

*** CURRENT THROUGH THE 2011 REGULAR SESSION ***

Title 68 Health, Safety and Environmental Protection
Safety
Chapter 120 Building Regulations
Part 1 General Provisions

Tenn. Code Ann. § 68-120-101 (2011)

68-120-101. Statewide building construction safety standards -- Promulgation -- Applicability.

(a) The state fire marshal shall, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, promulgate rules establishing minimum statewide building construction safety standards. Such standards 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. The standards:

(1) Shall include, but not be limited to, provisions relative to structural strength and stability; energy efficiency; means of egress; fire resistant ratings and requirements; and fire protection equipment and materials;

(2) May be selected wholly or partially from publications or amended versions of publications of nationally recognized agencies or organizations, such as the International Code Council, Inc., the National Fire Protection Association, Inc., and Underwriters Laboratories, Inc.;

(3) Shall classify buildings according to types of occupancy and construction;

(4) Shall contain appropriate requirements and specifications for both new and existing buildings;

(5) Shall not discriminate against or in favor of particular construction materials or techniques;

(6) Shall, to the extent practicable, be stated in terms of performance objectives without prescribing the use of certain methods, designs, techniques or materials;

(7) Shall be reasonably compatible with building construction safety standards adopted by local governments in this state;

(8) Shall not include mandatory sprinkler requirements for one-family and two-family dwellings; however, notwithstanding this subdivision (a)(8), local governments may adopt more stringent requirements for one-family and two-family dwellings; and

(9) The department shall analyze the cost and effectiveness of sprinkler equipment in one-family and two-family dwellings in areas where residential sprinklers are in use, including this state and other states deemed appropriate by the department, and report the results of the analysis to the general assembly on or before May 1, 2010. In conducting the

analysis, the department shall seek input from nonprofit and business groups or organizations, including, but not limited to, the Tennessee Fire Chiefs Association and the Home Builders Association of Tennessee.

(b) (1) (A) The standards established pursuant to subsection (a) apply to municipal, county, state and private buildings, including one-family and two-family dwellings, unless otherwise provided by statute.

(B) (i) Notwithstanding subdivision (b)(1)(A), the standards established pursuant to subsection (a) relative to one-family and two-family dwellings do not apply in any county or municipality in which the legislative body of the county or municipality, by a two-thirds (2/3) vote, adopts a resolution to exempt the county or municipality, as appropriate, from the application of statewide standards for one-family and two-family dwellings within the jurisdictional boundaries of the county or municipality, as appropriate; provided, however, that any action by the county legislative body concerning the implementation of this subdivision (b)(1)(B)(i) shall be limited to the jurisdictional boundaries outside any municipality located within the county. Upon approving the resolution, the presiding officer of the legislative body shall notify the state fire marshal of the actions taken under this subdivision (b)(1)(B)(i).

(ii) (a) An initial resolution following July 1, 2009, may be adopted by a county or municipal legislative body to take effect on July 1, 2010, or at a later date stated in the resolution.

(b) A resolution adopted pursuant to subdivision (b)(1)(B)(ii)(a) or the adoption of any other resolution, shall expire one hundred eighty (180) days following the date of the election for the local legislative body next occurring following the adoption of the resolution, but an earlier expiration date may be stated in the resolution.

(C) The governing body of any such county or of a municipality located in any such county that has taken the action pursuant to subdivision (b)(1)(B) is authorized to reverse such action by adopting a resolution to apply subsection (a) with respect to one-family and two-family dwellings within the jurisdictional boundaries of the municipality or county, as appropriate; provided, that, any action by the county legislative body concerning its actions shall be limited to the jurisdictional boundaries outside any municipality located within the county. The presiding officer of the governing body shall notify the state fire marshal of the approval of the resolution.

(2) Such standards do not apply to any building, other than state buildings, educational occupancies or any other occupancy requiring an inspection by the state fire marshal for initial licensure, located within the jurisdiction of a local government that certifies in writing to the state fire marshal that:

(A) The local jurisdiction has chosen to adopt and enforce building construction and fire safety codes for construction of all buildings, for construction of all buildings other than one-family and two-family dwellings, or for construction of one-family and two-family dwellings only; and

(i) For one-family and two-family construction, it has adopted the International Residential Code, published by the International Code Council, Inc.; or

(ii) For construction other than one-family and two-family dwellings, it has adopted a building construction safety code consisting of the International Building Code, published by

the International Code Council, Inc., and either:

(a) The international fire code, published by the International Code Council, Inc.;

or

(b) The uniform fire code, published by the National Fire Protection Association, Inc., if adopted on or after July 1, 2006; and

(B) It is adequately enforcing its code and performing any reviews of construction plans and specifications and inspections required by the state fire marshal under this section.

(C) Amended versions of the publications referred to in subdivisions (a)(2) and (b)(2)(A) 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.

(3) If a local jurisdiction chooses to adopt and enforce codes for only one-family and two-family dwellings or for all buildings other than one-family and two-family dwellings that would be subject to the codes adopted by the state fire marshal pursuant to subdivision (a)(1), the state fire marshal shall enforce the statewide codes with regard to those buildings for which the local jurisdiction has not adopted and is not enforcing codes.

(4) (A) An audit of the records and transactions of each local government which chooses to enforce its own code pursuant to subdivision (b)(2) shall be made by the state fire marshal at least once every three (3) years to ensure that the local government is adequately performing its enforcement functions.

(B) The state fire marshal shall, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, promulgate rules to implement this subdivision (b)(4).

(5) Notwithstanding subdivision (b)(2), the standards established pursuant to subsection (a) apply, if:

(A) The local government's building construction safety code publications are not current within seven (7) years of the date of the latest editions of the publications, unless otherwise approved by the state fire marshal in writing; provided, however, that nothing in this subdivision (b)(5)(A) shall require a local government to adopt a standard more stringent than the standards enforced by the state fire marshal, pursuant to this section, or to adopt a mandatory sprinkler requirement for one-family and two-family dwellings; or

(B) After affording appropriate written notice of grounds and opportunity for hearing, the state fire marshal determines that the local government is not adequately performing its enforcement functions.

(6) Notwithstanding the applicability of the standards set forth in subsection (a) to educational occupancies, any entity undertaking to construct an educational occupancy within the jurisdictional boundaries of a local government that chooses to enforce its own code pursuant to this subsection (b) may begin construction upon approval of its building plans by such local government while, if the codes enforced by the local government are the same or more stringent than the codes enforced by the state fire marshal, awaiting final approval of its plans by the state fire marshal. If a conflict arises between the state fire marshal and the local government relative to the application or interpretation of the same or

substantially identical building construction safety standards or fire safety standards, then the determination of the state fire marshal shall supersede the conflicting application or interpretation by the local government.

(c) The standards established pursuant to subsection (a) do not apply to:

(1) Renovations of existing one-family and two-family dwellings;

(2) Nonresidential farm buildings;

(3) Temporary buildings used exclusively for construction purposes;

(4) Structures or units regulated under chapter 126 of this title; or

(5) Buildings or facilities reviewed and licensed by the board for licensing health care facilities.

(d) (1) The state fire marshal may, by rules promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, require review and approval of plans and specifications prior to construction or alteration of certain types of buildings or structures. Such rules may include a schedule of fees sufficient to cover the costs of reviewing construction plans and specifications. However, no such fee shall exceed two hundred fifty dollars (\$250) plus two dollars and fifty cents (\$2.50) per each one thousand dollars (\$1,000) or fraction thereof by which the total valuation of the proposed construction exceeds one hundred thousand dollars (\$100,000).

(2) The state fire marshal is authorized to promulgate by rule a convenience fee to cover the costs of receiving construction plans, specifications and related fees electronically submitted pursuant to this part. Any fee set by rule pursuant to this subdivision (d)(2) shall be assessed in addition to the fee or fees assessed for the costs of reviewing construction plans and specifications pursuant to subdivision (d)(1). In no event shall the fee assessed pursuant to this subdivision (d)(2) exceed the actual costs incurred in the submission of the plans, specifications or fees electronically.

(e) The state fire marshal shall file with the secretary of state any publications incorporated by reference in rules promulgated under this section. Such publications shall be available for public inspection, and the secretary of state shall certify to any part of the publication at the request of any interested person, upon receipt of the statutory fee.

(f) (1) (A) The state fire marshal may, in addition to the other provisions of this part, authorize and appoint any person, employed by any municipality or county or acting through a professional corporation pursuant to § 48-101-601, who meets the qualifications enumerated in subdivision (f)(2) as a commissioned deputy building inspector in this division, who shall have all the power of other deputies and assistants to enter any one-family and two-family dwellings to make inspections of the buildings and their contents and to report the inspections in writing to the commissioner. The commissioner is directed to contract with each deputy building inspector through the municipality or county employing the inspector or the inspector's professional corporation to provide one-family and two-family building inspection services. The contracts shall be entered into between the commissioner, with the approval of the commissioner of finance and administration, and the professional corporation employing the building inspector and the building inspectors shall not be deemed employees of the state for payroll purposes or otherwise.

(B) (i) A deputy building inspector shall be certified by this state as:

(a) A building inspector pursuant to § 68-120-113;

(b) A plumbing inspector pursuant to § 68-120-118; or

(c) A mechanical inspector pursuant to § 68-120-118.

(ii) A deputy building inspector shall be limited in performing inspections to the discipline in which they are certified.

(C) The commissioner shall provide a program to ensure that one-family and two-family building construction inspection services are available throughout the state on a timely basis. An inspection shall be considered timely if it is performed within three (3) working days of when the request is made to the inspector, except that an inspection of a footer shall be considered timely if it is performed within one (1) working day of when the request is made to the inspector.

(2) (A) Deputy building inspectors appointed by the commissioner are authorized to inspect one-family and two-family building construction upon receipt of a request from the owner of the property, a licensed contractor, from municipal governing bodies or from the county legislative body of the county in which the buildings are located. Each inspector, either through their municipality, county or professional corporation, shall be authorized to charge for and receive a fee for each inspection.

(B) The state fire marshal shall establish a schedule of fees to pay the cost incurred by the department for the administration and enforcement of this part.

(C) The state fire marshal may require the inspection of one-family and two-family dwellings with or without a request, in the same manner that inspections are made in accordance with § 68-102-116, and the remedies for dangerous conditions shall be the same as provided in § 68-102-117; provided, that no fees shall be charged for making inspections directed by the state fire marshal as authorized by §§ 68-102-116 and 68-102-117.

(D) No inspection fees may be charged except where an actual inspection is made.

(3) The state fire marshal may promulgate such rules and regulations as necessary to carry out this part, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

HISTORY: Acts 1947, ch. 211, § 1; C. Supp. 1950, § 5717.1; Acts 1982, ch. 857, § 1; T.C.A. (orig. ed.), § 53-2501; Acts 1987, ch. 120, § 18; T.C.A., § 68-18-101; Acts 1992, ch. 540, §§ 1, 2, 4; 2003, ch. 39, § 1; 2004, ch. 530, §§ 1-3; 2005, ch. 284, §§ 1-3; 2009, ch. 210, § 1; 2009, ch. 529, §§ 18-25, 28; 2010, ch. 630, § 1.