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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 (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Commerce and Insurance
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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
0780-02-23	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-.05	Permits
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0780-02-23-.15	Dwelling Units

(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://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

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

Paragraph (1) of rule 0780-02-23-.01 Definitions shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (1) shall read as follows:

- (1) For the purposes of this chapter, the following definitions are applicable. All other definitions shall be as provided by the building and electrical codes and standards currently adopted by the Department.
 - (a) Addition means an increase in floor area or height of structure.
 - (b) Construction means the erection of a new building containing a detached one (1) or two (2) family dwelling or townhouse, a change of occupancy of an existing building to a one (1) or two (2) family dwelling or townhouse or, after October 1, 2011, an addition to an existing detached one (1) or two (2) 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.
 - (c) Department means the Department of Commerce and Insurance.
 - (d) Deputy State Building Inspector (DBI) means any person who meets the qualifications in T.C.A. § 68-120-101(f)(1) and (2) and is appointed by the Commissioner of Commerce and Insurance to perform inspections of one (1) and two (2) family dwelling and townhouse construction.
 - (e) Division means the Division of Fire Prevention of the Department of Commerce and Insurance.
 - (f) Fire renovation means a renovation required after a fire regardless of whether the walls must be reconstructed.
 - (g) Local government means any city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee.
 - (h) One (1) and two (2) family dwelling means a building that contains one (1) or two (2) dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied for living purposes.
 - (i) 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.
 - (j) Renovation means interior or exterior painting, papering, tiling, carpeting, cabinet installation, counter top installation, 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.
 - (k) Townhouse means a single family dwelling unit constructed in a group of three (3) or

more attached units that extends from foundation to roof, separated by a two (2) hour fire resistance rated wall assembly, not more than three (3) stories in height, with a separate means of egress, and an open space or public way on at least two (2) sides.

- (l) Transient occupant means a person who occupies a single dwelling unit for not more than thirty (30) days.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.02 Adoption by Reference shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

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

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum codes and standards for the construction of one (1) and two (2) 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 (IRC), 2009 edition, published by the International Code Council, Inc. (ICC), 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001, except for:
 - 1. Section R313, Automatic Fire Sprinkler Systems, pursuant to T.C.A. § 68-120-101(a)(8); and
 - 2. Chapters 34-43, relating to Electrical.
 - (b) International Energy Conservation Code (IECC), 2009 edition, published by the International Code Council, Inc., (ICC), except for:
 - 1. Section 402.4.2.1, Testing option; and
 - 2. Section 403.2.2, Sealing Mandatory.
 - (c) Amendments to the Codes and Standards:
 - 1. IRC, Section R314.4, 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.
 - 2. IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "l": "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.
 - 3. IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "m": "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;
 - (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 cited publications adopted by reference in paragraph (1) shall govern the manner in which:
 - (a) the codes and standards are applied to construction of one (1) and two (2) 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 requirements of the codes and standards; and
 - (c) the specific requirements of the codes and standards may be modified to permit the use of alternate materials or methods of construction.

Authority: T.C.A. § 68-120-101.

Paragraph (1) of rule 0780-02-23-.03 Conflicts shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (1) shall read as follows:

- (1) In the event of a conflict or inconsistency between the codes and standards adopted by reference in Tenn. Comp. R. & Regs. 0780-02-23-.02 and 0780-02-01-.02 (Electrical Installations), the most stringent provisions shall control.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.05 Permits shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

0780-02-23-.05 Permits.

- (1) After October 1, 2010, no construction of a one (1) or two (2) 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 shall 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. Issuing agents shall retain no more than fifteen dollars (\$15.00) for each issued permit. This fifteen dollar (\$15.00) fee shall be retained from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.
- (2) After October 1, 2011, no construction of an addition to a one (1) or two (2) 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 shall be secured in the area where the work is to be performed until a certificate of occupancy is issued. Issuing agents shall retain no more than fifteen dollars (\$15.00) for each issued permit. This fifteen dollar (\$15.00) fee shall be retained from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.

- (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. § 62-6-103, 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, including street address, if available;
 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 shall be 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, is authorized to grant one (1) or more extensions of time, for period of not more than one hundred eighty (180) days each. All extensions shall 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 Commissioner of Commerce and Insurance, or designee, determines that substantial progress has been made in the work authorized by the permit; and
 2. the permit holder is granted an exception or extension after submitting a written request to the Commissioner of Commerce and Insurance, or designee.

- (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 of the original permit.
- (9) It shall be the responsibility of all persons performing work on the site to comply with the required codes and standards.
- (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.

Paragraph (2) of rule 0780-02-23-.07 Inspections shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (2) shall read as follows:

- (2) (a) Inspections shall be 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. Attached garages.
 - 5. Prefabricated walls.
 - 6. Fire renovations.
 - 7. 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. Monolith pour, or monolith slab foundation that consists of a single concrete slab with thickened portions of slab under loadbearing walls, does not require a separate inspection.
- (c) Energy efficiency inspections shall occur during the required inspections specified in Tenn. Comp. R. & Regs. 0780-02-23-.08(2) as required by the adopted codes and standards.

Authority: T.C.A. § 68-120-101.

Paragraph (4) of rule 0780-02-23-.07 Inspections shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (4) shall read as follows:

- (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 adopted standards. Any portions that do not comply with the adopted codes and standards 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.

Paragraph (5) of rule 0780-02-23-.07 Inspections shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (5) shall read as follows:

- (5) The Commissioner of Commerce and Insurance, or designee, may waive an inspection if an inspection letter approving the work acceptable to the Division is signed and submitted by an architect or engineer currently registered in the state of Tennessee.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.08 Fees shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

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 shall 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 other applicable fees.
- (3) The fee for a slab inspection, other than monolith pours, shall be one hundred dollars (\$100.00) in addition to other applicable fees.
- (4) The fee for a prefabricated wall inspection shall be one hundred dollars (\$100.00) in addition to other applicable fees.
- (5) The fee for a re-inspection necessitated by more than one (1) rejection on a project shall be one hundred dollars (\$100.00).
- (6) The fee for a consultation inspection or a temporary certificate of occupancy shall be one hundred dollars (\$100.00).
- (7) 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 a 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.
- (8) 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 Tenn. Comp. R. & Regs. 0780-02-23-.08 that was not performed, provided that the permit holder requests such refund on a form prescribed by the Division no less than sixty (60) days prior to the expiration of the permit.
- (9) 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.

Authority: T.C.A. § 68-120-101.

Paragraph (3) of rule 0780-02-23-.09 Certificate of Occupancy shall be amended by deleting the existing paragraph in its entirety and by substituting the following, so that, the new paragraph (3) shall read as follows:

- (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 of the deputy building inspector;
 - (e) the edition of the codes and standards the building permit was issued under; and
 - (f) the date of issuance.

Authority: T.C.A. § 68-120-101.

Paragraph (5) of rule 0780-02-23-.09 Certificate of Occupancy shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (5) shall read as follows:

- (5) The Division may suspend or revoke a certificate of occupancy issued under the provisions of this chapter if 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.

Rule 0780-02-23-.10 Dispute Resolution shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

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 provision of the adopted codes and standards 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 over residential inspections, or designee, for resolution.
 - (b) If the owner, designer or contractor disagrees with the decision of the Director over residential inspections, or designee, the dispute shall be submitted to the Director's supervisor within the Division for resolution.
 - (c) If the owner, designer or contractor disagrees with the decision of the Director's supervisor within the Division, the dispute shall be submitted to the Commissioner of Commerce and Insurance, or designee, for resolution.
 - (d) At any point during this process, the parties may agree to submit the dispute to the publisher of the applicable codes and standards 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 publisher of the codes and standards for an opinion.
- (3) If there are any fees charged by the publisher for rendering a written opinion, those fees shall be paid by the owner, designer or contractor of the project before a certificate of occupancy will be issued by the Division.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.11 Equivalencies shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

0780-02-23-.11 Equivalencies.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes and standards adopted in this chapter, the Commissioner of Commerce and Insurance, or designee, 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, shall first find that the special individual reason makes the strict application of the codes and standards adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes and standards 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 and standards 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 the codes and standards, 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, finds that the proposed design is satisfactory and complies with the intent of the codes and standards 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 and standards adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.12 Local Government Enforcing Residential Building Codes and Standards shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

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

- (1) Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for adopting and enforcing residential building construction and fire safety codes and standards for 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 adopt and enforce residential building codes and standards 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, to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) 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 titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;
 2. The number and types of inspections that will be conducted;
 3. A description of the permit issuance, enforcement and recordkeeping process for all residential inspection activities;
 4. The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) 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), 68-120-113 and 68-120-118; and
 5. The Division may request any other documentation it deems necessary from a local government to evidence compliance with the requirements of T.C.A. §§ 68-120-101, 68-120-113 and 68-120-118, and may conduct an on-site review of the local government's residential building permit and inspection process.
- (3) Except as provided in T.C.A. § 68-120-101, or otherwise approved in writing by the state fire marshal, no city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee shall adopt or enforce any ordinance prescribing less stringent standards of fire prevention, fire protection, or building construction safety than those

The details of action granting modifications shall be recorded and kept in the files of the Division.

- (2) The provisions of the codes and standards 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 the codes and standards, 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, finds that the proposed design is satisfactory and complies with the intent of the codes and standards 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 and standards adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.12 Local Government Enforcing Residential Building Codes shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

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

- (1) Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for adopting and enforcing residential building construction and fire safety codes and standards for 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 adopt and enforce residential building codes and standards 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, to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) 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 titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;
 2. The number and types of inspections that will be conducted;
 3. A description of the permit issuance, enforcement and recordkeeping process for all residential inspection activities;
 4. The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) 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), 68-120-113 and 68-120-118; and
 5. The Division may request any other documentation it deems necessary from a local government to evidence compliance with the requirements of T.C.A. §§ 68-120-101, 68-120-113 and 68-120-118, and may conduct an on-site review of the local government's residential building permit and inspection process.
- (3) Except as provided in T.C.A. § 68-120-101, or otherwise approved in writing by the state fire marshal, no city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee shall adopt or enforce any ordinance prescribing less stringent standards of fire prevention, fire protection, or building construction safety than those

established hereunder. The residential building construction and fire safety codes and standards adopted by a local government shall be current within seven (7) years of the date of the latest edition published. Any amendments to the editions of the standards and codes adopted by the local government shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration, and repair of buildings or structures within the jurisdiction.

(4) Review of Local Government Authorization.

(a) For any local government that is authorized to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) 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 titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;
2. The number and types of residential inspections that are conducted;
3. A description of the permit issuance, enforcement and recordkeeping process for all residential inspection activities;
4. The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) 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), 68-120-113 and 68-120-118; and,
5. The Division may request any other documentation it deems necessary from the local government to evidence compliance with the requirements of T.C.A. §§ 68-120-101, 68-120-113 and 68-120-118, and may conduct an on-site review of the local government's residential building permit and inspection process.

(b) Each local government selected for an on-site review pursuant to this paragraph shall be notified of the review in writing.

(c) Report of Review.

1. After conclusion of the review, the Division shall notify the local government in writing whether the local government's adopted residential building construction and fire safety codes and standards are current as required by law, whether there are any areas in which the local government is not adequately enforcing the adopted codes and standards, and whether the local government's personnel is properly performing inspections.
2. If the local government has not adopted current residential building codes and standards, is not adequately enforcing the adopted codes and standards, or is not properly performing inspections, the notification shall contain recommended corrective action, and the local government shall 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 (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space.

Authority: T.C.A. § 68-120-101.

Rule 0780-02-23-.14 Local Government Opting Out Of These Provisions shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

0780-02-23-.14 Local Government Opting Out Of These Provisions.

Any local government opting out of the provisions of T.C.A. § 68-120-101 regarding residential building codes and standards for one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space shall submit to the Division 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.

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

0780-02-23-.15 Dwelling Units

- (1) A single dwelling unit providing complete independent living facilities including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation, may meet the requirements of a one (1) and two (2) family dwelling and shall not be subject to the provisions of Tenn. Comp. R. & Regs. 0780-02-03 (Review of Construction Plans and Specifications) if the dwelling unit:
 - (a) is three (3) stories or less;
 - (b) has a maximum occupancy of twelve (12) or fewer transient occupants; and,
 - (c) and consists of a gross area of less than five thousand square feet (5,000).
- (2) A dwelling unit shall be in compliance with Paragraph (1) of this rule in order to qualify for classification as a one (1) or two (2) family dwelling unit. Any noncompliance with a single criterion may result in the dwelling unit being classified as nonresidential.
- (3) A boarding house or congregate living facility shall meet the requirements of the applicable standards adopted pursuant to T.C.A. § 68-120-101 and Tenn. Comp. R. & Regs. 0780-02-02 (Codes and Standards) and 0780-02-03 (Review of Construction Plans and Specifications).

Authority: T.C.A. § 68-120-101.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

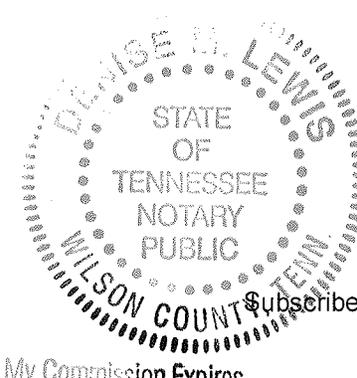
Board Member	Aye	No	Abstain	Absent	Signature (if required)
Not applicable					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of Commerce and Insurance (board/commission/ other authority) on 9/15/16 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/08/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 11/02/15



Date: 9/15/16

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance

Subscribed and sworn to before me on: 9/15/16

Notary Public Signature: Denise M Lewis

My commission expires on: 11/15/20

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.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

10/26/2016
Date

Department of State Use Only

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SECRETARY OF STATE
PUBLICATIONS

Filed with the Department of State on: 11/4/16

Effective on: 2/2/17

Tre Hargett

Tre Hargett
Secretary of State

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.

Prior to the public rulemaking hearing on November 2, 2015, regarding the adoption of amendments to Tenn. Comp. R. & Regs. 0780-02-23 One- and Two-Family Dwellings and Townhouses, the State Fire Marshal's Office conducted several public information meetings across the state to introduce the proposed amendments to the rules and updated energy code adoption with various stakeholders, which included local fire officials from the Fire Service Coalition, building officials with the Tennessee Building Officials Association (TBOA) as well as representatives from the Tennessee Home Builders Association representing contractors and the home construction industries. Representatives of these associations and entities appeared in support of this rulemaking process. The Department of Environment and Conservation (TDEC) was also notified of this rulemaking.

Mr. Terrence Cobb, Director of the Department of Codes & Building Safety for Metropolitan Government of Nashville-Davidson County, appeared and spoke at the rulemaking hearing. Mr. Cobb expressed support, in general, of the proposed rules but expressed concern the new definition in the rules for "transient occupant" which does not appear in the International Residential Code (IRC). He also recommended increasing the occupancy limit for rental units with transient occupants to twelve (12) persons from the proposed limitation of ten (10) transient occupants. Mr. Cobb also submitted a written comment at the hearing supporting his oral statements and his recommendation to increase the maximum occupancy limit for short term rental properties. Mr. Christopher Bainbridge, Director of Codes Enforcement, responded in the hearing on behalf of the State Fire Marshal's Office that the determination to set the occupancy limit for short term rentals at ten (10) occupants resulted from research into the 2015 International Building Code (IBC) and the occupancy limitations therein for boardinghouses. Mr. Joseph Underwood, Chief Counsel for the State Fire Marshal's Office, expressed to Mr. Cobb that his suggestion for increasing the number of allowable transient occupants to twelve (12) persons will be communicated to Commissioner Julie Mix McPeak, who as the State Fire Marshal, will ultimately make the final determination as to the number of allowable transient occupants.

Ms. Susan Ritter, Executive Vice President of the Tennessee Home Builders Association, spoke at the hearing expressing her support for the adoption of the proposed amendments to the rules along with the amendments to the energy efficiency requirements. She also expressed support for the increasing the number of allowable transient occupants from ten (10) to twelve (12) persons. Ms. Ritter also asked for clarification regarding whether the State Fire Marshal's Office was only adopting Chapter 11: Energy Efficiency of the 2009 IRC, or the 2009 International Energy Conservation Code (IECC). Mr. Underwood explained that the amended rules will adopt both Chapter 11 of the 2009 IRC and the 2009 IECC as required for compliance with the American Recovery and Reinvestment Act (ARRA) of 2010. Representatives of the State Fire Marshal's Office also noted Ms. Ritter's comments and support on the record.

Mr. Steve Mills appeared and spoke at the rulemaking hearing representing the TBOA and as Director of the Department of Building & Codes for the City of Hendersonville, TN. Mr. Mills was, generally, in favor of the proposed amendments and rule changes but articulated concerns about the audit process of exempt local jurisdictions by the State Fire Marshal's Office. Mr. Mills also inquired about the State Fire Marshal's Office determination of what constituted a transient occupant. Mr. Gary Farley, Director of the Electrical, Residential and Marina Inspections Section of the State Fire Marshal's Office, responded on the record that the audit would be conducted to determine that exempt local jurisdictions have adopted and are enforcing standards equal to or more stringent than those adopted in these rules. Mr. Farley also explained the State Fire Marshal's Office reasoning for establishing the threshold of ten (10) transient occupants for one- and two-family residences in response to the various issues presented by short term rental units and the application of the IRC instead of the more stringent IBC on such structures. Mr. Mills also submitted two (2) written comments in support of the adopting the 2009 IRC even though he would have preferred the State Fire Marshal's Office adopt the 2012 edition of the IRC as many local governments and municipalities have already adopted the 2012 IRC. Mr. Mills expressed his concern with the rules proposal relating to "transient occupancies" of one- and two-family dwellings and his support that the provisions of the adopted edition of the IRC provide adequate safety and fire protections for one- and two-family residences utilized as short or long term rental properties. Mr. Underwood noted Mr. Mills'

comments and explained that that the State Fire Marshal's interpretation of the building codes provides that long term rentals are those units which are rented for thirty (30) days or more, and short term rentals are those units which are rented for any period of time less than thirty (30) days.

Mr. Joshua Beasley, President of Honest Abe Log Homes in Moss, TN, and who also serves as Vice-Chair of the National Association of Home Builders (NAHB) Log & Timber Homes Council's Steering Committee, made a comment on the record at the hearing and also submitted written comments in support of the amendments to the rules. Mr. Beasley was, in particular, in support of the considerations in the rules applicable to the log homes industry and relevant energy standards.

Mr. Paul Peebles, Commercial Sales with Perma-Chink Systems, Inc. in Knoxville, TN, spoke in support of the proposed rules and the advantages of the construction materials and techniques utilized in log built homes. Mr. Peebles also inquired into the requirement for the adoption of updated code within seven (7) years to which agency representatives responded that this requirement is stated in statute, Tenn. Code Ann. § 68-120-101(b)(5)(A).

Mr. Lynn Scott, Sherwood Forest Resort in Pigeon Forge, TN, spoke in support of the rules but also requested that short term occupancy limit be increased from the proposed number of ten (10) transient occupants. Mr. Underwood communicated that this suggestion will be presented to the Commissioner for consideration.

Mr. Chris Wood, Vice President/Sales of Hearthstone, Inc. in Dandridge, TN, spoke about the issues confronted by the log home industry and support of adoption of the amendments and the 2009 IECC along with ICC 400 in regards to energy standards for log home construction. Mr. Wood also submitted a letter in support of the adoption of the 2009 IECC with the ICC 400 amendments.

Mr. Mark W. Goins, from the Town of Pleasant View, TN, asked if the log house market does not need to comply with the Energy Code then conventional builders will be at a disadvantage, which seems unfair. Mr. Underwood explained that an energy standard for log homes does exist, but the standards are not specifically listed in the adopted energy code. The standards are included as a table in the reference section, which requires the State Fire Marshal to adopt the table as an addendum to the adopted energy standards for residential log cabin structures. Mr. Underwood also clarified that the table being adopted will be unchanged from those required in the current rules.

Ms. Shellie Valentine, Sales and General Manager of Jim Barna Log & Timber Homes in Oneida, TN, submitted a written comment in support of the rules which utilizes ICC 400 language and the amendments concerning energy code compliance for log homes.

Mr. Robert Lambert, President of Natural Element Homes in Athens, TN, submitted a written comment in support of the ICC 400 amendments and the adoption of the rules in regards to their application to log homes.

Mr. Underwood clarified that the ICC 400 language and the addendum table regarding energy efficiency standards for log homes provided in the amended rules will remain unchanged from those standards adopted in the previous rules.

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.

1. Types and estimated number of small businesses directly affected:

Small businesses involved in residential construction or renovation projects will be affected by the promulgation of these rules.

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

There is no foreseeable alteration in the existing reporting or recordkeeping utilized by small businesses that will result from the promulgation of these rules.

3. Probable effect on small businesses:

Small businesses involved in residential construction or renovation projects will be affected by the promulgation of these rules.

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

The amended rules are not anticipated to impact small businesses more than the current rules provide. There has not been a less burdensome, intrusive or costly alternative method identified or recommended for use.

5. Comparison with federal and state counterparts:

There are no federal counterparts to these rules. A majority of local government jurisdictions have adopted and are enforcing similar building standards as proposed under these rules. These rules will establish the statewide minimum building construction safety standards for one (1) and two (2) family dwellings and townhouses. Furthermore, T.C.A. § 68-120-101(b) provides local government bodies with the option to exempt out of the applicability of any and all residential building construction standards for their respective jurisdictions.

6. Effect of possible exemption of small businesses:

There are no possible exemptions for small businesses to the requirements contained in these rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules may impact a local government if the local government has determined not to be exempt from the application of residential building construction standards for their respective jurisdiction pursuant to T.C.A. § 68-120-101(b).

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;

In 0780-02-23-.01 Definitions, the proposed rules amend several definitions to provide greater clarity to the chapter and to organize the definitions alphabetically. In 0780-02-23-.02 Adoption by Reference, the proposed rules update the adopted code pertinent to one (1) and two (2) family dwellings. The proposed rules replace Chapter 11 (Energy Efficiency) of the 2006 edition of the International Residential Code ("IRC") with Chapter 11 of the 2009 edition of the IRC. The rules also adopt the 2009 edition of the International Energy Conservation Code ("IECC") except for Sections 402.4.2.1 (Testing option) and, 403.2.2, (Sealing Mandatory). In 2010, Tennessee accepted federal funds offered through the American Recovery and Reinvestment Act ("ARRA") and agreed to adopt an energy code for residential buildings that meets or exceeds the 2009 IECC as one of three (3) conditions attached to the federal funds. The adoption of the 2009 IECC code satisfies the condition regarding residential buildings. In 0780-02-23-.03 Conflicts, the proposed rules replace the term "code" with the term "standard(s)" for consistency with the statute providing authority for these rules. The substance of the rule is not changed. In 0780-02-23-.05 Permits, the proposed rules clarify an existing contract provision which allows issuing agents to charge up to fifteen dollars (\$15.00) for issuing a building permit, correct a code citation, include the requirement that the building permit list the street address where the work will be performed, and clarify the procedure for authorization of an extension for a building permit upon written request and showing of just cause by the permit holder. In 0780-02-23-.07 Inspections, the proposed rules add the requirement that construction of attached garages, superior wall systems and fire renovations of one (1) and two (2) family dwellings be inspected and clarify that the monolith pour foundation does not require a separate inspection. In 0780-02-23-.08 Fees, the proposed rules add a one hundred dollar (\$100.00) permit fee for an inspection of a superior wall system. In 0780-02-23-.09 Certificates of Occupancy, the proposed rules edit the language for grammatical correction. In 0780-02-23-.10 Dispute Resolution, the proposed rules correct the first level of dispute as the Director over Residential Inspections and not the Director of Codes Enforcement. Electrical, Residential and Marina Inspections is the section which reviews disputes for residential construction and not the Codes Enforcement Section which oversees the construction of commercial, education or other specific use buildings. In 0780-02-23-.11 Equivalencies, the proposed rules edit the language for conformity with the other rules, specifically replacing the term "codes" with the term "standard(s)." The substance of the rule has not been changed. In 0780-02-23-.12 Local Governments Enforcing Residential Building Codes, the proposed rules do not change the substance of the rule but the current language has been amended to clarify the audit process for local governments enforcing their own residential standards. In 0780-02-23-.15 Dwelling Units, the new proposed rule clarifies the types of dwellings to which the residential building standards would apply and the types of dwellings to which the commercial building standards would apply.

- (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;

In 2010, the State of Tennessee and Governor Bredesen agreed to adopt energy codes for residential and commercial buildings which meets or exceeds the 2009 International Energy Conservation Code (IECC) as part of the conditions for accepting federal funds offered through the American Recovery and Reinvestment Act (ARRA). The adoption of the 2009 IECC for residential buildings has been determined to satisfy part of the state's obligation for receipt of the recovery funds.

- (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, log cabin 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 (TBOA) and the fire service coalition were consulted during and in support of this rulemaking process. The Department of Environment and Conservation (TDEC) was also notified of this rulemaking. Prior to the rulemaking hearing, the State Fire Marshal's Office assembled an advisory committee comprising of representatives from various stakeholder groups previously mentioned above for the purpose of considering amendments to the rules for one- and two-family dwellings and townhouses. The State Fire

Marshal's Office also conducted several public meetings across the state to discuss the proposed amendments to the rules and updated energy code adoption with various stakeholders which included local fire and building officials as well as representatives from the contractors and the home construction industries. These town hall style public meetings were held in Clinton, TN on Sept. 22, 2015 and Sevierville, TN on Sept 23, 2015. Other meetings were held in Franklin, TN on Oct. 1, 2015 and Jackson, TN on Oct. 19, 2015.

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

The Division of Fire Prevention is 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;

The rules are not anticipated to result in an increase or decrease in state and local government revenues and expenditures.

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

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance and Gary Farley, Director of Electrical, Residential and Marina Inspections, Department of Commerce and Insurance.

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

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance and Gary Farley, Director of Electrical, Residential and Marina Inspections, Department of Commerce and Insurance.

- (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

Joseph Underwood, 500 James Robertson Pkwy, Davy Crockett Tower, 8th Floor, Nashville, TN 37243, (615) 741-3899 Joseph.Underwood@tn.gov; Gary Farley, 500 James Robertson Pkwy, Davy Crockett Tower, 9th Floor, Nashville, TN 37243, (615) 741-7170 gary.farley@tn.gov.

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

The Division of Fire Prevention held several public meetings across the state prior to developing and proposing amendments to these rules. Additionally, the Division met with representatives of several stakeholder groups regarding the drafting of the proposed rules.

**RULES
OF
DEPARTMENTS OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

**CHAPTER 0780-02-23
ONE AND TWO FAMILY DWELLINGS AND TOWNHOUSES**

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(1) As used in this chapter, unless the context otherwise requires: For the purposes of this chapter, the following definitions are applicable. All other definitions shall be as provided by the building and electrical codes and standards currently adopted by the Department.

(a) Addition means an increase in floor area or height of structure.

(ab) Construction means the erection of a new building containing a detached one (1) or two (2) family dwelling or townhouse, a change of occupancy of an existing building to a one (1) or two (2) family dwelling or townhouse or, after October 1, 2011, an addition to an existing detached one (1) or two (2) 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.~~

(eb) Department means the Department of Commerce and Insurance.

(d) Deputy State Building Inspector (DBI) means any person who meets the qualifications in T.C.A. § 68-120-101(f)(1) and (2) and is appointed by the Commissioner of Commerce and Insurance to perform inspections of one (1) and two (2) family dwelling and townhouse construction.

(e) Division means the Division of Fire Prevention of the Department of Commerce and Insurance.

(f) Fire renovation means a renovation required after a fire regardless of whether the walls must be reconstructed.

(eg) Local government means any city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee.

(fh) One (1) and two (2) family dwelling means a building that contains one (1) or two (2) dwelling units used, intended, or designed to be built, used, rented,

leased, let or hired out to be occupied for living purposes.

- (g) 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.
- (h) Renovation means interior or exterior painting, papering, tiling, carpeting, cabinets installation, counter tops installation, 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.
- (i) Townhouse means a single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit that extends from foundation to roof, separated by a two (2) hour fire resistance rated wall assembly, not more than three (3) stories in height, with a separate means of egress, and an open space with a yard or public way on at least two (2) sides.
- (l) Transient occupant means a person who occupies a single dwelling unit for not more than thirty (30) days.

Authority: T.C.A. § 68-120-101(a), (b) and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.02 ADOPTION BY REFERENCE.

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum codes and standards for the construction of one (1) and two (2) 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 (IRC), 2009 edition, published by the International Code Council, Inc. (ICC), 500 New Jersey Avenue Northwest, 6th 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. § 68-120-101(a)(8); and~~
 2. Chapters 34-43, relating to Electrical.
- (b) International Energy Conservation Code (IECC), 2009 edition, published by the International Code Council, Inc., (ICC), except for:
1. Section 402.4.2.1, Testing option; and
 2. Section 403.2.2, Sealing Mandatory.
- (c) Amendments to the Codes and Standards:
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. ~~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 ".".~~

31. IRC, Section R314.4, 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.

- 4.2. IECC Table N1102.1, Insulation and Fenestration Requirements by Component, Table 402.1.4 is amended by adding the following as footnote "lh": "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.

- 5.3. IECC Table N1102.1, Insulation and Fenestration Requirements by Component, Table 402.1.4 is amended by adding the following as footnote "mi": "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~~-cited publications adopted by reference in paragraph (1) shall govern the manner in which:
- (a) the codes and standards ~~is~~are applied to construction of one (1) and two (2) 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 of the codes and the standards; and
 - (c) the specific requirements of the codes and standards 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.03 CONFLICTS.

- (1) In the event of a conflict or inconsistency between the codes and standards adopted by reference in ~~rule Tenn. Comp. R. & Regs. 0780-02-23-.02 and Chapter 0780-02-01-.02~~ (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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.05 PERMITS.

- (1) After October 1, 2010, no construction of a one (1) or two (2) 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~~ shall 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. Issuing agents shall retain no more than fifteen dollars (\$15.00) for each issued permit. This fifteen dollar (\$15.00) fee shall be retained from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.
- (2) After October 1, 2011, no construction of an addition to a one (1) or two (2) 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~~ shall be secured in the area where the work is to be performed until a certificate of occupancy is issued. Issuing agents shall retain no more than fifteen dollars (\$15.00) for each issued permit. This fifteen dollar (\$15.00) fee shall be retained from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.
- (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. § 628-6-103, 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, including street address, if available;
 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~~ shall be 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 (1) or more extensions of time, for periods of not more than one hundred eighty (180) days each. The~~ All extensions must shall 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~~ Commissioner of Commerce and Insurance, or designee, determines that substantial progress has been made in the work authorized by the permit; and
 2. the permit holder is granted an exception or extension 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~~ of the original permit.
- (9) It ~~is~~ shall be the responsibility of all persons performing work on the site to comply with the required codes and standards.

- (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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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~~shall be 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. Attached garages.

5. Prefabricated walls.

6. Fire renovations.

7.4. 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. Monolith pour, or monolith slab foundation that consists of a single concrete slab with thickened portions of slab under loadbearing walls, does not require a separate inspection.
- (c) Energy efficiency inspections shall occur during the required inspections specified in rule-Tenn. Comp. R. & Regs. 0780-02-23-.08(2) as required by the adopted codes and standards.
- (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 adopted codes and standards. Any portions that do not comply with the adopted codes and standards 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 Division 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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~~shall 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 other applicable fees above.~~
- (3) The fee for a slab inspection, other than monolith pours, shall be one hundred dollars (\$100.00) in addition to ~~the other applicable fees above.~~
- (4) The fee for a prefabricated wall inspection shall be one hundred dollars (\$100.00) in addition to other applicable fees.
- (45) The fee for a re-inspection necessitated by more than one (1) rejection on a project shall be one hundred dollars (\$100.00).
- (56) The fee for a consultation inspection or a temporary certificate of occupancy shall be one hundred dollars (\$100.00).
- (67) 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 a 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.
- (78) 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 Tenn. Comp. R. & Regs. 0780-02-23-.08 that was not performed, provided that the permit holder requests such refund on a form prescribed by the Division ~~within no less than sixty (60) days of prior to the expiration of the permit or the date the project stopped.~~
- (89) 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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 codes and standards 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 of this chapter ~~wherever~~ if 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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 of the adopted codes and standards 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~~ over residential inspections, or designee thereof, for resolution.
 - (b) If the owner, designer or contractor disagrees with the decision of the ~~Director of Codes Enforcement~~ over residential inspections, or designee thereof, the dispute shall be submitted to the ~~Assistant Commissioner for Fire Prevention~~ Director's supervisor within the Division for resolution.
 - (c) If the owner, designer or contractor disagrees with the decision of the ~~Assistant Commissioner for Fire Prevention~~ Director's supervisor within the Division, 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~~ applicable codes and standards 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 of the codes and standards 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, designer or contractor 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.11 EQUIVALENCIES.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes and standards 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 and standards adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes and standards 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 and standards 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~~ the codes and standards, 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 and standards 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 and standards adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. § 68-120-101(a), (b) and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.12 LOCAL GOVERNMENT ENFORCING RESIDENTIAL BUILDING CODES AND STANDARDS.

- (1) Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for adopting and enforcing residential codes building construction and fire safety codes and standards 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 adopt and enforce residential codes building codes and standards 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 enforce residential building construction and fire safety codes and standards 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, shall provide the Division with the following information:~~

1. ~~The title(s) and edition(s) of the residential building construction and fire safety code(s) and standards for one(1) and two (2) family dwellings and townhouses 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 by the local government;~~
 2. The number and types of inspections that will be conducted;
 3. A description of the permit issuance, enforcement and recordkeeping process for all residential inspection activities;
 4. ~~3.~~ The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) 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), 68-120-113 and 68-120-118; and
 5. The Division may request any other documentation it deems necessary from a local government to evidence compliance with the requirements of T.C.A. §§ 68-120-101, 68-120-113 and 68-120-118, and may conduct an on-site review of the local government's residential building permit and inspection process.
- (3) Except as provided in T.C.A. § 68-120-101, or otherwise approved in writing by the state fire marshal, no city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee shall adopt or enforce any ordinance prescribing less stringent standards of fire prevention, fire protection, or building construction safety than those established hereunder. The local government's adopted residential code publication building construction and fire safety codes and standards adopted by a local government shall be current within seven (7) years of the date of the latest edition thereof published, unless otherwise approved in writing by the Commissioner of Commerce and Insurance. Any amendments to the editions of the standards and codes adopted by the local government shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration, and repair of buildings or structures within the jurisdiction.
- (4) Review of Local Government Authorization.
- (a) For any local government that is authorized to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) 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 residential building construction and fire safety code(s) and standards for one (1) and two (2) family dwellings and townhouses that will be adopted and enforced by the local government;~~

2. The number and types of residential inspections that are conducted;
 3. A description of the permit issuance, enforcement and recordkeeping process for all residential inspection activities;
 4. The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) 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), 68-120-113 and 68-120-118; and,
 5. The Division may request any other documentation it deems necessary from the local government to evidence compliance with the requirements of T.C.A. §§ 68-120-101, 68-120-113 and 68-120-118, and may conduct an on-site review ~~to~~ of the local government's ~~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 ~~shall~~ be notified of the review in writing.
- (c) Report of Review.
1. After conclusion of the review, the Division ~~will~~ shall notify the local government in writing whether the local government's adopted residential building and fire safety codes and standards ~~is a r~~ e 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 and standards~~, and whether the local government's personnel is ~~or~~ properly performing inspections.
 2. If the local government has not adopted a ~~current residential building codes and standards~~, ~~or is not adequately enforcing the adopted residential building codes and standards~~, or ~~is not~~ properly performing inspections, the notification will ~~shall~~ contain recommended corrective action, and the local government will ~~shall~~ 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 (1) and two (2) 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.14 LOCAL GOVERNMENT OPTING OUT OF THESE PROVISIONS.

Any local government opting out of the provisions of T.C.A. § ~~682~~-120-101 regarding residential building codes and standards for the construction of one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space shall submit to the ~~state fire marshal~~ Division 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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.

0780-02-23-.15 Dwelling Units

- (1) A single dwelling unit providing complete independent living facilities including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation, may meet the requirements of a one (1) and two (2) family dwelling and shall not be subject to the provisions of Tenn. Comp. R. & Regs. 0780-02-03 (Review of Construction Plans and Specifications) if the dwelling unit:
 - (a) is three (3) stories or less;
 - (b) has a maximum occupancy of twelve (12) or fewer transient occupants; and,
 - (c) consists of a gross area of less than five thousand square feet (5,000).
- (2) A dwelling unit shall be in compliance with Paragraph (1) of this rule in order to qualify for classification as a one (1) or two (2) family dwelling unit. Any noncompliance with a single criterion may result in the dwelling unit being classified as nonresidential.
- (3) A boarding house or congregate living facility shall meet the requirements of the applicable standards adopted pursuant to T.C.A. § 68-120-101 and Tenn. Comp. R. & Regs. 0780-02-02 (Codes and Standards) and 0780-02-03 (Review of Construction Plans and Specifications).

Authority: T.C.A. § 68-120-101.