

Draft
Part _____
MISSISSIPPI BUILDING CODES

SECTION 1. This Act shall be known as the “Building a Safer and Stronger Mississippi” Act.

SECTION 2. Title ____, Chapter ____, Mississippi Revised Statutes, is hereby amended to replace Part _____, as follows:

1730.34 Public policy for building codes.

A. The public policy of Mississippi is to maintain the highest practical standards of construction in buildings and other structures in the State consistent with the public health, safety, and welfare of its citizens.

B. This Part is enacted to enable the State of Mississippi to establish statewide minimum building codes to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installation of mechanical devices and equipment therein, and to require the correction of unsafe conditions in existing buildings. The state building codes shall set uniform performance standards providing the best available safeguards for health, safety, welfare, comfort, and security for the residents of this state who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials and techniques.

C. To clarify the intent of the Legislature and address questions that might arise or have arisen with respect to provisions of the nationally known codes that have been or are adopted pursuant to this chapter.

D. To further clarify the intent of the Legislature, except as otherwise provided in §1730.38, concerning emergency wind and flood mitigation requirements, this Part continues to apply to a person who may act under authority of the State Fire Marshal’s Office, except that the allocation of inspection duties among local officials is not dictated by this Part but remains a matter for the local authority.

1730.35 Enforcement of building codes by municipalities and counties.

A. All municipalities and counties in this State shall enforce building, residential, electrical, plumbing, mechanical, fire, and gas codes, hereafter referred to as “state building codes” in this chapter, relating to the construction, livability, sanitation, erection, installation of equipment, alteration, repair, occupancy, classification, or removal of structures located within their jurisdictions and promulgate regulations to implement their enforcement. The municipality and county shall enforce only codes and guidelines provided in this chapter.

B. To the extent that federal regulations preempt state and local laws, nothing in this chapter conflicts with the federal Department of Housing and Urban Development regulations regarding manufactured housing construction.

C. In connection with the construction of any building, structure, or other improvement to immovable property, neither the performance of any enforcement procedure nor any provision of the state building codes shall constitute or be construed as a warranty or guarantee by a governmental enforcement agency as to durability or fitness, or as a warranty or

guarantee by a governmental enforcement official that said building, structure, or other improvement to immovable property or any materials, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last any amount of time.

1730.36 Agreements with other governmental entities for provision of services required by this chapter.

Municipalities and counties may establish agreements with other governmental entities of the State to issue permits and enforce state building codes in order to provide the services required by this chapter. The council may assist in arranging for municipalities, counties, or consultants to provide the services required by this chapter to other municipalities or counties if a written request from the governing body of the municipality is submitted to the council.

1730.37 Appointment of building official or contractual arrangement for such services.

Each county shall appoint a council certified building official or contract with other political subdivisions as authorized in §1730.36 so that the unincorporated area of the county is under the jurisdiction of a council certified building official. Each municipality shall appoint a council certified building official or contract for a council certified building official within the municipal limits. Based on the needs established by each municipality, or county, the council certified building official may appoint and employ other council certified personnel and assistants necessary to perform the required inspections and technical duties and may prescribe fees for construction permits and inspections.

1730.38 Adoption and enforcement of emergency wind and flood mitigation requirements.

A. The counties of Jackson, Harrison, Hancock, George, Stone, Pearl River, Perry, and Greene including all municipalities therein shall enforce, on an emergency basis, all the wind and flood mitigation requirements prescribed by:

- (1) the 2003 International Residential Code, as modified in §1730.40A(2), and the 2003 International Building Code, and as supplemented by,
- (2) the Guidelines for Hurricane Resistant Construction as published by the Institute for Business & Home Safety, 2005, and the Federal Emergency Management Agency (FEMA) Coastal Construction Guidelines for Flooding.

B. Emergency wind and flood building requirements adopted in this section shall remain in force until the Mississippi Building Codes Council adopts the latest editions of both the International Building Code and the International Residential Code, as modified by this Part, as minimum mandatory statewide codes.

C. Except as otherwise provided herein, the emergency wind and flood mitigation requirements adopted by this section shall be enforced pursuant to §1730.35. If municipalities and counties are unable to enforce the emergency wind and flood mitigation requirements prescribed in this section, the Mississippi State Fire Marshal's Office shall enforce them as long as they remain in effect.

D. The provisions of this section shall go into effect thirty days from the effective date of this part for counties and municipalities that have code enforcement procedures in place on the effective date of this part. For those counties and municipalities without code enforcement procedures, the provisions of this section shall be applied no later than ninety days from the effective date of this part.

1730.39 Adoption and promulgation of certain building codes and standards; procedures.

The council shall, adopt, modify, and promulgate the state building codes referenced in §1730.40, provided that:

A. a notice of intention to adopt a code or a new edition of a code must be published in the State Register as a Notice of General Interest, on websites published by the State Fire Marshal's Office and must be provided to each local building department with instructions for its prominent display.

B. the notice must include:

- (1) the address to which interested persons may submit written comments; and
- (2) a period of not less than one hundred eighty days during which comments

may be received;

C. comments must be assigned to a subcommittee of the council, which shall publish a Notice of General Interest in the same manner as provided in item (1) setting out the subcommittee's scope of review. The notice must give instructions for filing an intention to appear before or provide evidence or comments to the subcommittee, or both. The subcommittee must be comprised of at least three council members;

D. the subcommittee shall hold at least one public meeting, accept evidence and comments, and make a written recommendation to the council. Within one hundred eighty days from the end of the comment period, the council shall adopt, modify, or deny the recommendations from the subcommittee.

E. the promulgated code becomes effective on the first day of January or July that is more than six months from the effective day of the regulation.

F. the state building codes shall be updated every 3 years.

1730.40 Mandatory statewide adoption of certain nationally recognized codes and standards; adoption by reference.

A. The council shall adopt by reference and amend only the latest editions of the following as the statewide minimum codes:

(1) International Building Code and the standards referenced in that code for regulation of construction within this State. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(2) International Residential Code (IRC) and the standards referenced in that code for regulation of construction within this State. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows:

(a) Item 2, the Southern Building Code Congress International, *Standard for Hurricane Resistant Residential Construction (SSTD 10)*, shall be replaced by the Institute for Business & Home Safety, *Guidelines for Hurricane Resistant Construction, 2005*.

(b) Item 6, the Florida Concrete and Products Association, *Guide to Concrete Masonry Residential Construction in High Wind Areas*, shall be added.

(c) Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living* ©, shall be added.

(d) Item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*™ shall be added.

(3) International Existing Building Code and the standards referenced in that code for regulation of construction within this State. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(4) International Mechanical Code and the standards referenced in that code for regulation of construction within this State. The appendices of the code provided in this section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(5) International Plumbing Code and the standards referenced in that code for regulation of construction within this State. The appendices of the code provided in this section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(6) International Fuel Gas Code and the standards referenced in that code for regulation of construction within this State. The appendices of the code provided in this section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(7) International Fire Code and the standards referenced in that code for regulation of construction within this State. The appendices of the code provided in this section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(8) National Electric Code and the standards referenced in that code for regulation of construction within this State. The appendices of the code provided in this section may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

B. Within six months of the effective date of this Act, the council shall adopt the latest versions of the codes referenced in this section.

C. The initial code adopted by this Council under the provisions of this part shall become effective July 1, 2007.

1730.41 Local Amendments to Mississippi Building Codes.

A. Counties and municipalities may adopt amendments to the technical provisions of the state building codes which provide for more stringent requirements than those specified in §1730.40, not more than once every 6 months. A local government may adopt technical amendments that address local needs if:

(1) The local governing body determines that there is a need to strengthen the requirements of the state building codes. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates by evidence or data that the geography, population density or climate of the jurisdiction governed by the local governing body exhibits a need to strengthen the state building codes beyond the requirements contained in §1730.40 and that the local need is addressed by the proposed amendment.

(2) Any amendment to the state building codes adopted by a local government pursuant to this section shall be effective only until the adoption by the council of the new

edition of the state building codes every third year. At such time, the council shall review such amendment for consistency with the criteria in §1730.42 and adopt such amendment as part of the state building codes or rescind the amendment. The council shall immediately notify the respective local government of the rescission of any amendment.

(3) A representative of the local government shall immediately notify the council with any local amendments.

1730.42 Technical Amendments by Mississippi Building Codes Council

A. The council may approve technical amendments to the state building codes once each year for general applicability upon finding that the amendment is more stringent than the requirements of the minimum state building codes. The amendment shall not diminish the health, welfare, and life-safety of the general public.

1730.43 Mississippi Building Codes Council; membership; function of council; per diem; meeting requirements.

A. Each member of the council must be appointed by the Governor for a term of three years and until a successor is appointed and qualifies. The council consists of twenty-two members composed of: *Note: Include Senate Confirmation.*

- (1) A representative of the American Institute of Architects of Mississippi;
- (2) A representative of the Home Builders Association of Mississippi;
- (3) A representative of the Associated General Contractors of Mississippi;
- (4) A representative of the Associated Builders and Contractors of Mississippi;
- (5) A representative of the American Subcontractors Association of Mississippi;
- (6) A representative of the American Council of Engineering Companies of Mississippi;
- (7) A representative of the Building Officials Association of Mississippi;
- (8) A representative of the general public who is not in the practice of home or commercial safety inspection, construction, or building, and who does not have any financial interest in these professions, and who does not have any immediate family member in these professions to serve as an at-large consumer representative;
- (9) A disabled person;
- (10) A representative of the property/casualty insurance industry;
- (11) A representative of the Mississippi Municipal League;
- (12) A representative of the Mississippi Manufactured Housing Association;
- (13) A representative of the electrical industry who is a master electrician;
- (14) A representative of the electrical or gas industry who is a master mechanic;
- (15) A representative of the plumbing industry who is a master plumber;
- (16) A representative of the Mississippi Fire Fighters Association;
- (17) A representative of the Mississippi Fire Chiefs Association;
- (18) A representative of the Mississippi Association of Supervisors;
- (19) A representative of the Mississippi State Fire Marshal (ex-officio non-voting);
- (20) A representative of the Mississippi Board of Licensure for Professional Engineers and Surveyors;

- (21) A representative of the Mississippi State Board of Contractors;
- (22) A representative of the Mississippi State Board of Architecture;

B. A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term.

C. The primary function of the council is to review and adopt the state building codes, provide requirements for training, education and certification of code officials and accept all requests for amendments of the code to determine which amendments, if any, are justified by local conditions and can be enacted after a finding on the record that the modification does not minimize public health, safety, and welfare. Certification of code officials shall include the International Code Council's certification programs and the appropriate category or level of certification shall be verified by the council.

D. Each member of the council shall receive mileage, subsistence, and per diem as provided for other state boards, committees, or commissions for attendance at board meetings called by the chairman.

E. The council shall elect from its members a chairman and vice chairman. The council shall adopt regulations consistent with this chapter. A meeting may be called by the chairman on his own initiative and must be called by him at the request of three or more members of the council. Each member must be notified by the chairman in writing of the time and place of the meeting at least seven days before the meeting. Fourteen members constitute a quorum. Each meeting is open to the public. An official decision of the council may be made only by a vote of at least two-thirds of those members in attendance at the meeting.

1730.44 Exemption from regulation of construction or improvement of farm structure; authority to issue building permits.

A. For purposes of this section, "farm structure" means a structure that is constructed on a farm, other than a residence or a structure attached to it, for use on the farm including, but not limited to, barns, sheds, and poultry houses, but not public livestock areas. For purposes of this section, "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

B. The governing body of a county or municipality may not enforce that portion of a nationally recognized building code that regulates the construction or improvement of a farm structure.

C. The provisions of this section do not apply unless, before constructing a farm structure, the person owning the property on which the structure is to be constructed files an affidavit with the county or municipal official responsible for enforcing the building code stating that the structure is being constructed as a farm structure. The affidavit must include a statement of purpose or intended use of the proposed structure or addition.

D. This section does not affect the authority of the governing body of a county or municipality to issue building permits before the construction or improvement of a farm structure.

1730.45 Mandamus and injunctive relief for violation of code or regulation; penalties.

A. For a violation of the building codes or regulations adopted pursuant to this chapter, the local building officials, municipal or county attorneys, or other appropriate authorities of a political subdivision, in addition to other remedies, may apply for injunctive relief, mandamus,

or other appropriate proceeding. A court may grant temporary injunctive relief upon receipt of a verified complaint of an imminent danger or emergency situation.

B. A person found to be in violation of a building code or regulation adopted pursuant to the provisions of this chapter must be cited and fined, by civil fine in accordance with state statute number XXXXXXXXXXXXX.

1730.46 Provisions of chapter cumulative; county and municipal authority not limited.

The provisions of this chapter are cumulative to other local ordinances and do not limit the authority of counties or municipalities as long as they do not diminish the requirements established in this Part.

1730.47 Codes applicable to building inspections.

Buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit, except that:

A. If no date of issuance of original building permit can be found, the date of submission of the completed application to the local authority must be used.

B. If no date of application for, or date of issuance of, building permit is available, the director of the applicable county planning and development service (or similar agency) shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records.

SECTION 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Mississippi. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval

“Legal Council to Confirm Existing Code Sections”