

(Rule 0780-5-12-.08, continued)

2. The circumstances leading to the violation;
3. The severity of the violation and the risk of harm to the public;
4. The economic benefits gained by the violator as a result of noncompliance;
5. The interest of the public;
6. Willfulness of the violation.

**Authority:** T.C.A. §§ 62-6-303(a)(5) and 62-6-308(b) [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 9, 11, and 12. **Administrative History:** Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

**0780-5-12-.09 CIVIL PENALTIES.**

- (1) With respect to any licensed home inspector, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee for each separate violation of a statute, rule or commissioner's order pertaining to home inspectors, in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-6-308	\$50 - \$1000
(b) Rule 0780-5-12-.10	\$50 - \$1000
(c) Commissioner's order	\$50 - \$1000

- (2) With respect to any person required to be licensed in this state as a home inspector, the commissioner may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-6-304	\$50 - \$1000

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of any penalty to be assessed pursuant to this rule, the commissioner may consider such factors as the following:
  - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk of harm to the public;
  - (d) The economic benefits gained by the violator as a result of noncompliance;
  - (e) The interest of the public;
  - (f) Willfulness of the violation.

**Authority:** T.C.A. §§ 56-1-308, 62-6-303(a)(5) and 62-6-308 [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 5, 11, and 12. **Administrative History:** Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

#### **0780-5-12-.10 STANDARDS OF PRACTICE.**

- (1) Standards of Practice. This rule sets forth the minimum standards of practice required of licensed home inspectors.
- (2) Definitions. The following definitions apply to this rule:
  - (a) “Automatic safety controls” means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions;
  - (b) “Central air conditioning” means a system that uses ducts to distribute cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet;
  - (c) “Component” means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component;
  - (d) “Cosmetic damage” means superficial blemishes or defects that do not interfere with the functionality of the component or system;
  - (e) “Cross connection” means any physical connection or arrangement between potable water and any source of contamination;
  - (f) “Dangerous or adverse situations” means situations that pose a threat of injury to the home inspector, or those situations that require the use of special protective clothing or safety equipment;
  - (g) “Describe” means report in writing a system or component by its type, or other inspected characteristics, to distinguish it from other systems or components used for the same purpose;
  - (h) “Dismantle” means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance;
  - (i) “Enter” means to go into an area to inspect all visible components;
  - (j) “Functional drainage” means a drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously;
  - (k) “Functional flow” means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously;
  - (l) “Inspect” means the act of making a visual examination;
  - (m) “Installed” means attached or connected such that an item requires tools for removal;
  - (n) “Normal operating controls” means homeowner operated devices such as a thermostat, wall switch, or safety switch;

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- (o) “On-site water supply quality” means water quality is based on the bacterial, chemical, mineral, and solids content of the water;

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- (p) “On-site water supply quantity” means the rate of flow of on-site well water;
  - (q) “Operate” means to cause systems or equipment to function;
  - (r) “Readily accessible” means approachable or enterable for visual inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening;
  - (s) “Readily openable access panel” means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components;
  - (t) “Readily visible” means seen by using natural or artificial light without the use of equipment or tools other than a flashlight;
  - (u) “Representative number” means, for multiple identical components such as windows and electrical outlets, one such component per room; and, for multiple identical exterior components, one such component on each side of the building;
  - (v) “Roof drainage systems” means gutters, downspouts, leaders, splashblocks, and similar components used to carry water off a roof and away from a building;
  - (w) “Shut down” means a piece of equipment or a system which cannot be operated by the device or control that a homeowner should normally use to operate it. If its safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, the home inspector is not required to reestablish the circuit for the purpose of operating the equipment or system;
  - (x) “Significantly deficient” means unsafe or not functioning;
  - (y) “Solid fuel heating device” means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of these devices;
  - (z) “Structural component” means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads);
  - (aa) “System” means a combination of interacting or interdependent components, assembled to carry out one or more functions;
  - (bb) “Technically exhaustive” means an inspection involving the use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations;
  - (cc) “Underfloor crawl space” means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.
- (3) Purpose and Scope.
- (a) Home inspections performed according to this rule shall provide the client with an understanding of the property conditions at the time of the home inspection.
  - (b) Home inspectors shall:

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1. Provide a written contract, signed by the client or the client's legal representative that shall:
    - (i) State that the home inspection will be in accordance with the Standards of Practice promulgated by the commissioner;
    - (ii) Describe what services shall be provided and their cost;
    - (iii) State that the home inspection report will not address the items set forth in parts (5)(a)4. and 5. of this rule; and
    - (iv) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components.
  2. Inspect readily visible and readily accessible installed systems and components listed in this rule; and
  3. Submit a written report to the client that shall at a minimum:
    - (i) Describe those systems and components required to be described in paragraphs (7) through (16) of this rule;
    - (ii) State which systems and components designated for inspection in this rule have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;
    - (iii) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling;
    - (iv) State whether the condition reported requires repair or subsequent observation, or warrants further investigation by a specialist; and
    - (v) State the name, license number, and signature of the person conducting the inspection.
- (c) This rule does not limit home inspectors from:
1. Reporting observations and conditions or rendering opinions of items in addition to those required in paragraphs (7) through (16) of this rule; or
  2. Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.
- (4) General Limitations.
- (a) This rule applies to structures that are intended to be or are in fact used as residences, consisting of from one to four (1-4) family dwelling units and their attached garages or carports.
- (5) Required Reporting.
- (a) The home inspection report shall include the following:

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1. A report on any system or component inspected that, in the opinion of the home inspector, is significantly deficient;
  2. A list of any systems or components that were designated for inspection in this rule but that were not inspected;
  3. The reason a system or component listed in accordance with part (5)(a)2. was not inspected;
  4. A statement that the report does not address environmental hazards, including:
    - (i) Lead-based paint;
    - (ii) Radon;
    - (iii) Asbestos;
    - (iv) Cockroaches;
    - (v) Rodents;
    - (vi) Pesticides;
    - (vii) Treated lumber;
    - (viii) Fungus;
    - (ix) Mercury;
    - (x) Carbon monoxide; or
    - (xi) Other similar environmental hazards.
  5. A statement that the report does not address subterranean systems or system components (operational or nonoperational), including:
    - (i) Sewage disposal;
    - (ii) Water supply; or
    - (iii) Fuel storage or delivery.
- (6) General Exclusions.
- (a) Home inspectors are not required to report on:
    1. Life expectancy of any component or system;
    2. The cause(s) of the need for a repair;
    3. The methods, materials, and costs of corrections;
    4. The suitability of the property for any specialized use;

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5. Compliance or non-compliance with adopted codes, ordinances, statutes, regulatory requirements or restrictions;
6. The market value of the property or its marketability;
7. The advisability or inadvisability of purchase of the property;
8. Any component or system that was not inspected;
9. The presence or absence of pests such as wood damaging organisms, rodents, or insects;  
or
10. Cosmetic damage, underground items, or items not permanently installed.

(b) Home inspectors are not required to:

1. Offer warranties or guarantees of any kind;
2. Calculate the strength, adequacy, or efficiency of any system or component;
3. Enter any area or perform any procedure that may damage the property or its components or be dangerous to or adversely affect the health or safety of the home inspector or other persons;
4. Operate any system or component that is shut down or otherwise inoperable;
5. Operate any system or component that does not respond to normal operating controls;
6. Move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility;
7. Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
8. Predict future condition, including but not limited to failure of components;
9. Project operating costs of components;
10. Evaluate acoustical characteristics of any system or component; or
11. Inspect special equipment or accessories that are not listed as components to be inspected in this rule.

(c) Home inspectors shall not:

1. Offer or perform any act or service contrary to law; or
2. Offer or perform engineering, architectural, plumbing, electrical or any other job function requiring a license in this state for the same client unless the client is advised thereof and consents thereto.

(7) Heating Systems.

(a) The home inspector shall inspect permanently installed heating systems including:

(Rule 0780-5-12-.10, continued)

1. Heating equipment;
  2. Normal operating controls;
  3. Automatic safety controls;
  4. Chimneys, flues, and vents, where readily visible;
  5. Solid fuel heating devices;
  6. Heat distribution systems including fans, pumps, ducts and piping, insulation, air filters, registers, radiators, fan coil units, convectors; and
  7. The presence of an installed heat source in each room.
- (b) The home inspector shall describe:
1. The energy source for the system; and
  2. The heating equipment and distribution type.
- (c) The home inspector shall operate the systems using normal operating controls.
- (d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
- (e) The home inspector is not required to:
1. Operate heating systems when weather conditions or other circumstances may cause equipment damage;
  2. Operate automatic safety controls;
  3. Ignite or extinguish solid fuel fires; or
  4. Inspect:
    - (i) The interior of flues;
    - (ii) Fireplace insert flue connections;
    - (iii) Humidifiers;
    - (iv) Electronic air filters; or
    - (v) The uniformity or adequacy of heat supply to the various rooms.
- (8) Cooling Systems.
- (a) The home inspector shall inspect:
1. Central air conditioning and through-the-wall installed cooling systems including:
    - (i) Cooling and air handling equipment; and



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- (ii) Normal operating controls.
  - 2. Distribution systems including:
    - (i) Fans, pumps, ducts and piping, dampers, insulation, air filters, registers, fan-coil units; and
    - (ii) The presence of an installed cooling source in each room.
  - (b) The home inspector shall describe:
    - 1. The energy source for the system; and
    - 2. The cooling equipment type.
  - (c) The home inspector shall operate the systems using normal operating controls.
  - (d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
  - (e) The home inspector is not required to:
    - 1. Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
    - 2. Inspect window air conditioners; or
    - 3. Inspect the uniformity or adequacy of cool-air supply to the various rooms.
- (9) Electrical Systems.
  - (a) The home inspector shall inspect:
    - 1. Service entrance conductors;
    - 2. Service equipment, grounding equipment, main overcurrent device, and main and distribution panels;
    - 3. Amperage and voltage ratings of the service;
    - 4. Branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities and voltages;
    - 5. The operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls;
    - 6. The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
    - 7. The operation of ground fault circuit interrupters; and
    - 8. Smoke detectors.

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- (b) The home inspector shall describe:
    - 1. Service amperage and voltage;
    - 2. Service entry conductor materials;
    - 3. The service type as being overhead or underground; and
    - 4. The location of main and distribution panels.
  - (c) The home inspector shall report the presence of any readily accessible single strand aluminum branch circuit wiring.
  - (d) The home inspector shall report on the presence or absence of smoke detectors. If the smoke detector is an individual (stand alone) unit, the home inspector shall operate its test function. If the smoke detector is incorporated into an alarm system, the entity that monitors the alarm system should test the smoke detector.
  - (e) The home inspector is not required to:
    - 1. Insert any tool, probe, or testing device inside the panels;
    - 2. Test or operate any overcurrent device except ground fault circuit interrupters;
    - 3. Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels; or
    - 4. Inspect:
      - (i) Low voltage systems;
      - (ii) Security system devices, heat detectors, or carbon monoxide detectors;
      - (iii) Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system; or
      - (iv) Built-in vacuum equipment.
- (10) Plumbing Systems.
- (a) The home inspector shall inspect:
    - 1. Interior water supply and distribution system, including: piping materials, supports, and insulation; fixtures and faucets; functional flow; leaks; and cross connections;
    - 2. Interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping supports and pipe insulation; leaks; and functional drainage;
    - 3. Hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues, and vents; and
    - 4. Sump pumps.

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- (b) The home inspector shall describe:
    - 1. Water supply and distribution piping materials;
    - 2. Drain, waste, and vent piping materials;
    - 3. Water heating equipment; and
    - 4. The location of any main water supply shutoff device.
  - (c) The home inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance.
  - (d) The home inspector is not required to:
    - 1. State the effectiveness of anti-siphon devices;
    - 2. Determine whether water supply and waste disposal systems are public or private;
    - 3. Operate automatic safety controls;
    - 4. Operate any valve except water closet flush valves, fixture faucets, and hose faucets;
    - 5. Inspect:
      - (i) Water conditioning systems;
      - (ii) Fire and lawn sprinkler systems;
      - (iii) On-site water supply quantity and quality;
      - (iv) On-site waste disposal systems;
      - (v) Foundation irrigation systems;
      - (vi) Bathroom spas, except as to functional flow and functional drainage;
      - (vii) Swimming pools;
      - (viii) Solar water heating equipment; or
    - 6. Inspect the system for proper sizing, design, or use of proper materials.
- (11) Structural Components and Foundations.
- (a) The home inspector shall inspect structural components including:
    - 1. Foundation;
    - 2. Floors;
    - 3. Walls;

(Rule 0780-5-12-.10, continued)

4. Columns or piers;
5. Ceilings; and
6. Roofs.

(b) The home inspector shall describe the type of:

1. Foundation;
2. Floor structure;
3. Wall structure;
4. Columns or piers;
5. Ceiling structure; and
6. Roof structure.

(c) The home inspector shall:

1. Probe structural components where deterioration is suspected;
2. Enter underfloor crawl spaces, basements, and attic spaces except when access is obstructed, when entry could damage the property, or when dangerous or adverse situations are suspected;
3. Report the methods used to inspect underfloor crawl spaces and attics; and
4. Report signs of water penetration into the building or signs of condensation on building components.

(12) Roof Coverings.

(a) The home inspector shall inspect:

1. Roof coverings;
2. Roof drainage systems;
3. Flashings;
4. Skylights, chimneys, and roof penetrations; and
5. Signs of leaks or abnormal condensation on building components.

(b) The home inspector shall:

1. Describe the type of roof covering materials; and
2. Report the methods used to inspect the roofing.

(c) The home inspector is not required to:

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1. Walk on the roofing; or
2. Inspect attached accessories including solar systems, antennae, and lightning arrestors.

(13) Exterior Components.

(a) The home inspector shall inspect:

1. Wall cladding, flashings, and trim;
2. Entryway doors and a representative number of windows;
3. Garage door operators;
4. Decks, balconies, stoops, steps, areaways, porches and applicable railings;
5. Eaves, soffits, and fascias; and
6. Vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

(b) The home inspector shall:

1. Describe wall cladding materials;
2. Operate all entryway doors and a representative number of windows;
3. Operate garage doors manually or by using permanently installed controls for any garage door operator;
4. Report whether or not any garage door operator will automatically reverse or stop when meeting reasonable resistance during closing; and
5. Probe exterior wood components where deterioration is suspected.

(c) The home inspector is not required to inspect:

1. Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;
2. Fences;
3. For the presence of safety glazing in doors and windows;
4. Garage door operator remote control transmitters;
5. Geological conditions;
6. Soil conditions;
7. Recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities), except as otherwise provided in this rule;

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8. Detached buildings or structures; or
9. For the presence or condition of buried fuel storage tanks.

(14) Interior Components.

(a) The home inspector shall inspect:

1. Walls, ceiling, and floors;
2. Steps, stairways, balconies, and railings;
3. Counters and a representative number of built-in cabinets; and
4. A representative number of doors and windows.

(b) The home inspector shall:

1. Operate a representative number of windows and interior doors; and
2. Report signs of water penetration into the building or signs of condensation on building components.

(c) The home inspector is not required to inspect:

1. Paint, wallpaper, and other finish treatments on the interior walls, ceilings, and floors;
2. Carpeting; or
3. Draperies, blinds, or other window treatments.

(15) Insulation and Ventilation.

(a) The home inspector shall inspect:

1. Insulation and vapor retarders in unfinished spaces;
2. Ventilation of attics and foundation areas;
3. Kitchen, bathroom, and laundry venting systems; and
4. The operation of any readily accessible attic ventilation fan, and, when temperature permits, the operation of any readily accessible thermostatic control.

(b) The home inspector shall describe:

1. Insulation in unfinished spaces; and
2. The absence of insulation in unfinished space at conditioned surfaces.

(c) The home inspector is not required to report on:

1. Concealed insulation and vapor retarders; or

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2. Venting equipment that is integral with household appliances.

(16) Built-In Kitchen Appliances.

- (a) The home inspector shall inspect and operate the basic functions of the following kitchen appliances:
  1. Permanently installed, dishwasher(s) through a normal cycle;
  2. Range(s), cook top(s), and permanently installed oven(s);
  3. Trash compactor(s);
  4. Garbage disposal(s);
  5. Ventilation equipment or range hood(s); and
  6. Permanently installed microwave oven(s).
- (b) The home inspector is not required to inspect:
  1. Clocks, timers, self-cleaning oven functions, or thermostats for calibration or automatic operation;
  2. Non built-in appliances; or
  3. Refrigeration units.
- (c) The home inspector is not required to operate:
  1. Appliances in use; or
  2. Any appliance that is shut down or otherwise inoperable.

**Authority:** T.C.A. § 62-6-303(a)(5), (6) [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 11, and 12. **Administrative History:** Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

**0780-5-12-.11 CODE OF ETHICS.**

- (1) Licensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.
- (2) Opinions expressed by licensees shall only be based on their education, experience, and honest convictions.
- (3) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.
- (4) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- (5) No licensee shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.

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- (6) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.
- (7) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.
- (8) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

**Authority:** T.C.A. § 62-6-303(a)(5), (6) [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 11, and 12. **Administrative History:** Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.