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File Date: 11/16/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Fire Prevention Division
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Snodgrass Tennessee Tower Tennessee Room	
Address 2:	312 Rosa L. Parks Blvd.	
City:	Nashville	
Zip:	37243	
Hearing Date :	01/06/10	
Hearing Time:	1:00 p.m.	X CST ___EST

Additional Hearing Information:

This rulemaking hearing is to consider amendments to the rules of the Codes Enforcement Section and to consider rules to implement the residential building code component the "Tennessee Clean Energy Future Act of 2009," Chapter 529 of the Public Acts of 2009. The "Tennessee Clean Energy Future Act of 2009" prohibits the Department from adopting rules that require sprinkler systems in one and two family dwellings.

Revision Type (check all that apply):
X Amendment
X New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to

accommodate more than one chapter. 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	Fees
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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

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

(d) 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 (2)(b) of rule 0780-02-02-.01 Adoption by Reference is amended by adding the language "inconsistent with these rules" after the language "enforcement purposes" and before the punctuation ".".

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

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

Amendments

Subparagraph (1)(b) of rule 0780-02-03-.01 Definitions is amended by adding the language "or occupancy group," after the language "change of occupancy" and before the language "an alteration that alters the exit arrangement,".

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

Subparagraph (1)(c) 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 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 (1)(i) 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 the new 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-.02 Submission of Plans is amended by adding the language "owned or leased" after the words "correctional occupancy or state" and before the words "building until plans and specifications".

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

Subparagraph (1)(a) 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:

(a) An existing building comprising an area of three thousand (3,000) occupied 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 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 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.

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, no person shall commence construction of any business occupancy three (3) stories or more in height 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 having three (3) sleeping units or more, having three (3) dwelling units or more, or a combination of three (3) 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 will apply upon written approval by the Division:

(a) Any residential occupancy one (1) or two (2) story(s) in height having three (3) or more sleeping units, having three (3) or more dwelling units, or a combination of three (3) or more sleeping and dwelling units may have 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 plans review if the state fire marshal determines that it is necessary in order to ensure adequate code compliance. All such inspections and plans reviews will be subjected to the requirements for the issuance of a Certificate of Occupancy as authorized by this Chapter.

(b) Any residential occupancy three (3) stories or more in height having between three (3) and eleven (11) sleeping units, having between three (3) and eleven (11) dwelling units, or a combination between of three (3) and eleven (11) sleeping and dwelling units may have 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 plans review if the state fire marshal determines that it is necessary in order to ensure adequate code compliance. All such inspections and plans reviews will be subjected to the requirements for the issuance of a Certificate of Occupancy as authorized by this Chapter.

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) Where the scope of work solely involves the installation of fire detection system or fuel fire equipment, code compliance may be 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 plans review if the state fire marshal determines that it is necessary in order to ensure adequate code compliance.

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

Subparagraph (8)(e) of rule 0780-02-03-.02 Submission of Plans is amended by deleting the number "7" and replacing it with the number "8".

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) After July 1, 2010, 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) paper copy of the required documents and a pdf copy of the documents on electronic media acceptable by the Division with a verification 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 (1)(a) of rule 0780-02-03-.04 Fees is amended by deleting the language "two hundred dollars ($200.00)" and replacing it with "two hundred fifty dollars ($250.00)".

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

Subparagraph (1)(b) of rule 0780-02-03-.04 Fees is amended by deleting the language "paragraph (3) of".

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 without approval of the plans and specifications, the fee for the review of the plans and specifications shall be the applicable review fee authorized by this chapter based on the cost to build the building using the latest available Building Valuation Data published by the International Code Council (using 0.75 Cost Modifier, except for the footnotes).

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

Subparagraph (3)(a) 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 0.75 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) and (5):

(4) An additional filing fee of fifteen dollars (15.00) for the initial submission of plans electronically shall be applied.

(5) 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 Assistant Commissioner for Fire Prevention, 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 Assistant Commissioner for Fire Prevention, 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 adding the language "paper" after the word "A" and after the words "copy of the approved plans and specifications".

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 without approval of the plans and specifications, original registered architect and engineer designed plans may be submitted showing compliance with the codes applicable at the time of construction along with a statement from the architect or engineer certifying that the construction met the codes in effect at the time of construction. Where plans are inadequate or compliance with older codes cannot be determined, the Division may require as-built plans to prove compliance with the codes effective at the time of construction. The Division may require that the building become compliant with the codes in effect at the time of construction if the building is determined to be not code compliant. Where the codes effective at the time of construction are not available, the Division may require the building meet the codes for existing or new buildings, whichever provides a reasonable degree of safety to the occupants. An applicable review fee as authorized by this Chapter will apply based on the value of the building at the time of submission. All reviews will be subjected to the requirements for the issuance of a Certificate of Occupancy as authorized by this Chapter.

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

Paragraph (1) of rule 0780-02-03-.11 Dispute Resolution is amended by deleting the term "Plans Review Supervisor" where it occurs and replacing it with "Assistant Director of Codes Enforcement".

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

Paragraph (2) of rule 0780-02-03-.11 Dispute Resolution is amended by deleting the term "Chief Deputy State Fire Marshal" where it occurs and replacing it with "Assistant Director of Codes Enforcement".

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 adding the language "prior to" after the words "day immediately" and before the words "effective date".

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, the Assistant Commissioner for Fire Prevention, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Assistant Commissioner for Fire Prevention, or designee thereof, shall first find that the special individual reason makes the strict letter 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 Assistant Commissioner for Fire Prevention, 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, the placement of a modular or mobile home not permitted under Title 68, Chapter 126, Tennessee Code Annotated, an addition to an existing detached one or two family dwelling or townhouse of thirty (30) square feet or more of interior space, or a change of occupancy of an existing building to a one or two family dwelling or townhouse. The term "construction" shall not be construed to include excavation, site preparation or renovation.

(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 TCA 68-120-101(f)(1)(2) and is appointed by the State Fire Marshal 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) 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.

(g) 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, 6th Floor, Washington, D.C., 20001, except for:

1. Section R313.2, relating to One and Two Family Dwellings Automatic Fire Sprinkler Systems;

2. Section R314, relating to Smoke Alarms;

3. 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, 6th Floor, Washington, D.C., 20001.

2. Smoke Alarms shall be installed pursuant to T.C.A. §§ 68-102-151 and 68-120-111.

3. 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.

4. 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. After July 1, 2010, any construction, as defined in rule 0780-02-23-.01, of one and two family dwellings, townhouses or additions thereto 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 July 1, 2010, no construction of a one or two family dwelling, townhouse or addition thereto 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 State Fire Marshal, except in a jurisdiction of a local government having 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.

(2) 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.

(3) (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. Proof of licensure pursuant to T.C.A. Title 62, Chapter 6 (except for a property owner's permit).

(4) All building permits are non-transferable.

(5) 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.

(6) (a) A building permit shall be void if the authorized work is 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 Assistant Commissioner for Fire Prevention, 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 or 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 Assistant Commissioner for Fire Prevention, 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.

(7) The original 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.

(8) It is the responsibility of all persons performing work on the site to comply with the required codes.

(9) 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, any state law or regulation or any ordinance of the local jurisdiction.

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 family and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space 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-.07(1).

(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-.07.

(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 July 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 and masonry after roof, masonry, all framing, fire stopping, draft stopping and bracing 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.

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

0780-02-23-.08 Fees.

(1) The fee for a permit for construction shall be as specified in the following table:

Total Construction Cost	Fee
$0.00 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 plus $50.00 for each additional fifty thousand dollars ($50,000) or fraction thereof.

Such fee shall be payable in full at the time of application for a building permit.

(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 July 1, 2011, the fee for a plumbing and mechanical inspection shall be one hundred dollars ($100.00).

(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 0.75 Cost Modifier, except for the footnotes).

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 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 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 or two family dwelling, townhouse or any additions thereto of thirty (30) square feet or more of interior space regulated under this chapter shall not be occupied until the Division has issued a certificate of occupancy.

(2) 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); and

(e) the edition of the code the building permit was issued under.

(3) 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.

(4) 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 State Fire Marshal 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 Assistant Commissioner for Fire Prevention, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Assistant Commissioner for Fire Prevention, or designee thereof, shall first find that the special individual reason makes the strict letter 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 Assistant Commissioner for Fire Prevention, 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 and two 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 state fire marshal 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 State Fire Marshal 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 state fire marshal.

(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 state fire marshal 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 state fire marshal 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 state fire marshal 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 state fire marshal 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 state fire marshal 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 state fire marshal shall either approve or disapprove the plan. If the plan is approved, the state fire marshal may conduct periodic follow-up reviews to ensure continued compliance with the plan. If the plan is not approved, the state fire marshal 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).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 11/13/09

Signature:

Name of Officer: Patrick W. Merkel

Title of Officer: Chief Counsel for Fire Prevention and Law Enforcement

Subscribed and sworn to before me on: 11/13/09

Notary Public Signature:

My commission expires on: 3/5/12

Department of State Use Only

Filed with the Department of State on: 11/16/09

Tre Hargett by [illegible], RDA

Tre Hargett
Secretary of State

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