

ORDINANCE 2023-27

Sponsor: Clary

AN ORDINANCE AMENDING THE HENDERSONVILLE MUNICIPAL CODE TITLE 12, CHAPTER 6, TO ADOPT REVISED EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE; AND AMENDING TITLE 12, CHAPTER 2, TO ADOPT AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE

WHEREAS, in compliance with State law, due to various changes to the International Energy Conservation Code (IECC) and more current editions, it has become necessary to replace the current edition of the IECC with the IECC, 2018 edition, published by the International Code Council:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN OF THE CITY OF HENDERSONVILLE, TENNESSEE, as follows:

Section One: that Title 12, Chapter 6, of the Hendersonville Municipal Code is deleted in its entirety and replaced with the following language:

CHAPTER 6

INTERNATIONAL ENERGY CONSERVATION CODE

SECTION

- 12-601. Adoption
- 12-602. Amendments

12-601. International energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, § 6-54-502, the International Energy Conservation Code, 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as though copied herein.

12-602. Amendments.

- (1) 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- (a) Any provision superseded by law;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). Administrative History: Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017. Amendments filed April 17, 2020; effective July 16, 2020.

Section Two: that Title 12, Chapter 2, of the Hendersonville Municipal Code is hereby amended to add the following new subsections as four (4) through nine (9) to Section 12-102 Amendments, and renumerate the subsequent subsections thereafter accordingly:

12-202. Amendments.

(4) 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.

(5) Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.

(6) 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.

(7) Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety.

(8) 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.”

(9) 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.”

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Hendersonville, Tennessee requiring it.

First Reading: January 9th, 2024

Second Reading: January 23rd, 2024

APPROVED:



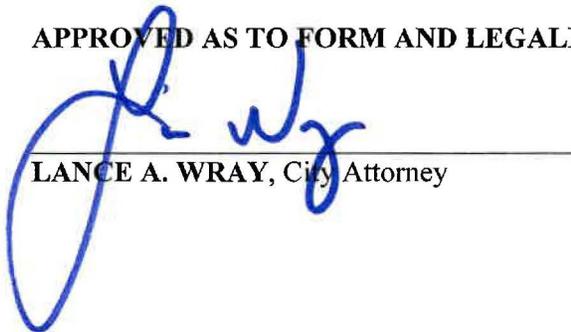
JAMIE CLARY, Mayor

ATTEST:



TAMARA INGERSOLL, City Recorder

APPROVED AS TO FORM AND LEGALITY:



LANCE A. WRAY, City Attorney

LEGISLATIVE HISTORY

Ordinance 2023-27

Sponsor: Clary

Committee: General

Date of Committee Meeting: December 12, 2023

Committee Recommendation: Motion approved unanimously.

First BOMA Reading: January 9th, 2024

Vote: Aye: Burgdorf, Collins, Dixon, Garton, Garza, Goodwin, Martin, Peterson, Sasse, Skidmore, and Clary. Nay: None. Absent: Roberson and Waters. *Motion carried.*

Second BOMA Reading: January 23rd, 2024

Vote: Aye: Burgdorf, Collins, Dixon, Garton, Garza, Goodwin, Martin, Peterson, Roberson, Sasse, Skidmore, Waters, and Clary. *Motion carried.*

DATE:	January 23 rd , 2024
ORDINANCE/RESOLUTION #	Ordinance 2023-27
SPECIFIC REQUEST/ RECOMMENDATION:	That the Board of Mayor and Alderman consider the adoption of the 2018 International Energy Conservation Code with Amendments.
REPORT PREPARED BY:	Greg E. Story, Codes Director



BACKGROUND: 1

On 1-22-2019, BOMA adopted Ordinance 2018-46. Chapter 6 Section 12-601 & 12-602 of Ordinance 2018-46 relates to the 2009 International Energy Conservation Code with Amendments. The state periodically audits municipalities; June of 2023 the City of Hendersonville received an audit by the State of Tennessee State Fire Marshal’s Office.

In October the State of Tennessee State Fire Marshal’s Office (SFMO) issued the audit findings for the city. The only item noted in the audit was with respect to a newly adopted energy efficiency code. The city is currently using the 2009 International Energy Conservation Code. However, on July 1, 2023, the State of Tennessee adopted a new energy code, per House Bill HB799, which replaces the 2009 I.E.C.C. with the 2018 I.E.C.C. The state office has requested the city to adopt the 2018 code to comply with the newly adopted state standards.

DISCUSSION: 2

Building code updates are routine and generally provide for safer building standards. The adoption of the building code update will not have a significant impact on operations or construction techniques but will allow the city to retain the authority from the state to continue self-performing city code enforcement functions.

The SFMO formally delegates codes enforcement to local jurisdictions that are adequately performing their building codes enforcement programs. Pursuant to Tennessee Code Annotated § 68-120-101(b)(2), these jurisdictions employ staff to perform plan reviews and inspections for buildings and structures to ensure fire and building code compliance that they have adopted by ordinance. In accordance with Tenn. Comp. R. & Regs. 0780-02-19-.04, a SFMO audit team performs quality audits of each Exempt Jurisdiction once every three (3) years. A list of exempt jurisdictions can be found at <https://www.tn.gov/commerce/fire/codesenforcement.html>.

FISCAL IMPACT: 3

No fiscal impact is expected for the city or building contractors.

ATTACHMENTS: 4

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**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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0780-02-23-.01 DEFINITIONS.

- (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.

(Rule 0780-02-23-.01, continued)

- (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(a), (b), and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017.

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

(Rule 0780-02-23-.02, continued)

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

(Rule 0780-02-23-.02, continued)

- (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. Amendments filed November 4, 2016; effective February 2, 2017. Amendments filed April 17, 2020; effective July 16, 2020.

0780-02-23-.03 CONFLICTS.

- (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.
- (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. Amendments filed November 4, 2016; effective February 2, 2017.

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) 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-

(Rule 0780-02-23-.05, continued)

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.

(Rule 0780-02-23-.05, continued)

- (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). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017. Amendments filed April 17, 2020; effective July 16, 2020.

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 shall be required on:

(Rule 0780-02-23-.07, continued)

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.
- (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 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, 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(a), (b), and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017.

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).

(Rule 0780-02-23-.08, continued)

- (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(a), (b), and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017.

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 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.
- (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 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. Amendments filed November 4, 2016; effective February 2, 2017.

0780-02-23-.10 DISPUTE RESOLUTION.

- (1) Disputes that arise during the inspection process shall be resolved as follows:

(Rule 0780-02-23-.10, continued)

- (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(a), (b), and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017.

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(a), (b), and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017.

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.

(Rule 0780-02-23-.12, continued)

- (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.

(Rule 0780-02-23-.12, continued)

Authority: T.C.A. § 68-120-101(a), (b), and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017. Amendments filed April 17, 2020; effective July 16, 2020.

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. § 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(b). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010. Amendments filed November 4, 2016; effective February 2, 2017.

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-

(Rule 0780-02-23-.15, continued)

02 (Codes and Standards) and 0780-02-03 (Review of Construction Plans and Specifications).

Authority: T.C.A. § 68-120-101. **Administrative History:** New rule filed November 4, 2016; effective February 2, 2017.