

August 2016

Dear city official:

You have asked whether it is permissible to eliminate the carbon monoxide detector requirements in the 2012 International Building Code (IBC) and International Residential Code (IRC). In responding to this question, the advice of MTAS Legal Consultant Elisha Hodge was consulted.

Please be advised that the city, in adopting and enforcing building codes, is required to minimally comply with the standards adopted by the State Fire Marshal's Office. The state, in the rules of the department of commerce and insurance, fire prevention division, adopted the 2012 IBC and the 2009 IRC (Chapters 0780-02-02 and Chapter 0780-02-23, respectively.) Those codes, and the standards therein, include carbon monoxide alarms (section 908.7 of the IBC and section R315 of the IRC).

It is our opinion that the city cannot adopt and enforce less stringent standards than those that have been adopted by the State Fire Marshall based upon the language in Tenn. Code Ann. Section 68-120-106(a):

(a) The state fire marshal, such fire marshal's deputies and assistants, including all municipal fire prevention or building officials in those municipalities having such officers, and where no such officer exists, the chief of the fire department of every incorporated city or place in which a fire department is established, and the mayor of each incorporated place in which no fire department exists, and all state officials, now having jurisdiction or as directed by the governor, or county officers having jurisdiction in regard to any matter regulated in this chapter, shall have concurrent jurisdiction. No regulation shall be issued or enforced by any such official that is in conflict with this chapter. This chapter shall supersede all less stringent provisions of municipal ordinances. The state fire marshal is authorized to employ such technicians as the state fire marshal may deem necessary for the proper enforcement of this chapter. The technicians may be licensed engineers or architects, subject to the approval of the governor. The employment of assistants shall be limited to funds appropriated to the division of fire prevention and available for that purpose. (my highlight).

This is reaffirmed in Chapter 0780-02-02-.05 of the division of fire prevention rules:

LOCAL ORDINANCES. 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. A city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee that has adopted an edition of a building construction or fire safety standard within seven (7) years of the most current published edition shall be deemed to be in compliance with this chapter.

You will likewise find instructive that T.C.A. § 68-120-112, effective January 1, 2016, establishes requirements for carbon monoxide alarms in hotels and apartment buildings.

Please be aware that this response should not be misconstrued to limit the city from amending the codes for any optional or recommended, rather than mandatory, standard or practice; or any provision which establishes any agency, procedure, fees or penalties for administration or enforcement purposes, just as the state has done in Rule 0780-02-02.01(2).

August 2016
Page 2

Chapters 0780-02-02 and 0780-02-23 of the rules of the department of commerce and insurance, fire prevention division, as well as T.C.A. § 68-120-112, are enclosed for ease of reference.

Please let me know if you have any questions regarding this matter.

Very truly yours,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Jeffrey J. Broughton
Municipal Management Consultant

Cc: Elisha Hodge

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

**CHAPTER 0780-02-02
CODES AND STANDARDS**

TABLE OF CONTENTS

0780-02-02-.01	Adoption by Reference	0780-02-02-.04	Conflicts
0780-02-02-.02	Repealed	0780-02-02-.05	Local Ordinances
0780-02-02-.03	Retroactive Enforcement		

0780-02-02-.01 ADOPTION BY REFERENCE.

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for fire prevention, fire protection, and building construction safety in the State of Tennessee shall be those prescribed in the following publications:
- (a) International Building Code (IBC), 2012 edition, published by the International Code Council (ICC), except for:
 - 1. Chapter 11 Accessibility; and,
 - 2. Chapter 34, Section 3411 Accessibility For Existing Buildings;
 - (b) The International Fuel Gas Code (IFGC), 2012 edition, published by the International Code Council (ICC);
 - (c) The International Mechanical Code (IMC), 2012 edition, published by the International Code Council (ICC);
 - (d) The International Plumbing Code (IPC), 2012 edition, published by the International Code Council (ICC);
 - (e) The International Property Maintenance Code (IPMC), 2012 edition, published by the International Code Council (ICC);
 - (f) The International Fire Code (IFC), 2012 edition, published by the International Code Council (ICC);
 - (g) The International Energy Conservation Code (IECC), 2012 edition, published by the International Code Council (ICC), except that the provisions of the International Energy Conservation Code, 2006 edition, shall apply to the following occupancy classifications as defined by the International Building Code (IBC), 2012 edition:
 - 1. Moderate-hazard factory industrial, Group F-1;
 - 2. Low-hazard factory industrial, Group F-2;
 - 3. Moderate-hazard storage, Group S-1; and,
 - 4. Low-hazard storage, Group S-2;

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

- (h) The International Existing Building Code (IEBC), 2012 edition, published by the International Code Council (ICC);
 - (i) For state buildings, educational occupancies and any other occupancy requiring an inspection by the state fire marshal for initial licensure, NFPA 101 Life Safety Code, 2012 edition, published by the National Fire Protection Association (NFPA); and,
 - (j) No provision of the preceding cited publications shall be adopted that conflicts with:
 1. The installation and service standards of portable fire extinguishers and fixed fire extinguisher systems in Tenn. Comp. R. & Regs. 0780-02-14-.02; and,
 2. The standards for engaging in the liquefied petroleum gas business in Tenn. Comp. R. & Regs. 0780-02-17-.02.
- (2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:
- (a) an optional or recommended, rather than mandatory, standard or practice; or,
 - (b) any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with the statute or rules.

Authority: T.C.A. §§ 68-102-113, 68-120-101, 68-120-101(a) and (e), 68-102-113, and 68-102-113(a) and (e). **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 October 14, 1997; effective December 28, 1997. Amendment filed June 12, 2001; effective August 26, 2001. Amendment filed March 19, 2004; effective June 2, 2004. Amendment filed November 16, 2007; withdrawn December 28, 2007. Emergency rule filed January 25, 2008; effective through July 8, 2008. Emergency rule filed July 8, 2008; effective through December 20, 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. Repeal and amendments filed May 6, 2016; effective August 4, 2016.

0780-02-02-.02 REPEALED.

Authority: T.C.A. §§ 53-2413, 68-102-113, and 68-120-101, and Chapter 857, Public Acts of 1982. **Administrative History:** Original rule filed July 27, 1982; effective August 26, 1982. Repeal and amendments filed May 6, 2016; effective August 4, 2016.

0780-02-02-.03 RETROACTIVE ENFORCEMENT. Any existing building which conformed to the standards legally effective at the time of its construction shall not be subject to the standards adopted by reference in Tenn. Comp. R. & Regs. 0780-02-02-.01, unless the nonconformity of the building to such standards poses a serious life safety hazard. However, any construction as defined in Tenn. Comp. R. & Regs. 0780-02-03-.01 undertaken after the effective date of this chapter shall be in compliance with the standards adopted by reference in Tenn. Comp. R. & Regs. 0780-02-02-.01.

Authority: T.C.A. §§ 53-2413, 68-102-113, 68-120-101, 68-120-102, and Chapter 857, Public Acts of 1982. **Administrative History:** Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed June 12, 2001; effective August 26, 2001. Repeal and amendments filed May 6, 2016; effective August 4, 2016.

0780-02-02-.04 CONFLICTS.

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

- (1) In the event of a conflict or inconsistency between the codes adopted by reference in Tenn. Comp. R. & Regs. 0780-02-02-.01:
 - (a) the provisions of the International Building Code (IBC) shall prevail if such conflict or inconsistency relates to building height, building area restrictions or construction type;
 - (b) the provisions of the Tennessee Public Building Accessibility Act, T.C.A. § 68-120-201, et seq., shall prevail if such conflict or inconsistency relates to accessibility; and,
 - (c) the more stringent provision shall prevail in all other cases.
- (2) In the event of a conflict or inconsistency between either standard adopted by reference in Tenn. Comp. R. & Regs. 0780-02-02-.01 and 0780-02-01 (Electrical Installations), the provisions of Tenn. Comp. R. & Regs. 0780-02-01 (Electrical Installations) shall prevail.
- (3) 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. §§ 68-102-113, 68-102-113(a) and (e), 68-120-101, 68-120-101(a), and 68-120-106.
Administrative History: Original rule filed July 27, 1982; effective August 26, 1982. Amendment filed November 14, 1983; effective December 14, 1983. Amendment filed July 9, 1990; effective August 23, 1990. Amendment filed October 14, 1997, effective December 28, 1997. Amendment filed March 19, 2004; effective June 2, 2004. Amendment filed November 16, 2007; withdrawn December 28, 2007. Amendment filed June 18, 2008; effective September 1, 2008. Amendment filed October 2, 2008; effective December 16, 2008. Repeal and amendments filed May 6, 2016; effective August 4, 2016.

0780-02-02-.05 LOCAL ORDINANCES. 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. A city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee that has adopted an edition of a building construction or fire safety standard within seven (7) years of the most current published edition shall be deemed to be in compliance with this chapter.

Authority: T.C.A. §§ 58-2413, 68-17-113, 68-18-101, 68-102-113, 68-120-101, 68-120-106, and Chapter 857, Public Acts of 1982. **Administrative History:** Original rule filed July 17, 1982; effective August 26, 1982. Amendment filed October 11, 1985; effective November 10, 1985. Repeal and amendments filed May 6, 2016; effective August 4, 2016.

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

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

TABLE OF CONTENTS

0780-02-23-.01	Definitions	0780-02-23-.08	Fees
0780-02-23-.02	Adoption by Reference	0780-02-23-.09	Certificates of Occupancy
0780-02-23-.03	Conflicts	0780-02-23-.10	Dispute Resolution
0780-02-23-.04	Application	0780-02-23-.11	Equivalencies
0780-02-23-.05	Permits	0780-02-23-.12	Local Government Enforcing Residential Building Code
0780-02-23-.06	Issuance of Permits in Violation of this Chapter	0780-02-23-.13	Permit Issuing Agents
0780-02-23-.07	Inspections	0780-02-23-.14	Local Governments Opting Out

0780-02-23-.01 DEFINITIONS.

- (1) As used in this chapter, unless the context otherwise requires:
- (a) Construction means the erection of a new building containing a detached one or two family dwelling or townhouse, a change of occupancy of an existing building to a one or two family dwelling or townhouse or, after October 1, 2011, an addition to an existing detached one or two family dwelling or townhouse of thirty (30) square feet or more of interior space. The term "construction" shall not be construed to include excavation, site preparation or renovation. The term "construction" shall also not be construed to include the construction or placement of a modular or manufactured home under T.C.A. Title 68, Chapter 126; however, the term "construction" shall include any additional on-site construction to a modular or manufactured home.
 - (b) Division means the Division of Fire Prevention of the Department of Commerce and Insurance.
 - (c) Department means the Department of Commerce and Insurance.
 - (d) Deputy State Building Inspector means any person who meets the qualifications in T.C.A. § 68-120-101(f)(1)(2) and is appointed by the Commissioner of Commerce and Insurance to perform inspections of one and two family dwelling and townhouse construction.
 - (e) Local government means any city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee.
 - (f) One and two family dwelling means a building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied for living purposes.
 - (g) Property owner's permit means permit applied for by a record owner of the property in order to build a one (1) family dwelling in which the owner intends to live upon completion.
 - (h) Renovation means interior or exterior painting, papering, tiling, carpeting, cabinets, counter tops, reroofing, residing, glazing or replacing windows or doors, floor finishing, repairs to existing chimneys, stairs, porches, underpinnings, exterior siding or roof and

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

similar activities, additions of exterior space and additions of less than thirty (30) square feet of interior space.

- (i) Townhouse means a single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit extends from foundation to roof with a yard or public way on at least two (2) sides.

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

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

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for the construction of one and two family dwellings and townhouses, and additions thereto of thirty (30) square feet or more of interior space, in the State of Tennessee shall be those prescribed in the following publications:

- (a) International Residential Code, 2009 edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001, except for:

1. Section R313.2, One and Two Family Dwellings Automatic Fire Sprinkler Systems, pursuant to T.C.A. § 68-102-101(a)(8);
2. Chapters 34-43, relating to Electrical.

- (b) Amendments to the Codes:

1. As an alternative to Chapter 11 of the International Residential Code, the International Energy Conservation Code, 2006 edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001.
2. Section 313.1, Townhouse automatic fire sprinkler systems, is amended by adding “;however, an automatic fire sprinkler system shall not be required in a three (3) unit townhouse with less than five thousand (5,000) gross square feet and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall” after “installed in townhouses” and before “.”.
3. Section 314.4, Power Source, relating to Smoke Alarms, is amended by deleting Exception 2 and replacing it with the following language:

Exception 2. Interconnection and hard-wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure.

4. IECC Table 402.1.1 is amended by adding the following as footnote “h”: “Log walls complying with ICC400 and with a minimum average wall thickness of 5” or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.
5. IECC Table 402.1.1 is 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 4 when a Fenestration U-Factor of .35 or lower

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

is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.

- (2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:
 - (a) any provision superseded by law; or
 - (b) an optional or recommended, rather than mandatory, standard or practice; or
 - (c) any agency, procedure, fees or penalties for administration or enforcement purposes inconsistent with these rules.
- (3) The provisions of the code adopted by reference in paragraph (1) shall govern the manner in which:
 - (a) the code is applied to construction of one and two family dwellings, townhouses and additions thereto of thirty (30) or more square feet of interior space as defined in this chapter;
 - (b) occupancies and types of construction are classified for the purpose of determining minimum code requirements; and
 - (c) the specific requirements of the code may be modified to permit the use of alternate materials or methods of construction.

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

0780-02-23-.03 CONFLICTS.

- (1) In the event of a conflict or inconsistency between the code adopted by reference in rule 0780-02-23-.02 and Chapter 0780-02-01 (Electrical Installations) of the Rules and Regulations of the State of Tennessee, the most stringent provisions shall control.
- (2) Nothing in this rule shall abrogate any right of appeal granted under T.C.A. Title 68, Chapters 102 and 120.

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

0780-02-23-.04 APPLICATION.

- (1) After October 1, 2010, the commencement of any construction, as defined in rule 0780-02-23-.01, of one and two family dwellings or townhouses undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.
- (2) After October 1, 2011, the commencement of any construction, as defined in rule 0780-02-23-.01, of additions to one and two family dwellings or townhouses of thirty (30) square feet or more of interior space undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.

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

0780-02-23-.05 PERMITS.

- (1) After October 1, 2010, no construction of a one or two family dwelling or townhouse shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. The permit must be secured in the area where the work is to be performed until a certificate of occupancy is issued. A separate permit shall be required for each unit of a townhouse.
- (2) After October 1, 2011, no construction of an addition to a one or two family dwelling or townhouse of thirty (30) square feet or more of interior space shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. The permit must be secured in the area where the work is to be performed until a certificate of occupancy is issued.
- (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. § 68-6-103, an individual may obtain only one (1) property owner's permit within a twenty four (24) month period.
- (4)
 - (a) When applying for a permit, an applicant shall complete a form prescribed by the Department containing at least the following information:
 1. The location where the work will be performed;
 2. A description of the work to be performed;
 3. The use and occupancy of the structure;
 4. The valuation of the project;
 5. The square footage of the construction; and
 6. The signature of the applicant.
 - (b) When applying for a permit, an applicant shall present:
 1. Payment in an acceptable form in the amount of the permit fee; and
 2. Licensure pursuant to T.C.A. Title 62, Chapter 6 (except for a property owner's permit).
 - (c) When applying for a permit, an applicant shall certify and have proof available, if requested, of:
 1. Availability of public sewer or a septic permit; and
 2. Any license or permit required by state law or local ordinance.
- (5) All building permits are non-transferable.

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

- (6) In the event more than one (1) rejection is issued during the building inspection process, an additional inspection permit must be applied for and obtained for each subsequent rejection.
- (7)
 - (a) A building permit shall be void if the authorized work is not commenced within one hundred eighty (180) days after its issuance. If the work authorized by a permit is commenced and then suspended or abandoned for a period of one hundred eighty (180) days a building permit shall be void. The Commissioner of Commerce and Insurance, or designee thereof, is authorized to grant, in writing, one or more extensions of time, for periods of not more than one hundred eighty (180) days each. The extension must be requested in writing and justifiable cause demonstrated.
 - (b) Every building permit shall expire two (2) years from the date of issue or upon the issuance of the certificate of occupancy unless:
 1. the inspector determines that substantial progress has been made in the work authorized by the permit; and
 2. the permit holder is granted an exception after submitting a written request to the Commissioner of Commerce and Insurance, or designee thereof.
 - (c) No construction work for which a permit is required shall be commenced in any building or premises until a permit to perform such work is obtained.
- (8) The original permit, along with any other required state or local permit, shall be placed on site and readily available for inspection. Upon completion of a request form prescribed by the Department, a duplicate original permit may be obtained for a fee of ten dollars (\$10.00) in the event of a loss or destruction thereof.
- (9) It is the responsibility of all persons performing work on the site to comply with the required codes.
- (10) The issuance of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any state law or regulation or any ordinance of the local jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter, any state law or regulation or any ordinance of the local jurisdiction shall not be valid. The issuance of a permit based on construction documents or other data shall not prevent the Division from requiring the correction of errors in the construction documents or other data. The Division is also authorized to prevent occupancy or use of a structure where there is a violation of the chapter or any state law or regulation.

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

0780-02-23-.06 ISSUANCE OF PERMITS IN VIOLATION OF THIS CHAPTER.

- (1) The Division may suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.
- (2) Upon notice from the Division to the issuer, the issuer shall immediately revoke any permit issued in violation of state law or regulation or this chapter, and any construction on such project must cease until proper approval is obtained and a new permit issued pursuant to this chapter.

(Rule 0780-02-23-.06, continued)

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

0780-02-23-.07 INSPECTIONS.

- (1) Inspections of construction of one (1) family and two (2) family dwellings, townhouses begun after October 1, 2010, and additions thereto of thirty (30) square feet or more of interior space begun after October 1, 2011, will be conducted by deputy building inspectors appointed under contract with the Commissioner of Commerce and Insurance pursuant to T.C.A. § 68-120-101.
 - (a) Fees for such inspections for services in subparagraph (2)(a) are specified in rule 0780-02-23-.08.
 - (b) Fees charged for additional inspections, including consultation inspections, slab inspections, plumbing, mechanical and gas inspections and inspections necessitated by more than one (1) rejection on the project, are specified in rule 0780-02-23-.08.
- (2) (a) Inspections are required on:
 1. Foundations after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, equipment and special requirements for wood foundations. Monolith poured slabs shall be inspected as the footing for the structure.
 2. After October 1, 2011, plumbing and mechanical systems prior to covering or concealment, before fixtures or appliances are set or installed, and prior to or at the same time as the framing inspection.
 3. Frame after roof, framing, fire stopping, draft stopping, bracing rough in plumbing, rough in mechanical and rough in electrical are in place.
 4. 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.
- (c) Energy efficiency inspections shall occur during the required inspections specified in rule 0780-02-23-.08(2) as required by the adopted code.
- (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 code. Any portions that do not comply with the code shall be corrected and such portions shall not be covered or concealed until authorized by the building inspector.

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

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

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

0780-02-23-.08 FEES.

- (1) The fee shall be payable in full at the time of application for a building permit. The fee shall be determined based on actual expected construction costs; however, the actual costs shall not be less than the construction cost based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes). The fee for a permit for construction shall be as specified in the following table:

Total Construction Cost	Fee
\$0.00 to \$5,000	\$100
\$5,001 to \$100,000	\$350
\$100,001 to \$150,000	\$400
\$150,001 to \$200,000	\$450
\$200,001 to \$250,000	\$500
\$250,001 to \$300,000	\$550
\$300,001 AND UP	\$550 for the first \$300,000; plus \$50.00 for each additional fifty thousand dollars (\$50,000) above \$300,000 or fraction thereof.

- (a) When the permit fee is to be collected from another state department or agency, the permit may be issued once all information needed to invoice or journal voucher the other state department or agency has been received.
- (b) If the application for a building permit must be resubmitted because its issuance has become invalid under paragraph (3) of rule 0780-02-23-.05, the fee established in this rule will be imposed.
- (2) After October 1, 2011, the fee for a plumbing and mechanical inspection shall be one hundred dollars (\$100.00) in addition to the fees above.
- (3) The fee for a slab inspection, other than monolith pours, shall be one hundred dollars (\$100.00) in addition to the fees above.
- (4) The fee for a re-inspection necessitated by more than one (1) rejection on a project shall be one hundred dollars (\$100.00).
- (5) The fee for a consultation inspection or a temporary certificate of occupancy shall be one hundred dollars (\$100.00).
- (6) The Division may require appropriate documentation of costs (such as contractors' bids or invoice) if:

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

- (a) in the Division's opinion, the construction cost of a project has been underestimated in permit application based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 Cost Modifier, except for the footnotes).
 - (b) After initial review, if such documentation warrants an additional permit charge it shall be computed, assessed, and paid promptly and no further construction shall be authorized pursuant to the authority of the permit until payment is made.
- (7) If a permit expires before completion of a project or a project is stopped before its completion, the permit holder shall be entitled to a refund of the inspection fees that would have been due to the deputy building inspector under their contract for any required inspection under rule 0780-02-23-.08 that was not performed, provided that the permit holder requests such refund on a form prescribed by the Division within sixty (60) days of the expiration of the permit or the date the project stopped.
- (8) Any person who begins any work on any building or structure before obtaining the necessary permit required under this chapter shall be subject to an additional fee of one hundred percent (100%) of the required permit fee for each violation thereof.

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

0780-02-23-.09 CERTIFICATE OF OCCUPANCY.

- (1) A new one (1) or two (2) family dwelling, townhouse, where construction began after October 1, 2010, or any additions thereto of thirty (30) square feet or more of interior space regulated under this chapter, where construction began after October 1, 2011, shall not be occupied until the Division has issued a certificate of occupancy.
- (2) A certificate of occupancy shall be issued after the passage of all inspections required by this chapter and passage of the final electrical inspection.
- (3) The certificate of occupancy shall state:
 - (a) the building permit number;
 - (b) the address of the building;
 - (c) the name and address of the building owner;
 - (d) the name(s) of the deputy building inspector(s);
 - (e) the edition of the code 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 chapter wherever the certificate of occupancy is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.

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

0780-02-23-.10 DISPUTE RESOLUTION.

- (1) Disputes that arise during the inspection process shall be resolved as follows:
 - (a) When a dispute arises as to the interpretation or applicability of a code provision between the owner, designer or contractor on a project and the Deputy Building Inspector inspecting the project, the dispute shall be submitted to the Director of Codes Enforcement, or designee thereof, for resolution.
 - (b) If the owner, designer or contractor disagrees with the decision of the Director of Codes Enforcement or designee thereof, the dispute shall be submitted to the Assistant Commissioner for Fire Prevention for resolution.
 - (c) 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.
 - (d) At any point during this process, the parties may agree to submit the dispute to the publisher of the code section at issue for a written opinion.
- (2) The entire dispute resolution process set forth in paragraph (1) above shall be completed as quickly as possible, but no more than thirty (30) calendar days from the date that the dispute is first submitted for resolution, unless the dispute is submitted to the code publisher for an opinion.
- (3) If there are any fees charged by the code publisher for rendering its written opinion, those fees shall be paid by the owner of the project before a certificate of occupancy will be issued by the Division.

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

0780-02-23-.11 EQUIVALENCIES.

- (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes adopted in this chapter, the Commissioner of Commerce and Insurance, or designee thereof, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee thereof, shall first find that the special individual reason makes the strict application of the codes 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.

(Rule 0780-02-23-.11, continued)

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

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

- (1) Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for enforcing residential codes for the construction of new one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space. The county or city is authorized to charge and receive a fee for each inspection performed. This rule sets forth the criteria by which local governments are authorized to enforce residential codes and procedures by which the Division may review such authorization.
- (2) Initial Authorization.
 - (a) On or before July 1, 2010, or upon subsequent adoption thereof, a local government meeting the requirements of T.C.A. § 68-120-101 relating to having chosen to adopt and building construction and fire safety codes for the construction of new one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, shall provide the Division with the following information:
 1. The title(s) and edition(s) of the code(s) that are adopted and enforced, which shall show that the local government has adopted a code(s) that is current within seven (7) years of the date of the latest edition;
 2. The number and types of inspections that will be conducted;
 3. The names of all persons who are employed by the local government to perform building inspections on the construction of one and two 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).
- (3) The local government's adopted residential code publication shall be current within seven (7) years of the date of the latest edition thereof, unless otherwise approved in writing by the Commissioner of Commerce and Insurance.
- (4) Review of Local Government Authorization.
 - (a) For any local government that is authorized to enforce building construction codes for one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, the Division will conduct a review of the local government's authorization at least once every three (3) years. The local government shall submit the following information on a form provided by the Division within thirty (30) days of its receipt of the form.
 1. The title(s) and edition(s) of the code(s) that will be adopted and enforced;
 2. The number and types of inspections that are conducted;
 3. A description of the permit issuance, enforcement and recordkeeping process for all inspection activities;
 4. The names of all persons who are employed by the local government to perform building inspections on the construction of one and two 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).

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

The Division may request any other documentation it deems necessary from the local government to evidence compliance with the requirements T.C.A. § 68-120-101 and may conduct an on-site review to the local government to review the residential building permit and inspection process.

- (b) Each local government that is selected for an on-site review pursuant to this paragraph will be notified of the review in writing.
- (c) Report of Review.
 - 1. After conclusion of the review, the Division will notify the local government in writing whether the local government's code is current as required by law and whether there are any area(s) in which the local government is not adequately enforcing the adopted residential building codes or properly performing inspections.
 - 2. If the local government has not adopted a current code or is not adequately enforcing the adopted residential building codes or properly performing inspections, the notification will contain recommended corrective action, and the local government will be directed to submit a plan of corrective action to the Division within thirty (30) days after its receipt of the notification. The plan of corrective action shall be sufficiently detailed so as to ensure compliance with all requirements for initial authorization.
 - 3. Within thirty (30) days after receipt of the local government's plan of corrective action, the Division shall either approve or disapprove the plan. If the plan is approved, the Division may conduct periodic follow-up reviews to ensure continued compliance with the plan. If the plan is not approved, the Division may remove the local government's authorization to conduct building inspections on the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space.

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

0780-02-23-.13 PERMIT ISSUING AGENTS.

- (1) All individuals, including all business entities, local governments and cooperatives, who undertake to issue building permits under this chapter, must hold a current contract with the Department of Commerce and Insurance, as administered through the Division of Fire Prevention.
- (2) State deputy building inspectors and their immediate families are ineligible to become issuing agents. Additionally, without prior approval from the Department, no individual or business entity in any way related to or financially associated with any Department official will be allowed to become an issuing agent.

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

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

Any local government opting out of the provisions of T.C.A. § 62-120-101 regarding residential building codes for the construction of one and two family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space shall submit to the state fire marshal the following:

(Rule 0780-02-23-.14, continued)

- (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.



KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Tennessee Code Annotated
Title 68. Health, Safety and Environmental Protection
Safety
Chapter 120. Building Regulations
Part 1. General Provisions

T. C. A. § 68-120-112

§ 68-120-112. Smoke and carbon monoxide alarms; hotels and motels; apartment buildings

Effective: January 1, 2016

[Currentness](#)

(a) As used in this section:

(1) “Apartment building”:

(A) Means any building containing three (3) or more living units with independent cooking and bathroom facilities, whether designated as an apartment house, tenement, or garden apartment, or by any other name; and

(B) Does not include condominium projects;

(2) “Approved carbon monoxide alarm”:

(A) Means a device, either battery operated or electrical, that detects the presence of carbon monoxide gas and is listed by a nationally recognized testing laboratory approved by the federal occupational safety and health administration to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075; and

(B) Includes a combination carbon monoxide alarm and smoke detector if the device does the following:

(i) Complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and

(ii) Emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke;

(3) “Fossil fuel” means coal, kerosene, oil, fuel gases, or other petroleum or hydrocarbon product that emits carbon monoxide as a byproduct of combustion;

(4) “Hotel”:

(A) Means any building providing sleeping accommodations for guests, travelers, or semi-permanent residents for commercial purposes; and

(B) Includes motels, inns, boarding homes, lodging homes, rooming houses, tourist homes, hostels, dormitories, and apartment hotels; and

(5) “Smoke alarm” means an alarm responsive to smoke and approved by the building construction safety standards adopted pursuant to § 68-120-101; and

(A) Listed by a nationally recognized and approved independent testing agency or laboratory such as Underwriters Laboratories; or

(B) Inspected by an agency authorized to make independent inspections by the state fire marshal.

(b) It is unlawful to:

(1) Own or operate a hotel without installing a smoke alarm in every room of the hotel that is ordinarily used for sleeping purposes;

(2) Own or operate an apartment building without installing a smoke alarm in every living unit within the apartment building. When activated, the smoke alarm shall initiate a warning sound that is audible in the sleeping rooms of the living unit;

(3) Own or operate a hotel that has a fossil-fuel-burning heater or appliance, a fireplace, or other feature, fixture, or element that emits carbon monoxide as a byproduct of combustion without installing an approved carbon monoxide alarm within ten feet (10#) of each room used for sleeping purposes; or

(4) Knowingly tamper with or remove any smoke alarm or carbon monoxide alarm required by this section, or a component of a smoke alarm or carbon monoxide alarm.

(c)(1) All smoke alarms required by this section:

(A) Shall be installed in accordance with the manufacturer's directions, unless they conflict with applicable law; and

(B) May be wired directly to the building's power supply, powered by a self-monitored battery, or operated with a plug-in outlet fitted with a plug restrainer device; provided, that the outlet is not controlled by any switch other than the main power supply.

(2) All carbon monoxide alarms required by this section:

(A) Shall be installed in accordance with either the standards of the National Fire Protection Association or the manufacturer's directions, unless the standards or directions conflict with applicable law; and

(B) May be wired directly to the building's power supply, powered by a self-monitored battery, or operated with a plug-in outlet fitted with a plug restrainer device if the outlet is not controlled by any switch other than the main power supply.

(3) This section shall apply only to buildings existing before January 1, 2016. Smoke alarms and carbon monoxide alarms shall be installed and maintained in new buildings in accordance with the applicable building construction safety standards as provided in [§ 68-120-101](#).

(d)(1) Any smoke alarm required in an apartment building by this section shall be maintained by the tenant of the living unit where the smoke alarm is located in accordance with the manufacturer's instructions. However, upon termination of a tenancy in a living unit, the owner of the apartment building shall ensure that any required smoke alarm is operational prior to reoccupancy of the living unit.

(2) The owner or manager of a hotel is responsible for performance of maintenance, repairs, and tests as are necessary to ensure that every smoke alarm and carbon monoxide alarm required in the hotel is operational at all times.

(3) No alarm silencing switch or audible trouble silencing switch shall be provided, unless its silenced position is indicated by a readily apparent signal.

(4) Compliance with this section shall not relieve any person from the requirements of any other applicable law, ordinance, or rule.

(e)(1) A violation of this section is a Class C misdemeanor. Each day on which a violation continues constitutes a separate offense under this section.

(2) [Section 68-120-106](#) applies with respect to the enforcement of this section.

Credits

1984 Pub.Acts, c. 606, §§ 1 to 9; 1989 Pub.Acts, c. 591, § 113; [2015 Pub.Acts, c. 120, § 3, eff. Jan. 1, 2016](#); [2015 Pub.Acts, c. 318, §§ 1 to 4, eff. Jan. 1, 2016](#).

Formerly § 68-18-112.

T. C. A. § 68-120-112, TN ST § 68-120-112

Current through end of the 2016 Second Regular Session of the 109th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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