

**RULES
OF
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

**CHAPTER 0780-02-03
REVIEW OF CONSTRUCTION PLANS AND SPECIFICATIONS**

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0780-02-03-.01 DEFINITIONS.

- (1) As used in this chapter, unless the context otherwise requires:
- (a) Division means the Division of Fire Prevention of the Department of Commerce and Insurance.
 - (b) Construction means the erection of a new building, an addition to an existing building, a change of occupancy or occupancy group, an alteration that alters the exit arrangement, fire resistive assemblies, or type of construction, or involves the installation of fire suppression or detection systems or fuel-fired equipment. The term "construction" shall not be construed to include excavation or site preparation. When renovation or remodeling occurs in an existing building that does not result in an addition to the building, the existing life safety features that do not meet the requirements for new buildings, but that exceed the requirements for existing buildings, shall not be further diminished.
 - (c) State building means any building owned, or leased with an option to purchase, or leased where fifty percent (50%) or more of the building is leased by the State of Tennessee or any department, institution, or agency thereof.
 - (d) Educational occupancy means the use of a building or structure, or a portion thereof, for educational purposes by six (6) or more persons for more than twelve (12) hours per week, but no more than eight (8) hours in a single day. An educational facility is distinguished from assembly occupancy in that the same persons are regularly present.
 - (e) Detention and correctional occupancy, business occupancy, residential occupancy, place of assembly and covered mall shall be defined as in the 2006 edition of the Life Safety Code (NFPA No. 101-2006). High hazard industrial facility shall be defined as in the 2006 edition of the International Building Code for subclasses H-1 and H-2 only. Storage of high hazard materials shall not be considered as a high hazard industrial occupancy.
 - (f) Local government means any city, county, town, municipal corporation, metropolitan government, or political subdivision.
 - (g) In addition to the definitions provided by the 2006 edition of the International Building Code, existing structure means any building that has been occupied continuously for a period of at least twelve (12) months without changing its occupancy classification.

(Rule 0780-02-03-.01, continued)

- (h) Limited plans review means the submission of construction documents based on as-built plans and specifications in accordance with the provisions of Chapter 0780-02-2 (CODES AND STANDARDS) of the Rules and Regulations of the State of Tennessee.
- (i) As-built plans and specifications include, but are not limited to, the following items: floor plans with door and window schedules, finish schedules, furnace and water heater locations, fire alarm systems, emergency lighting, exit signs, fire-rated assemblies, any accessibility issues addressed pursuant to T.C.A. § 68-120-204 and any available specifications. Additionally, a structural engineer's analysis must accompany the plans when submitted if deemed necessary by the state fire marshal based on the condition of the building or a change in use of the building.
- (j) Phased construction means the erection of a new structure or facility in different stages on a new site and consisting of a foundation, a shell and a final approval. Phased construction does not include renovations or remodeling of any existing structure or facility.
- (k) Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (l) Sleeping unit means a room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- (m) State leased building means any building where less than fifty percent (50%) of the building is leased by the State of Tennessee or any department, institution, or agency thereof.

Authority: T.C.A. §§68-102-113, 68-102-113(a) and (e), 68-120-101, and 68-120-101(a) and (d).
Administrative History: Original rule certified June 10, 1974. Repeal and new rule filed August 17, 1976; effective September 16, 1976. Repeal and new rule filed July 27, 1982; effective August 26, 1982. Amendment filed October 11, 1985; effective November 10, 1985. Amendment filed July 9, 1990; effective August 23, 1990. Amendment filed March 13, 1996; effective May 27, 1996. Amendment filed June 12, 2001; effective August 26, 2001. Amendments filed October 19, 2005; effective January 2, 2006. Emergency rule filed July 27, 2007; effective through January 8, 2008. Amendment filed November 16, 2007; withdrawn December 28, 2007. Emergency rule expired January 9, 2008 and reverted to rule in effect on July 26, 2007. Amendment filed December 11, 2007; effective February 24, 2008. Amendment filed June 18, 2008; effective September 1, 2008. Amendment filed June 18, 2008; effective September 1, 2008. Amendments filed October 2, 2008; effective December 16, 2008. Amendments filed March 29, 2010; effective June 27, 2010.

0780-02-03-.02 SUBMISSION OF PLANS.

- (1) After the effective date of this chapter, no person shall commence construction of any educational occupancy, including those licensed by the Department of Education, detention and correctional occupancy, state building or state leased building until plans and specifications therefor have been submitted to and approved in writing by the Division. The Division shall also review plans submitted for review of day care centers which are licensed by the Department of Human Services and the Department of Education. The following exceptions to such plans review will apply upon written approval by the Division:
 - (a) An existing building comprising an area of three thousand (3,000) occupied gross square feet or less, or an area within an existing building that is bound by two (2) hour

(Rule 0780-02-03-.02, continued)

fire-rated constructions and that consists of three thousand (3,000) occupied gross square feet or less, that is proposed to house an educational occupancy or daycare center and enrolls twenty-four (24) or fewer students may have review for code compliance determined through inspection by the state fire marshal. An applicable review fee as authorized by this Chapter will apply. The state fire marshal may require limited plans review if the state fire marshal determines that it is necessary in order to ensure adequate code compliance. All such inspections and limited plans reviews will be subjected to the requirements for the issuance of a Certificate of Occupancy as authorized by this Chapter.

- (b) An existing building comprising an area between three thousand (3,000) occupied gross square feet and five thousand (5,000) occupied gross square feet, or an area within an existing building that is bound by two (2)-hour fire-rated construction containing between three thousand (3,000) occupied gross square feet and five thousand (5,000) occupied gross square feet, that is proposed to house an educational occupancy or daycare center and enrolls between twenty-five (25) and ninety-nine (99) students will be subjected to a limited plans review. An applicable review fee as authorized by this Chapter will apply.
 - (c) An existing building comprising an area of more than five thousand (5,000) occupied gross square feet, or an area within an existing building that is bound by two (2)-hour fire-rated constructions containing more than five thousand (5,000) occupied gross square feet, or any area enrolling one hundred (100) students or more that is proposed to house an educational occupancy or daycare center will be subjected to a full plans review as applied to new constructions and an applicable review fee as authorized by this Chapter will apply.
 - (d) Facilities leased by the state located in a jurisdiction of local government that has obtained the exemption authorized by Tenn. Code Ann. § 68-120-101(b)(2).
- (2) After January 1, 1983, no person shall commence construction of any place of assembly having a capacity of 300 or more persons until plans and specifications therefor have been submitted to and approved in writing by the Division.
 - (3) After July 1, 2010, no person shall commence construction of any business occupancy three (3) stories or more in height, or residential occupancy three (3) stories or more in height, excluding one (1) and two (2) family dwellings and townhouses, until plans and specifications therefore have been submitted to and approved in writing by the Division.
 - (4) After January 1, 1986, no person shall commence construction of any covered mall or high hazard industrial occupancy until plans and specifications therefor have been submitted to and approved in writing by the Division.
 - (5) After July 1, 2010, no person shall commence construction of any residential occupancy one (1) or two (2) stories in height, excluding one (1) and two (2) family dwellings and townhouses, until plans and specifications therefore have been submitted to and approved in writing by the Division. The following exceptions to such plans review for residential occupancies one (1) or two (2) story(s) in height, excluding one (1) and two (2) family dwellings and townhouses, will apply upon written approval by the Division after the submission of construction drawings:
 - (a) A residential occupancy one (1) or two (2) story(s) in height having a gross area of less than five thousand (5,000) square feet may have review for code compliance determined through inspection by the Division based on the submitted construction drawings. An applicable review fee as authorized by this Chapter will apply.

(Rule 0780-02-03-.02, continued)

- (6) After January 1, 2001, no person shall commence construction of any occupancy that requires an inspection by the Division for initial licensure requirements of other state departments or agencies until plans and specifications therefor have been submitted to and approved in writing by the Division.

- (7) After July 1, 2010, the following exception shall apply to the plans and specification review and approval requirements of this chapter upon written approval by the Division:
 - (a) For construction solely involving the installation, replacement, repair, or minor alterations of fuel fired mechanical systems or fire detection systems, a written scope of work and shop drawings for such project shall be submitted with the appropriate review fee. The Division may require registered engineer designed plans and specifications for review and approval prior to construction based on the size and complexity of the project.

- (8) Notwithstanding the foregoing paragraphs of this rule, any phased construction requiring approval by the Division may be undertaken prior to approval of final plans and specifications if:
 - (a) The Division has received a written request for phased construction approval;
 - (b) drawings adequately describing the nature and scope of the project have been submitted to the Division;
 - (c) a plans review submittal form and the entire review fee have been received;
 - (d) complete plans and specifications for only that phase of construction to be undertaken have been submitted to the Division; and
 1. the Division has approved such plans and specifications in writing; or
 2. the Division has failed to transmit a written evaluation of such plans and specifications within twenty-one (21) working days after receipt thereof.
 - (e) If construction starts in accordance with paragraph 8(a)-8(d) above, said construction must comply with the minimum standards for fire prevention, fire protection, and building construction safety in effect at the time of the initial submission.

- (9) Resubmission of the complete plans and specifications for any proposed project which is identical in structure and interior arrangement to a project previously reviewed and approved in accordance with this chapter is required; however, only one half of the normal review fee will be charged. No further reductions in the review fee will be allowed.

Authority: T.C.A. §§68-102-113, 68-102-113(a), 68-120-101, 68-120-101(a) and 68-120-101(d).
Administrative History: Original rule filed August 17, 1976; effective September 16, 1976. Repealed and new rule filed July 27, 1982; effective August 26, 1982. Amendment filed October 11, 1985; effective November 10, 1985. Amendment filed July 9, 1990; effective August 23, 1990. Amendment filed March 13, 1996; effective May 27, 1996. Amendment filed June 12, 2001; effective August 26, 2001. Amendments filed October 19, 2005; effective January 2, 2006. Emergency rule filed July 27, 2007; effective through January 8, 2008. Emergency rule expired January 9, 2008 and reverted to rule in effect on July 26, 2007. Amendment filed December 11, 2007; effective February 24, 2008. Amendments filed October 2, 2008; effective December 16, 2008. Amendments filed March 29, 2010; effective June 27, 2010.

0780-02-03-.03 REQUIREMENTS.

- (1) Plans and specifications required by rule 0780-02-03-.02 shall:
 - (a) bear the name, address, telephone number, and seal of an architect or engineer registered in Tennessee, and be sealed in accordance with the statutes and regulations controlling the profession of architects and engineers in Tennessee;
 - (b) be sufficiently detailed to enable the reviewer to determine accurately whether the proposed construction would be in compliance with applicable standards of fire prevention, fire protection, and building construction safety; and
 - (c) be accompanied by an estimate, certified by the owner or his authorized representative, of the total construction cost of the project. The Division may request additional verification of cost prior to the issuance of a certificate of occupancy.
- (2) Shop drawings for fire protection sprinkler systems shall be submitted in accordance with the provisions of Chapter 0780-02-7 (FIRE PROTECTION SPRINKLER SYSTEM CONTRACTORS) of the Rules and Regulations of the State of Tennessee.
- (3) Plans and specifications and shop drawings required to be submitted under this Chapter may be submitted:
 - (a) electronically, through the electronic plans submittal portal in a format acceptable by the Division; or
 - (b) by providing one (1) full-size paper copy of the required documents and a pdf copy of the documents on electronic media acceptable by the Division with certification that the pdf copy is an identical electronic copy of the paper copy.

Authority: T.C.A. §§68-102-113, 68-120-101, 68-120-101(a) and 68-120-101(d). **Administrative History:** Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed October 11, 1985; effective November 10, 1985. Amendment filed March 13, 1996; effective May 27, 1996. Amendment filed June 12, 2001; effective August 26, 2001. Amendment filed October 2, 2008; effective December 16, 2008. Amendment filed March 29, 2010; effective June 27, 2010.

0780-02-03-.04 FEES.

- (1) The fee for review of plans and specifications for construction shall be as specified in the following table:

Total Project Construction Cost	Fee
\$0.00 to \$1,000,000.00	\$2.50 per thousand or fraction thereof (\$250.00 minimum)
\$1,000,000.01 or more	\$2,500.00 for the first \$1,000,000.00 plus \$2.00 for each additional thousand or fraction thereof.

Such fee shall be payable in full at the time of initial submission of plans and specifications.

- (a) If a State building or educational occupancy is also reviewed for compliance with building construction safety standards by a local government which has obtained the exemption authorized by Tenn. Code Ann. §68-120-101(b)(2), the fee for review under this chapter shall be reduced by fifty percent (50%), but the fee shall not be less than

(Rule 0780-02-03-.04, continued)

two hundred fifty dollars (\$250.00). Review fees for plans being submitted under Chapter 0780-02-03-.02(8) shall not be further reduced.

- (b) If plans and specifications must be resubmitted because their approval has become invalid under rule 0780-02-03-.05, the fee established in this rule will be imposed.
- (c) Where a building governed by the provisions of this chapter is constructed in violation of this Chapter, the fee for the review of the plans and specifications shall be the applicable review fee authorized by this chapter based on the current cost to build the building using the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).
- (2) (a) The fee for obtaining a letter stating that plans are not required to be reviewed (a “no review letter”) shall be one hundred dollars (\$100.00).
- (b) The fee shall be applied to the fee for review of plans and specifications for construction if it is determined that plans are required to be reviewed.
- (3) 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 the certification submitted pursuant to rule 0780-02-03-.03(3) based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).
 - (b) the scope of a project is substantially revised after the initial plans submission.

After initial review, if such documentation warrants an additional plans review charge it shall be computed, assessed, and paid promptly.

- (4) Project numbers shall be assigned by the Department for each building of a multiple building submission and project construction costs shall be stated for each building, and all fees shall be calculated using construction costs on a per building basis.
- (5) An additional fee of fifteen dollars (\$15.00) per building for receiving plans or specifications electronically shall be applied.
- (6) For those making payment over the internet, payment of an internet payment processing fee, not to exceed two and one half percent (2 1/2%) of the total fee, to be used solely to defray the costs of any payments processed electronically shall be applied.

Authority: T.C.A §§68-102-113, 68-120-101, 68-120-101(a) and 68-120-101(d). **Administrative History:** Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed November 14, 1983; effective December 14, 1983. Amendment filed October 11, 1985; effective November 10, 1985. Amendment filed September 18, 2002; effective December 2, 2002. Repeal and new rule filed October 19, 2005; effective January 2, 2006. Amendment filed October 2, 2008; effective December 16, 2008. Amendments filed March 29, 2010; effective June 27, 2010.

0780-02-03-.05 APPROVAL OF PLANS.

- (1) Plans and specifications submitted pursuant to rule 0780-02-03-.02 shall be approved if the proposed construction would be in compliance with the minimum standards for fire prevention, fire protection, and building construction safety in effect at the time of the initial submission.

(Rule 0780-02-03-.05, continued)

- (a) Plans and specifications submittals that have been found to have deficiency(s) that prevent approval shall be closed due to inactivity eighteen (18) months after the most recent review if no response is submitted by the architect or engineer to correct the deficiency(s). After the closure of a project due to inactivity, new plans and specifications will be required to be submitted to the codes in effect at the time of the new submission along with the applicable fees. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to allow the file to remain open for an additional period of time. A request to keep the file open must be requested in writing and justifiable cause must be demonstrated.
 - (b) If submitted plans and specifications have not been approved within twelve (12) months after the effective date of any adopted revisions to the codes in effect at the time of the initial submission, the submittal shall be closed and new plans and specifications will be required to be submitted to the codes in effect at the time of the new submission along with the applicable fees. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to allow the file to remain open for an additional period of time. A request to keep the file open must be requested in writing and justifiable cause must be demonstrated.
- (2) The Division will not begin review of plans and specifications unless a plans review submittal form and the entire applicable fee for plans review have been received by the Division.
 - (a) When the fee for review of plans and specifications for construction is to be collected from another state department or agency, review may begin once all information needed to invoice or journal voucher the other state department or agency has been received.
- (3) No final approval of plans and specifications shall be valid unless the construction represented by such plans and specifications has substantially progressed within six (6) months after the effective date of any adopted revisions of the standards in effect at the time of the initial submission. Construction must be completed and a certificate of occupancy issued within twenty-four (24) months after the commencement of construction; provided, however, the Division, upon appropriate written request and for good cause shown, may grant written approval of additional time to complete construction.
- (4) A full-sized paper copy of the approved plans and specifications shall be placed on the job site prior to the commencement of construction and shall be retained on the job site until a certificate of occupancy has been issued by the Division.
- (5) Construction shall proceed in accordance with the plans and specifications as approved hereunder. If construction is completed in accordance with the approved plans and specifications, the building represented by such plans and specifications shall be exempt from subsequently adopted standards for fire prevention, fire protection, and building construction safety, unless the non-conformity of the building to such standards poses a serious life safety hazard.
- (6) No approval of, or failure to review, plans, and specifications by the Division shall relieve the owner, developer, contractor, or designing architect or engineer of their respective responsibilities for compliance with applicable codes respecting fire prevention, fire protection, and building construction.
- (7) Any temporary factory manufactured structure which is not designed and constructed in accordance with the Tennessee Modular Building Act (T.C.A. §§ 68-120-301 et seq. and chapter 0780-02-13) shall have an independent third party inspection label permanently affixed to the unit. For purposes of this paragraph, temporary means placed on a site for less than twelve (12) months.

(Rule 0780-02-03-.05, continued)

- (8) Any factory manufactured structure which has been designed and constructed in accordance with the Tennessee Modular Building Act (T.C.A. §§ 68-120-301 et seq and chapter 0780-02-13) shall be exempt from all provisions of this Chapter.
- (9) Where a building governed by the provisions of this Chapter is constructed in violation of this Chapter, original registered architect and engineer designed plans and specifications shall be submitted for review and approval. If such plans and specifications cannot be produced, as-built plans shall be submitted. The plans and specifications shall meet the more stringent requirements of the codes in effect at the time of construction and the currently adopted codes for existing buildings prior to approval. After plans are approved and the construction has been properly inspected, the Division will issue the owner a letter stating that the facility has been determined to comply with this Chapter. An applicable review fee as authorized by this Chapter will apply based on the value of the building at the time of submission.

Authority: T.C.A. §§68-102-113, 68-120-101, 68-120-101(a) and 68-120-101(d). **Administrative History:** Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed November 14, 1983; effective December 14, 1983. Amendment filed October 11, 1985; effective November 10, 1985. Amendment filed July 9, 1990; effective August 22, 1990. Amendment filed March 13, 1996; effective May 27, 1996. Amendment filed June 12, 2001; effective August 26, 2001. Amendments filed October 19, 2005; effective January 2, 2006. Amendments filed October 2, 2008; effective December 16, 2008. Amendments filed March 29, 2010; effective June 27, 2010.

0780-02-03-.06 INSPECTION OF CONSTRUCTION. When the Division inspects any construction covered by this chapter, the inspector shall determine whether the construction conforms to the approved plans and specifications; however, if such plans and specifications are not specific with respect to any applicable standard, the inspection shall be made pursuant to the standards adopted in this chapter.

Authority: T.C.A. §§68-102-113 and 68-120-101. **Administrative History:** Original rule filed July 27, 1982; effective August 20, 1982. Amendment filed June 12, 2001; effective August 26, 2001.

0780-02-03-.07 ISSUANCE OF PERMITS. Except as provided in rules 0780-02-03-.02 and 0780-02-03-.08, no official of State or local government shall issue a permit authorizing any construction for which written approval of plans and specifications is required under this Chapter unless the applicant furnishes sufficient evidence of receipt of such approval. Upon notice from the Division to the issuer of permits issued in violation of this regulation, the issuer shall immediately revoke the permit, and any construction on such project must cease until proper approval is obtained and permit issued pursuant to this chapter.

Authority: T.C.A. §§68-102-113 and 68-120-101. **Administrative History:** Original rule filed July 27, 1982; effective August 20, 1982. Amendment filed March 13, 1996; effective May 27, 1996. Amendment filed June 12, 2001; effective August 26, 2001.

0780-02-03-.08 LOCAL EXCLUSIONS.

- (1) This chapter shall not apply to any building, other than state buildings, educational occupancies, and occupancies requiring an inspection by the Division prior to initial licensure located within the jurisdiction of a local government which is exempt from the Division's building construction safety standards under Tenn. Code Ann. §68-120-101(b)(2).
- (2) Any local government not covered by paragraph (1) may submit a written request to the Division that proposed construction, other than state buildings and educational occupancies, within its jurisdiction be excluded from the provisions of this chapter. The request shall be supported by written documentation relative to the local government's capability and legal framework for enforcing building construction safety standards. Such documentation shall include an adequate description of local procedures and requirements for:

(Rule 0780-02-03-.08, continued)

- (a) review of construction plans and specifications;
 - (b) issuance of building permits; and
 - (c) inspection of buildings during and after construction.
- (3) If the Division denies any request submitted pursuant to paragraph (2) of this rule, it shall notify the local government in writing of the reasons for the denial. Such local government shall be afforded an opportunity for an informal conference before the Division to reconsider its decision.
- (4) Any local exclusion granted by the Division may be withdrawn if, after affording appropriate written notice of grounds and opportunity for hearing, it determines that the local government is not adequately performing its enforcement functions. The hearing provided by this paragraph shall be conducted in the manner prescribed by the Uniform Administrative Procedures Act, compiled in T.C.A. title 4, chapter 5.

Authority: T.C.A. §§53-2413, 68-17-113 and 68-18-101, 68-102-113, 68-120-101, and Chapter 857, Public Acts of 1982. **Administrative History:** Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed October 11, 1985; effective November 10, 1985. Amendment filed June 12, 2001; effective August 26, 2001. Amendment filed October 19, 2005; effective January 2, 2006.

0780-02-03-.09 EXEMPTIONS. This chapter shall not apply to any building or facility which is exempt from the Division's building construction safety standards under Tenn. Code Ann. §68-120-101.

Authority: T.C.A. §§68-102-113 and 68-120-101. **Administrative Authority:** Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed October 11, 1985; effective November 10, 1985. Repeal and new rule filed October 19, 2005; effective January 2, 2006.

0780-02-03-.10 CERTIFICATE OF OCCUPANCY.

- (1) Where written approval of plans and specifications is required under this chapter, a new building or addition shall not be occupied, nor shall a change of occupancy be made, until the Division has issued a "certificate of occupancy" therefor.
- (2) The certificate of occupancy shall state:
 - (a) the project name and location of the building;
 - (b) the construction type of the building;
 - (c) the occupancy classification of the building under the standards adopted by reference in rule 0780-02-2-.01; and
 - (d) the names of the building owner, contractor, plans reviewer who approved the project, and project architect or engineer.
- (3) A temporary certificate of occupancy may be issued by the Division for a portion or portions of a building that may be occupied safely prior to final completion of the building.
- (4) A certificate of occupancy for a change in the occupancy classification of an existing building may be obtained by applying to the Division and supplying the information and data necessary to determine compliance with the standards adopted by reference in rule 0780-02-2-.01. When deemed necessary by the Division, two (2) sets of detailed drawings for review and approval, or a general inspection, or both, may be required.

(Rule 0780-02-03-.10, continued)

Authority: T.C.A. §§68-17-113, 68-18-101, 68-102-113, and 68-120-101. **Administrative History:** Original rule filed October 11, 1985; effective November 10, 1985. Amendment filed June 12, 2001; effective August 26, 2001. Amendments filed October 19, 2005; effective January 2, 2006.

0780-02-03-.11 DISPUTE RESOLUTION.

- (1) Disputes that arise during the plans review process shall be resolved as follows:
 - (a) When a dispute as to the interpretation or applicability of a code provision arises between the owner or designer of a project and the plans reviewer, the dispute shall be submitted to the Assistant Director of Codes Enforcement for resolution.
 - (b) If the owner or designer disagrees with the decision of the Assistant Director of Codes Enforcement, the dispute shall be submitted to the Director of Codes Enforcement for resolution.
 - (c) If the owner or designer disagrees with the decision of the Director of Codes Enforcement, the dispute shall be submitted to the Assistant Commissioner for Fire Prevention for resolution.
 - (d) If the owner or designer disagrees with the decision of the Assistant Commissioner for Fire Prevention, the dispute shall be submitted to the Commissioner of Commerce and Insurance or the Commissioner's designee for resolution.
 - (e) If the owner or designer disagrees with the decision of the Commissioner of Commerce and Insurance or the Commissioner's designee, the owner or designer may elect to have the dispute submitted to a panel of outside parties for resolution.
 - (1) The panel of outside parties shall consist of three (3) individuals, one (1) selected by the owner or designer, one (1) selected by the Commissioner of Commerce and Insurance and one (1) selected by the Executive Director of the Board of Architectural and Engineering Examiners.
 - (2) The members of the panel shall have a background in architecture, engineering, plans review, construction or building/codes inspections. Panel members shall be compensated at a rate of one hundred fifty dollars (\$150.00) per day.
 - (3) The owner or designer seeking to have the dispute submitted to the panel of outside parties shall submit an application for appeal on a form provided by the Division along with an application fee of one hundred dollars (\$100.00). The owner or designer shall pay a fee of four hundred fifty dollars (\$450.00) for each day of the appeal to pay the per diem of the panel members.
 - (f) At any point during this process, the parties may agree to submit the dispute to the publisher of the code section at issue for an opinion.
- (2) Disputes that arise during the inspection process shall be resolved as follows:
 - (a) When a dispute arises as to the interpretation or applicability of a code provision between the owner, designer or contractor on a project and the Deputy State Fire Marshal inspecting the project, and the project is being constructed in accordance with plans and specifications approved by the Division, the Deputy State Fire Marshal shall consult with the Plans Reviewer who approved the plans and specifications for resolution. If the owner, designer or contractor disagrees with the decision of the Plans Reviewer, the dispute shall be submitted to the Fire Safety Manager.

(Rule 0780-02-03-.11, continued)

- (b) If the owner, designer or contractor disagrees with the decision of the Fire Safety Manager, the dispute shall be submitted to the Director of Codes Enforcement for resolution.
 - (c) If the owner, designer or contractor disagrees with the decision of the Director of Codes Enforcement, the dispute shall be submitted to the Assistant Commissioner for Fire Prevention for resolution.
 - (d) If the owner, designer or contractor disagrees with the decision of the Assistant Commissioner for Fire Prevention, the dispute shall be submitted to the Commissioner of Commerce and Insurance or the Commissioner's designee for resolution.
 - (e) If the owner or designer disagrees with the decision of the Commissioner of Commerce and Insurance or the Commissioner's designee, the owner or designer may elect to have the dispute submitted to a panel of outside parties for resolution.
 - (1) The panel of outside parties shall consist of three (3) individuals, one (1) selected by the owner or designer, one (1) selected by the Commissioner of Commerce and Insurance and one (1) selected by the Executive Director of the Board of Architectural and Engineering Examiners.
 - (2) The members of the panel shall have a background in architecture, engineering, plans review, construction or building/codes inspections. Panel members shall be compensated at a rate of one hundred fifty dollars (\$150.00) per day.
 - (3) The owner or designer seeking to have the dispute submitted to the panel of outside parties shall submit an application for appeal on a form provided by the Division along with an application fee of one hundred dollars (\$100.00). The owner or designer shall pay a fee of four hundred fifty dollars (\$450.00) for each day of the appeal to pay the per diem of the panel members.
 - (f) At any point during this process, the parties may agree to submit the dispute to the publisher of the code section at issue for an opinion.
- (3) The entire dispute resolution process set forth in paragraphs (1) and (2) above shall be completed as quickly as possible, but no more than thirty (30) calendar days from the date that the dispute is first submitted for resolution, unless the dispute is submitted to the code publisher for an opinion.
 - (4) If there are any fees charges by the code publisher for rendering its opinion, those fees shall be paid by the owner of the project before final approval of the subject plans and specifications will be issued by the Division.
 - (5) Any appeal of the dispute beyond the Commissioner of Commerce and Insurance shall be submitted in accordance with the provisions of the Uniform Administrative Procedures Act, compiled at T.C.A. § 4-5-301 et seq., pertaining to Contested Case Hearings.

Authority: T. C. A. § 68-102-113, 68-120-101(a) and (d) and 68-120-401. **Administrative History:** New rule filed October 2, 2008; effective December 16, 2008. Amendments filed March 29, 2010; effective June 27, 2010.

0780-02-03-.12 GRANDFATHER PROVISION FOR REVIEW OF PLANS.

At the submitter's request, plans submitted within one hundred twenty (120) days after the effective date of newly adopted building, fire and life safety codes may be reviewed under the codes that were in effect

(Rule 0780-02-03-.12, continued)

on the day immediately prior to the effective date of the newly adopted codes. The plans submitted under this section shall still be subject to the provisions Rule 0780-02-03-.05(1).

Authority: T. C. A. § 68-102-113 and 68-120-101(a) and (d). **Administrative History:** New rule filed October 2, 2008; effective December 16, 2008. Amendment filed March 29, 2010; effective June 27, 2010.

0780-02-03-.13 EQUIVALENCIES.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes adopted in this chapter, Commissioner of Commerce and Insurance, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee thereof, shall first find that the special individual reason makes the strict application of the codes adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes adopted in this chapter and that such modification does not lessen, health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and kept in the files of the Division.
- (2) The provisions of the codes adopted in this chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Commissioner of Commerce and Insurance, or designee thereof, finds that the proposed design is satisfactory and complies with the intent of the codes adopted in this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed by the codes adopted in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

Authority: T.C.A. §§ 68-102-113 and 68-120-101(a) and (d). **Administrative History:** Original rule filed March 29, 2010; effective June 27, 2010.