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# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0780-02-02	Codes and Standards
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0780-02-02-.01	Adoption by Reference

Chapter Number	Chapter Title
0780-02-03	Construction Plans and Specifications
Rule Number	Rule Title
0780-02-03-.01	Definitions
0780-02-03-.02	Submission of Plans
0780-02-03-.03	Requirements
0780-02-03-.04	Fees
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0780-02-23-.14	Local Government Opting Out of these Provisions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0780-02-02  
Codes and Standards

Amendments

Rule 0780-02-02-.01 Adoption by Reference is amended by adding the following language as a new subparagraph (1)(d):

- (d) To lead by example, for state buildings, in lieu of Chapter 13 of the International Building Code, 2006 edition, ASHRAE Standard 90.1, 2007 edition, published by the American Society of Heating, Refrigerating, and Air Conditioning Engineers, 1791 Tullie Circle NE, Atlanta, GA 30329.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a).

Subparagraph (b) of paragraph (2) of rule 0780-02-02-.01 Adoption by Reference is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with these rules.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a).

Chapter 0780-02-03  
Review of Construction Plans and Specifications

Amendments

Subparagraph (b) of paragraph (1) of rule 0780-02-03-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) Construction means the erection of a new building, an addition to an existing building, a change of occupancy or occupancy group, an alteration that alters the exit arrangement, fire resistive assemblies, or type of construction, or involves the installation of fire suppression or detection systems or fuel-fired equipment. The term "construction" shall not be construed to include excavation or site preparation. When renovation or remodeling occurs in an existing building that does not result

in an addition to the building, the existing life safety features that do not meet the requirements for new buildings, but that exceed the requirements for existing buildings, shall not be further diminished.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (c) of paragraph (1) of rule 0780-02-03-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (c) State building means any building owned, or leased with an option to purchase, or leased where fifty percent (50%) or more of the building is leased by the State of Tennessee or any department, institution, or agency thereof.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (i) of paragraph (1) of rule 0780-02-03-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (i) As-built plans and specifications include, but are not limited to, the following items: floor plans with door and window schedules, finish schedules, furnace and water heater locations, fire alarm systems, emergency lighting, exit signs, fire-rated assemblies, any accessibility issues addressed pursuant to T.C.A. § 68-120-204 and any available specifications. Additionally, a structural engineer's analysis must accompany the plans when submitted if deemed necessary by the state fire marshal based on the condition of the building or a change in use of the building.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.01 Definitions is amended by adding the following language as a new subparagraph (m):

- (m) State leased building means any building where less than fifty percent (50%) of the building is leased by the State of Tennessee or any department, institution, or agency thereof.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) After the effective date of this chapter, no person shall commence construction of any educational occupancy, including those licensed by the Department of Education, detention and correctional occupancy, state building or state leased building until plans and specifications therefor have been submitted to and approved in writing by the Division. The Division shall also review plans submitted for review of day care centers which are licensed by the Department of Human Services and the Department of Education. The following exceptions to such plans review will apply upon written approval by the Division:
  - (a) An existing building comprising an area of three thousand (3,000) occupied gross square feet or less, or an area within an existing building that is bound by two (2) hour fire-rated constructions and that consists of three thousand (3,000) occupied gross square feet or less, that is proposed to house an educational occupancy or daycare center and enrolls twenty-four (24) or fewer students may have review for code compliance determined through inspection by the state fire marshal. An applicable review fee as authorized by this Chapter will apply. The state fire marshal may require limited plans review if the state fire marshal determines that it is necessary in order to ensure adequate code compliance. All such inspections and limited

plans reviews will be subjected to the requirements for the issuance of a Certificate of Occupancy as authorized by this Chapter.

- (b) An existing building comprising an area between three thousand (3,000) occupied gross square feet and five thousand (5,000) occupied gross square feet, or an area within an existing building that is bound by two (2)-hour fire-rated construction containing between three thousand (3,000) occupied gross square feet and five thousand (5,000) occupied gross square feet, that is proposed to house an educational occupancy or daycare center and enrolls between twenty-five (25) and ninety-nine (99) students will be subjected to a limited plans review. An applicable review fee as authorized by this Chapter will apply.
- (c) An existing building comprising an area of more than five thousand (5,000) occupied gross square feet, or an area within an existing building that is bound by two (2)-hour fire-rated constructions containing more than five thousand (5,000) occupied gross square feet, or any area enrolling one hundred (100) students or more that is proposed to house an educational occupancy or daycare center will be subjected to a full plans review as applied to new constructions and an applicable review fee as authorized by this Chapter will apply.
- (d) Facilities leased by the state located in a jurisdiction of local government that has obtained the exemption authorized by Tenn. Code Ann. § 68-120-101(b)(2).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (3) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (3) After July 1, 2010, no person shall commence construction of any business occupancy three (3) stories or more in height, or residential occupancy three (3) stories or more in height, excluding one (1) and two (2) family dwellings and townhouses, until plans and specifications therefore have been submitted to and approved in writing by the Division.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (5) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (5) After July 1, 2010, no person shall commence construction of any residential occupancy one (1) or two (2) stories in height, excluding one (1) and two (2) family dwellings and townhouses, until plans and specifications therefore have been submitted to and approved in writing by the Division. The following exceptions to such plans review for residential occupancies one (1) or two (2) story(s) in height, excluding one (1) and two (2) family dwellings and townhouses, will apply upon written approval by the Division after the submission of construction drawings:
  - (a) A residential occupancy one (1) or two (2) story(s) in height having a gross area of less than five thousand (5,000) square feet may have review for code compliance determined through inspection by the Division based on the submitted construction drawings. An applicable review fee as authorized by this Chapter will apply.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.02 Submission of Plans is amended by adding the following language as new paragraph (7) and renumbering the existing paragraphs (7) and (8) as paragraphs (8) and (9):

- (7) After July 1, 2010, the following exception shall apply to the plans and specification review and approval requirements of this chapter upon written approval by the Division:

- (a) For construction solely involving the installation, replacement, repair, or minor alterations of fuel fired mechanical systems or fire detection systems, a written scope of work and shop drawings for such project shall be submitted with the appropriate review fee. The Division may require registered engineer designed plans and specifications for review and approval prior to construction based on the size and complexity of the project.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (e) of newly renumbered paragraph (8) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (e) If construction starts in accordance with paragraph 8(a)-8(d) above, said construction must comply with the minimum standards for fire prevention, fire protection, and building construction safety in effect at the time of the initial submission.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.03 Requirements is amended by adding the following language as a new paragraph (3):

- (3) Plans and specifications and shop drawings required to be submitted under this Chapter may be submitted:
  - (a) electronically, through the electronic plans submittal portal in a format acceptable by the Division; or
  - (b) by providing one (1) full-size paper copy of the required documents and a pdf copy of the documents on electronic media acceptable by the Division with certification that the pdf copy is an identical electronic copy of the paper copy.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (a) of paragraph (1) of rule 0780-02-03-.04 Fees is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) If a State building or educational occupancy is also reviewed for compliance with building construction safety standards by a local government which has obtained the exemption authorized by Tenn. Code Ann. §68-120-101(b)(2), the fee for review under this chapter shall be reduced by fifty percent (50%), but the fee shall not be less than two hundred fifty dollars (\$250.00). Review fees for plans being submitted under Chapter 0780-02-03-.02(8) shall not be further reduced.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (b) of paragraph (1) of rule 0780-02-03-.04 Fees is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) If plans and specifications must be resubmitted because their approval has become invalid under rule 0780-02-03-.05, the fee established in this rule will be imposed.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.04 Fees is amended by adding the following language as a new subparagraph (c):

- (c) Where a building governed by the provisions of this chapter is constructed in violation of this Chapter, the fee for the review of the plans and specifications shall be the applicable review fee authorized by this chapter based on the current cost to build the building using the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (a) of paragraph (3) of rule 0780-02-03-.04 Fees is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) in the Division's opinion, the construction cost of a project has been underestimated in the certification submitted pursuant to rule 0780-02-03-.03(3) based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.04 Fees is amended by adding the following language as new paragraphs (4), (5) and (6):

- (4) Project numbers shall be assigned by the Department for each building of a multiple building submission and project construction costs shall be stated for each building, and all fees shall be calculated using construction costs on a per building basis.
- (5) An additional fee of fifteen dollars (\$15.00) per building for receiving plans or specifications electronically shall be applied.
- (6) For those making payment over the internet, payment of an internet payment processing fee, not to exceed two and one half percent (2 1/2%) of the total fee, to be used solely to defray the costs of any payments processed electronically shall be applied.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.05 Approval of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) Plans and specifications submitted pursuant to rule 0780-02-03-.02 shall be approved if the proposed construction would be in compliance with the minimum standards for fire prevention, fire protection, and building construction safety in effect at the time of the initial submission.
  - (a) Plans and specifications submittals that have been found to have deficiency(s) that prevent approval shall be closed due to inactivity eighteen (18) months after the most recent review if no response is submitted by the architect or engineer to correct the deficiency(s). After the closure of a project due to inactivity, new plans and specifications will be required to be submitted to the codes in effect at the time of the new submission along with the applicable fees. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to allow the file to remain open for an additional period of time. A request to keep the file open must be requested in writing and justifiable cause must be demonstrated.
  - (b) If submitted plans and specifications have not been approved within twelve (12) months after the effective date of any adopted revisions to the codes in effect at the time of the initial submission, the submittal shall be closed and new plans and specifications will be required to

submitted to the codes in effect at the time of the new submission along with the applicable fees. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to allow the file to remain open for an additional period of time. A request to keep the file open must be requested in writing and justifiable cause must be demonstrated.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (2) of rule 0780-02-03-.05 Approval of Plans is amended by adding the following language as a new subparagraph (a):

- (a) When the fee for review of plans and specifications for construction is to be collected from another state department or agency, review may begin once all information needed to invoice or journal voucher the other state department or agency has been received.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (4) of rule 0780-02-03-.05 Approval of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (4) A full-sized paper copy of the approved plans and specifications shall be placed on the job site prior to the commencement of construction and shall be retained on the job site until a certificate of occupancy has been issued by the Division.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.05 Approval of Plans is amended by adding the following language as a new paragraph (9):

- (9) Where a building governed by the provisions of this Chapter is constructed in violation of this Chapter, original registered architect and engineer designed plans and specifications shall be submitted for review and approval. If such plans and specifications cannot be produced, as-built plans shall be submitted. The plans and specifications shall meet the more stringent requirements of the codes in effect at the time of construction and the currently adopted codes for existing buildings prior to approval. After plans are approved and the construction has been properly inspected, the Division will issue the owner a letter stating that the facility has been determined to comply with this Chapter. An applicable review fee as authorized by this Chapter will apply based on the value of the building at the time of submission.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraphs (a) and (b) of paragraph (1) of rule 0780-02-03-.11 Dispute Resolution are amended by deleting the text of the subparagraphs in their entirety and substituting instead the following language so that, as amended, the subparagraphs shall read:

- (a) When a dispute as to the interpretation or applicability of a code provision arises between the owner or designer of a project and the plans reviewer, the dispute shall be submitted to the Assistant Director of Codes Enforcement for resolution.
- (b) If the owner or designer disagrees with the decision of the Assistant Director of Codes Enforcement, the dispute shall be submitted to the Director of Codes Enforcement for resolution.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraphs (a) and (b) of paragraph (2) of rule 0780-02-03-.11 Dispute Resolution are amended by deleting the text of the subparagraphs in their entirety and substituting instead the following language so that, as amended, the subparagraphs shall read:

- (a) When a dispute arises as to the interpretation or applicability of a code provision between the owner, designer or contractor on a project and the Deputy State Fire Marshal inspecting the project, and the project is being constructed in accordance with plans and specifications approved by the Division, the Deputy State Fire Marshal shall consult with the Plans Reviewer who approved the plans and specifications for resolution. If the owner, designer or contractor disagrees with the decision of the Plans Reviewer, the dispute shall be submitted to the Fire Safety Manager.
- (b) If the owner, designer or contractor disagrees with the decision of the Fire Safety Manager, the dispute shall be submitted to the Director of Codes Enforcement for resolution.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

0780-02-03-.12 Grandfather Provision for Review of Plans is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

At the submitter's request, plans submitted within one hundred twenty (120) days after the effective date of newly adopted building, fire and life safety codes may be reviewed under the codes that were in effect on the day immediately prior to the effective date of the newly adopted codes. The plans submitted under this section shall still be subject to the provisions Rule 0780-02-03-.05(1).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

#### New Rule

0780-02-03-.13 Equivalencies

0780-02-03-.13 Equivalencies.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes adopted in this chapter, Commissioner of Commerce and Insurance, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee thereof, shall first find that the special individual reason makes the strict application of the codes adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes adopted in this chapter and that such modification does not lessen, health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and kept in the files of the Division.
- (2) The provisions of the codes adopted in this chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Commissioner of Commerce and Insurance, or designee thereof, finds that the proposed design is satisfactory and complies with the intent of the codes adopted in this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed by the codes adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Chapter 0780-02-23  
One and Two Family Dwellings and Townhouses

New Rules

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0780-02-23-.01 Definitions.

(1) As used in this chapter, unless the context otherwise requires:

- (a) Construction means the erection of a new building containing a detached one or two family dwelling or townhouse, a change of occupancy of an existing building to a one or two family dwelling or townhouse or, after October 1, 2011, an addition to an existing detached one or two family dwelling or townhouse of thirty (30) square feet or more of interior space. The term "construction" shall not be construed to include excavation, site preparation or renovation. The term "construction" shall also not be construed to include the construction or placement of a modular or manufactured home under T.C.A. Title 68, Chapter 126; however, the term "construction" shall include any additional on-site construction to a modular or manufactured home.
- (b) Division means the Division of Fire Prevention of the Department of Commerce and Insurance.
- (c) Department means the Department of Commerce and Insurance.
- (c) Deputy State Building Inspector means any person who meets the qualifications in T.C.A. § 68-120-101(f)(1)(2) and is appointed by the Commissioner of Commerce and Insurance to perform inspections of one and two family dwelling and townhouse construction.
- (d) Local government means any city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee.
- (e) One and two family dwelling means a building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied for living purposes.
- (f) Property owner's permit means permit applied for by a record owner of the property in order to build a one (1) family dwelling in which the owner intends to live upon completion.
- (g) Renovation means interior or exterior painting, papering, tiling, carpeting, cabinets, counter tops, reroofing, residing, glazing or replacing windows or doors, floor finishing, repairs to existing chimneys, stairs, porches, underpinnings, exterior siding or roof and similar activities, additions of exterior space and additions of less than thirty (30) square feet of interior space.

- (h) Townhouse means a single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit extends from foundation to roof with a yard or public way on at least two (2) sides.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.02 Adoption by Reference.

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for the construction of one and two family dwellings and townhouses, and additions thereto of thirty (30) square feet or more of interior space, in the State of Tennessee shall be those prescribed in the following publications:

- (a) International Residential Code, 2009 edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6<sup>th</sup> Floor, Washington, D.C., 20001, except for:

- 1. Section R313.2, One and Two Family Dwellings Automatic Fire Sprinkler Systems, pursuant to T.C.A. § 68-102-101(a)(8);
- 2. Chapters 34-43, relating to Electrical.

- (b) Amendments to the Codes:

- 1. As an alternative to Chapter 11 of the International Residential Code, the International Energy Conservation Code, 2006 edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6<sup>th</sup> Floor, Washington, D.C., 20001.
- 2. Section 313.1, Townhouse automatic fire sprinkler systems, is amended by adding “;however, an automatic fire sprinkler system shall not be required in a three (3) unit townhouse with less than five thousand (5,000) gross square feet and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall” after “installed in townhouses” and before “.”.
- 3. Section 314.4, Power Source, relating to Smoke Alarms, is amended by deleting Exception 2 and replacing it with the following language:  
  
Exception 2. Interconnection and hard-wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure.
- 4. IECC Table 402.1.1 is amended by adding the following as footnote “h”: “Log walls complying with ICC400 and with a minimum average wall thickness of 5” or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.
- 5. IECC Table 402.1.1 is amended by adding the following as footnote “i”: “Log walls complying with ICC400 and with a minimum average wall thickness of 5” or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.

- (2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:

- (a) any provision superseded by law; or

- (b) an optional or recommended, rather than mandatory, standard or practice; or
  - (c) any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with these rules.
- (3) The provisions of the code adopted by reference in paragraph (1) shall govern the manner in which:
- (a) the code is applied to construction of one and two family dwellings, townhouses and additions thereto of thirty (30) or more square feet of interior space as defined in this chapter;
  - (b) occupancies and types of construction are classified for the purpose of determining minimum code requirements; and
  - (c) the specific requirements of the code may be modified to permit the use of alternate materials or methods of construction.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.03 Conflicts.

- (1) In the event of a conflict or inconsistency between the code adopted by reference in rule 0780-02-23-.02 and Chapter 0780-02-01 (Electrical Installations) of the Rules and Regulations of the State of Tennessee, the most stringent provisions shall control.
- (2) Nothing in this rule shall abrogate any right of appeal granted under T.C.A. Title 68, Chapters 102 and 120.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.04 Application.

- (1) After October 1, 2010, the commencement of any construction, as defined in rule 0780-02-23-.01, of one and two family dwellings or townhouses undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.
- (2) After October 1, 2011, the commencement of any construction, as defined in rule 0780-02-23-.01, of additions to one and two family dwellings or townhouses of thirty (30) square feet or more of interior space undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.05 Permits.

- (1) After October 1, 2010, no construction of a one or two family dwelling or townhouse shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. The permit must be secured in the area where the work is to be performed until a certificate of occupancy is issued. A separate permit shall be required for each unit of a townhouse.
- (2) After October 1, 2011, no construction of an addition to a one or two family dwelling or townhouse of thirty (30) square feet or more of interior space shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out

- of these provisions. The permit must be secured in the area where the work is to be performed until a certificate of occupancy is issued.
- (3) A property owner's permit shall automatically expire upon completion of the work for which the permit was issued. All work done under such permit shall be subject to regular inspection requirements and fees and other applicable laws and regulations. Pursuant to T.C.A. § 68-6-103, an individual may obtain only one (1) property owner's permit within a twenty four (24) month period.
  - (4)
    - (a) When applying for a permit, an applicant shall complete a form prescribed by the Department containing at least the following information:
      - 1. The location where the work will be performed;
      - 2. A description of the work to be performed;
      - 3. The use and occupancy of the structure;
      - 4. The valuation of the project;
      - 5. The square footage of the construction; and
      - 6. The signature of the applicant.
    - (b) When applying for a permit, an applicant shall present:
      - 1. Payment in an acceptable form in the amount of the permit fee; and
      - 2. Licensure pursuant to T.C.A. Title 62, Chapter 6 (except for a property owner's permit).
    - (c) When applying for a permit, an applicant shall certify and have proof available, if requested, of:
      - 1. Availability of public sewer or a septic permit; and
      - 2. Any license or permit required by state law or local ordinance.
  - (5) All building permits are non-transferable.
  - (6) In the event more than one (1) rejection is issued during the building inspection process, an additional inspection permit must be applied for and obtained for each subsequent rejection.
  - (7)
    - (a) A building permit shall be void if the authorized work is not commenced within one hundred eighty (180) days after its issuance. If the work authorized by a permit is commenced and then suspended or abandoned for a period of one hundred eighty (180) days a building permit shall be void. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to grant, in writing, one or more extensions of time, for periods of not more than one hundred eighty (180) days each. The extension must be requested in writing and justifiable cause demonstrated.
    - (b) Every building permit shall expire two (2) years from the date of issue or upon the issuance of the certificate of occupancy unless:
      - 1. the inspector determines that substantial progress has been made in the work authorized by the permit; and
      - 2. the permit holder is granted an exception after submitting a written request to the Commissioner of Commerce and Insurance, or designee thereof.
    - (c) No construction work for which a permit is required shall be commenced in any building or premises until a permit to perform such work is obtained.

- (8) The original permit, along with any other required state or local permit, shall be placed on site and readily available for inspection. Upon completion of a request form prescribed by the Department, a duplicate original permit may be obtained for a fee of ten dollars (\$10.00) in the event of a loss or destruction thereof.
- (9) It is the responsibility of all persons performing work on the site to comply with the required codes.
- (10) The issuance of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any state law or regulation or any ordinance of the local jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter, any state law or regulation or any ordinance of the local jurisdiction shall not be valid. The issuance of a permit based on construction documents or other data shall not prevent the Division from requiring the correction of errors in the construction documents or other data. The Division is also authorized to prevent occupancy or use of a structure where there is a violation of the chapter or any state law or regulation.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.06 Issuance of Permits in Violation of this Chapter.

- (1) The Division may suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.
- (2) Upon notice from the Division to the issuer, the issuer shall immediately revoke any permit issued in violation of state law or regulation or this chapter, and any construction on such project must cease until proper approval is obtained and a new permit issued pursuant to this chapter.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.07 Inspections.

- (1) Inspections of construction of one (1) family and two (2) family dwellings, townhouses begun after October 1, 2010, and additions thereto of thirty (30) square feet or more of interior space begun after October 1, 2011, will be conducted by deputy building inspectors appointed under contract with the Commissioner of Commerce and Insurance pursuant to T.C.A. § 68-120-101.
  - (a) Fees for such inspections for services in subparagraph (2)(a) are specified in rule 0780-02-23-.08.
  - (b) Fees charged for additional inspections, including consultation inspections, slab inspections, plumbing, mechanical and gas inspections and inspections necessitated by more than one (1) rejection on the project, are specified in rule 0780-02-23-.08.
- (2) (a) Inspections are required on:
  1. Foundations after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, equipment and special requirements for wood foundations. Monolith poured slabs shall be inspected as the footing for the structure.
  2. After October 1, 2011, plumbing and mechanical systems prior to covering or concealment, before fixtures or appliances are set or installed, and prior to or at the same time as the framing inspection.

3. Frame after roof, framing, fire stopping, draft stopping, bracing rough in plumbing, rough in mechanical and rough in electrical are in place.
  4. Final after the permitted work is complete and prior to occupancy.
- (b) If a slab foundation, other than a monolith pour, is to be used, an inspection of the slab shall be required in addition to the foundation inspection.
  - (c) Energy efficiency inspections shall occur during the required inspections specified in rule 0780-02-23-.08(2) as required by the adopted code.
- (3) It shall be the duty of the permit holder or agent thereof to notify the building inspector through the permit issuing agent that such work is ready for inspection. It shall be the duty of the person requesting any inspections required to provide access to and means for inspection of such work.
  - (4) Inspections shall be conducted in the order set out in paragraph (2) of this rule. Work shall not be done beyond the point indicated in each successive inspection without first obtaining approval of the building inspector. The building inspector, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with the code. Any portions that do not comply with the code shall be corrected and such portions shall not be covered or concealed until authorized by the building inspector.
  - (5) The Commissioner of Commerce and Insurance, or designee thereof, may waive an inspection if an inspection letter approving the work acceptable to the Department is signed and submitted by an architect or engineer currently registered in the State of Tennessee.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.08 Fees.

- (1) The fee shall be payable in full at the time of application for a building permit. The fee shall be determined based on actual expected construction costs; however, the actual costs shall not be less than the construction cost based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes). The fee for a permit for construction shall be as specified in the following table:

Total Construction Cost	Fee
\$0.00 to \$5,000	\$100
\$5,001 to \$100,000	\$350
\$100,001 to \$150,000	\$400
\$150,001 to \$200,000	\$450
\$200,001 to \$250,000	\$500
\$250,001 to \$300,000	\$550
\$300,001 AND UP	\$550 for the first \$300,000; plus \$50.00 for each additional fifty thousand dollars (\$50,000) above \$300,000 or fraction thereof.

- (a) When the permit fee is to be collected from another state department or agency, the permit may be issued once all information needed to invoice or journal voucher the other state department or agency has been received.
  - (b) If the application for a building permit must be resubmitted because its issuance has become invalid under paragraph (3) of rule 0780-02-23-.05, the fee established in this rule will be imposed.
- (2) After October 1, 2011, the fee for a plumbing and mechanical inspection shall be one hundred dollars (\$100.00) in addition to the fees above.
  - (3) The fee for a slab inspection, other than monolith pours, shall be one hundred dollars (\$100.00) in addition to the fees above.
  - (4) The fee for a re-inspection necessitated by more than one (1) rejection on a project shall be one hundred dollars (\$100.00).
  - (5) The fee for a consultation inspection or a temporary certificate of occupancy shall be one hundred dollars (\$100.00).
  - (6) The Division may require appropriate documentation of costs (such as contractors' bids or invoice) if:
    - (a) in the Division's opinion, the construction cost of a project has been underestimated in permit application based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).
    - (b) After initial review, if such documentation warrants an additional permit charge it shall be computed, assessed, and paid promptly and no further construction shall be authorized pursuant to the authority of the permit until payment is made.
  - (7) If a permit expires before completion of a project or a project is stopped before its completion, the permit holder shall be entitled to a refund of the inspection fees that would have been due to the deputy building inspector under their contract for any required inspection under rule 0780-02-23-.08 that was not performed, provided that the permit holder requests such refund on a form prescribed by the Division within sixty (60) days of the expiration of the permit or the date the project stopped.
  - (8) Any person who begins any work on any building or structure before obtaining the necessary permit required under this chapter shall be subject to an additional fee of one hundred percent (100%) of the required permit fee for each violation thereof.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.09 Certificate of Occupancy.

- (1) A new one (1) or two (2) family dwelling, townhouse, where construction began after October 1, 2010, or any additions thereto of thirty (30) square feet or more of interior space regulated under this chapter, where construction began after October 1, 2011, shall not be occupied until the Division has issued a certificate of occupancy.
- (2) A certificate of occupancy shall be issued after the passage of all inspections required by this chapter and passage of the final electrical inspection.
- (3) The certificate of occupancy shall state:
  - (a) the building permit number;
  - (b) the address of the building;

- (c) the name and address of the building owner;
  - (d) the name(s) of the deputy building inspector(s);
  - (e) the edition of the code the building permit was issued under; and
  - (f) the date of issuance.
- (4) A temporary certificate of occupancy may be issued by the Division for a portion or portions of the construction that may be occupied safely prior to final completion of the building.
- (5) The Division may suspend or revoke a certificate of occupancy issued under the provisions chapter wherever the certificate of occupancy is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.10 Dispute Resolution.

- (1) Disputes that arise during the inspection process shall be resolved as follows:
- (a) When a dispute arises as to the interpretation or applicability of a code provision between the owner, designer or contractor on a project and the Deputy Building Inspector inspecting the project, the dispute shall be submitted to the Director of Codes Enforcement, or designee thereof, for resolution.
  - (b) If the owner, designer or contractor disagrees with the decision of the Director of Codes Enforcement or designee thereof, the dispute shall be submitted to the Assistant Commissioner for Fire Prevention for resolution.
  - (c) If the owner, designer or contractor disagrees with the decision of the Assistant Commissioner for Fire Prevention, the dispute shall be submitted to the Commissioner of Commerce and Insurance, or the Commissioner's designee, for resolution.
  - (d) At any point during this process, the parties may agree to submit the dispute to the publisher of the code section at issue for a written opinion.
- (2) The entire dispute resolution process set forth in paragraph (1) above shall be completed as quickly as possible, but no more than thirty (30) calendar days from the date that the dispute is first submitted for resolution, unless the dispute is submitted to the code publisher for an opinion.
- (3) If there are any fees charged by the code publisher for rendering its written opinion, those fees shall be paid by the owner of the project before a certificate of occupancy will be issued by the Division.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.11 Equivalencies.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes adopted in this chapter, the Commissioner of Commerce and Insurance, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee thereof, shall first find that the special individual reason makes the strict application of the codes adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes adopted in this chapter and that such modification does not lessen, health, accessibility,

life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and kept in the files of the Division.

- (2) The provisions of the codes adopted in this chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Commissioner of Commerce and Insurance, or designee thereof, finds that the proposed design is satisfactory and complies with the intent of the codes adopted in this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed by the codes adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.12 Local Government Enforcing Residential Building Codes.

- (1) Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for enforcing residential codes for the construction of new one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space. The county or city is authorized to charge and receive a fee for each inspection performed. This rule sets forth the criteria by which local governments are authorized to enforce residential codes and procedures by which the Division may review such authorization.
- (2) Initial Authorization.
  - (a) On or before July 1, 2010, or upon subsequent adoption thereof, a local government meeting the requirements of T.C.A. § 68-120-101 relating to having chosen to adopt and building construction and fire safety codes for the construction of new one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, shall provide the Division with the following information:
    1. The title(s) and edition(s) of the code(s) that are adopted and enforced, which shall show that the local government has adopted a code(s) that is current within seven (7) years of the date of the latest edition;
    2. The number and types of inspections that will be conducted;
    3. The names of all persons who are employed by the local government to perform building inspections on the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of T.C.A. § 68-120-101(f)(1)(B).
- (3) The local government's adopted residential code publication shall be current within seven (7) years of the date of the latest edition thereof, unless otherwise approved in writing by the Commissioner of Commerce and Insurance.
- (4) Review of Local Government Authorization.
  - (a) For any local government that is authorized to enforce building construction codes for one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, the Division will conduct a review of the local government's authorization at least once every three (3) years. The local government shall submit the following information on a form provided by the Division within thirty (30) days of its receipt of the form.
    1. The title(s) and edition(s) of the code(s) that will be adopted and enforced;
    2. The number and types of inspections that are conducted;

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Commerce and Insurance on 3-17-10 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/16/09

Rulemaking Hearing(s) Conducted on: (add more dates). 01/06/10

Date: 3-17-10

Signature: Leslie A. Newman

Name of Officer: Leslie A. Newman

Title of Officer: Commissioner



Subscribed and sworn to before me on: 3-17-10

Notary Public Signature: Denisa Mann

My commission expires on: 9-7-10

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.  
Robert E. Cooper, Jr.  
Attorney General and Reporter

3-26-10  
Date

**Department of State Use Only**

Filed with the Department of State on: 3/29/10

Effective on: 6/27/10

Tre Hargett  
Tre Hargett  
Secretary of State

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PUBLICATIONS

## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

The Tennessee Manufactured Housing Association submitted written comments asking the definition of construction in rule 0780-02-23 be amended to clarify that modular and manufactured housing, as governed by Title 68, Chapter 126, are not regulated under the rules for one (1) and two (2) family dwellings and townhouses.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. Based on these comments the Department has amended its proposal to clarify that the construction and placement of modular and manufactured housing, governed by Title 68, Chapter 126, is not considered as construction under the rules for one (1) and two (2) family dwellings and townhouses.*

The Home Builders of Tennessee submitted oral testimony and written comments: in support of the adoption of the 2009 IRC without Section 313.2 relating to sprinklers in one and two family dwellings; in support of adoption of the 2006 IECC as an alternative to Chapter 11 of the 2009 IRC; requesting townhouses or condos up to four (4) units or 5,000 square feet be exempt from being required to have sprinklers if two (2) hour fire walls are installed between units; and encouraging stronger enforcement of the contractor licensing law.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. Based on these and other comments, the Department has amended its proposal to require sprinklers in townhouses of three (3) units with five thousand (5,000) gross square feet or more and townhouses of four (4) or more units. The Department believes this is a reasonable compromise regarding sprinklers that still provides significant life safety protection to the occupants of smaller three (3) unit townhouses. The Department will be requiring issuing agents to check for a valid contractor's license prior to issuing a permit.*

The Tennessee Fire Sprinkler Contractors Association submitted oral testimony in support of the Department's proposal and written comments against the Home Builders of Tennessee's request to exempt townhouses up to four (4) units or five thousand (5,000) square feet from being required to have sprinklers if two (2) hour fire walls are installed between units.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. Based on these and other comments, the Department has amended its proposal to require sprinklers in townhouses of three (3) units with five thousand (5,000) gross square feet or more and townhouses of four (4) or more units. The Department believes this is a reasonable compromise regarding sprinklers that still provides significant life safety protection to the occupants of smaller three (3) unit townhouses.*

The Tennessee Firemen's Association submitted written comments in support of the adoption of the 2009 IRC.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration.*

The Tennessee Fire Services Coalition (Shane Ray, Fire Chief of Pleasant View; Carl Peas, Fire Investigator for the City of Murfreesboro; Andy King, Fire Marshal for City of Franklin; P.J. Duncan, Fire Marshal for Pleasant View and Building Official for Kingston Springs; Holly Salmons; and Vickie Pritchett) submitted oral testimony and written comments in support of the adoption of the 2009 IRC and did not support any amendment to the code especially to reduce the sprinkler requirements in townhouses. The Coalition asked for a clarification regarding daycares being added to the sections allowing field verification of code compliance in certain circumstances. The Coalition commented that the proposed language addressing residential occupancies with three (3) to eleven (11) units was unclear. The Coalition asked: if the rules regarding equivalencies take away an exempt jurisdiction's ability to grant modifications; could the Division issue equivalencies for application in an exempt jurisdiction; and whether the equivalency language applies only in non-exempt jurisdictions. The Coalition asked why the Department chose additions of more than thirty (30) square feet as the threshold for a residential building permit when the IRC would require a permit for any addition. The Coalition asked the Department to have the language deleting Section 313.2 refer to the law. The Coalition opposed the proposed amendments to the IRC regarding smoke alarms. The Coalition asked if the exempt jurisdiction process for one (1) and two (2) family dwellings and townhouses would be the same

as the current exemption jurisdiction process for assembly occupancies.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. Based on these and other comments the Department has amended its proposal to require sprinklers in townhouses of three (3) units with five thousand (5,000) gross square feet or more and townhouses of four (4) or more units. The Department believes this is a reasonable compromise regarding sprinklers that still provides significant life safety protection to the occupants of smaller three (3) unit townhouses. The Department added daycares to the sections allowing field verification of code compliance in certain circumstances to conform the rules to Departmental practice. Based on the comments regarding the residential occupancies with three (3) to eleven (11) units, the Department has amended its proposal require plans review for all residential occupancies, excluding one (1) and two (2) family dwellings and townhouses. Those residential occupancies one (1) or two (2) story(s) in height, excluding one (1) and two (2) family dwellings and townhouses, with less than five thousand (5,000) square feet may have code compliance determined through field verification. The rule regarding equivalencies will clarify the Department's ability to grant equivalencies but will not impact or apply to exempt jurisdictions. The Department chose thirty (30) or more feet as the size of addition requiring a permit to allow for minor alterations to the building like the addition of a bay window or dormers without a permit. Based on the comments regarding Section 313.2, the Department has reworded that section. Based on the comments regarding smoke alarms, the Department has deleted amendments to the residential code regarding smoke alarms. The Department envisions the exempt jurisdiction process for one (1) and two (2) family dwellings and townhouse to be similar to, but easier to complete than the exempt jurisdiction process for commercial and assembly occupancies currently regulated by the Department.*

The Tennessee Building Officials Association (Tim Ward, Building Official for the City of Oak Ridge, and Steve Mills, Director of Building and Codes for the City of Hendersonville, submitted oral testimony and written comments in support of the adoption of the 2006 IRC. They state the 2006 edition of the IRC: is the edition adopted by a majority of local governments; is the same edition as other codes currently enforced by the Department; would be easier to enforce because more jurisdictions enforce that edition; and has more training classes offered for it. Mr. Mills also asked if a local government had to have a codes enforcement program for assembly and commercial buildings in order to have its own residential building codes program.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department agrees that the 2006 edition of the International Residential Code is a good code and it is one that local governments enforcing residential building codes can use under the law. Without the sprinkler requirement for one (1) and two (2) family dwellings, the Department believes the codes are very similar. The 2009 edition of the International Residential Code improves upon the 2006 edition by, among other things, adding requirements for carbon monoxide detectors and sprinklers in townhouses and clarifying the handrail requirements for porches. T.C.A. 68-120-101 contains language to allow local governments to become "exempt" from the state building and construction standards if they adopt codes within seven (7) years of the most recent edition published and adequately enforce those codes. The statute allows a local government to become "exempt" for (1) residential construction; (2) assembly and commercial buildings, or (3) residential construction and assembly and commercial construction. A local government does not have to have a codes enforcement program for assembly and commercial buildings in order to have its own residential building codes program. Additionally, a local government does not need to "opt-out" of the residential code provisions in order to have its own residential codes program.*

The Southwest Chapter of the Tennessee Building Officials Association submitted written comments in support of the adoption of the 2006 IRC while leaving residential sprinklers as a local option.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department agrees that the 2006 edition of the International Residential Code is a good code and it is one that local governments enforcing residential building codes can use under the law. Without the sprinkler requirement for one (1) and two (2) family dwellings, the Department believes the codes are very similar. The 2009 edition of the International Residential Code improves upon the 2006 edition by, among other things, adding requirements for carbon monoxide detectors and sprinklers in townhouses and clarifying the handrail requirements for porches.*

Dwayne Hicks, City of Tullahoma, submitted oral testimony in support of the adoption of the 2006 IRC.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department agrees that the 2006 edition of the International Residential Code is a good code and it is one that local governments enforcing residential building codes can use under the law. Without the sprinkler requirement for one (1) and two (2) family dwellings, the Department believes the codes are very similar. The*

2009 edition of the International Residential Code improves upon the 2006 edition by, among other things, adding requirements for carbon monoxide detectors and sprinklers in townhouses and clarifying the handrail requirements for porches.

Michael Armstrong, Ashland City Building Official, submitted oral testimony and written comments in support of the adoption of the 2006 IRC. Mr. Armstrong also asked the purpose of Section 14 of the rules for residential construction.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department agrees that the 2006 edition of the International Residential Code is a good code and it is one that local governments enforcing residential building codes can use under the law. Without the sprinkler requirement for one (1) and two (2) family dwellings, the Department believes the codes are very similar. The 2009 edition of the International Residential Code improves upon the 2006 edition by, among other things, adding requirements for carbon monoxide detectors and sprinklers in townhouses and clarifying the handrail requirements for porches. The Department drafted Section 14 of Rule Chapter 0780-02-23 to specify the information needed from jurisdictions opting-out of the residential building code requirements so that the Department knows when the resolution was passed, when the next election of the governing body is and a contact person with the local government.*

Tina Bishop, Building Official for Bradley County and Tennessee Fire Safety Inspector's Association, submitted oral testimony in support of the adoption of the 2009 IRC. Ms. Bishop asked if: the Department was adopting Chapter 1, Administration, of the IRC; the issuing agent will be checking for septic permits and land disturbance permits when the permit is applied for; and cities and counties could contract with neighboring governments to provide inspection services.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department is adopting Chapter 1 of the International Residential Code; however, in adopting any code, Department may not adopt any provision that is superseded by law; does not adopt an optional or recommended, rather than mandatory, standard or practice; and does not adopt any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with other state rules. The Department will require the issuing agents to check for contractor's license, and require applicants to certify they have obtained septic permits (or there is sewer service available) and other items when a permit is being applied for. The law allows cities and counties to enter into inter-local agreements to provide the inspection services. The law also allows cities and counties to contract with the Department to provide the inspection services.*

David Whitt submitted oral testimony and written comments. Mr. Whitt supports residential buildings codes. Mr. Whitt believes moisture intrusion and fungi growth are among the greatest issues which need to be addressed. Mr. Whitt suggested additional inspections for: soil testing prior to the footing inspection; foundation inspection including exterior waterproofing for basements and crawl spaces; perimeter drain around exterior of building; window flashing and veneer/brick tie inspection; roofing inspection for underlayment; and exterior grade slopes. Mr. Whitt also spoke in favor of using ICC valuation for determining costs and the inclusion of the dispute resolution process.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department believes the items raised by Mr. Whitt are important, but the establishment of a statewide residential codes program is a significant undertaking. Most of the issues discussed by Mr. Whitt are covered by the code, but do not have specific inspection requirements to ensure code compliance. The Department has determined that as it begins the program, the inspections that will be required are for foundation, framing and masonry, plumbing and mechanical (after October 1, 2011) and final. These are specifically identified in the International Residential Code. The Department is establishing the minimum standards for residential construction. Local governments may adopt more stringent standards or require additional inspections if they wish.*

The Southern Alliance for Clean Energy (SACE) submitted oral testimony and written comments urging the adoption of the 2009 IECC. SACE states the 2009 IECC will provide the greatest energy savings for the citizens of Tennessee which will exceed the additional costs to meet the more stringent code. The 2009 IECC is fifteen percent (15%) more efficient than the 2006 IECC which is approximately twenty dollars (\$20) a month in energy savings. SACE also states that the 2009 IECC was drafted in a collaborative effort that does not favor energy efficiency over building costs. SACE points out that the 2006 IECC is already four (4) years old and will become out of date sooner than the 2009 requiring another rulemaking.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department also believes energy efficiency is important to the citizens of Tennessee. Currently, there is*

*no state enforcement of residential building energy codes. The implementation of effective, energy-saving construction codes is a long term process, requiring a long term commitment on the part of state and local governments and the regulated community. The Department believes this is a reasonable and prudent proposal to begin that process in Tennessee.*

Building Codes Assistance Project (BCAP) submitted written comments urging the adoption of the 2009 IECC. BCAP states adoption of the 2009 IECC will maximize the economic and environmental benefits to the residents of Tennessee and maintain the state's eligibility for State Energy Program funding and financial assistance for codes implementation and enforcement through the American Recovery and Reinvestment Act.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department also believes energy efficiency is important to the citizens of Tennessee. The American Recovery and Reinvestment Act (ARRA) required states to make assurances that they will use their best efforts to adopt residential building energy codes that meet or exceed IECC 2009 and commercial building energy codes that meet or exceed ASHRAE 90.1-2007. The federal legislation does not include a specific date for adoption of these codes. Currently, there is no state enforcement of residential building energy codes and the commercial building energy code is significantly out of date. The enactment of the "Tennessee Clean Energy Future Act of 2009", and the adoption of these rules, are the first steps to meet the assurances made by Governor Bredesen with regards to the building codes requirements of ARRA. The Department is sponsoring energy code training classes for its staff, city and county codes personnel, and prospective residential building inspectors. Training on the energy codes is essential to ensure enforcement of the energy code provisions. The implementation of effective, energy-saving building codes is a long term process, requiring a long term commitment on the part of state and local governments and the regulated community. The Department believes this is a reasonable and prudent proposal to begin that process in Tennessee.*

Southeast Energy Efficiency Alliance (SEEA) submitted written comments urging the adoption of the 2009 IECC. SEEA states that Tennessee residents will not realize as much energy savings under the 2006 IECC as they would under the 2009 IECC. SEEA also states adoption of the 2009 IECC will result in a greater decrease in air pollution caused by electricity generation as the need for electricity declines. SEEA states the initial cost increase will be offset by lowered operating costs within a couple of years of building the new building.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department also believes energy efficiency is important to the citizens of Tennessee. Currently, there is no state enforcement of residential building energy codes. The implementation of effective, energy-saving construction codes is a long term process, requiring a long term commitment on the part of state and local governments and the regulated community. The Department believes this is a reasonable and prudent proposal to begin that process in Tennessee.*

The Log Homes Council submitted written comments asking for an amendment to the energy code to allow log walls to be used in Tennessee.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration. The Department's proposal allows for the use of log walls complying with ICC400 with a minimum average wall thickness of five inches (5") or greater with trade-offs of additional efficiency requirements for window and heating equipment.*

Mr. John DeWald submitted oral testimony pointing out a typographical error in the section regarding the expiration of building permits.

*RESPONSE: The Department appreciates these comments and the typographical error has been corrected.*

The Fire Inspectors Association submitted oral testimony in support of the adoption of the 2009 IRC and the electronic submission of plans and specifications.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration.*

Chuck Walker, Ashland City Fire Chief, submitted oral testimony in support of the adoption of the 2009 IRC.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration.*

Robert Law, City of Portland, submitted oral testimony in support of the adoption of the 2009 IRC.

*RESPONSE: The Department appreciates these comments and they have been taken into consideration.*

## Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

### Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There is no overlap, duplication, or conflict with other federal, state or local governmental rules. The amendments to the Code Enforcement Section's rules are intended to provide clarity to the rules and give the Division greater flexibility when dealing with a building that has already been constructed. The Department will only be enforcing residential building codes where the local government does not have a program of its own and where the local government has not opted out of the requirements.

2. Clarity, conciseness, and lack of ambiguity in the rules:

The rules are clear in purpose and intended execution. The rules are not open to different interpretations.

3. Flexible compliance and/or reporting requirements for small businesses:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the same standards as larger businesses regarding the design and construction of buildings. However, the codes themselves provide more stringent requirements for larger facilities.

The Department is expanding its ability to determine code compliance by inspection for certain daycares and the installation of fire detection systems or fuel fire equipment which should reduce costs for these projects. The amendments also will provide greater guidance as to when an alternative to the code requirements will be allowed if the code requirements are impractical.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the appropriate code standards as are larger businesses regarding the design and construction of buildings. The electronic filing of materials should reduce printing and mailing costs and may reduce time necessary for the issuance of approvals. The Department is phasing in the inspection requirements for mechanical systems and plumbing to ensure that appropriate inspectors are available so as not to create delays in building.

5. Consolidation or simplification of compliance or reporting requirements:

The electronic filing of materials should reduce printing and mailing costs and should reduce time necessary to review plans and specifications by reducing the time for transferring information between the design professional and the Department. The Department is expanding its ability to determine code compliance by inspection for certain daycares and the installation of fire detection systems or fuel fire equipment which should reduce costs for these projects. The amendments also will provide greater guidance as to when an alternative to the code requirements will be allowed if the code requirements are impractical.

6. Performance standards for small businesses:

The Department expects all small businesses in the building field to follow the new requirements.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The filing fees for submitting plans electronically will off-set the cost of the electronic plans submission portal. This fee is significantly lower than the cost architect and engineers incur to print two (2) copies of each set of plans and specifications and mail them or send them by courier to the Department. The convenience fee will allow the Department to recover expenses incurred by the acceptance of electronic

payment (i.e. credit card processing fees). Besides lowering administrative costs, these changes should result shortening the time it takes to receive and return documents.

The implementation of a residential building codes program for new construction where one does not exist may result in an increase in the cost of a one and two family dwelling or townhouse in these areas. The Department has worked to keep the fees as low as possible while creating a self-sufficient program. According to the Tennessee Home Builders Association, most builders are already building one and two family dwellings and townhouses to a version of the International Residential Code. The cost to build a home to the energy efficiency standards is likely to increase the cost of a home (an estimated 3.5%), but a homeowner is expected to realize energy savings of up to thirty percent (30%) a month and many problems with construction should be discovered prior to the issuance of a certificate of occupancy and before they become a financial burden on the homeowner. The minimal costs associated with the residential building code program and the offsetting savings in utility costs will be passed on to the home buyers who will realize the energy savings and enjoy homes built to minimum safety standards.

### **Economic Impact Statement:**

#### 1. Types of small businesses directly affected:

All small businesses that build one and two family dwellings, townhouses, other types of residential buildings and buildings regulated by the State Fire Marshal's office in Tennessee and architects and engineers who design those buildings will be affected by these rules. Approximately, 75% of the state's population already lives in areas with residential building codes.

#### 2. Projected reporting, recordkeeping, and other administrative costs:

The filing fees for submitting plans electronically will off-set the cost of the electronic plans submission portal. This fee is significantly lower than the cost architect and engineers incur to print two (2) copies of each set of plans and mail them or have them delivered by courier to the Department. The convenience fee will allow the Department to recover expenses incurred by the acceptance of electronic payment (i.e. credit card processing fees). These costs are typically passed on to the project owner; however, these should make filing with the Division easier and result in lower costs.

The costs associated with the residential building code program (permit fees) will be passed on the homebuyer but these costs will be offset by reduction in the monthly energy costs associated with the home and the protections provided to citizens of Tennessee.

#### 3. Probable effect on small businesses:

The proposed changes to the existing Codes Enforcement Section rules should be beneficial to small businesses and put reputable builders on a level playing field with builders not building to codes. The electronic filing of materials should reduce printing and mailing costs and should reduce time necessary to review plans and specifications by reducing the time for transferring information between the design professional and the Department. The Department is expanding its ability to determine code compliance by inspection for certain daycares and the installation of fire detection systems or fuel fire equipment which should reduce costs for these projects. The amendments also will provide greater guidance as to when an alternative to the code requirements will be allowed if the code requirements are impractical. Construction companies and builders will face new inspection requirements to ensure their work meets the applicable codes.

#### 4. Less burdensome, intrusive, or costly alternative methods:

The proposed changes to the existing Codes Enforcement Section rules are minimally burdensome/intrusive to small businesses. The Department anticipates a reduction in costs to small businesses as they implement these changes.

The rules implementing the residential building code program will result in a small increase in the cost of a newly constructed home; however, these costs are offset by reduction in the monthly energy costs associated with the home and the protections provided to citizens of Tennessee.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the same standards as larger businesses regarding the design and/or construction of buildings. Adopted codes do take into account relative size of construction in development of appropriate design standards and building safeguards.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendments to Chapter 0780-02-02 will require the state to lead by example with regard to energy efficiency in the construction of state buildings by requiring state buildings to meet the 2007 edition of ASHRAE Standard 90.1. The amendments also clarify the adoption of certain administrative sections of the codes.

The amendments to Chapter 0780-02-03 amend the definitions to: include "change in occupancy group" within the definition of "change in occupancy", delete smaller state leased buildings from the definition of "state buildings", and not require a structural engineer's report with the submission of every set of as-built plans and specifications. The amendments allow code compliance for daycares to be determined by inspection in limited circumstances. The amendments establish an enforcement mechanism to ensure code compliance for one (1) and two (2) story residential occupancies, other than one (1) and two (2) family dwellings and townhouses. The amendments establish an enforcement mechanism to ensure code compliance for three (3) or more story residential occupancies, other than one (1) and two (2) family dwellings and townhouses. The amendments allow code compliance for the installation of fire detection systems or fuel fired equipment to be determined by inspection without the need for sealed architect or engineer drawings. The amendments specify the format in which plans and specifications must be submitted. The amendments increase the minimum fee for the review of plans and specifications of state buildings and educational occupancies in an exempt jurisdiction to two hundred fifty dollars (\$250), the minimum fee in all other circumstances. The amendments clarify how the cost of construction will be determined for buildings constructed without meeting the plans review requirements. The amendments lower the multiplier for determining construction costs using ICC's Building Valuation Data. The amendments also establish a fifteen dollar (\$15) fee for the initial submission of plans electronically and establish the fee the Department will charge to recover the costs associated with the submission of electronic payment. The amendments provide the Fire Prevention Division the authority to close a project file for inactivity under certain circumstances. The amendments clarify that the Division may begin reviews of state buildings when the information to prepare the invoice or journal voucher has been provided. The amendments clarify that a full-sized paper copy of the approved plans must be kept at the job site during construction. The amendments clarify the procedures to determine code compliance of a building constructed without approval of plans and specifications. The amendments clarify titles of Department staff in the dispute resolution process. And, the amendments also provide greater guidance as to when an equivalency will be granted to allow an alternative method of code compliance.

For one and two family dwellings and townhouses, the proposal establishes the initial rules governing the program which will begin October 1, 2010. The proposal defines: construction, Division, Department, deputy building inspector, local government, one and two family dwellings, renovation and townhouses. The proposal establishes the 2009 edition of the International Residential Code, with some amendments, as the minimum state residential building code and allows energy efficiency compliance to be obtained by meeting Chapter 11 of the International Residential Code or the 2006

edition of the International Energy Conservation Code. The proposal requires the construction of one (1) and two (2) family dwellings or townhouses beginning October 1, 2010, or additions of thirty (30) square feet or more beginning October 1, 2011, to obtain a building permit prior to starting construction and to be built in compliance with the adopted minimum codes. The proposal defines the permit process and how permits issued in violation of the chapter will be handled. The proposal defines what inspections are required and when they must occur. The inspection of mechanical systems and plumbing will not begin until October 1, 2011. The proposal establishes the fees for a residential building permit and the fees for certain inspections not included in the permit fee. The proposal creates the certificate of occupancy process. The proposal contains a dispute resolution process for disputes arising during the inspection process. The proposal provides guidance as to when an equivalency will be granted to allow an alternative method of code compliance. The proposal creates the process for local governments notify the Division that they will enforce their residential building codes and the process for the Division to audit the local governments' residential building codes programs to ensure compliance with state law. The proposal defines the process for becoming permit issuing agents. And finally, the proposal defines what information must be sent to the Division when a local government opts out of the residential building code requirements.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. 68-120-101. In March 2008, Governor Bredesen established a Task Force on Energy Policy to develop a state energy plan to help state government lead by example in energy conservation. The Task Force was also charged with making recommendations to help Tennessee become a leader in energy efficiency and conservation, use of alternative fuels and renewable energy sources, and the development of clean-energy technology. Many of the recommendations of the Task Force were proposed as legislation by Governor Bredesen in early 2009. This legislation, the "Tennessee Clean Energy Future Act of 2009," was enacted as Chapter 529 of the Public Acts of 2009. The part of this law that brings us here today requires state government to lead by example in managing its buildings and promotes residential energy efficiency by establishing a limited statewide residential building code for new construction. In response to this legislation, the Department of Commerce and Insurance is proposing to adopt a new energy code for construction of state buildings and to adopt and enforce minimum statewide building and energy codes for new construction of one and two-family dwellings and townhouses.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Home builders, building officials, fire service coalition, municipal and county governments and citizens will be affected by this rule. The Tennessee Home Builders Association, the Tennessee Building Officials Association and the fire service coalition spoke in favor of this rule. The Departments of Human Services and Mental Health and Developmental Disability and the State Architect were notified of this rulemaking.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling that directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Almost all of the fees collected through the building permits will be used to pay the contractors who act as deputy building inspector and permit issuing agents. The Department will keep the remainder of the permit fee to cover administrative costs of running the program to ensure the program is self sufficient. Local governments electing to enforce their own building code will use building permit fees to fund their program. Local governments will also have the option of using inter-local agreements to contract for inspections to be done by

another governmental entity instead of hiring employees to perform the inspections. Local governments will also have the ability to contract with the Department to act as issuing agents and receive fees for providing this service. There will be no cost to local governments where the Department enforces the residential building codes.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Jim Pillow, Assistant Commissioner for Fire Prevention, Christopher Bainbridge, Director of Codes Enforcement Section, and Patrick Merkel have substantial knowledge and understanding of these rules

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jim Pillow, Christopher Bainbridge and Patrick Merkel will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Jim Pillow and Christopher Bainbridge can be reached at State Fire Marshal's Office, Codes Enforcement Section, 500 James Robertson Parkway, Davy Crockett Tower 3rd Floor, Nashville, Tennessee 37243, (615) 741-7190.  
Patrick Merkel can be reached at Office of General Counsel, 500 James Robertson Parkway, Davy Crockett Tower, 5th Floor Nashville, Tennessee 37243, (615) 741-9462.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department held four public meetings across the state prior to developing and proposing the rules to implement the residential building code program. Additionally, the Department met with representatives of several stakeholder groups regarding the drafting of the proposed rules.

**Department of State  
Division of Publications**

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Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form- REDLINE VERSION

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

**Agency/Board/Commission:** Department of Commerce and Insurance  
**Division:** Fire Prevention Division  
**Contact Person:** Patrick W. Merkel  
**Address:** 500 James Robertson Parkway  
Davy Crockett Tower, 5<sup>th</sup> Floor  
Nashville, TN  
**Zip:** 37243  
**Phone:** 615-741-2199  
**Email:** patrick.merkel@tn.gov

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0780-02-02	Codes and Standards
Rule Number	Rule Title
0780-02-02-.01	Adoption by Reference

Chapter Number	Chapter Title
0780-02-03	Construction Plans and Specifications
Rule Number	Rule Title
0780-02-03-.01	Definitions
0780-02-03-.02	Submission of Plans
0780-02-03-.03	Requirements
0780-02-03-.04	Fees
0780-02-03-.05	Approval of Plans
0780-02-03-.11	Dispute Resolution
0780-02-03-.12	Grandfather Provision for Review of Plans
0780-02-03-.13	Equivalencies

Chapter Number	Chapter Title
0780-02-23	One and Two Family Dwellings and Townhouses

Rule Number	Rule Title
0780-02-23-.01	Definitions
0780-02-23-.02	Adoption by Reference
0780-02-23-.03	Conflicts
0780-02-23-.04	Application
0780-02-23-.05	Permits
0780-02-23-.06	Issuance of Permits in Violation of this Chapter
0780-02-23-.07	Inspections
0780-02-23-.08	Fees
0780-02-23-.09	Certificates of Occupancy
0780-02-23-.10	Dispute Resolution
0780-02-23-.11	Equivalencies
0780-02-23-.12	Local Government Enforcing Residential Building Codes
0780-02-23-.13	Permit Issuing Agents
0780-02-23-.14	Local Government Opting Out of these Provisions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0780-02-02  
Codes and Standards

Amendments

Rule 0780-02-02-.01 Adoption by Reference is amended by adding the following language as a new subparagraph (1)(d):

- (d) To lead by example, for state buildings, in lieu of Chapter 13 of the International Building Code, 2006 edition, ASHRAE Standard 90.1, 2007 edition, published by the American Society of Heating, Refrigerating, and Air Conditioning Engineers, 1791 Tullie Circle NE, Atlanta, GA 30329.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a).

Subparagraph (b) of paragraph (2) of rule 0780-02-02-.01 Adoption by Reference is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with these rules.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a).

Chapter 0780-02-03  
Review of Construction Plans and Specifications

Amendments

Subparagraph (b) of paragraph (1) of rule 0780-02-03-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) Construction means the erection of a new building, an addition to an existing building, a change of occupancy or occupancy group, an alteration that alters the exit arrangement, fire resistive assemblies, or type of construction, or involves the installation of fire suppression or detection

systems or fuel-fired equipment. The term "construction" shall not be construed to include excavation or site preparation. When renovation or remodeling occurs in an existing building that does not result in an addition to the building, the existing life safety features that do not meet the requirements for new buildings, but that exceed the requirements for existing buildings, shall not be further diminished.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (c) of paragraph (1) of rule 0780-02-03-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (c) State building means any public building owned, ~~or~~ leased with an option to purchase, or leased where fifty percent (50%) or more of the building is leased by the State of Tennessee or any department, institution, or agency thereof.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (i) of paragraph (1) of rule 0780-02-03-.01 Definitions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (i) As-built plans and specifications include, but are not limited to, the following items: floor plans with door and window schedules, finish schedules, furnace and water heater locations, fire alarm systems, emergency lighting, exit signs, fire-rated assemblies, any accessibility issues addressed pursuant to T.C.A. § 68-120-204 and any available specifications. Additionally, a structural engineer's analysis must accompany the plans when submitted if deemed necessary by the state fire marshal based on the condition of the building or a change in use of the building.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.01 Definitions is amended by adding the following language as a new subparagraph (m):

- (m) State leased building means any building where less than fifty percent (50%) of the building is leased by the State of Tennessee or any department, institution, or agency thereof.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) After the effective date of this chapter, no person shall commence construction of any educational occupancy, including those licensed by the Department of Education, detention and correctional occupancy, state building or state leased building until plans and specifications therefor have been submitted to and approved in writing by the Division. The Division shall also review plans submitted for review of day care centers which are licensed by the Department of Human Services and the Department of Education. The following exceptions to such plans review will apply upon written approval by the Division:
  - (a) An existing building comprising an area of three thousand (3,000) occupied gross square feet or less, or an area within an existing building that is bound by two (2) hour fire-rated constructions and that consists of three thousand (3,000) occupied gross square feet or less, that is proposed to house an educational occupancy or daycare center and enrolls twenty-four (24) or fewer students may have review for code compliance determined through inspection by the state fire marshal. An applicable review fee as authorized by this Chapter will apply. The

state fire marshal may ~~further~~ require limited plans review if the state fire marshal determines that it is necessary in order to ensure adequate code compliance. All such inspections and limited plans reviews will be subjected to the ~~minimum review fees as authorized by this Chapter and the requirements for the issuance of a Certificate of Occupancy as authorized by this Chapter.~~

- (b) An existing building comprising an area between three thousand (3,000) occupied gross square feet and five thousand (5,000) occupied gross square feet, or an area within an existing building that is bound by two (2)-hour fire-rated constructions containing between three thousand (3,000) occupied gross square feet and five thousand (5,000) occupied gross square feet, that is proposed to house an educational occupancy or daycare center and enrolls between twenty-five (25) and ninety-nine (99) students will be subjected to a limited plans review. An applicable review fee as authorized by this Chapter will apply.
- (c) An existing building comprising an area of more than five thousand (5,000) occupied gross square feet, or an area within an existing building that is bound by two (2)-hour fire-rated constructions containing more than five thousand (5,000) occupied gross square feet, or any area enrolling one hundred (100) students or more that is proposed to house an educational occupancy or daycare center will be subjected to a full plans review as applied to new constructions and an applicable review fee as authorized by this Chapter will apply.
- (d) Facilities leased by the state located in a jurisdiction of local government that has obtained the exemption authorized by Tenn. Code Ann. § 68-120-101(b)(2).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (3) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (3) After July 1, ~~1983~~ 2010, no person shall commence construction of any business occupancy three (3) stories or more in height, or residential occupancy three (3) stories or more in height, excluding one (1) and two (2) family dwellings and townhouses, ~~twelve (12) sleeping units or more, twelve (12) dwelling units or more, or a combination of twelve (12) or more sleeping and dwelling units as provided in Tenn. Code Ann. § 68-120-101(c)(1),~~ until plans and specifications therefore have been submitted to and approved in writing by the Division.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (5) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (5) After July 1, ~~2004~~ 10, no person shall commence construction of any residential occupancy one (1) or two (2) stories in height, excluding one (1) and two (2) family dwellings and townhouses, twelve (12) sleeping units or more, twelve (12) dwelling units or more, or a combination of twelve (12) or more sleeping and dwelling units until plans and specifications therefore have been submitted to and approved in writing by the Division. The following exceptions to such plans review for residential occupancies one (1) or two (2) story(s) in height, excluding one (1) and two (2) family dwellings and townhouses, will apply upon written approval by the Division after the submission of construction drawings:
  - (a) A residential occupancy one (1) or two (2) story(s) in height having a gross area of less than five thousand (5,000) square feet may have review for code compliance determined through inspection by the Division based on the submitted construction drawings. An applicable review fee as authorized by this Chapter will apply.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.02 Submission of Plans is amended by adding the following language as new paragraph (7) and renumbering the existing paragraphs (7) and (8) as paragraphs (8) and (9):

(7) After July 1, 2010, the following exception shall apply to the plans and specification review and approval requirements of this chapter upon written approval by the Division:

(a) For construction solely involving the installation, replacement, repair, or minor alterations of fuel fired mechanical systems or fire detection systems, a written scope of work and shop drawings for such project shall be submitted with the appropriate review fee. The Division may require registered engineer designed plans and specifications for review and approval prior to construction based on the size and complexity of the project.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (e) of newly renumbered paragraph (8) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

(e) If construction starts in accordance with paragraph ~~78(a)~~-78(d) above, said construction must comply with the minimum standards for fire prevention, fire protection, and building construction safety in effect at the time of the initial submission.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.03 Requirements is amended by adding the following language as a new paragraph (3):

(3) Plans and specifications and shop drawings required to be submitted under this Chapter may be submitted:

(a) electronically, through the electronic plans submittal portal in a format acceptable by the Division; or

(b) by providing one (1) full-size paper copy of the required documents and a pdf copy of the documents on electronic media acceptable by the Division with certification that the pdf copy is an identical electronic copy of the paper copy.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (a) of paragraph (1) of rule 0780-02-03-.04 Fees is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

(a) If a State building or educational occupancy is also reviewed for compliance with building construction safety standards by a local government which has obtained the exemption authorized by Tenn. Code Ann. §68-120-101(b)(2), the fee for review under this chapter shall be reduced by fifty percent (50%), but the fee shall not be less than two hundred fifty dollars (\$~~250~~.00). Review fees for plans being submitted under Chapter 0780-02-03-.02(8) shall not be further reduced.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (b) of paragraph (1) of rule 0780-02-03-.04 Fees is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) If plans and specifications must be resubmitted because their approval has become invalid under ~~paragraph (3)~~ of rule 0780-02-03-.05, the fee established in this rule will be imposed.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.04 Fees is amended by adding the following language as a new subparagraph (c):

- (c) Where a building governed by the provisions of this chapter is constructed in violation of this Chapter, the fee for the review of the plans and specifications shall be the applicable review fee authorized by this chapter based on the current cost to build the building using the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraph (a) of paragraph (3) of rule 0780-02-03-.04 Fees is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) in the Division's opinion, the construction cost of a project has been underestimated in the certification submitted pursuant to rule 0780-02-03-.03(3) based on the latest available Building Valuation Data published by the International Code Council (using ~~the 0.88~~ a 0.60 Regional Cost Modifier ~~for Tennessee, except for the footnotes~~).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.04 Fees is amended by adding the following language as new paragraphs (4), (5) and (6):

- (4) Project numbers shall be assigned by the Department for each building of a multiple building submission and project construction costs shall be stated for each building, and all fees shall be calculated using construction costs on a per building basis.
- (5) An additional fee of fifteen dollars (\$15.00) per building for receiving plans or specifications electronically shall be applied.
- (6) For those making payment over the internet, payment of an internet payment processing fee, not to exceed two and one half percent (2 1/2%) of the total fee, to be used solely to defray the costs of any payments processed electronically shall be applied.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (1) of rule 0780-02-03-.05 Approval of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) Plans and specifications submitted pursuant to rule 0780-02-03-.02 shall be approved if the proposed construction would be in compliance with the minimum standards for fire prevention, fire protection, and building construction safety in effect at the time of the initial submission.
- (a) Plans and specifications submittals that have been found to have deficiency(s) that prevent approval shall be closed due to inactivity eighteen (18) months after the most recent review if no response is submitted by the architect or engineer to correct the deficiency(s). After the closure of a project due to inactivity, new plans and specifications will be required to be submitted to the codes in effect at the time of the new submission along with the applicable fees. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to

allow the file to remain open for an additional period of time. A request to keep the file open must be requested in writing and justifiable cause must be demonstrated.

- (b) If submitted plans and specifications have not been approved within twelve (12) months after the effective date of any adopted revisions to the codes in effect at the time of the initial submission, the submittal shall be closed and new plans and specifications will be required to be submitted to the codes in effect at the time of the new submission along with the applicable fees. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to allow the file to remain open for an additional period of time. A request to keep the file open must be requested in writing and justifiable cause must be demonstrated.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (2) of rule 0780-02-03-.05 Approval of Plans is amended by adding the following language as a new subparagraph (a):

- (a) When the fee for review of plans and specifications for construction is to be collected from another state department or agency, review may begin once all information needed to invoice or journal voucher the other state department or agency has been received.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Paragraph (4) of rule 0780-02-03-.05 Approval of Plans is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (4) A full-sized paper copy of the approved plans and specifications shall be placed on the job site prior to the commencement of construction and shall be retained on the job site until a certificate of occupancy has been issued by the Division.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Rule 0780-02-03-.05 Approval of Plans is amended by adding the following language as a new paragraph (9):

- (9) Where a building governed by the provisions of this Chapter is constructed in violation of this Chapter, original registered architect and engineer designed plans and specifications shall be submitted for review and approval. If such plans and specifications cannot be produced, as-built plans shall be submitted. The plans and specifications shall meet the more stringent requirements of the codes in effect at the time of construction and the currently adopted codes for existing buildings prior to approval. After plans are approved and the construction has been properly inspected, the Division will issue the owner a letter stating that the facility has been determined to comply with this Chapter. An applicable review fee as authorized by this Chapter will apply based on the value of the building at the time of submission.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraphs (a) and (b) of paragraph (1) of rule 0780-02-03-.11 Dispute Resolution are amended by deleting the text of the subparagraphs in their entirety and substituting instead the following language so that, as amended, the subparagraphs shall read:

- (a) When a dispute as to the interpretation or applicability of a code provision arises between the owner or designer of a project and the plans reviewer, the dispute shall be submitted to the Assistant Director of Codes Enforcement Plans Review Supervisor for resolution.

- (b) If the owner or designer disagrees with the decision of the Assistant Director of Codes Enforcement Plans Review Supervisor, the dispute shall be submitted to the Director of Codes Enforcement for resolution.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Subparagraphs (a) and (b) of paragraph (2) of rule 0780-02-03-.11 Dispute Resolution are amended by deleting the text of the subparagraphs in their entirety and substituting instead the following language so that, as amended, the subparagraphs shall read:

- (a) When a dispute arises as to the interpretation or applicability of a code provision between the owner, designer or contractor on a project and the Deputy State Fire Marshal inspecting the project, and the project is being constructed in accordance with plans and specifications approved by the Division, the Deputy State Fire Marshal shall consult with the Plans Reviewer who approved the plans and specifications for resolution. If the owner, designer or contractor disagrees with the decision of the Plans Reviewer, the dispute shall be submitted to the Fire Safety Manager ~~Chief Deputy State Fire Marshal~~.
- (b) If the owner, designer or contractor disagrees with the decision of the Fire Safety Manager ~~Chief Deputy State Fire Marshal~~, the dispute shall be submitted to the Director of Codes Enforcement for resolution.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

0780-02-03-.12 Grandfather Provision for Review of Plans is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

At the submitter's request, plans submitted within one hundred twenty (120) days after the effective date of newly adopted building, fire and life safety codes may be reviewed under the codes that were in effect on the day immediately prior to the effective date of the newly adopted codes. The plans submitted under this section shall still be subject to the provisions Rule 0780-02-03-.05(1).

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

#### New Rule

0780-02-03-.13 Equivalencies

0780-02-03-.13 Equivalencies.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes adopted in this chapter, Commissioner of Commerce and Insurance, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee thereof, shall first find that the special individual reason makes the strict application of the codes adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes adopted in this chapter and that such modification does not lessen, health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and kept in the files of the Division.
- (2) The provisions of the codes adopted in this chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Commissioner of Commerce and Insurance, or designee thereof, finds that the proposed design is satisfactory and complies with the intent of the codes adopted in this chapter, and that the material, method or work offered is, for the purpose intended, at

least the equivalent of that prescribed by the codes adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d).

Chapter 0780-02-23  
One and Two Family Dwellings and Townhouses

New Rules

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0780-02-23-.01 Definitions.

- (1) As used in this chapter, unless the context otherwise requires:
- (a) Construction means the erection of a new building containing a detached one or two family dwelling or townhouse, a change of occupancy of an existing building to a one or two family dwelling or townhouse or, after October 1, 2011, an addition to an existing detached one or two family dwelling or townhouse of thirty (30) square feet or more of interior space. The term "construction" shall not be construed to include excavation, site preparation or renovation. The term "construction" shall also not be construed to include the construction or placement of a modular or manufactured home under T.C.A. Title 68, Chapter 126; however, the term "construction" shall include any additional on-site construction to a modular or manufactured home.
  - (b) Division means the Division of Fire Prevention of the Department of Commerce and Insurance.
  - (c) Department means the Department of Commerce and Insurance.
  - (c) Deputy State Building Inspector means any person who meets the qualifications in T.C.A. § 68-120-101(f)(1)(2) and is appointed by the Commissioner of Commerce and Insurance to perform inspections of one and two family dwelling and townhouse construction.
  - (d) Local government means any city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee.
  - (e) One and two family dwelling means a building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied for living purposes.

- (f) Property owner's permit means permit applied for by a record owner of the property in order to build a one (1) family dwelling in which the owner intends to live upon completion.
- (g) Renovation means interior or exterior painting, papering, tiling, carpeting, cabinets, counter tops, reroofing, residing, glazing or replacing windows or doors, floor finishing, repairs to existing chimneys, stairs, porches, underpinnings, exterior siding or roof and similar activities, additions of exterior space and additions of less than thirty (30) square feet of interior space.
- (h) Townhouse means a single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit extends from foundation to roof with a yard or public way on at least two (2) sides.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.02 Adoption by Reference.

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for the construction of one and two family dwellings and townhouses, and additions thereto of thirty (30) square feet or more of interior space, in the State of Tennessee shall be those prescribed in the following publications:
  - (a) International Residential Code, 2009 edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6<sup>th</sup> Floor, Washington, D.C., 20001, except for:
    - 1. Section R313.2, One and Two Family Dwellings Automatic Fire Sprinkler Systems, pursuant to T.C.A. § 68-102-101(a)(8);
    - 2. Chapters 34-43, relating to Electrical.
  - (b) Amendments to the Codes:
    - 1. As an alternative to Chapter 11 of the International Residential Code, the International Energy Conservation Code, 2006 edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6<sup>th</sup> Floor, Washington, D.C., 20001.
    - 2. Section 313.1, Townhouse automatic fire sprinkler systems, is amended by adding ";however, an automatic fire sprinkler system shall not be required in a three (3) unit townhouse with less than five thousand (5,000) gross square feet and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall" after "installed in townhouses" and before ".".
    - 3. Section 314.4, Power Source, relating to Smoke Alarms, is amended by deleting Exception 2 and replacing it with the following language:
 

Exception 2. Interconnection and hard-wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure.
    - 4. IECC Table 402.1.1 is amended by adding the following as footnote "h": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.
    - 5. IECC Table 402.1.1 is amended by adding the following as footnote "i": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight

U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.

- (2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:
  - (a) any provision superseded by law; or
  - (b) an optional or recommended, rather than mandatory, standard or practice; or
  - (c) any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with these rules.
- (3) The provisions of the code adopted by reference in paragraph (1) shall govern the manner in which:
  - (a) the code is applied to construction of one and two family dwellings, townhouses and additions thereto of thirty (30) or more square feet of interior space as defined in this chapter;
  - (b) occupancies and types of construction are classified for the purpose of determining minimum code requirements; and
  - (c) the specific requirements of the code may be modified to permit the use of alternate materials or methods of construction.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.03 Conflicts.

- (1) In the event of a conflict or inconsistency between the code adopted by reference in rule 0780-02-23-.02 and Chapter 0780-02-01 (Electrical Installations) of the Rules and Regulations of the State of Tennessee, the most stringent provisions shall control.
- (2) Nothing in this rule shall abrogate any right of appeal granted under T.C.A. Title 68, Chapters 102 and 120.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.04 Application.

- (1) After October 1, 2010, the commencement of any construction, as defined in rule 0780-02-23-.01, of one and two family dwellings or townhouses undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.
- (2) After October 1, 2011, the commencement of any construction, as defined in rule 0780-02-23-.01, of additions to one and two family dwellings or townhouses of thirty (30) square feet or more of interior space undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.05 Permits.

- (1) After October 1, 2010, no construction of a one or two family dwelling or townhouse shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. The permit must be secured in the area

where the work is to be performed until a certificate of occupancy is issued. A separate permit shall be required for each unit of a townhouse.

- (2) After October 1, 2011, no construction of an addition to a one or two family dwelling or townhouse of thirty (30) square feet or more of interior space shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. The permit must be secured in the area where the work is to be performed until a certificate of occupancy is issued.
- (3) A property owner's permit shall automatically expire upon completion of the work for which the permit was issued. All work done under such permit shall be subject to regular inspection requirements and fees and other applicable laws and regulations. Pursuant to T.C.A. § 68-6-103, an individual may obtain only one (1) property owner's permit within a twenty four (24) month period.
- (4)
  - (a) When applying for a permit, an applicant shall complete a form prescribed by the Department containing at least the following information:
    1. The location where the work will be performed;
    2. A description of the work to be performed;
    3. The use and occupancy of the structure;
    4. The valuation of the project;
    5. The square footage of the construction; and
    6. The signature of the applicant.
  - (b) When applying for a permit, an applicant shall present:
    1. Payment in an acceptable form in the amount of the permit fee; and
    2. Licensure pursuant to T.C.A. Title 62, Chapter 6 (except for a property owner's permit).
  - (c) When applying for a permit, an applicant shall certify and have proof available, if requested, of:
    1. Availability of public sewer or a septic permit; and
    2. Any license or permit required by state law or local ordinance.
- (5) All building permits are non-transferable.
- (6) In the event more than one (1) rejection is issued during the building inspection process, an additional inspection permit must be applied for and obtained for each subsequent rejection.
- (7)
  - (a) A building permit shall be void if the authorized work is not commenced within one hundred eighty (180) days after its issuance. If the work authorized by a permit is commenced and then suspended or abandoned for a period of one hundred eighty (180) days a building permit shall be void. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to grant, in writing, one or more extensions of time, for periods of not more than one hundred eighty (180) days each. The extension must be requested in writing and justifiable cause demonstrated.
  - (b) Every building permit shall expire two (2) years from the date of issue or upon the issuance of the certificate of occupancy unless:

1. the inspector determines that substantial progress has been made in the work authorized by the permit; and
  2. the permit holder is granted an exception after submitting a written request to the Commissioner of Commerce and Insurance, or designee thereof.
- (c) No construction work for which a permit is required shall be commenced in any building or premises until a permit to perform such work is obtained.
- (8) The original permit, along with any other required state or local permit, shall be placed on site and readily available for inspection. Upon completion of a request form prescribed by the Department, a duplicate original permit may be obtained for a fee of ten dollars (\$10.00) in the event of a loss or destruction thereof.
  - (9) It is the responsibility of all persons performing work on the site to comply with the required codes.
  - (10) The issuance of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any state law or regulation or any ordinance of the local jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter, any state law or regulation or any ordinance of the local jurisdiction shall not be valid. The issuance of a permit based on construction documents or other data shall not prevent the Division from requiring the correction of errors in the construction documents or other data. The Division is also authorized to prevent occupancy or use of a structure where there is a violation of the chapter or any state law or regulation.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.06 Issuance of Permits in Violation of this Chapter.

- (1) The Division may suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.
- (2) Upon notice from the Division to the issuer, the issuer shall immediately revoke any permit issued in violation of state law or regulation or this chapter, and any construction on such project must cease until proper approval is obtained and a new permit issued pursuant to this chapter.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.07 Inspections.

- (1) Inspections of construction of one (1) family and two (2) family dwellings, townhouses begun after October 1, 2010, and additions thereto of thirty (30) square feet or more of interior space begun after October 1, 2011, will be conducted by deputy building inspectors appointed under contract with the Commissioner of Commerce and Insurance pursuant to T.C.A. § 68-120-101.
  - (a) Fees for such inspections for services in subparagraph (2)(a) are specified in rule 0780-02-23-.08.
  - (b) Fees charged for additional inspections, including consultation inspections, slab inspections, plumbing, mechanical and gas inspections and inspections necessitated by more than one (1) rejection on the project, are specified in rule 0780-02-23-.08.
- (2) (a) Inspections are required on:
  1. Foundations after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and

supported prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, equipment and special requirements for wood foundations. Monolith poured slabs shall be inspected as the footing for the structure.

2. After October 1, 2011, plumbing and mechanical systems prior to covering or concealment, before fixtures or appliances are set or installed, and prior to or at the same time as the framing inspection.
  3. Frame after roof, framing, fire stopping, draft stopping, bracing rough in plumbing, rough in mechanical and rough in electrical are in place.
  4. Final after the permitted work is complete and prior to occupancy.
- (b) If a slab foundation, other than a monolith pour, is to be used, an inspection of the slab shall be required in addition to the foundation inspection.
- (c) Energy efficiency inspections shall occur during the required inspections specified in rule 0780-02-23-.08(2) as required by the adopted code.
- (3) It shall be the duty of the permit holder or agent thereof to notify the building inspector through the permit issuing agent that such work is ready for inspection. It shall be the duty of the person requesting any inspections required to provide access to and means for inspection of such work.
- (4) Inspections shall be conducted in the order set out in paragraph (2) of this rule. Work shall not be done beyond the point indicated in each successive inspection without first obtaining approval of the building inspector. The building inspector, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with the code. Any portions that do not comply with the code shall be corrected and such portions shall not be covered or concealed until authorized by the building inspector.
- (5) The Commissioner of Commerce and Insurance, or designee thereof, may waive an inspection if an inspection letter approving the work acceptable to the Department is signed and submitted by an architect or engineer currently registered in the State of Tennessee.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.08 Fees.

- (1) The fee shall be payable in full at the time of application for a building permit. The fee shall be determined based on actual expected construction costs; however, the actual costs shall not be less than the construction cost based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes). The fee for a permit for construction shall be as specified in the following table:

Total Construction Cost	Fee
\$0.00 to \$5,000	\$100
\$5,001 to \$100,000	\$350
\$100,001 to \$150,000	\$400
\$150,001 to \$200,000	\$450
\$200,001 to \$250,000	\$500

\$250,001 to \$300,000	\$550
\$300,001 AND UP	\$550 for the first \$300,000; plus \$50.00 for each additional fifty thousand dollars (\$50,000) above \$300,000 or fraction thereof.

- (a) When the permit fee is to be collected from another state department or agency, the permit may be issued once all information needed to invoice or journal voucher the other state department or agency has been received.
- (b) If the application for a building permit must be resubmitted because its issuance has become invalid under paragraph (3) of rule 0780-02-23-.05, the fee established in this rule will be imposed.
- (2) After October 1, 2011, the fee for a plumbing and mechanical inspection shall be one hundred dollars (\$100.00) in addition to the fees above.
- (3) The fee for a slab inspection, other than monolith pours, shall be one hundred dollars (\$100.00) in addition to the fees above.
- (4) The fee for a re-inspection necessitated by more than one (1) rejection on a project shall be one hundred dollars (\$100.00).
- (5) The fee for a consultation inspection or a temporary certificate of occupancy shall be one hundred dollars (\$100.00).
- (6) The Division may require appropriate documentation of costs (such as contractors' bids or invoice) if:
  - (a) in the Division's opinion, the construction cost of a project has been underestimated in permit application based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).
  - (b) After initial review, if such documentation warrants an additional permit charge it shall be computed, assessed, and paid promptly and no further construction shall be authorized pursuant to the authority of the permit until payment is made.
- (7) If a permit expires before completion of a project or a project is stopped before its completion, the permit holder shall be entitled to a refund of the inspection fees that would have been due to the deputy building inspector under their contract for any required inspection under rule 0780-02-23-.08 that was not performed, provided that the permit holder requests such refund on a form prescribed by the Division within sixty (60) days of the expiration of the permit or the date the project stopped.
- (8) Any person who begins any work on any building or structure before obtaining the necessary permit required under this chapter shall be subject to an additional fee of one hundred percent (100%) of the required permit fee for each violation thereof.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.09 Certificate of Occupancy.

- (1) A new one (1) or two (2) family dwelling, townhouse, where construction began after October 1, 2010, or any additions thereto of thirty (30) square feet or more of interior space regulated under this chapter, where construction began after October 1, 2011, shall not be occupied until the Division has issued a certificate of occupancy.
- (2) A certificate of occupancy shall be issued after the passage of all inspections required by this chapter and passage of the final electrical inspection.

- (3) The certificate of occupancy shall state:
  - (a) the building permit number;
  - (b) the address of the building;
  - (c) the name and address of the building owner;
  - (d) the name(s) of the deputy building inspector(s);
  - (e) the edition of the code the building permit was issued under; and
  - (f) the date of issuance.
- (4) A temporary certificate of occupancy may be issued by the Division for a portion or portions of the construction that may be occupied safely prior to final completion of the building.
- (5) The Division may suspend or revoke a certificate of occupancy issued under the provisions chapter wherever the certificate of occupancy is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.10 Dispute Resolution.

- (1) Disputes that arise during the inspection process shall be resolved as follows:
  - (a) When a dispute arises as to the interpretation or applicability of a code provision between the owner, designer or contractor on a project and the Deputy Building Inspector inspecting the project, the dispute shall be submitted to the Director of Codes Enforcement, or designee thereof, for resolution.
  - (b) If the owner, designer or contractor disagrees with the decision of the Director of Codes Enforcement or designee thereof, the dispute shall be submitted to the Assistant Commissioner for Fire Prevention for resolution.
  - (c) If the owner, designer or contractor disagrees with the decision of the Assistant Commissioner for Fire Prevention, the dispute shall be submitted to the Commissioner of Commerce and Insurance, or the Commissioner's designee, for resolution.
  - (d) At any point during this process, the parties may agree to submit the dispute to the publisher of the code section at issue for a written opinion.
- (2) The entire dispute resolution process set forth in paragraph (1) above shall be completed as quickly as possible, but no more than thirty (30) calendar days from the date that the dispute is first submitted for resolution, unless the dispute is submitted to the code publisher for an opinion.
- (3) If there are any fees charged by the code publisher for rendering its written opinion, those fees shall be paid by the owner of the project before a certificate of occupancy will be issued by the Division.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.11 Equivalencies.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes adopted in this chapter, the Commissioner of Commerce and Insurance, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee thereof, shall first find that the special individual reason makes the strict application of the codes adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes adopted in this chapter and that such modification does not lessen, health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and kept in the files of the Division.
- (2) The provisions of the codes adopted in this chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Commissioner of Commerce and Insurance, or designee thereof, finds that the proposed design is satisfactory and complies with the intent of the codes adopted in this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed by the codes adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.12 Local Government Enforcing Residential Building Codes.

- (1) Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for enforcing residential codes for the construction of new one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space. The county or city is authorized to charge and receive a fee for each inspection performed. This rule sets forth the criteria by which local governments are authorized to enforce residential codes and procedures by which the Division may review such authorization.
- (2) Initial Authorization.
  - (a) On or before July 1, 2010, or upon subsequent adoption thereof, a local government meeting the requirements of T.C.A. § 68-120-101 relating to having chosen to adopt and building construction and fire safety codes for the construction of new one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, shall provide the Division with the following information:
    1. The title(s) and edition(s) of the code(s) that are adopted and enforced, which shall show that the local government has adopted a code(s) that is current within seven (7) years of the date of the latest edition;
    2. The number and types of inspections that will be conducted;
    3. The names of all persons who are employed by the local government to perform building inspections on the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of T.C.A. § 68-120-101(f)(1)(B).
- (3) The local government's adopted residential code publication shall be current within seven (7) years of the date of the latest edition thereof, unless otherwise approved in writing by the Commissioner of Commerce and Insurance.
- (4) Review of Local Government Authorization.
  - (a) For any local government that is authorized to enforce building construction codes for one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, the Division will conduct a review of the local government's authorization at least

once every three (3) years. The local government shall submit the following information on a form provided by the Division within thirty (30) days of its receipt of the form.

1. The title(s) and edition(s) of the code(s) that will be adopted and enforced;
2. The number and types of inspections that are conducted;
3. A description of the permit issuance, enforcement and recordkeeping process for all inspection activities;
4. The names of all persons who are employed by the local government to perform building inspections on the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of T.C.A. § 68-120-101(f)(1)(B).

The Division may request any other documentation it deems necessary from the local government to evidence compliance with the requirements T.C.A. § 68-120-101 and may conduct an on-site review to the local government to review the residential building permit and inspection process.

- (b) Each local government that is selected for an on-site review pursuant to this paragraph will be notified of the review in writing.
- (c) Report of Review.
  1. After conclusion of the review, the Division will notify the local government in writing whether the local government's code is current as required by law and whether there are any area(s) in which the local government is not adequately enforcing the adopted residential building codes or properly performing inspections.
  2. If the local government has not adopted a current code or is not adequately enforcing the adopted residential building codes or properly performing inspections, the notification will contain recommended corrective action, and the local government will be directed to submit a plan of corrective action to the Division within thirty (30) days after its receipt of the notification. The plan of corrective action shall be sufficiently detailed so as to ensure compliance with all requirements for initial authorization.
  3. Within thirty (30) days after receipt of the local government's plan of corrective action, the Division shall either approve or disapprove the plan. If the plan is approved, the Division may conduct periodic follow-up reviews to ensure continued compliance with the plan. If the plan is not approved, the Division may remove the local government's authorization to conduct building inspections on the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

#### 0780-02-23-.13 Permit Issuing Agents.

- (1) All individuals, including all business entities, local governments and cooperatives, who undertake to issue building permits under this chapter, must hold a current contract with the Department of Commerce and Insurance, as administered through the Division of Fire Prevention.
- (2) State deputy building inspectors and their immediate families are ineligible to become issuing agents. Additionally, without prior approval from the Department, no individual or business entity in any way related to or financially associated with any Department official will be allowed to become an issuing agent.

Authority: T.C.A. § 68-120-101(a), (b) and (d).

0780-02-23-.14 Local Government Opting out of these Provisions.

Any local government opting out of the provisions of T.C.A. § 62-120-101 regarding residential building codes for the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space shall submit to the state fire marshal the following:

- (1) a certified copy of the resolution opting out of these provisions;
- (2) the date of the next election for the legislative body; and
- (3) the name and mailing address of the person responsible by law for recordkeeping for the legislative body and to whom any notifications should be sent.

Authority: T.C.A. § 68-120-101(b).