

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 04-25-20
Rule ID(s): 9345
File Date: 4/17/2020
Effective Date: 7/16/2020

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
Division:	Division of Fire Prevention
Contact Person:	Leigh Ferguson
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-360-4435
Email:	Leigh.j.ferguson@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. 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-.02	Adoption By Reference
0780-02-23-.05	Permits
0780-02-23-.12	Local Government Enforcing Residential Building Codes and Standards

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

The amendments below update the minimum statewide building construction and safety standards, specifically adopting the 2018 International Residential Code (IRC) and the 2018 International Energy Conservation Code (IECC) with amendments. The rule adopts the 2015 IRC seismic design categories (seismic map) instead of the 2018 seismic design categories (seismic map), and retains the 2009 IRC and IECC requirements for Testing, Duct Testing and Air Leakage, Insulation and Fenestration Requirements. The rule removes the requirement that the permit be purchased in the jurisdiction where the work will be performed, and the rule also allows a local government to request a building standard less stringent than the state standard adopted by a different jurisdiction.

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

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, 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), 2018 edition, published by the International Code Council, Inc. (ICC), 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001, and Appendix Q except that:
 1. Section R313 Automatic Fire Sprinkler Systems is not mandatory, pursuant to T.C.A. § 68-120-101(a)(8).
 2. Chapters 34-43 relating to Electrical Installations are deleted and electrical standards adopted in 0780-02-01 Electrical Installations shall apply.
 3. Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC.
 4. Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:

Exception 3. Interconnection and hardwiring 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.
 5. Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC.
 6. Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.
 7. Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC.
 8. Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety.

9. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and 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."
 10. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and 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."
- (b) International Energy Conservation Code (IECC), 2018 edition, published by the ICC, except that:
1. Section R402.4.1.2 Testing is deleted and replaced with Section 402.4.2.1 Testing Option and Section 402.4.2.2 Visual Inspection Option from 2009 IECC.
 2. Section R403.3.3 Duct Testing (Mandatory) and Section R403.3.4 Duct Leakage (Prescriptive) are optional.
 3. Table 402.1.2 Insulation and Fenestration Requirements by Component and Table R402.1.4 Equivalent U-Factors are deleted and replaced with Table 402.1.1 Insulation and Fenestration Requirements by Component and Table 402.1.3 Equivalent U-Factors 2009 IECC.
- (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(a), (b) and (d).

0780-02-23-.05 PERMITS.

- (1) 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. A separate permit shall be required for each unit of a townhouse. Issuing agents shall receive no more than fifteen dollars (\$15.00) for each issued permit. This fifteen-dollar (\$15.00) fee shall be remitted from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.

- (2) 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. Issuing agents shall receive no more than fifteen dollars (\$15.00) for each issued permit. This fifteen-dollar (\$15.00) fee shall be remitted 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 (proof of licensure is not required for a property owner purchasing the permit when the property owner is performing the work).(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 shall be 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 the 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(a), (b) and (d).

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

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 the procedures by which the Division may review such authorization.

- (1) 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. Any other documentation the Division 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. The Division may conduct an on-site review of the local government's residential building permit and inspection process.
- (2) 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. If a local government adopts a less stringent seismic standard, the local government shall submit the request in writing with a letter from an engineer registered in Tennessee confirming that the proposed standards afford, to a reasonable degree, building construction standards to protect life and property. A local government may also request to adopt a less stringent seismic standard proposed by a different political subdivision if that standard was previously approved by the state fire marshal.
- (3) 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. Any other documentation the Division 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. The Division 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.

6. 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.
7. 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.
8. 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).

* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner (board/commission/ other authority) on 2/24/20 (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: August 27, 2019

Rulemaking Hearing(s) Conducted on: (add more dates). October 18, 2019



Date: 2/24/2020

Signature: Hodgen Mainda

Name of Officer: Hodgen Mainda

Title of Officer: Commissioner

Subscribed and sworn to before me on: 2/24/2020

Notary Public Signature: Denise M. Lewis

My commission expires on: 12/10/2023

Agency/Board/Commission: Department of Commerce & Insurance / Division of

Rule Chapter Number(s): 0780-02-03 Fire Prevention

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
4/14/2020
Date

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RECEIVED

Filed with the Department of State on: 4/17/2020

2020 APR 17 PM 12:26

Effective on: 7/16/2020

SECRETARY OF STATE
PUBLICATIONS

Tre Hargett
Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

1. Jonathan Sargent with Omegaflex appeared and asked the State Fire Marshal to adopt the reference standard in Chapter 44 of the 2018 version of the LC1 standard.

The Department thanks Mr. Sargent for his participation but declined to adopt that standard. The Department, in consultation with stakeholders from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

2. Stephen Jones with the International Code Council appeared and commended the State Fire Marshal for the open, transparent and inclusive process to amend the code.

The Department thanks Mr. Jones for his participation.

3. Bryan Holland with the National Electrical Manufacturers Association (NEMA) appeared and also supported updating the most current LC1 standards and the adoption of the 2018 IRC and 2018 IECC. Mr. Holland agreed that the involvement of the stakeholders during this process has been fantastic. NEMA does have concerns regarding the exception for interconnection for smoke alarms stating that technological advancements have resolved the need for an exemption and continuing to allow them lowers the safety standards. NEMA requested that the interconnection exemption be removed but will not oppose the rules on that issue.

The Department thanks Mr. Holland for his participation but declined to adopt his recommendations. The Department, in consultation with stakeholders from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

4. Steve Mills, retired building official, appeared representing Tennessee Building Officials Association (TBOA) Board of Directors. Mr. Mills thanked the Department for the opportunity to participate in the stakeholder meetings saying they fostered a climate of cooperation and fairness.

The Department thanks Mr. Mills for his participation.

5. Dan Johnson with the Fire Safety Inspectors' Association appeared supporting the rules and said that he appreciated the Division and the staff's cooperation and inclusion in the rulemaking process.

The Department thanks Mr. Johnson for his participation.

6. Charles Clark with the Brick Industry Association appeared and thanked the Department for the open process allowing so many parties to participate to ensure all issues were considered. Mr. Clark appeared to address a particular issue dealing with the seismic design categories. He also noted that the Brick Industry is pleased that the Department is proposing to adopt the 2015 seismic map instead of the 2012 map.

The Department confirmed that the proposal contained a drafting error regarding the citation to the seismic design categories, which will be corrected in the final filing.

7. Andrew Pieri with Municipal Inspection Partners appeared supporting the adoption of the 2018 code. Mr. Pieri noted that he would have preferred that the Department adopt the 2018 code without amendments and is frustrated that the Department is relaxing the insulation requirements from the 2018 code requirements and would rather the Department relax the air leakage requirements. Finally, Mr. Pieri asked that the State provide training on the 2018 code requirements for the building officials on the requirements in the energy code since there are some nuances in the 2018 code that were not in the 2009 code.

The Department thanks Mr. Pieri for his comments, but the Department, in consultation with stakeholders

from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

8. Charles Polk with AIA appeared and expressed support of the proposal. Mr. Polk also expressed his appreciation to participate in the rulemaking process.

The Department thanks Mr. Polk for his participation.

9. The American Chemistry Council submitted a letter supporting the adoption of the 2018 International Energy Code Council. The ACC understands that specific amendments are required for Tennessee but cautioned against weakening substantive requirements for energy efficiency.

The Department thanks the American Chemistry Council for its comment.

10. The Citizens Group, comprised of the Southern Environmental Law Center, Southern Alliance for Clean Energy, Green I Spaces and the Tennessee Chapter of the Sierra Club, submitted a letter urging the Department to adopt the 2018 IECC without amendments to reduce Tennessee's energy consumption levels and electricity bills. Citizens Group wrote that adopting the 2018 IECC without amendments would comply with the General Assembly's intent for Tennessee to have strong energy efficiency codes and standards.

The Department thanks the Citizens Group for its comments, but the Department, in consultation with stakeholders from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

Analysis of Impact on Small Business pursuant to T.C.A. § 4-5-402

1. The amended rules will not overlap, duplicate or conflict with other federal, state or local governmental rules. The rules update the minimum building safety construction standards for residential structures in the statewide building program.
2. The rules have been drafted to be clear, concise and unambiguous and to resolve existing confusion and ambiguity.
3. The rules are not anticipated to alter the standard practices of reporting and recordkeeping currently utilized by small business.
4. The rules do not establish unfriendly schedules or unreasonable deadlines for compliance and reporting requirements for small businesses.
5. The rules do not increase or complicate compliance or reporting requirements for small businesses.
6. The rules establish performance standards as set forth in the adopted codes, but the rules do not restrict operational or design standards for small businesses.
7. These rules will not create any unnecessary entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Economic Impact Statement pursuant to T.C.A. § 4-5-403

1. The licensing data from the contractors' board does not distinguish between small and large contractors. The total number of licensed contractors in Tennessee is 17,370.
2. There is no foreseeable alteration in existing reporting or recordkeeping utilized by small businesses that will result from the promulgation of these rules.
3. Small businesses involved in the construction of one and two family dwellings will be affected by the promulgation of these rules.
4. The amended rules are not anticipated to impact small businesses more significantly than the current rules provide. The proposal has addressed cost-savings measures that do not unreasonably compromise the safety standards. There has not been a less burdensome, intrusive or costly alternative method identified or recommended for use.
5. There are no federal counterparts to the rule, but in 2008, the State accepted \$3 billion on the condition that the State adopt a minimum energy code. A majority of local exempt jurisdictions in the state have adopted the same codes proposed under the rules, which will establish the state minimum standard for the construction of one and two family dwellings.
6. There are no possible exemptions for small businesses to the requirements contained in the proposed rules unless the contractors work exclusively in jurisdictions that have opted out of residential codes and enforce no residential building code.

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://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule may impact local governments that enforce the residential codes adopted by the state or local governments that are exempt jurisdictions enforcing codes below the state minimum; those local governments may need to purchase updated code books and to provide training to local inspectors.

Additional Information Required by Joint Government Operations Committee

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

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

The rule proposes the adoption of the 2018 International Residential Building Code and the 2018 International Energy Conservation Code with amendments to allow the use of the 2009 insulation and fenestration tables and the 2015 seismic design categories. Further, the proposed rule allows a local government to propose a code standard less stringent than the state standard adopted by a different local if approved by the State Fire Marshal before local adoption.

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

T.C.A. § 68-120-101 requires the State Fire Marshal to establish minimum statewide building construction safety standards, which shall include but not be limited to relative structural strength and stability, energy efficiency, means of egress, fire resistant ratings and requirements, and fire protection equipment and materials.

- (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;

Contractors, homeowners, the fire service and building officials, including firefighters, codes inspectors, TBOA, local exempt jurisdictions and manufacturers of construction materials.

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

OAG 13-61 (2013)

- (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;

Minimal. Additional training for codes inspectors will be required, but that cost will be minimal. This rule makes no changes to existing fees.

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

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director, Programs & Policy Development

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

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director, Programs & Policy Development
Leigh Ferguson, Chief Counsel for Fire Prevention and Law Enforcement

- (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

500 James Robertson Parkway
Nashville, TN 37243

Gary.farley@tn.gov, 615-532-5805
Marybeth.gribble@tn.gov; 615- 532-3272
Leigh.j.ferguson@tn.gov; 615-360-4435

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

N/A

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☐ New
☐ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. 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-.02	Adoption By Reference
0780-02-23-.05	Permits
0780-02-23-.12	Local Government Enforcing Residential Building Codes and Standards

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

The amendments below update the minimum statewide building construction and safety standards, specifically adopting the 2018 International Residential Code (IRC) and the 2018 International Energy Conservation Code (IECC) with amendments. The rule adopts the 2015 IRC seismic design categories (seismic map) instead of the 2018 seismic design categories (seismic map), and retains the 2009 IRC and IECC requirements for Testing, Duct Testing and Air Leakage, Insulation and Fenestration Requirements. The rule removes the requirement that the permit be purchased in the jurisdiction where the work will be performed, and the rule also allows a local government to request a building standard less stringent than the state standard adopted by a different jurisdiction.

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 ~~s~~State of Tennessee shall be those prescribed in the following publications:
 - (a) International Residential Code (IRC), ~~2009~~ 2018 edition, published by the International Code Council, Inc. (ICC), 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001, ~~and Appendix Q except for that:~~
 1. Section R313, Automatic Fire Sprinkler Systems, ~~is not mandatory~~, pursuant to T.C.A. § 68-120-101(a)(8); ~~and~~
 2. Chapters 34-43, relating to Electrical- ~~Installations are deleted and electrical standards adopted in 0780-02-01 Electrical Installations shall apply.~~
 3. ~~Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC.~~
 4. ~~Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:~~

~~Exception 3. Interconnection and hardwiring 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.~~
 5. ~~Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC.~~
 6. ~~Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.~~
 7. ~~Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC.~~
 8. ~~Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety.~~
 9. ~~Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "I": "Log~~

walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 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."

10. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and 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."

- (b) International Energy Conservation Code (IECC), ~~2009~~ 2018 edition, published by the ~~International Code Council, Inc., (ICC), except for that:~~

1. Section ~~402.4.2.1~~ R402.4.1.2 Testing option is deleted and replaced with Section 402.4.2.1 Testing Option and Section 402.4.2.2 Visual Inspection Option from 2009 IECC; and
2. Section ~~403.2.2 Sealing Mandatory~~ R403.3.3 Duct Testing (Mandatory) and Section R403.3.4 Duct Leakage (Prescriptive) are optional.
3. Table 402.1.2 Insulation and Fenestration Requirements by Component and Table R402.1.4 Equivalent U-Factors are deleted and replaced with Table 402.1.1 Insulation and Fenestration Requirements by Component and Table 402.1.3 Equivalent U-Factors 2009 IECC.

- ~~(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(a), (b) and (d).

0780-02-23-.05 PERMITS.

- (1) ~~After October 1, 2010, nNo~~ 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~~ receive no more than fifteen dollars (\$15.00) for each issued permit. This fifteen-dollar (\$15.00) fee shall be ~~retained~~ remitted from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.
- (2) ~~After October 1, 2011, nNo~~ 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~~ receive no more than fifteen dollars (\$15.00) for each issued permit. This fifteen-dollar (\$15.00) fee shall be ~~retained~~ remitted 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 (proof of licensure is not required for a property owner purchasing the permit when the property owner is performing the work).~~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 shall be 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 the 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(a), (b) and (d).

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

(4) 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 the procedures by which the Division may review such authorization.

(12) 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. Any other documentation ~~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; The Division and may conduct an on-site review of the local government's residential building permit and inspection process.

(23) 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 Sstate 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. If a local government adopts a less stringent seismic standard, the local government shall submit the request in writing with a letter from an engineer registered in Tennessee confirming that the proposed standards afford, to a reasonable degree, building construction standards to protect life and property. A local

government may also request to adopt a less stringent seismic standard proposed by a different political subdivision if that standard was previously approved by the state fire marshal.

(34) 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. Any other documentation ~~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 The Division 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.
 6. 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.
 7. 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.
 8. 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).*