter can be seen from the vehicular driving areas by a responding emergency agency.

Sec. 352.117. COUNTY AUTHORITY TO REQUIRE PERMIT.

- (a) A county may require the owner or the owners association of a gated community or multi-unit housing project to obtain a permit from the county fire marshal or other authority with fire-fighting jurisdiction in the county to ensure compliance with this subchapter.

- (b) A permit may be issued under this subchapter only if the requirements of this subchapter and standards adopted under this subchapter are met.
- (c) To pay for the cost of administering the permits, the county may collect a one-time fee not to exceed \$50 from each person to whom a permit is issued under this section.

Sec. 352.118. SUSPENSION OR REVOCATION OF LICENSE.

- (a) A permit issued under this subchapter may be suspended or revoked for violation of this subchapter or a regulation adopted under this subchapter after notice and a hearing on a complaint by the county fire marshal or other authority having jurisdiction for firefighting, emergency medical service, or law enforcement. The hearing shall be held by the commissioners court of the county or by a person or entity designated by the commissioners court.
- (b) A permit may be reinstated or a new permit issued if each violation that is a ground of the complaint is corrected within the time prescribed by the entity that holds the hearing.

Sec. 352.119. LIMITATION ON SPECIFIC COUNTY STANDARDS.

- (a) A county may not impose under this subchapter specific standards relating to vehicular gate widths, obstacle-free driveway aprons or entrances, pedestrian gate locations, or building numbers that exceed the requirements for new gated communities or new multi-unit housing projects contained in the municipal ordinances of:
 - (1) the municipality within whose extraterritorial jurisdiction the gated community or multi-unit housing project is located; or
 - (2) the municipality nearest, on a straight line, to the boundary of the gated community or multi-unit housing project, if the community or project is not within the extraterritorial jurisdiction of a municipality.
- (b) The county fire marshal or other authority with fire-fighting jurisdiction may adopt reasonable standards relating to vehicular gate width, obstacle-free driveway aprons or entrances, pedestrian gate locations, and building numbers if the appropriate municipality described by Subsection (a) has not adopted applicable standards.

Sec. 352.120. OFFENSE.

A person who violates this subchapter or a regulation adopted under this subchapter in a county that requires compliance with this subchapter under Section 352.113 commits an offense. An offense under this section is a Class C misdemeanor.



**COMMISSIONERS COURT ORDER REVISING PART 6, SECTION 6.3-
VARIANCES OF THE ADOPTION OF A FIRE CODE AND REGULATIONS
FOR ITS ENFORCEMENT, PURSUANT TO CHAPTER 233 OF THE TEXAS
LOCAL GOVERNMENT CODE**

WHEREAS, on December 17, 2019, the Hays County Commissioners Court adopted the 2018 International Fire Code and local amendments for their enforcement, pursuant to Texas Local Government Code Chapter 233, Subchapter C; and

WHEREAS, the Hays County Commissioners Court adopted Part 6, Section 6.3 – Variances as part of its adoption of the Hays County Fire Code; and

WHEREAS, the County Fire Marshal recommends revising the 2019 Court Order to give flexibility to the County Fire Marshal for implementing a code modification/variance request process.

NOW THEREFORE, it is hereby ordered by the Commissioners Court of Hays County, Texas:

**ARTICLE I
REPLACEMENT OF PRIOR ORDERS**

1.01 This Order replaces Part 6, Section 6.3 – Variances of the HAYS COUNTY COMMISSIONERS COURT ORDER ADOPTING THE FIRE CODE AND RULES AND AMENDMENTS FOR ITS ENFORCEMENT.

**ARTICLE II
REVISED ORDER**

2.01.1 Part 6, Section 6.3 – Variances is amended and replaced as follows:

The Hays County Fire Marshal shall develop and implement a Code Modification/Variance Request process that meets the intent of Section 101.3 of the 2018 International Fire Code which states, “The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises, and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations.”

A Code Modification/Variance Request may be granted upon review and approval of the Hays County Fire Marshal when the following conditions are met:

- (a) the applicant has shown good and sufficient cause for a Code Modification/Variance;
- (b) failure to grant the variance would result in exceptional hardship to the applicant; and
- (c) granting the code modification/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.

ARTICLE III
FEES

- 8.01 The fee for the Code Modification/Variance Request shall be \$250.00 and shall be in addition to other required fees on the approved Hays County Fire Marshal fee schedule.
- 8.02 All monies collected by the County Fire Marshal under this Order shall be placed in a special fund under the control of the County Treasurer, and monies in that fund shall be used only for the administration and enforcement of this Order as per State Law.

ARTICLE IV
EFFECTIVE DATE

14.01 This Order shall become effective on March 23, 2021.

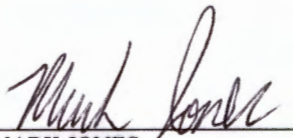
PASSED AND APPROVED THIS THE 23rd DAY OF March, 2021.



RUBEN BECERRA
County Judge



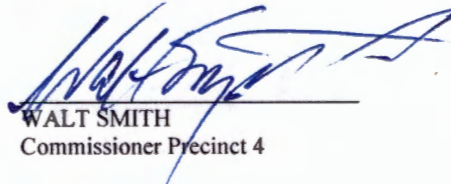
DEBBIE INGALSBE
Commissioner Precinct 1



MARK JONES
Commissioner Precinct 2

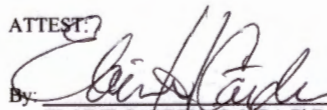


LON SHELL
Commissioner Precinct 3



WALT SMITH
Commissioner Precinct 4

ATTEST:



By: ELAINE CARDENAS, MBA PhD
County Clerk

