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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	The Department of Commerce and Insurance
<b>Division:</b>	Fire Prevention
<b>Contact Person:</b>	Beth Schulenberg
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN 37243
<b>Phone:</b>	615-532-7899
<b>Email:</b>	Elizabeth.leflerschulenberg@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Don Coleman
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN 37243
<b>Phone:</b>	615-741-6500
<b>Email:</b>	Don.Coleman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Conference Room 1B		
City:	Nashville		
Zip:	37243		
Hearing Date:	04/29/2024		
Hearing Time:	10:00AM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

N/A

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

<b>Chapter Number</b>	<b>Chapter Title</b>
0780-02-02	Codes and Standards
<b>Rule Number</b>	<b>Rule Title</b>
0780-02-02-.01	Adoption By Reference
0780-02-02-.02	Repealed
0780-02-02-.04	Conflicts
0780-02-02-.05	Local Ordinances
0780-02-02-.06	Reserved
0780-02-02-.07	Mobile Food Units

<b>Chapter Number</b>	<b>Chapter Title</b>
0780-02-19	Audits of Local Codes Enforcement Agencies
<b>Rule Number</b>	<b>Rule Title</b>
0780-02-19-.01	Authority
0780-02-19-.02	Definitions
0780-02-19-.03	Audit Team
0780-02-19-.04	Notice
0780-02-19-.05	Questionnaire
0780-02-19-.06	On Site Audit
0780-02-19-.07	Standards for Reviewing Plans and Codes
0780-02-19-.08	Field Inspection
0780-02-19-.09	Exit Review Meeting and Audit Report
0780-02-19-.10	Audit Report - Contents
0780-02-19-.11	Plan of Corrective Action
0780-02-19-.12	Inadequate Enforcement
0780-02-19-.13	Loss of Exempt Status

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

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

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

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0780-02-02-.04	Alternatives and Conflicts		

Rule 0780-02-02-.01 Adoption by Reference is amended effective July 1, 2024, by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

**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), 2021 edition, published by the International Code Council (ICC), except for the following changes:

1. Remove Chapter 11 Accessibility.
2. The requirements of Section 423 Storm Shelters shall not be required for buildings submitted for plans review before July 1, 2026.
3. Section 423.4 Critical emergency operations shall be replaced with the following:

In areas where the shelter design wind speed for tornados in accordance with Figure 304.2(1) of ICC 500 is 250 mph, 911 call stations, emergency operation centers and fire, rescue, ambulance, and police stations shall comply with Table 1604.5 as a Risk Category IV structure and should have a storm shelter constructed in accordance with ICC 500.

In areas where the shelter design wind speed for tornados in accordance with Figure 304.2(1) of ICC 500 is 250 mph, fire halls with sleeping quarters shall have a storm shelter constructed in accordance with ICC 500.

4. Section 903.3.1.2 NFPA 13R sprinkler systems shall be replaced with the following:

Automatic sprinkler systems in Group R occupancies may be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

- (i) Four stories or less above grade plane.
- (ii) For occupancies other than Group R-2, the floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

- (iii) The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the International Building Code shall be measured from grade plane.

- 5. For Group E occupancies in all jurisdictions in Tennessee, local educational agencies, public charter schools, and non-public schools may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the National Fire Protection Association (NFPA) (2021) Section 15.2.2.2.4.1.
  - 6. For college and university instructional buildings in all jurisdictions in Tennessee, college and university administrators may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the NFPA (2021) Section 39.2.2.2.2.
  - 7. Dwellings licensed by the Department of Human Services (DHS) as Family Home Daycares shall use Appendix AM of the 2021 International Residential Code.
  - 8. Where ASCE 7—16 is referenced for seismic design or mapped ground accelerations, ASCE 7—22 mapped ground accelerations may be used to determine the S1 and Ss values.
- (b) The International Fuel Gas Code (IFGC), 2021 edition, published by the International Code Council (ICC).
  - (c) The International Mechanical Code (IMC), 2021 edition, published by the International Code Council (ICC).
  - (d) The International Plumbing Code (IPC), 2021 edition, published by the International Code Council (ICC).
  - (e) The International Property Maintenance Code (IPMC), 2021 edition, published by the International Code Council (ICC), except the following sections shall be removed: 302.4 Weeds, 302.8 Motor vehicles, 302.9 Defacement of property, 304.2 Protective Treatment, 304.8 Decorative features, 304.14 Insect screens, and 308 Rubbish and Garbage.
  - (f) The International Fire Code (IFC), 2021 edition, published by the International Code Council (ICC), except for the following changes:

- 1. Section 510.1 Exception 2 shall be replaced with the following:

Where it is determined by the local fire chief in coordination with local law enforcement and EMS that the radio coverage system is not needed.

2. Section 903.3.1.2 NFPA 13R sprinkler systems shall be replaced with the following:

Automatic sprinkler systems in Group R occupancies may be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

- (i) Four stories or less above grade plane.
- (ii) For other than Group R-2 occupancies, the floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

- (iii) The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the International Building Code shall be measured from grade plane.

3. Appendix L (Requirements for Fire Fighter Air Replenishment Systems) shall be optional.
  4. For Group E occupancies in all jurisdictions in Tennessee, local educational agencies, public charter schools, and non-public schools, may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the National Fire Protection Association (NFPA) (2021) Section 15.2.2.2.4.1.
  5. For college and university instructional buildings in all jurisdictions in Tennessee, college and university administrators may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the NFPA (2021) Section 39.2.2.2.2.
- (g) The International Energy Conservation Code (IECC), 2021 edition, published by the International Code Council (ICC), except for the following changes:
1. Remove C405.11 Automatic Receptacle Control, C405.12 Energy Monitoring, and C408 Commissioning.
  2. The 2006 edition shall apply to the following occupancy classifications as defined by the International Building Code (IBC), 2021 edition:
    - (i) Moderate-hazard factory industrial, Group F-1;
    - (ii) Low-hazard factory industrial, Group F-2;
    - (iii) Moderate-hazard storage, Group S-1; and
    - (iv) Low-hazard storage, Group S-2.
  3. For daycares licensed by DHS not located in a dwelling unit, the 2015 edition shall apply, except

C408 System Commissioning shall be removed.

- (h) The International Existing Building Code (IEBC), 2021 edition, published by the International Code Council (ICC), except for the following changes:
    - 1. Remove Chapter 3 Section 306 Accessibility for existing buildings.
    - 2. Replace Section 405.2.3.3 Extent of repair for noncompliant buildings with the following:

If the evaluation does not establish that the building in its predamaged condition complies with the provisions of Section 405.2.3.1, then the building, including its foundation, shall be retrofitted to comply with the provisions of this section. The wind loads for the repair and retrofit shall be those required by the building code in effect at the time of original construction, unless the damage was caused by wind, in which case the wind loads shall be in accordance with the International Building Code. The seismic loads for this retrofit design shall be those required by the building code in effect at the time of original construction, but not less than the reduced seismic forces.
    - 3. Replace 405.2.4 Substantial structural damage to gravity load-carrying components with the following:

Gravity load-carrying components that have sustained substantial structural damage shall be rehabilitated to comply with the applicable provisions for dead, live, and snow loads in the International Building Code. Undamaged gravity load-carrying components, including undamaged foundation components, that receive dead, live, or snow loads from rehabilitated components shall also be rehabilitated if required to comply with the design loads of the rehabilitation design.
    - 4. The requirements of Section 303 Storm Shelters shall not be required for buildings submitted for plans review before July 1, 2026.
  - (i) Section 109.1 of the ICC 500 ICC/NSSA Standard for the Design and Construction of Storm Shelters, 2020 Edition published by the International Code Council (ICC), shall be optional but strongly encouraged.
  - (j) NFPA 101 Life Safety Code, 2021 edition, published by the National Fire Protection Association (NFPA), shall govern new Small Residential Board and Care facilities that:
    - 1. Are a change of occupancy from either a residential occupancy or a health care occupancy; and
    - 2. House eight (8) or fewer residents, and all residents have and maintain the ability to move reliably and escape to a point of safety as a group within three (3) minutes.
  - (k) 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.

- (b) Any agency, procedure, fees, or penalties for administration or enforcement purposes inconsistent with the statute or rules.
- (c) Any permits, fees, or inspections that are inconsistent with Tenn. Comp. R. & Regs. 0780-02-03 or other rules of the Department of Commerce and Insurance.

*Authority: T.C.A. §§ 68-102-113 and 68-120-101.*

Rule 0780-02-02-.02 Repealed is replaced with the following language so that, as amended, the new rule shall read:

**0780-02-02-.02 DEFINITIONS.**

- (1) For the purposes of this chapter, the following definitions are applicable:
  - (a) “Adequate Enforcement” means the performance rating given to an exempt jurisdiction that has demonstrated during the audit process provided for herein that it is adequately and timely performing its building code enforcement programs.
  - (b) “Exempt Jurisdiction” means a local government jurisdiction that has complied with the requirements of T.C.A. § 68-120-101(b)(2).
  - (c) “Inadequate Enforcement” means the performance rating given to a local government jurisdiction that has demonstrated during the audit process provided for herein that it is not adequately or timely performing its building code enforcement programs and that such failure may result in imminent danger to the public.

*Authority: T.C.A. § 68-120-101(b)(3)(B).*

Rule 0780-02-02-.04 Conflicts is renamed and amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

**0780-02-02-.04 ALTERNATIVES AND CONFLICTS.**

- (1) In the event of a conflict or inconsistency between the codes adopted by reference in Tenn. Comp. R. & Regs. 0780-02-02-.01, 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.
- (2) In the event of a conflict or inconsistency between either standards 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) In the event of a disputed interpretation of a code section or standard, the ruling of the Division shall prevail.
- (4) Nothing in this rule shall abrogate any right of appeal granted under T.C.A., Title 68, Chapters 102 and 120.
- (5) Where the International Building Code adopted in this Chapter allows a building to be built to the International Residential Code, the building shall not be classified as a one- and two- family dwelling for the purposes of applying the fire sprinkler requirements of T.C.A. § 68-120-201.
- (6) Where strict compliance with the code requirements would be impractical, impossible, or when strict compliance would not significantly increase safety standards, the Division may approve or accept alternative means of accomplishing the objectives of this chapter.

*Authority: T.C.A. §§ 68-102-113, 68-120-101, and 68-120-106.*

Rule 0780-02-02-.05 Local Ordinances is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

**0780-02-02-.05 LOCAL ORDINANCES.**

- (1) A local jurisdiction that adopts and enforces building construction and fire safety codes pursuant to T.C.A. § 68-120-101(b)(2)(A) shall forward all relevant local ordinances to the Division within sixty (60) days of adopting the ordinance.
  - (a) A local jurisdiction shall conduct an initial plans review for an average of eighty percent (80%) of the jurisdiction's construction projects within thirty (30) days of receipt of an application.
  - (b) A local jurisdiction shall perform an inspection within thirty (30) days of when the request is made.
- (2) A local jurisdiction that adopts and enforces building construction and fire safety codes pursuant to T.C.A. § 68-120-101(b)(2)(A) shall adopt an edition of a building construction or fire safety codes within seven (7) years of the most current published edition.
- (3) Except as provided in T.C.A. § 68-120-101, or otherwise approved in writing by the Division, no 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 in this Chapter.
  - (a) The locally adopted codes and standards may not be lessened without submitting a draft of the ordinance for local adoption to the Division for review and approval prior to becoming effective.
  - (b) If a local jurisdiction adopts less stringent codes and standards without prior approval in writing from the Division, then the locally adopted amendment to the building construction and fire safety codes shall be invalid.

*Authority: T.C.A. §§ 68-102-113, 68-120-101, and 68-120-106.*

**CHAPTER 0780-02-19  
AUDITS OF LOCAL CODES  
ENFORCEMENT AGENCIES  
NEW RULE**

Rule 0780-02-02-.06 Audits of Local Codes Enforcement Agencies is added to Chapter 0780-02-02 and shall read:

**0780-02-02-.06 AUDITS OF LOCAL CODES ENFORCEMENT AGENCIES.**

- (1) INITIATION OF AUDIT
  - (a) The Division shall audit each exempt jurisdiction no less than once every three (3) years. The Division shall notify the exempt jurisdiction of the commencement of the audit.
  - (b) The Division shall submit a questionnaire to the jurisdiction to gather information needed for the audit. The exempt jurisdiction shall submit the following information on a form provided by the Division within thirty (30) days of its receipt of the form:
    1. The name and title, mailing address, email, and telephone number of the official accountable for the exempt jurisdiction's codes enforcement operations;



2. The name, mailing address, email, and main telephone number of the head of the exempt jurisdiction's highest executive officer;
3. The edition date and type of building and fire codes currently enforced by the exempt jurisdiction, along with ordinances and/or amendments to the codes enforced by the exempt jurisdiction. Amendments that lessen the adopted code requirements must be specifically identified by the jurisdiction;
4. A list of the exempt jurisdiction's building and fire officials, with certification numbers and certification expiration dates, who are responsible for the exempt jurisdiction's plans review and field inspections;
5. Assurance that the jurisdiction performs inspections of building code, fire code, or other building safety complaints and that noncompliant items are corrected;
6. A statement of whether the jurisdiction performs enforcement of codes for Educational Group E occupancies;
7. The average number of days an inspection has been performed after a request for the inspection has been made by the permit holder; and
8. Any other information needed for completion of the audit.

(2) PLANS REVIEW AND INSPECTION AUDIT

- (a) The exempt jurisdiction shall make approved sets of plans for buildings under construction available to the Division. The exempt jurisdiction shall provide inspection reports as requested.
- (b) The Division shall select and review an approved set of plans for a building project for compliance with the jurisdiction's codes and established timeframes.
- (c) The exempt jurisdiction shall submit the approved building plans for the building project selected pursuant to subparagraph (2)(b), and any subsequently requested plans, to the Division within ten (10) days of the request.
- (d) The Division may select a building project that has been recently completed when the jurisdiction does not have a building project that is adequate for the audit.
- (e) The Division shall perform an inspection of the building project selected for audit pursuant to subparagraph (2)(b). The local officials shall be in attendance during the inspection.

(3) AUDIT REPORT

The Division will notify the jurisdiction in writing whether the jurisdiction is adequately enforcing the adopted codes or properly performing timely inspections.

(4) PLAN OF CORRECTIVE ACTION

- (a) When the Division determines that a jurisdiction is at risk of not adequately enforcing its adopted code, including but not limited to not adequately performing inspections, the Division may issue a written audit report to the jurisdiction setting out each finding of the Division constituting grounds for such determination and require the jurisdiction to submit an acceptable Plan of Corrective Action (POCA) to the Division detailing how and when each item will be corrected. The Division may require the POCA to include additional Division oversight, including but not limited to additional building inspections and

training, or any other measure the Division deems appropriate to ensure the jurisdiction adequately enforces its adopted code and adequately performs inspections.

(b) A POCA required pursuant to subparagraph (a) shall be submitted to the Division within thirty (30) days of the jurisdiction's receipt of the audit report unless the Division designates a greater or lesser time in the audit report. If a different timeframe is set out in the audit report, then the POCA may be submitted within that timeframe. Upon receipt and review, the Division shall issue a written response approving or denying the POCA.

1. If the Division approves the POCA, then the jurisdiction must perform the steps identified in the POCA according to the timeframes therein.

2. If the Division denies the POCA, the Division may offer the jurisdiction an opportunity to submit an amended POCA.

(i) If the Division offers the jurisdiction an opportunity to submit an amended POCA, then the jurisdiction must resubmit the amended POCA within the timeframe set by the Division in the notice of the denial.

(ii) Approval or denial of an amended POCA after a denied POCA shall follow the same process for approval or denial of a POCA as set out in this subparagraph.

(c) If a jurisdiction fails to complete the steps or meet the timelines set out in the POCA and the Division determines the jurisdiction is still at risk of not adequately enforcing its adopted code, including but not limited to not adequately performing inspections, the Division may:

1. Request a new POCA according to the procedure set out in subparagraph (b); or

2. Approve an amendment to the existing POCA.

(d) If a jurisdiction fails to complete the steps or meet the timelines set out in a POCA and the Division determines the jurisdiction is no longer merely at risk but is not adequately enforcing its adopted code, including but not limited to inadequately performing inspections, the Division shall proceed with removing the jurisdiction's exempt status as set out in subparagraph (5)(a).

(e) When the Division determines that a jurisdiction has implemented its approved POCA and made all necessary corrections, the Division shall issue a letter to the local officials to notify the jurisdiction in writing that they are adequately enforcing adopted codes and performing timely inspections and that the POCA is closed.

(f) Nothing in this paragraph shall be construed as requiring the Division to request a POCA, allow submission of a POCA, or allow a jurisdiction to continue to implement a POCA if the Division determines the jurisdiction is not adequately enforcing its adopted code, including but not limited to not adequately performing inspections in a manner requiring that the Division remove the jurisdiction's exempt status as set out in subparagraph (5)(a).

## (5) LOSS OF EXEMPT STATUS

(a) Where a jurisdiction is found to be inadequately enforcing its code, including but not limited to properly performing timely inspections, the jurisdiction's exempt status shall be removed.

- (b) Notice and hearing regarding the removal of a jurisdiction's exempt status shall be as set out in the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.

*Authority: T.C.A. §§ 68-120-101(b).*

Rule 0780-02-02-.07 Mobile Food Units is a new rule and shall read:

**0780-02-02-.07 MOBILE FOOD UNITS.**

- (1) An applicant for a mobile food unit permit shall submit a completed application on a form as prescribed by the Division along with a non-refundable application fee of three hundred dollars (\$300). If applicable, the application shall include:
  - (a) The owner and operator's contact information and business name;
  - (b) Date of application;
  - (c) Vehicle license plate number and Vehicle Identification Number;
  - (d) Cooking equipment and fuel that will be utilized;
  - (e) Type of cooking and processes used;
  - (f) Anticipated locations of operation;
  - (g) Preferred region for inspection; and
  - (h) Such other information as the Division may request.
- (2) Upon receipt of a complete application and the application fee, the Division shall direct the applicant to schedule an inspection.
- (3) The Division shall issue a permit upon an approved inspection of a mobile food unit confirming that the mobile food unit meets the applicable standards set by statute.
- (4) The mobile food unit shall prominently display the most recent permit issued by the Division while the mobile food unit is in use. This permit must be visible from the outside of the mobile food unit.
- (5) Mobile food permits shall be effective for three hundred sixty-five (365) days from the date of issue and shall not be subject to renewal. A mobile food unit must obtain a new permit following the expiration of an existing permit.
- (6) Upon a failed inspection, the Division shall inform the applicant of all code deficiencies and direct the applicant to schedule a follow-up inspection upon their correction.
- (7) Any subsequent inspection(s) required as a result of a failed inspection shall require a fee of one hundred fifty dollars (\$150).
- (8) The Division will conduct an initial inspection for permitting approval and may conduct additional inspections upon receipt of a complaint or if the Division determines the inspections are necessary to address code violations or an observation of unlawful conditions in violation of the standards in T.C.A. § 68-102-155(e). If the Division determines at any time that the holder of a permit does not meet all requirements for the issuance of the permit or that there are code violations, the Commissioner may issue an order as provided by T.C.A. § 68-102-155(f).
- (9) If a mobile food unit changes, removes, or adds any equipment installed in the mobile food unit beyond the

equipment that was inspected for approved permit, the permit-holder shall apply for and receive a new mobile food unit permit, including paying all fees for such a new permit, prior to operating the mobile food unit.

*Authority: T.C.A. § 68-102-155.*

**CHAPTER 0780-02-19  
AUDITS OF LOCAL CODES ENFORCEMENT AGENCIES  
REPEALED**

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0780-2-19-.05 Repealed	0780-2-19-.12 Repealed
0780-2-19-.06 Repealed	0780-2-19-.13 Repealed
0780-2-19-.07 Repealed	

Chapter 0780-2-19 Audits of Local Codes Enforcement Agencies is amended by repealing the Chapter in its entirety so that as amended it shall read:

**REPEALED.**

*Authority: T.C.A. § 68-120-101(b).*

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 3/5/2024

Signature: *Beth Schulenberg*

Name of Officer: Beth Schulenberg

Title of Officer: Associate Counsel

**Department of State Use Only**

Filed with the Department of State on: 3/5/2024

*Tre Hargett*

Tre Hargett  
Secretary of State

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0780-02-02-.07	Mobile Food Units

<b>Chapter Number</b>	<b>Chapter Title</b>
0780-02-19	Audits of Local Codes Enforcement Agencies
<b>Rule Number</b>	<b>Rule Title</b>
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0780-02-19-.02	Definitions
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0780-02-19-.10	Audit Report - Contents
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0780-02-19-.13	Loss of Exempt Status



Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

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

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

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Rule 0780-02-02-.01 Adoption by Reference is amended effective July 1, 2024, by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

**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 ~~S~~state of Tennessee shall be those prescribed in the following publications:
- (a) International Building Code (IBC), ~~2012~~ 2021 edition, published by the International Code Council (ICC), except for the following changes:
- Remove Chapter 11 Accessibility; and,
  - Chapter 34, Section 3411 Accessibility For Existing Buildings; The requirements of Section 423 Storm Shelters shall not be required for buildings submitted for plans review before July 1, 2026.
  - Section 423.4 Critical emergency operations shall be replaced with the following:  
In areas where the shelter design wind speed for tornados in accordance with Figure 304.2(1) of ICC 500 is 250 mph, 911 call stations, emergency operation centers and fire, rescue, ambulance, and police stations shall comply with Table 1604.5 as a Risk Category IV structure and should have a storm shelter constructed in accordance with ICC 500.  
In areas where the shelter design wind speed for tornados in accordance with Figure 304.2(1) of ICC 500 is 250 mph, fire halls with sleeping quarters shall have a storm shelter constructed in accordance with ICC 500.
  - Section 903.3.1.2 NFPA 13R sprinkler systems shall be replaced with the following:

Automatic sprinkler systems in Group R occupancies may be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

- (i) Four stories or less above grade plane.
- (ii) For occupancies other than Group R-2, the floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

- (iii) The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the International Building Code shall be measured from grade plane.

- 5. For Group E occupancies in all jurisdictions in Tennessee, local educational agencies, public charter schools, and non-public schools may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the National Fire Protection Association (NFPA) (2021) Section 15.2.2.2.4.1.
  - 6. For college and university instructional buildings in all jurisdictions in Tennessee, college and university administrators may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in NFPA (2021) Section 39.2.2.2.
  - 7. Dwellings licensed by the Department of Human Services (DHS) as Family Home Daycares shall use Appendix AM of the 2021 International Residential Code.
  - 8. Where ASCE 7—16 is referenced for seismic design or mapped ground accelerations, ASCE 7—22 mapped ground accelerations may be used to determine the S1 and Ss values.
- (b) The International Fuel Gas Code (IFGC), ~~2012~~ 2021 edition, published by the International Code Council (ICC);<sub>2</sub>
  - (c) The International Mechanical Code (IMC), ~~2012~~ 2021 edition, published by the International Code Council (ICC);<sub>2</sub>
  - (d) The International Plumbing Code (IPC), ~~2012~~ 2021 edition, published by the International Code Council (ICC);<sub>2</sub>
  - (e) The International Property Maintenance Code (IPMC), ~~2012~~ 2021 edition, published by the International Code Council (ICC), except the following sections shall be removed: 302.4 Weeds, 302.8 Motor vehicles, 302.9 Defacement of property, 304.2 Protective Treatment, 304.8 Decorative features, 304.14 Insect screens, and 308 Rubbish and Garbage;
  - (f) The International Fire Code (IFC), ~~2012~~ 2021 edition, published by the International Code Council (ICC), except for the following changes:

1. Section 510.1 Exception 2 shall be replaced with the following:

Where it is determined by the local fire chief in coordination with local law enforcement and EMS that the radio coverage system is not needed.

2. Section 903.3.1.2 NFPA 13R sprinkler systems shall be replaced with the following:

Automatic sprinkler systems in Group R occupancies may be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

(i) Four stories or less above grade plane.

(ii) For other than Group R-2 occupancies, the floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

(iii) The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the International Building Code shall be measured from grade plane.

3. Appendix L (Requirements for Fire Fighter Air Replenishment Systems) shall be optional.

4. For Group E occupancies in all jurisdictions in Tennessee, local educational occupancies, public charter schools, and non-public schools may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the National Fire Protection Association (NFPA) (2021) Section 15.2.2.2.4.1.

5. For college and university instructional buildings in all jurisdictions in Tennessee, college and university administrators may allow classroom doors to be locked to prevent unwanted entry provided that the locking means meets the requirements in the NFPA (2021) Section 39.2.2.2.2.

(g) The International Energy Conservation Code (IECC), 2012 2021 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: except for the following changes:

1. Remove C405.11 Automatic Receptacle Control, C405.12 Energy Monitoring, and C408 Commissioning.

2. The 2006 edition shall apply to the following occupancy classifications as defined by the International Building Code (IBC), 2012 2021 edition:

1. (i) Moderate-hazard factory industrial, Group F-1;

2. (ii) Low-hazard factory industrial, Group F-2;

3. (iii) Moderate-hazard storage, Group S-1; and,

4. ~~(iv) Low-hazard storage, Group S-2.~~
  3. ~~For daycares licensed by DHS not located in a dwelling unit, the 2015 edition shall apply, except C408 System Commissioning shall be removed.~~
- (h) The International Existing Building Code (IEBC), ~~2012~~ 2021 edition, published by the International Code Council (ICC). except for the following changes:
1. ~~Remove Chapter 3 Section 306 Accessibility for existing buildings.~~
  2. ~~Replace Section 405.2.3.3 Extent of repair for noncompliant buildings with the following:~~

~~If the evaluation does not establish that the building in its predamaged condition complies with the provisions of Section 405.2.3.1, then the building, including its foundation, shall be retrofitted to comply with the provisions of this section. The wind loads for the repair and retrofit shall be those required by the building code in effect at the time of original construction, unless the damage was caused by wind, in which case the wind loads shall be in accordance with the International Building Code. The seismic loads for this retrofit design shall be those required by the building code in effect at the time of original construction, but not less than the reduced seismic forces.~~
  3. ~~Replace 405.2.4 Substantial structural damage to gravity load-carrying components with the following:~~

~~Gravity load-carrying components that have sustained substantial structural damage shall be rehabilitated to comply with the applicable provisions for dead, live, and snow loads in the International Building Code. Undamaged gravity load-carrying components, including undamaged foundation components, that receive dead, live, or snow loads from rehabilitated components shall also be rehabilitated if required to comply with the design loads of the rehabilitation design.~~
  4. ~~The requirements of Section 303 Storm Shelters shall not be required for buildings submitted for plans review before July 1, 2026.~~
- (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); except that:~~
1. ~~For classrooms in existing and new educational occupancies, as defined by Tenn. Comp. R. & Regs. 0780-02-03-.01(d), 15.2.2.2.4 excluding (1): Classroom Door Locking to Prevent Unwanted Entry, NFPA 101 Life Safety Code, 2018 edition, published by the NFPA; or~~
  2. ~~For classrooms in existing and new colleges and university instructional buildings, 39.2.2.2.2 excluding (1): Classroom Door Locking to Prevent Unwanted Entry, NFPA 101 Life Safety Code, 2018 edition, published by the NFPA.~~
- (i) ~~Section 109.1 of the ICC 500 ICC/NSSA Standard for the Design and Construction of Storm Shelters, 2020 Edition published by the International Code Council (ICC), shall be optional but strongly encouraged.~~
- (j) ~~NFPA 101 Life Safety Code, 2021 edition, published by the National Fire Protection Association (NFPA), shall govern new Small Residential Board and Care facilities that:~~
1. ~~Are a change of occupancy from either a residential occupancy or a health care occupancy; and~~

2. House eight (8) or fewer residents, and all residents have and maintain the ability to move reliably and escape to a point of safety as a group within three (3) minutes.

(k) 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.
- (c) Any permits, fees, or inspections that are inconsistent with Tenn. Comp. R. & Regs. 0780-02-03 or other rules of the Department of Commerce and Insurance.

*Authority: T.C.A. §§ 68-102-113 and 68-120-101.*

Rule 0780-02-02-.02 Repealed is replaced with the following language so that, as amended, the new rule shall read:

**0780-02-02-.02 REPEALED DEFINITIONS.**

(1) For the purposes of this chapter, the following definitions are applicable:

- (a) “Adequate Enforcement” means the performance rating given to an exempt jurisdiction that has demonstrated during the audit process provided for herein that it is adequately and timely performing its building code enforcement programs.
- (b) “Exempt Jurisdiction” means a local government jurisdiction that has complied with the requirements of T.C.A. § 68-120-101(b)(2).
- (c) “Inadequate Enforcement” means the performance rating given to a local government jurisdiction that has demonstrated during the audit process provided for herein that it is not adequately or timely performing its building code enforcement programs and that such failure may result in imminent danger to the public.

*Authority: T.C.A. § 68-120-101(b)(3)(B).*

Rule 0780-02-02-.04 Conflicts is renamed and amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

**0780-02-02-.04 ALTERNATIVES AND CONFLICTS.**

(1) In the event of a conflict or inconsistency between the codes adopted by reference in Tenn. Comp. R. & Regs. 0780-02-02-.01, 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.

~~(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;~~
- ~~(c) The provisions of NFPA 101 Life Safety Code, 2018 edition, shall prevail if such conflict or inconsistency relates to classrooms in existing and new educational occupancies, colleges, and university instructional buildings; and~~
- ~~(d) 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. In the event of a conflict or inconsistency between either standards 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. In the event of a disputed interpretation of a code section or standard, the ruling of the Division shall prevail.~~
- ~~(4) Nothing in this rule shall abrogate any right of appeal granted under T.C.A., Title 68, Chapters 102 and 120.~~
- ~~(5) Where the International Building Code adopted in this Chapter allows a building to be built to the International Residential Code, the building shall not be classified as a one- and two- family dwelling for the purposes of applying the fire sprinkler requirements of T.C.A. § 68-120-201.~~
- ~~(6) Where strict compliance with the code requirements would be impractical, impossible, or when strict compliance would not significantly increase safety standards, the Division may approve or accept alternative means of accomplishing the objectives of this chapter.~~

*Authority: T.C.A. §§ 68-102-113, ~~68-102-113(a) and (e)~~, 68-120-101, ~~68-120-101(a)~~, and 68-120-106.*

Rule 0780-02-02-.05 Local Ordinances is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

#### **0780-02-02-.05 LOCAL ORDINANCES.**

- ~~(1) A local jurisdiction that adopts and enforces building construction and fire safety codes pursuant to T.C.A. § 68-120-101(b)(2)(A) shall forward all relevant local ordinances to the Division within sixty (60) days of adopting the ordinance.~~
  - ~~(a) A local jurisdiction shall conduct an initial plans review for an average of eighty percent (80%) of the jurisdiction's construction projects within thirty (30) days of receipt of an application.~~
  - ~~(b) A local jurisdiction shall perform an inspection within thirty (30) days of when the request is made.~~
- ~~(2) A local jurisdiction that adopts and enforces building construction and fire safety codes pursuant to T.C.A. § 68-120-101(b)(2)(A) shall adopt an edition of a building construction or fire safety codes within seven (7) years of the most current published edition.~~
- ~~(3) Except as provided in T.C.A. § 68-120-101, or otherwise approved in writing by the state fire marshal Division, 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 in this Chapter. ~~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.~~

- ~~(a) The locally adopted codes and standards may not be lessened without submitting a draft of the ordinance for local adoption to the Division for review and approval prior to becoming effective.~~
- ~~(b) If a local jurisdiction adopts less stringent codes and standards without prior approval in writing from the Division, then the locally adopted amendment to the building construction and fire safety codes shall be invalid.~~

Authority: T.C.A. §§ ~~58-2413, 68-17-113, 68-18-101,~~ 68-102-113, 68-120-101, and 68-120-106 ~~and Chapter 857, Public Acts of 1982.~~

**CHAPTER 0780-02-19  
AUDITS OF LOCAL CODES  
ENFORCEMENT AGENCIES  
NEW RULE**

Rule 0780-02-02-.06 Audits of Local Codes Enforcement Agencies is added to Chapter 0780-02-02 and shall read:

**0780-02-02-.06 AUDITS OF LOCAL CODES ENFORCEMENT AGENCIES.**

**(1) INITIATION OF AUDIT**

- ~~(a) The Division shall audit each exempt jurisdiction no less than once every three (3) years. The Division shall notify the exempt jurisdiction of the commencement of the audit.~~
- ~~(b) The Division shall submit a questionnaire to the jurisdiction to gather information needed for the audit. The exempt jurisdiction shall submit the following information on a form provided by the Division within thirty (30) days of its receipt of the form:
  - ~~1. The name and title, mailing address, email, and telephone number of the official accountable for the exempt jurisdiction's codes enforcement operations;~~
  - ~~2. The name, mailing address, email, and main telephone number of the head of the exempt jurisdiction's highest executive officer;~~
  - ~~3. The edition date and type of building and fire codes currently enforced by the exempt jurisdiction, along with ordinances and/or amendments to the codes enforced by the exempt jurisdiction. Amendments that lessen the adopted code requirements must be specifically identified by the jurisdiction;~~
  - ~~4. A list of the exempt jurisdiction's building and fire officials, with certification numbers and certification expiration dates, who are responsible for the exempt jurisdiction's plans review and field inspections;~~
  - ~~5. Assurance that the jurisdiction performs inspections of building code, fire code, or other building safety complaints and that noncompliant items are corrected;~~~~

6. A statement of whether the jurisdiction performs enforcement of codes for Educational Group E occupancies;
7. The average number of days an inspection has been performed after a request for the inspection has been made by the permit holder; and
8. Any other information needed for completion of the audit.

## (2) PLANS REVIEW AND INSPECTION AUDIT

- (a) The exempt jurisdiction shall make approved sets of plans for buildings under construction available to the Division. The exempt jurisdiction shall provide inspection reports as requested.
- (b) The Division shall select and review an approved set of plans for a building project for compliance with the jurisdiction's codes and established timeframes.
- (c) The exempt jurisdiction shall submit the approved building plans for the building project selected pursuant to subparagraph (2)(b), and any subsequently requested plans, to the Division within ten (10) days of the request.
- (d) The Division may select a building project that has been recently completed when the jurisdiction does not have a building project that is adequate for the audit.
- (e) The Division shall perform an inspection of the building project selected for audit pursuant to subparagraph (2)(b). The local officials shall be in attendance during the inspection.

## (3) AUDIT REPORT

The Division will notify the jurisdiction in writing whether the jurisdiction is adequately enforcing the adopted codes or properly performing timely inspections.

## (4) PLAN OF CORRECTIVE ACTION

- (a) When the Division determines that a jurisdiction is at risk of not adequately enforcing its adopted code, including but not limited to not adequately performing inspections, the Division may issue a written audit report to the jurisdiction setting out each finding of the Division constituting grounds for such determination and require the jurisdiction to submit an acceptable Plan of Corrective Action (POCA) to the Division detailing how and when each item will be corrected. The Division may require the POCA to include additional Division oversight, including but not limited to additional building inspections and training, or any other measure the Division deems appropriate to ensure the jurisdiction adequately enforces its adopted code and adequately performs inspections.
- (b) A POCA required pursuant to subparagraph (a) shall be submitted to the Division within thirty (30) days of the jurisdiction's receipt of the audit report unless the Division designates a greater or lesser time in the audit report. If a different timeframe is set out in the audit report, then the POCA may be submitted within that timeframe. Upon receipt and review, the Division shall issue a written response approving or denying the POCA.
  1. If the Division approves the POCA, then the jurisdiction must perform the steps identified in the POCA according to the timeframes therein.



2. If the Division denies the POCA, the Division may offer the jurisdiction an opportunity to submit an amended POCA.

(i) If the Division offers the jurisdiction an opportunity to submit an amended POCA, then the jurisdiction must resubmit the amended POCA within the timeframe set by the Division in the notice of the denial.

(ii) Approval or denial of an amended POCA after a denied POCA shall follow the same process for approval or denial of a POCA as set out in this subparagraph.

(c) If a jurisdiction fails to complete the steps or meet the timelines set out in the POCA and the Division determines the jurisdiction is still at risk of not adequately enforcing its adopted code, including but not limited to not adequately performing inspections, the Division may:

1. Request a new POCA according to the procedure set out in subparagraph (b); or

2. Approve an amendment to the existing POCA.

(d) If a jurisdiction fails to complete the steps or meet the timelines set out in a POCA and the Division determines the jurisdiction is no longer merely at risk but is not adequately enforcing its adopted code, including but not limited to inadequately performing inspections, the Division shall proceed with removing the jurisdiction's exempt status as set out in subparagraph (5)(a).

(e) When the Division determines that a jurisdiction has implemented its approved POCA and made all necessary corrections, the Division shall issue a letter to the local officials to notify the jurisdiction in writing that they are adequately enforcing adopted codes and performing timely inspections and that the POCA is closed.

(f) Nothing in this paragraph shall be construed as requiring the Division to request a POCA, allow submission of a POCA, or allow a jurisdiction to continue to implement a POCA if the Division determines the jurisdiction is not adequately enforcing its adopted code, including but not limited to not adequately performing inspections in a manner requiring that the Division remove the jurisdiction's exempt status as set out in subparagraph (5)(a).

#### (5) LOSS OF EXEMPT STATUS

(a) Where a jurisdiction is found to be inadequately enforcing its code, including but not limited to properly performing timely inspections, the jurisdiction's exempt status shall be removed.

(b) Notice and hearing regarding the removal of a jurisdiction's exempt status shall be as set out in the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.

Authority: T.C.A. §§ 68-120-101(b).

Rule 0780-02-02-.07 Mobile Food Units is a new rule and shall read:

#### **0780-02-02-.07 MOBILE FOOD UNITS.**

(1) An applicant for a mobile food unit permit shall submit a completed application on a form as prescribed by the Division along with a non-refundable application fee of three hundred dollars (\$300). If applicable, the application shall include:

- (a) The owner and operator's contact information and business name;
  - (b) Date of application;
  - (c) Vehicle license plate number and Vehicle Identification Number;
  - (d) Cooking equipment and fuel that will be utilized;
  - (e) Type of cooking and processes used;
  - (f) Anticipated locations of operation;
  - (g) Preferred region for inspection; and
  - (h) Such other information as the Division may request.
- (2) Upon receipt of a complete application and the application fee, the Division shall direct the applicant to schedule an inspection.
  - (3) The Division shall issue a permit upon an approved inspection of a mobile food unit confirming that the mobile food unit meets the applicable standards set by statute.
  - (4) The mobile food unit shall prominently display the most recent permit issued by the Division while the mobile food unit is in use. This permit must be visible from the outside of the mobile food unit.
  - (5) Mobile food permits shall be effective for three hundred sixty-five (365) days from the date of issue and shall not be subject to renewal. A mobile food unit must obtain a new permit following the expiration of an existing permit.
  - (6) Upon a failed inspection, the Division shall inform the applicant of all code deficiencies and direct the applicant to schedule a follow-up inspection upon their correction.
  - (7) Any subsequent inspection(s) required as a result of a failed inspection shall require a fee of one hundred fifty dollars (\$150).
  - (8) The Division will conduct an initial inspection for permitting approval and may conduct additional inspections upon receipt of a complaint or if the Division determines the inspections are necessary to address code violations or an observation of unlawful conditions in violation of the standards in T.C.A. § 68-102-155(e). If the Division determines at any time that the holder of a permit does not meet all requirements for the issuance of the permit or that there are code violations, the Commissioner may issue an order as provided by T.C.A. § 68-102-155(f).
  - (9) If a mobile food unit changes, removes, or adds any equipment installed in the mobile food unit beyond the equipment that was inspected for approved permit, the permit-holder shall apply for and receive a new mobile food unit permit, including paying all fees for such a new permit, prior to operating the mobile food unit.

Authority: T.C.A. § 68-102-155.

**CHAPTER 0780-02-19  
AUDITS OF LOCAL CODES ENFORCEMENT AGENCIES  
REPEALED**

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Chapter 0780-2-19 Audits of Local Codes Enforcement Agencies is amended by repealing the Chapter in its entirety so that as amended it shall read:

**REPEALED.**

*Authority: T.C.A. § 68-120-101(b).*

**~~0780-02-19-.01 AUTHORITY.~~**

~~The state fire marshal is authorized by T.C.A. § 68-120-101 to establish rules necessary to effectuate the audit at least once every three years of records and transactions of each local government which chooses to enforce its own code pursuant to T.C.A. § 68-120-101(b)(2). The purpose of the audit shall be to ensure that the local government is adequately enforcing its code, and is performing any reviews of construction plans and specifications required by the state fire marshal under subsection (d), T.C.A. § 68-120-101.~~

~~Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.~~

**~~0780-02-19-.02 DEFINITIONS.~~**

~~For the purposes of this chapter, the following definitions are applicable:~~

- ~~(1) "State Fire Marshal" means the commissioner of the Department of Commerce and Insurance or his or her designee.~~
- ~~(2) "Exempt Jurisdiction" means a local governmental jurisdiction that has complied with the requirements of T.C.A. § 68-120-101(b)(2).~~
- ~~(3) "Adequate Enforcement" is the performance rating that is given to an exempt jurisdiction that has demonstrated during the audit process provided for herein that it is adequately performing its building code enforcement programs.~~
- ~~(4) "Marginal Enforcement" is the performance rating that is given to an exempt jurisdiction that has demonstrated during the audit process provided for herein that, although it is not adequately performing its building code enforcement programs, public safety is not jeopardized by such inadequate performance such that the danger to the public is imminent.~~
- ~~(5) "Inadequate Enforcement" is the performance rating that is given to a locality that has demonstrated during the audit process provided for herein that it is not adequately performing its building code enforcement programs and~~

that such failure may result in imminent danger to the public.

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **~~0780-02-19-.03 AUDIT TEAM.~~**

~~The state fire marshal shall establish an audit team to perform the quality audit of an exempt jurisdiction.~~

- ~~(1) The audit team should be composed of one administrator, one plans examiner, and one field inspector, and any other staff deemed necessary by the state fire marshal.~~
- ~~(2) The state fire marshal shall name a team leader to be the person who will be responsible for the audit.~~

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **~~0780-02-19-.04 NOTICE.~~**

~~The audit team shall initiate written contact with each exempt jurisdiction no less than once every three (3) years to explain the audit process and to establish a date and time for an on-site audit at the jurisdiction's headquarters. The date established will be confirmed in writing and delivered to the exempt jurisdiction confirming the date and time of the audit and explaining its purpose.~~

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **~~0780-02-19-.05 QUESTIONNAIRE.~~**

- ~~(1) A questionnaire may be attached to the written notice described in rule 0780-2-19-.04.~~
- ~~(2) The questionnaire shall be completed by the responsible official of the exempt jurisdiction.~~
- ~~(3) The questionnaire may request at a minimum the following information:~~
  - ~~(a) The name and title, mailing address, and telephone number of the official accountable for the exempt jurisdiction's codes enforcement operation;~~
  - ~~(b) The name, address, and main telephone number of the head of the exempt jurisdiction's highest governing body;~~
  - ~~(c) The edition date and type of building and fire codes currently enforced by the exempt jurisdiction, along with any ordinances and/or amendments to the codes enforced by the exempt jurisdiction;~~
  - ~~(d) A flow chart identifying major activities of the exempt jurisdiction's enforcement program from plans submittal to the issuance of a certificate of occupancy, to enforcement against non-approved construction projects;~~
  - ~~(e) An organizational chart of the exempt jurisdiction with staff credentials;~~
  - ~~(f) A list of the exempt jurisdiction's building and fire officials with certification numbers who are responsible for the exempt jurisdiction's plans review and field inspections;~~
  - ~~(g) The types of building occupancies mandating plans review and approvals under the exempt jurisdiction's~~

rules and laws;

(h) The exempt jurisdiction's record-keeping and archiving procedures;

(i) Certification that the locality has not exempted any portions of the building and fire codes identified in (e).

(4) The audit questionnaire shall be completed by the exempt jurisdiction and returned to the state fire marshal within thirty (30) days from the date of receipt.

(5) The audit team may assess the exempt jurisdiction's codes and all amendments thereto as provided in the exempt jurisdiction's answer to the questionnaire in order to determine whether the codes remain as stringent as what was originally certified to the state fire marshal under T.C.A. § 68-120-101(b)(2)(A).

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **0780-02-19 .06 ON-SITE AUDIT.**

(1) At the scheduled date and time, the audit team will conduct an on-site audit.

(2) During the on-site audit, the audit team will review the exempt jurisdiction's codes enforcement process. This review may include, but not be restricted to, coverage of the following processes:

(a) initial plans submittal and application;

(b) plans review;

(c) other local agency reviews;

(d) plans approval;

(e) permitting;

(f) field inspections;

(g) the exempt jurisdiction's enforcement process;

(h) record filing;

(i) plans archiving;

(j) issuance of occupancy permits.

(3) During the on-site audit, the audit team may select a recently completed building, a building currently under construction, or both a recently completed building and a building currently under construction, that went through the exempt jurisdiction's codes enforcement process, or any other structure that went through the locality's codes enforcement process, as deemed appropriate by the state fire marshal for the purpose of determining the effectiveness of the exempt jurisdiction's plans review inspection program. Only those occupancies that would be subject to review by the state fire marshal in nonexempt jurisdictions will be reviewed during the audit.

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **0780-02-19 .07 STANDARDS FOR REVIEWING PLANS AND CODES.**

Review of plans for a recently completed building(s) or a building(s) currently under construction will consist of applying the exempt jurisdiction's building and fire codes. The review may include but not be limited to the following:

- (1) building construction type;
- (2) building height and area;
- (3) occupancy classification;
- (4) fire resistive assemblies for walls, floors, enclosures, shafts, stairs, corridors, hazardous locations, and rated walls to deck;
- (5) firestopping of penetrations through rated walls or floors;
- (6) adequacy and capacity of the means of egress;
- (7) automatic fire suppression sprinkler, standpipe, fire pump, and fire hydrant systems, and fixed suppression systems;
- (8) fire and smoke detection systems, supervisory systems, and hold open devices;
- (9) emergency lights; and
- (10) exit signs.

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **~~0780-02-19-.08 FIELD INSPECTION.~~**

~~The audit team may conduct a field inspection of the selected project(s) to compare the approved construction documents with what was built or is being built and to verify code compliance. A local building official may be invited to accompany the audit team during any inspection performed in the exempt city auditing process.~~

~~Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.~~

#### **~~0780-02-19-.09 EXIT REVIEW MEETING AND AUDIT REPORT.~~**

~~Upon completion of the audit, the audit team may conduct an exit review meeting with representatives of the exempt jurisdiction in order to discuss any issues found during the audit and to put the representatives on notice that an audit report will be issued documenting the audit and outlining any recommendations. The audit report shall be prepared and signed by the audit team leader and sent to the exempt jurisdiction and the leader of the jurisdiction's highest governing body.~~

~~Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.~~

#### **~~0780-02-19-.10 AUDIT REPORT – CONTENTS.~~**

- (1) ~~The report should contain a brief statement of the on-site audit date with a determination of the adequacy of the exempt jurisdiction's codes enforcement program with an overall performance rating of adequate enforcement, marginal enforcement, or inadequate enforcement. After explaining the scope of the audit and identifying the audit team, the report will contain assessments of the following four major components of the audit report.~~

- (a) ~~Audit Questionnaire Review—The report will:~~
- ~~1. identify the current codes that were reported in the questionnaire as being enforced, along with any corresponding ordinances referenced;~~
  - ~~2. assess whether the questionnaire response is adequately responsive to whether the appropriate staff have current state inspector certifications;~~
  - ~~3. identify whether any new employees have received appropriate state certifications when performing building or fire codes inspections; and~~
  - ~~4. identify any needed clarifications.~~
- (b) ~~On-Site Audit: The report will briefly describe the current legal process that is in place in the exempt jurisdiction to ensure the enforcement of building and fire codes for both approved construction projects and for unauthorized construction projects.~~
- (c) ~~Findings: The report will detail positive performance areas and inadequate areas of performance, citing any laws, regulations, or standards that are not met by the exempt jurisdiction's current system of building codes enforcement.~~
- (d) ~~Recommendation: The report may include a request that a plan of corrective action be submitted to the state fire marshal within thirty (30) days following the receipt of the audit report. The plan of corrective action shall include a statement of the exempt jurisdiction's intent to correct the inadequate areas of performances as identified in the findings and a statement that details how and when each deficiency will be corrected. The recommendation may also list any other relevant recommendations that benefit the codes enforcement operation.~~
- (2) ~~The audit reports may be used in subsequent audits that are performed pursuant to this chapter as an aid in identifying whether improvements have been made since prior audits, whether the approved plan of corrective action has been followed, and for listing any deficiencies that have not been corrected based on the previous audit report.~~

~~Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.~~

#### ~~0780-02-19-.11 PLAN OF CORRECTIVE ACTION:~~

- ~~(1) When the audit report cites any deficiencies, the jurisdiction shall submit a response to the state fire marshal to the audit report no later than thirty (30) days after receipt. The response shall be in the form of a plan of corrective action that details how and when each deficiency will be corrected.~~
- ~~(2) An exempt jurisdiction that seeks an extension of the deadline must ensure delivery of a written request for an extension to the state fire marshal before the passage of the deadline for responding to the audit report.~~
- ~~(3) The state fire marshal will review the plan of corrective action submitted by the exempt jurisdiction and issue a written response approving or denying the plan of corrective action.~~
- ~~(4) The state fire marshal will make any denial of a plan of corrective action in writing and will include with it any details necessary to bring the plan of corrective action into an acceptable condition.~~

~~Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.~~

#### ~~0780-02-19-.12 INADEQUATE ENFORCEMENT:~~

- (1) The state fire marshal will notify the exempt jurisdiction of any finding of inadequacy during the on-site exit review meeting following the follow-up audit. The audit team leader will send a written notice of any finding of inadequate enforcement to the exempt jurisdiction's chief enforcement officer and to the leader of its highest governing body. In that notice, the state fire marshal may, following the methods prescribed in T.C.A. § 4-5-320(c), require said exempt jurisdiction to immediately cease performance in any area in which a grade of inadequate enforcement is received upon receipt of the written notice.
- (2) The audit team may perform a follow-up audit at a time of its choosing after issuing a finding of inadequate enforcement in order to evaluate the progress made to improve the codes enforcement program. The follow-up audit will be conducted in the same manner as the audit process as outlined in rules 0780-2-19-.03 through 0780-2-19-.11.
- (3) If the follow-up audit results in a follow-up audit report finding of adequate enforcement or marginal enforcement, then the jurisdiction may resume independent codes enforcement activity under T.C.A. § 68-120-101 for those areas in which it was formerly required to cease due to the written notice of the state fire marshal after an original grade of inadequate enforcement.

Authority: T.C.A. § 68-120-101(b)(3)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.

#### **~~0780-02-19-.13 LOSS OF EXEMPT STATUS.~~**

- (1) Within ten (10) days of receiving a finding of "inadequate enforcement", the jurisdiction may make a written request for an informal conference with the state fire marshal.
- (2) Should there be no request for an informal conference, a contested case hearing under the Uniform Administrative Procedures Act will be scheduled to determine the status of the jurisdiction's enforcement programs.
- (3) If, pursuant to a contested case hearing, it is found that the exempt jurisdiction's codes enforcement program is inadequate, the state fire marshal may take any lawful action, up to and including the suspension or revocation of the jurisdiction's authority to independently review construction plans and specifications through an independent codes enforcement program that is maintained under the authority of T.C.A. §§ 68-120-101(b)(2).

Authority: T.C.A. §§ 68-120-101(b)(3)(B) and 68-120-101(b)(4)(B). Administrative History: Original rule filed March 16, 2005; effective May 30, 2005.



Chapter 0780-02-02

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 3/5/2024

Signature: *Beth Schulenberg*

Name of Officer: Beth Schulenberg

Title of Officer: Associate Counsel

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Tre Hargett  
Secretary of State