

CHAPTER 282

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 08-1027

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also SENATOR(S) Taylor, Isgar, Takis, Boyd, Shaffer, and Tochtrop.

AN ACT

CONCERNING BUILDING INSPECTION REQUIREMENTS FOR EDUCATIONAL INSTITUTIONS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-32-124 (2) (a), (2) (b), (2) (c), and (3), Colorado Revised Statutes, are amended to read:

22-32-124. Building codes - zoning - planning - fees - rules - definitions.
(2) (a) (I) (A) THIS SUBSECTION (2) SHALL APPLY TO BUILDING OR STRUCTURE CONSTRUCTION. EXCEPT AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), the division shall conduct the necessary plan reviews, ~~and inspections~~ ISSUE BUILDING PERMITS, CAUSE THE NECESSARY INSPECTIONS TO BE PERFORMED, PERFORM FINAL INSPECTIONS, AND ISSUE CERTIFICATES OF OCCUPANCY to assure that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division. ~~except that, at the request of the affected board of education, the state charter school institute created in section 22-30.5-503, or the charter school, the division may delegate this responsibility to the appropriate building department of a county, town, city, or city and county or to the appropriate fire department, as defined in section 24-33.5-1202, C.R.S., in the location of the building or structure~~ PURSUANT TO THIS SUB-SUBPARAGRAPH (A), THE DIVISION SHALL CONTRACT WITH THIRD-PARTY INSPECTORS THAT ARE CERTIFIED IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION (2) TO PERFORM INSPECTIONS. THE AFFECTED BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL SHALL HIRE AND COMPENSATE THIRD-PARTY INSPECTORS UNDER CONTRACT WITH THE DIVISION OR HIRE AND COMPENSATE OTHER THIRD-PARTY INSPECTORS THAT ARE CERTIFIED IN ACCORDANCE WITH PARAGRAPH

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) OF THIS SUBSECTION (2) TO PERFORM INSPECTIONS. IF THE BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL IS UNABLE TO OBTAIN A THIRD-PARTY INSPECTOR, AN APPROPRIATE BUILDING DEPARTMENT THAT HAS BEEN PREQUALIFIED BY THE DIVISION SHALL OVERSEE THE PROJECT PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a). IF THE BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL IS UNABLE TO OBTAIN A THIRD-PARTY INSPECTOR AND NO BUILDING DEPARTMENT HAS BEEN PREQUALIFIED, THE DIVISION SHALL PERFORM THE REQUIRED INSPECTIONS. THE DIVISION SHALL REQUIRE A SUFFICIENT NUMBER OF THIRD-PARTY INSPECTION REPORTS TO BE SUBMITTED BY THE INSPECTOR TO THE DIVISION BASED UPON THE SCOPE AND COST OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED. EXCEPT AS SPECIFIED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), THE THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE AND ALL VIOLATIONS ARE CORRECTED BEFORE THE BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL IS ISSUED A CERTIFICATE OF OCCUPANCY. INSPECTION RECORDS SHALL BE RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED, THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE APPROPRIATE BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL PURSUANT TO SECTION 8-20-104, C.R.S., AND SHALL REQUIRE THAT THE NEXT PROJECT UNDERTAKEN BY THE BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL BE DELEGATED TO THE PREQUALIFIED BUILDING DEPARTMENT.

(B) IF INSPECTIONS ARE NOT COMPLETED AND A BUILDING REQUIRES IMMEDIATE OCCUPANCY, AND IF THE BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL HAS PASSED THE APPROPRIATE INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE TEMPORARY CERTIFICATE OF OCCUPANCY SHALL EXPIRE NINETY DAYS AFTER THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF OCCUPANCY IS NOT ISSUED, THE BUILDING SHALL BE VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE DIVISION SHALL ENFORCE THIS SUB-SUBPARAGRAPH (B) PURSUANT TO SECTION 8-20-104, C.R.S.

(II) PURSUANT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE APPROPRIATE BUILDING DEPARTMENT AND THE DIVISION, THE DIVISION MAY PREQUALIFY AN APPROPRIATE BUILDING DEPARTMENT TO CONDUCT THE NECESSARY PLAN REVIEWS, ISSUE BUILDING PERMITS, CONDUCT INSPECTIONS, ISSUE CERTIFICATES OF OCCUPANCY, AND ISSUE TEMPORARY CERTIFICATES OF OCCUPANCY PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), TO ENSURE THAT A BUILDING OR STRUCTURE CONSTRUCTED PURSUANT TO SUBSECTION (1) OR (1.5) OF THIS SECTION HAS BEEN CONSTRUCTED IN CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE DIRECTOR OF THE DIVISION, AND TAKE ENFORCEMENT ACTION. NOTHING IN THE MEMORANDUM OF UNDERSTANDING SHALL BE CONSTRUED TO ALLOW THE BUILDING DEPARTMENT TO TAKE ENFORCEMENT ACTION OTHER THAN IN RELATION TO THE BUILDING AND FIRE CODES ADOPTED BY THE DIVISION. AN APPROPRIATE BUILDING DEPARTMENT SHALL MEET CERTIFICATION REQUIREMENTS ESTABLISHED BY THE DIVISION PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2) PRIOR TO PREQUALIFICATION. AN AFFECTED

BOARD OF EDUCATION, STATE CHARTER SCHOOL INSTITUTE, OR CHARTER SCHOOL MAY, AT ITS OWN DISCRETION, OPT TO USE A PREQUALIFIED BUILDING DEPARTMENT THAT HAS ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH THE DIVISION AS THE DELEGATED AUTHORITY. IF A BUILDING DEPARTMENT CONDUCTS AN INSPECTION, THE BUILDING DEPARTMENT SHALL RETAIN THE INSPECTION RECORDS FOR TWO YEARS AFTER THE FINAL CERTIFICATE OF OCCUPANCY IS ISSUED. THE FEES CHARGED BY THE BUILDING DEPARTMENT SHALL COVER ACTUAL, REASONABLE, AND NECESSARY COSTS. FOR PURPOSES OF THIS SECTION, "APPROPRIATE BUILDING DEPARTMENT" MEANS THE BUILDING DEPARTMENT OF A COUNTY, TOWN, CITY, OR CITY AND COUNTY AND INCLUDES A BUILDING DEPARTMENT WITHIN A FIRE DEPARTMENT.

~~(H)~~ (III) The division shall cause copies of the building plans to be sent to the appropriate fire department AND THE DIVISION OF FIRE SAFETY IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY IN THE DEPARTMENT OF PUBLIC SAFETY, REFERRED TO IN THIS SECTION AS THE "DIVISION OF FIRE SAFETY", for review of fire safety issues. The fire department shall review the building plans, determine whether the building or structure is in compliance with the fire code adopted by the director of the division, and respond to the division within ~~ten~~ TWENTY business days; except that the fire department may request an extension of this time from the director of the division on the basis of the complexity of the building plans. THE DIVISION OF FIRE SAFETY SHALL ASSIST THE DIVISION IN TRACKING AND MONITORING THE STATUS OF ALL BUILDING PLANS THAT HAVE BEEN REFERRED TO THE APPROPRIATE FIRE DEPARTMENT.

~~(HH)~~ (IV) If the fire department declines to perform the plan review or any subsequent inspection, or if no certified fire inspector is available, the division of fire safety in the office of preparedness, security, and fire safety in the department of public safety shall perform the plan review or inspection. As used in this section, unless the context otherwise requires, "certified fire inspector" has the same meaning as set forth in section 24-33.5-1202 (2.5), C.R.S.

~~(IV)~~ (V) If the building or structure is in conformity with the building and fire codes ~~and standards~~ adopted by the director of the division OF OIL AND PUBLIC SAFETY, and if the affected fire department or the division of fire safety certifies that the building or structure is in compliance with the fire code adopted by the director of the division OF OIL AND PUBLIC SAFETY, the division OF OIL AND PUBLIC SAFETY or the APPROPRIATE building department shall issue the necessary certificate of occupancy prior to use of the building or structure by the school district or by the institute charter school. ~~A fee may be charged for such plan reviews and inspections upon approval of the division. The amount of the fee shall be determined by the division by rule on the basis of the direct cost of providing the service.~~ THE DIVISION OF FIRE SAFETY IS AUTHORIZED TO CHARGE A FEE TO COVER THE ACTUAL, REASONABLE, AND NECESSARY COSTS OF THE INSPECTIONS OF BUILDINGS AND STRUCTURES. THE AMOUNT OF THE FEE SHALL BE DETERMINED BY THE DIVISION OF FIRE SAFETY BY RULE, ON THE BASIS OF THE DIRECT COST OF PROVIDING THE SERVICE.

~~(V)~~ (VI) If the division ~~after consulting with the affected board of education or the state charter school institute,~~ authorizes ~~plan reviews and~~ BUILDING CODE inspections by ~~the~~ A THIRD-PARTY INSPECTOR PURSUANT TO SUBPARAGRAPH (I) OF

THIS PARAGRAPH (a) OR AUTHORIZES BUILDING CODE PLAN REVIEWS AND INSPECTIONS BY AN APPROPRIATE building department ~~and fire department~~; PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), the plan reviews and inspections shall be in lieu of any plan reviews and inspections made by the division; except that this subsection (2) shall not be construed to relieve the division of the responsibility to ensure that the plan reviews and inspections are conducted if the ~~appropriate county, town, city, or city and county~~ THIRD-PARTY INSPECTOR OR APPROPRIATE building department ~~or the appropriate fire department~~ does not conduct the PLAN REVIEWS AND inspections. Nothing in this subsection (2) shall be construed to require a county, town, city, city and county, or fire department to conduct BUILDING CODE plan reviews and inspections.

(b) If the division conducts the necessary ~~inspection~~ PLAN REVIEWS AND CAUSES THE NECESSARY INSPECTIONS TO BE PERFORMED to determine that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division, the division shall charge ~~a fee not to exceed two hundred dollars for such inspection~~ FEES AS ESTABLISHED BY RULE OF THE DIRECTOR OF THE DIVISION. ~~The division shall charge a fee for plan review and issuance of a construction permit in an amount established by the division by rule to~~ FEES SHALL cover the actual, reasonable, and necessary expenses of the division. The director of the division by rule or as otherwise provided by law may INCREASE OR reduce the amount of the ~~fee~~ if FEES AS necessary pursuant to section 24-75-402 (3), C.R.S., ~~to reduce the uncommitted reserves of the fund. After the uncommitted reserves of the fund are sufficiently reduced, the director of the division by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.~~ TO COVER ACTUAL, REASONABLE, AND NECESSARY COSTS OF THE DIVISION. Any fees collected by the division pursuant to this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the public safety inspection fund created pursuant to section 8-1-151, C.R.S.

(c) (I) THE DIRECTOR OF THE DIVISION SHALL IMPLEMENT A CERTIFICATION PROGRAM THAT EVALUATES THE EDUCATION, TRAINING, AND EXPERIENCE OF EACH INSPECTOR AND ENSURES THAT THE INSPECTORS HOLD CURRENT NATIONAL CERTIFICATIONS THAT REQUIRE CONTINUING EDUCATION COMPONENTS. THE DIRECTOR OF THE DIVISION SHALL REQUIRE THAT EACH INSPECTOR BE RECERTIFIED EVERY THREE YEARS.

(II) ~~Inspectors~~ PLAN EXAMINERS for plan review and BUILDING INSPECTORS FOR construction inspections shall be certified IN THEIR RESPECTIVE FIELDS by the international code council, ~~the national fire protection association~~, or another similar national organization, ~~or have equivalent qualifications, as determined by rule promulgated by the director of the division~~ AND HAVE DEMONSTRATED EDUCATION, TRAINING, AND EXPERIENCE IN THEIR RESPECTIVE FIELDS.

(III) IF A PLAN EXAMINER OR BUILDING INSPECTOR IS NOT CERTIFIED IN HIS OR HER RESPECTIVE FIELD, THE PLAN EXAMINER OR BUILDING INSPECTOR SHALL HAVE AT LEAST FIVE YEARS OF DEMONSTRATED EDUCATION, TRAINING, AND EXPERIENCE IN HIS OR HER RESPECTIVE FIELD AND RECEIVE NATIONAL CERTIFICATION WITHIN ONE YEAR AFTER THE DATE OF HIRE.

(IV) THE DIRECTOR OF THE DIVISION SHALL, BY RULE, OUTLINE THE CRITERIA FOR THE REVOCATION OF INSPECTOR CERTIFICATIONS. IF THE DIVISION FINDS THAT INSPECTIONS ARE NOT COMPLETE OR THAT ALL VIOLATIONS ARE NOT CORRECTED, THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE THIRD-PARTY INSPECTOR PURSUANT TO SECTION 8-20-104, C.R.S.

(3) (a) THIS SUBSECTION (3) SHALL APPLY TO BUILDING AND STRUCTURE MAINTENANCE. The fire department providing fire protection service for the buildings and structures of a school district, an institute charter school, or a charter school or the division of fire safety in the office of preparedness, security, and fire safety in the department of public safety may inspect the buildings and structures when deemed necessary to assure that they are maintained in accordance with the fire code ~~and standards~~ adopted by the director of the division OF OIL AND PUBLIC SAFETY. If the local fire department does not perform the inspections authorized by this subsection (3), the division OF FIRE SAFETY shall have the authority and duty to conduct the inspections.

(b) THE DIVISION OF FIRE SAFETY IS AUTHORIZED TO CHARGE A FEE FOR INSPECTIONS CONDUCTED BY THE DIVISION OF FIRE SAFETY TO COVER THE ACTUAL, REASONABLE, AND NECESSARY COSTS OF THE INSPECTIONS OF BUILDINGS AND STRUCTURES. THE AMOUNT OF THE FEE SHALL BE DETERMINED BY THE DIRECTOR OF THE DIVISION OF FIRE SAFETY BY RULE. IN ACCORDANCE WITH SECTION 24-33.5-1213, C.R.S., THE DIVISION OF FIRE SAFETY SHALL ENFORCE THE FIRE CODE ADOPTED BY THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY.

(c) A FIRE DEPARTMENT PROVIDING FIRE PROTECTION SERVICE FOR BUILDINGS AND STRUCTURES OF A SCHOOL DISTRICT, AN INSTITUTE CHARTER SCHOOL, OR A CHARTER SCHOOL THAT CHOOSES TO CONDUCT FIRE CODE INSPECTIONS MAY REFER NOTICES OF DEFICIENCIES TO THE DIVISION OF FIRE SAFETY FOR EVALUATION OR ENFORCEMENT IN ACCORDANCE WITH SECTION 24-33.5-1213, C.R.S. THE DIVISION OF FIRE SAFETY SHALL PROMULGATE RULES TO ESTABLISH PROCEDURES FOR FIRE DEPARTMENTS TO REFER NOTICES OF DEFICIENCIES FOR EVALUATION OR ENFORCEMENT.

(d) NOTHING IN THIS SUBSECTION (3) SHALL PROHIBIT THE FIRE DEPARTMENT FROM CORRECTING VIOLATIONS THAT POSE AN IMMEDIATE THREAT TO LIFE SAFETY. NOTHING IN THIS SUBSECTION (3) SHALL PROHIBIT THE FIRE DEPARTMENT FROM SEEKING ENFORCEMENT ACTION IN A COURT OF COMPETENT JURISDICTION.

SECTION 2. 23-71-122 (1) (v) (II), (1) (v) (III), (1) (v) (IV), and (1) (v) (VII), Colorado Revised Statutes, are amended to read:

23-71-122. Junior college board of trustees - specific powers - rules - definitions. (1) In addition to any other power granted by law to a board of trustees of a junior college district, each board shall have the power to:

(v) (II) (A) THIS PARAGRAPH (v) SHALL APPLY TO BUILDING OR STRUCTURE CONSTRUCTION. EXCEPT AS SPECIFIED IN SUB-SUBPARAGRAPH (A.5) OF THIS SUBPARAGRAPH (II), the division shall conduct the necessary plan reviews, ~~and inspections~~ ISSUE BUILDING PERMITS, CAUSE THE NECESSARY INSPECTIONS TO BE PERFORMED, PERFORM ALL FINAL INSPECTIONS, AND ISSUE CERTIFICATES OF

OCCUPANCY to ~~determine~~ ASSURE that a building or structure constructed pursuant to subparagraph (I) of this paragraph (v) has been constructed in conformity with the building and fire codes ~~and standards~~ adopted by the director of the division. ~~except that~~ PURSUANT TO THIS SUB-SUBPARAGRAPH (A), THE DIVISION SHALL CONTRACT WITH THIRD-PARTY INSPECTORS THAT ARE CERTIFIED BY THE DIVISION TO PERFORM INSPECTIONS. THE JUNIOR COLLEGE DISTRICT SHALL HIRE AND COMPENSATE THIRD-PARTY INSPECTORS UNDER CONTRACT WITH THE DIVISION TO PERFORM INSPECTIONS OR HIRE AND COMPENSATE OTHER THIRD-PARTY INSPECTORS THAT ARE CERTIFIED IN ACCORDANCE WITH SUBPARAGRAPH (IV) OF THIS PARAGRAPH (v) TO PERFORM INSPECTIONS. IF THE JUNIOR COLLEGE DISTRICT IS UNABLE TO OBTAIN A THIRD-PARTY INSPECTOR, AN APPROPRIATE BUILDING DEPARTMENT THAT HAS BEEN PREQUALIFIED BY THE DIVISION SHALL OVERSEE THE PROJECT PURSUANT TO SUB-SUBPARAGRAPH (A.5) OF THIS SUBPARAGRAPH (II). IF THE JUNIOR COLLEGE DISTRICT IS UNABLE TO OBTAIN A THIRD-PARTY INSPECTOR AND NO BUILDING DEPARTMENT HAS BEEN PREQUALIFIED, THE DIVISION SHALL PERFORM THE REQUIRED INSPECTIONS. THE DIRECTOR OF THE DIVISION SHALL REQUIRE A SUFFICIENT NUMBER OF INSPECTION REPORTS TO BE SUBMITTED TO THE DIVISION BASED UPON THE SCOPE AND COST OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED. THE THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE BEFORE THE JUNIOR COLLEGE DISTRICT IS ISSUED A CERTIFICATE OF OCCUPANCY UNLESS THE CRITERIA FOR A TEMPORARY CERTIFICATE OF OCCUPANCY ARE MET. INSPECTION RECORDS SHALL BE RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED, THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE JUNIOR COLLEGE DISTRICT PURSUANT TO SECTION 8-20-104, C.R.S., AND SHALL REQUIRE THAT THE NEXT PROJECT UNDERTAKEN BY THE JUNIOR COLLEGE DISTRICT BE DELEGATED TO THE PREQUALIFIED BUILDING DEPARTMENT. IF INSPECTIONS ARE NOT COMPLETE AND A BUILDING REQUIRES IMMEDIATE OCCUPANCY, AND IF THE JUNIOR COLLEGE DISTRICT HAS PASSED THE APPROPRIATE INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE TEMPORARY CERTIFICATE OF OCCUPANCY SHALL EXPIRE NINETY DAYS AFTER THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF OCCUPANCY IS NOT ISSUED, THE BUILDING SHALL BE VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE DIVISION SHALL ENFORCE THIS SUB-SUBPARAGRAPH (A) PURSUANT TO SECTION 8-20-104, C.R.S.

(A.5) PURSUANT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE APPROPRIATE BUILDING DEPARTMENT AND THE DIVISION, the division may ~~delegate this responsibility to the appropriate building department of a county, town, city, or city and county or to the appropriate fire department, as defined in section 24-33.5-1202, C.R.S., in the location of the building or structure~~ PREQUALIFY AN APPROPRIATE BUILDING DEPARTMENT TO CONDUCT THE NECESSARY PLAN REVIEWS, ISSUE BUILDING PERMITS, CONDUCT INSPECTIONS, ISSUE CERTIFICATES OF OCCUPANCY, AND ISSUE TEMPORARY CERTIFICATES OF OCCUPANCY PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), TO ENSURE THAT A BUILDING OR STRUCTURE HAS BEEN CONSTRUCTED IN CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE DIRECTOR OF THE DIVISION, AND TAKE ENFORCEMENT ACTION. NOTHING IN THE MEMORANDUM OF UNDERSTANDING SHALL BE CONSTRUED

TO ALLOW THE BUILDING DEPARTMENT TO TAKE ENFORCEMENT ACTION OTHER THAN IN RELATION TO THE BUILDING AND FIRE CODES ADOPTED BY THE DIVISION. AN APPROPRIATE BUILDING DEPARTMENT SHALL MEET CERTIFICATION REQUIREMENTS ESTABLISHED BY THE DIVISION PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH (v) PRIOR TO THE PREQUALIFICATION. AN AFFECTED JUNIOR COLLEGE DISTRICT MAY, AT ITS OWN DISCRETION, OPT TO USE A PREQUALIFIED BUILDING DEPARTMENT THAT HAS ENTERED INTO A MEMORANDUM OF UNDERSTANDING WITH THE DIVISION AS THE DELEGATED AUTHORITY. IF A BUILDING DEPARTMENT CONDUCTS AN INSPECTION, THE BUILDING DEPARTMENT SHALL RETAIN THE INSPECTION RECORDS FOR TWO YEARS AFTER THE FINAL CERTIFICATE OF OCCUPANCY IS ISSUED. THE FEES CHARGED BY THE DEPARTMENT SHALL COVER ACTUAL, REASONABLE, AND NECESSARY COSTS. FOR PURPOSES OF THIS SECTION, "APPROPRIATE BUILDING DEPARTMENT" MEANS THE BUILDING DEPARTMENT OF A COUNTY, TOWN, CITY, OR CITY AND COUNTY AND INCLUDES A BUILDING DEPARTMENT WITHIN A FIRE DEPARTMENT.

(B) The division shall cause copies of the building plans to be sent to the appropriate fire department AND THE DIVISION OF FIRE SAFETY IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY IN THE DEPARTMENT OF PUBLIC SAFETY, REFERRED TO IN THIS SECTION AS THE "DIVISION OF FIRE SAFETY", for review of fire safety issues. The fire department shall review the building plans, determine whether the building or structure is in compliance with the fire code adopted by the director of the division, and respond to the division within ~~ten~~ TWENTY business days; except that the fire department may request an extension of this time from the director of the division on the basis of the complexity of the building plans. THE DIVISION OF FIRE SAFETY SHALL ASSIST THE DIVISION IN TRACKING AND MONITORING THE STATUS OF ALL BUILDING PLANS THAT HAVE BEEN REFERRED TO THE APPROPRIATE FIRE DEPARTMENT.

(C) If the fire department declines to perform the plan review or any subsequent inspection, or if no certified fire inspector is available, the division of fire safety in the office of preparedness, security, and fire safety in the department of public safety shall perform the plan review or inspection. As used in this section, ~~unless the context otherwise requires,~~ "certified fire inspector" has the same meaning as set forth in section 24-33.5-1202 (2.5), C.R.S.

(D) If the building or structure is in conformity with the building and fire codes ~~and standards~~ adopted by the director of the division OF OIL AND PUBLIC SAFETY, and if the ~~affected~~ fire department certifies that the building or structure is in compliance with the fire code adopted by the director of the division OF OIL AND PUBLIC SAFETY, the division OF OIL AND PUBLIC SAFETY or the APPROPRIATE building department shall issue the necessary certificate of occupancy prior to use of the building or structure by the junior college district. ~~A fee may be charged for the plan reviews and inspections upon approval of the division. The amount of the fee shall be determined by the division by rule on the basis of the direct cost of providing the service.~~ THE DIVISION OF FIRE SAFETY IS AUTHORIZED TO CHARGE A FEE TO COVER THE ACTUAL, REASONABLE, AND NECESSARY COSTS OF THE INSPECTIONS OF BUILDINGS AND STRUCTURES. THE AMOUNT OF THE FEE SHALL BE DETERMINED BY THE DIVISION OF FIRE SAFETY BY RULE, ON THE BASIS OF THE DIRECT COST OF PROVIDING THE SERVICE.

(E) If the division ~~after consulting with the affected junior college board,~~ authorizes ~~plan reviews and~~ BUILDING CODE inspections by ~~the~~ A THIRD-PARTY INSPECTOR PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) OR AUTHORIZES BUILDING CODE PLAN REVIEWS AND INSPECTIONS BY AN APPROPRIATE ~~building department or fire department~~ PURSUANT TO SUB-SUBPARAGRAPH (A.5) OF THIS SUBPARAGRAPH (II), the plan reviews and inspections shall be in lieu of any plan reviews and inspections made by the division; except that this subparagraph (II) shall not be construed to relieve the division of the responsibility to ensure that the plan reviews and inspections are conducted if the ~~appropriate county, town, city, or city and county~~ THIRD-PARTY INSPECTOR OR APPROPRIATE ~~building department or the appropriate fire department~~ does not conduct the plan reviews and inspections. Nothing in this paragraph (v) shall be construed to require a county, town, city, city and county, or fire department to conduct BUILDING CODE plan reviews and inspections.

(III) ~~The fire department providing fire protection service for the buildings and structures of a junior college district or the division of fire safety in the office of preparedness, security, and fire safety in the department of public safety may inspect the buildings and structures when deemed necessary to assure that they are maintained in accordance with the fire code and standards adopted by the director of the division. If the local fire department does not perform the inspections authorized by this section, the division shall have the authority and duty to conduct the inspections~~ IF THE DIVISION CONDUCTS THE NECESSARY PLAN REVIEWS AND CAUSES THE NECESSARY INSPECTIONS TO BE PERFORMED TO DETERMINE THAT A BUILDING OR STRUCTURE CONSTRUCTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (v) HAS BEEN CONSTRUCTED IN CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE DIRECTOR OF THE DIVISION, THE DIVISION SHALL CHARGE FEES AS ESTABLISHED BY RULE OF THE DIRECTOR OF THE DIVISION. SUCH FEES SHALL COVER THE ACTUAL, REASONABLE, AND NECESSARY EXPENSES OF THE DIVISION. FEES COLLECTED BY THE DIVISION PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE PUBLIC SAFETY INSPECTION FUND CREATED PURSUANT TO SECTION 8-1-151, C.R.S. THE DIRECTOR OF THE DIVISION, BY RULE OR AS OTHERWISE PROVIDED BY LAW, MAY INCREASE OR REDUCE THE AMOUNT OF THE FEES AS NECESSARY TO COVER ACTUAL, REASONABLE, AND NECESSARY COSTS OF THE DIVISION. THE RULES AUTHORIZED BY THIS PARAGRAPH (v) SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(IV) (A) THE DIRECTOR OF THE DIVISION SHALL IMPLEMENT A CERTIFICATION PROGRAM THAT EVALUATES THE EDUCATION, TRAINING, AND EXPERIENCE OF EACH INSPECTOR AND ENSURES THAT THE INSPECTORS HOLD CURRENT NATIONAL CERTIFICATIONS THAT REQUIRE CONTINUING EDUCATION COMPONENTS. THE DIRECTOR OF THE DIVISION SHALL REQUIRE THAT EACH INSPECTOR BE RECERTIFIED EVERY THREE YEARS.

(B) ~~Inspectors~~ PLAN EXAMINERS for plan review and BUILDING INSPECTORS FOR construction inspections shall be certified in their respective fields by the international code council, ~~the national fire protection association,~~ or another similar national organization, ~~or have equivalent qualifications, as determined by rule promulgated by the director of the division~~ AND HAVE DEMONSTRATED EDUCATION, TRAINING, AND EXPERIENCE IN THEIR RESPECTIVE FIELDS.

(C) IF A PLAN EXAMINER OR BUILDING INSPECTOR IS NOT CERTIFIED IN HIS OR HER RESPECTIVE FIELD, THE PLAN EXAMINER OR BUILDING INSPECTOR SHALL HAVE AT LEAST FIVE YEARS OF DEMONSTRATED EDUCATION, TRAINING, AND EXPERIENCE IN HIS OR HER RESPECTIVE FIELD AND RECEIVE NATIONAL CERTIFICATION WITHIN ONE YEAR AFTER THE DATE OF HIRE.

(D) THE DIRECTOR OF THE DIVISION SHALL, BY RULE, OUTLINE THE CRITERIA FOR THE REVOCATION OF INSPECTOR CERTIFICATIONS. IF THE DIVISION FINDS THAT INSPECTIONS ARE NOT COMPLETE OR THAT ALL VIOLATIONS ARE NOT CORRECTED, THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE THIRD-PARTY INSPECTOR PURSUANT TO SECTION 8-20-104, C.R.S.

~~(VII) (A) If the division conducts the necessary plan reviews and inspections to determine that a building or structure constructed pursuant to subparagraph (H) of this paragraph (v) has been constructed in conformity with the building and fire codes and standards adopted by the director of the division, it shall charge a fee not to exceed two hundred dollars for such inspection. The division shall charge a fee for plan review and issuance of a construction permit in an amount established by the division by rule to cover the actual, reasonable, and necessary expenses of the division. Fees collected by the division pursuant to this subparagraph (VII) shall be transmitted to the state treasurer, who shall credit the same to the public safety inspection fund created pursuant to section 8-1-151, C.R.S. The director of the division by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund. After the uncommitted reserves of the fund are sufficiently reduced, the director of the division by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S. The rules authorized by this paragraph (v) shall be promulgated in accordance with article 4 of title 24, C.R.S. THIS SUBPARAGRAPH (VII) SHALL APPLY TO BUILDING AND STRUCTURE MAINTENANCE. THE FIRE DEPARTMENT PROVIDING FIRE PROTECTION SERVICE FOR THE BUILDINGS AND STRUCTURES OF A JUNIOR COLLEGE DISTRICT OR THE DIVISION OF FIRE SAFETY IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY IN THE DEPARTMENT OF PUBLIC SAFETY MAY INSPECT THE BUILDINGS AND STRUCTURES WHEN DEEMED NECESSARY TO ASSURE THAT THEY ARE MAINTAINED IN ACCORDANCE WITH THE FIRE CODE ADOPTED BY THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY. IF THE LOCAL FIRE DEPARTMENT DOES NOT PERFORM THE INSPECTIONS AUTHORIZED BY THIS SECTION, THE DIVISION OF FIRE SAFETY SHALL HAVE THE AUTHORITY AND DUTY TO CONDUCT THE INSPECTIONS.~~

(B) THE DIVISION OF FIRE SAFETY IS AUTHORIZED TO CHARGE A FEE FOR INSPECTIONS CONDUCTED BY THE DIVISION OF FIRE SAFETY TO COVER THE ACTUAL, REASONABLE, AND NECESSARY COSTS OF THE INSPECTIONS OF BUILDINGS AND STRUCTURES. THE AMOUNT OF THE FEE SHALL BE DETERMINED BY THE DIRECTOR OF THE DIVISION OF FIRE SAFETY BY RULE. IN ACCORDANCE WITH SECTION 24-33.5-1213, C.R.S., THE DIVISION OF FIRE SAFETY SHALL ENFORCE THE FIRE CODE ADOPTED BY THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY.

(C) A FIRE DEPARTMENT PROVIDING FIRE PROTECTION SERVICE FOR BUILDINGS AND STRUCTURES OF A JUNIOR COLLEGE DISTRICT THAT CHOOSES TO CONDUCT FIRE CODE INSPECTIONS MAY REFER NOTICES OF DEFICIENCIES TO THE DIVISION OF FIRE SAFETY FOR EVALUATION OR ENFORCEMENT IN ACCORDANCE WITH SECTION

24-33.5-1213, C.R.S. THE DIVISION OF FIRE SAFETY SHALL PROMULGATE RULES TO ESTABLISH PROCEDURES FOR FIRE DEPARTMENTS TO REFER NOTICES OF DEFICIENCIES FOR EVALUATION OR ENFORCEMENT.

(D) NOTHING IN THIS SUBPARAGRAPH (VII) SHALL PROHIBIT THE FIRE DEPARTMENT FROM CORRECTING VIOLATIONS THAT POSE AN IMMEDIATE THREAT TO LIFE SAFETY. NOTHING IN THIS SUBPARAGRAPH (VII) SHALL PROHIBIT THE FIRE DEPARTMENT FROM SEEKING ENFORCEMENT ACTION IN A COURT OF COMPETENT JURISDICTION.

SECTION 3. 24-33.5-1203 (1) (p), Colorado Revised Statutes, is amended to read:

24-33.5-1203. Duties of the division. (1) The division shall perform the following duties:

(p) Conduct construction plan reviews and inspect public school and junior college buildings and structures AND ENFORCE THE FIRE CODE in accordance with sections 22-32-124 ~~(2) (a)~~ (2) (a) (III), (2) (a) (IV), (2) (a) (V), (2) (b), AND (3) ~~and~~ 23-71-122 ~~(1) (v) (II) (B), (1) (v) (II) (C), (1) (v) (II) (D), (1) (v) (III), AND (1) (v) (VII),~~ AND 24-33.5-1213, C.R.S.

SECTION 4. Part 12 of article 33.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

24-33.5-1207.7. Fire safety inspection cash fund - created. ALL MONEYS COLLECTED BY THE DIVISION PURSUANT TO SECTION 22-32-124 (2) (a) (V), 22-32-124 (3) (b), 23-71-122 (1) (v) (II) (D), AND 23-71-122 (1) (v) (VII) (B), C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FIRE SAFETY INSPECTION CASH FUND, WHICH IS HEREBY CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST EARNED THEREON ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR PAYING THE EXPENSES OF THE FIRE SUPPRESSION PROGRAM. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

24-33.5-1213. Enforcement of fire code violations - inspections. (1) THE DIRECTOR SHALL ENFORCE THE PROVISIONS OF SECTIONS 22-32-124 (2) (a) (III), (2) (a) (IV), (2) (a) (V), (2) (b), AND (3) AND 23-71-122 (1) (v) (II) (B), (1) (v) (II) (C), (1) (v) (II) (D), (1) (v) (III), AND (1) (v) (VII), C.R.S., BY APPROPRIATE ACTIONS IN COURTS OF COMPETENT JURISDICTION.

(2) (a) THE DIRECTOR MAY ISSUE A NOTICE OF VIOLATION TO A PERSON WHO IS BELIEVED TO HAVE VIOLATED THE FIRE CODES AS DETERMINED BY AN INSPECTION PURSUANT TO SECTION 22-32-124 (2) (a) OR (3) OR 23-71-122 (1) (v) (II) OR (1) (v) (III), C.R.S. THE NOTICE SHALL BE DELIVERED TO THE ALLEGED VIOLATOR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY MEANS THAT VERIFIES RECEIPT AS RELIABLY AS CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(b) THE NOTICE OF VIOLATION SHALL ALLEGE THE FACTS THAT CONSTITUTE A

VIOLATION.

(c) THE NOTICE OF VIOLATION MAY REQUIRE THE ALLEGED VIOLATOR TO ACT TO CORRECT THE ALLEGED VIOLATION.

(d) WITHIN TEN WORKING DAYS AFTER DELIVERY OF THE NOTICE OF VIOLATION, THE ALLEGED VIOLATOR MAY REQUEST IN WRITING AN INFORMAL CONFERENCE WITH THE DIRECTOR CONCERNING THE NOTICE OF VIOLATION. IF THE ALLEGED VIOLATOR FAILS TO REQUEST THE CONFERENCE WITHIN TEN DAYS, THE NOTICE OF VIOLATION IS FINAL AND NOT SUBJECT TO FURTHER REVIEW BY THE DIRECTOR, AND ANY REQUIREMENT TO CORRECT THE ALLEGED VIOLATION PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2) BECOMES A BINDING ENFORCEMENT ORDER.

(e) UPON RECEIPT OF A REQUEST FOR AN INFORMAL CONFERENCE, THE DIRECTOR SHALL SET A REASONABLE TIME AND PLACE FOR THE CONFERENCE AND SHALL NOTIFY THE ALLEGED VIOLATOR OF THE TIME AND PLACE OF THE CONFERENCE. AT THE CONFERENCE, THE ALLEGED VIOLATOR MAY PRESENT EVIDENCE AND ARGUMENTS CONCERNING THE ALLEGATIONS IN THE NOTICE OF VIOLATION.

(f) WITHIN TWENTY WORKING DAYS AFTER THE INFORMAL CONFERENCE, THE DIRECTOR SHALL UPHOLD, MODIFY, OR STRIKE THE ALLEGATIONS WITHIN THE NOTICE OF VIOLATION AND MAY ISSUE AN ENFORCEMENT ORDER. THE DECISION AND, IF APPLICABLE, ENFORCEMENT ORDER SHALL BE DELIVERED TO THE ALLEGED VIOLATOR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY MEANS THAT VERIFIES RECEIPT AS RELIABLY AS CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(3) (a) A PERSON WHO IS THE SUBJECT OF AND IS ADVERSELY AFFECTED BY A NOTICE OF VIOLATION OR AN ENFORCEMENT ORDER ISSUED PURSUANT TO SUBSECTION (2) OF THIS SECTION MAY APPEAL SUCH ACTION TO THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL HOLD A HEARING TO REVIEW SUCH NOTICE OR ORDER AND TAKE FINAL ACTION IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE AND MAY EITHER CONDUCT THE HEARING PERSONALLY OR APPOINT AN ADMINISTRATIVE LAW JUDGE FROM THE DEPARTMENT OF PERSONNEL.

(b) FINAL AGENCY ACTION SHALL BE SUBJECT TO JUDICIAL REVIEW PURSUANT TO ARTICLE 4 OF THIS TITLE.

(c) AN ALLEGED VIOLATOR WHO IS REQUIRED TO CORRECT AN ACTION PURSUANT TO PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION SHALL BE AFFORDED THE PROCEDURES SET FORTH IN SECTION 24-4-104 (3), TO THE EXTENT APPLICABLE.

(4) AN ENFORCEMENT ORDER ISSUED PURSUANT TO THIS SECTION MAY IMPOSE A CIVIL PENALTY, DEPENDING ON THE SEVERITY OF THE ALLEGED VIOLATION, NOT TO EXCEED FIVE HUNDRED DOLLARS PER VIOLATION FOR EACH DAY OF VIOLATION; EXCEPT THAT THE DIRECTOR MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS PER VIOLATION FOR EACH DAY OF VIOLATION THAT RESULTS IN, OR MAY REASONABLY BE EXPECTED TO RESULT IN, SERIOUS BODILY INJURY.

(5) THE DIRECTOR MAY FILE SUIT IN THE DISTRICT COURT IN THE JUDICIAL DISTRICT IN WHICH A VIOLATION IS ALLEGED TO HAVE OCCURRED TO JUDICIALLY

ENFORCE AN ENFORCEMENT ORDER ISSUED PURSUANT TO THIS SECTION.

SECTION 5. 24-75-402, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees - exclusions. (10) FOR THE FISCAL YEAR COMMENCING JULY 1, 2008, AND EACH FISCAL YEAR THEREAFTER, THE PUBLIC SAFETY INSPECTION FUND CREATED IN SECTION 8-1-151, C.R.S., SHALL NOT BE SUBJECT TO THE LIMIT ON UNCOMMITTED RESERVE FUNDS PURSUANT TO THIS SECTION.

SECTION 6. 9-1-101, Colorado Revised Statutes, is amended to read:

9-1-101. Doors - passages. Every room or building intended to be used as a theatre, opera house, music hall, concert hall, ~~public school~~, church, or other like place of public assemblage shall be provided with at least one doorway of not less than five feet in width for each two hundred fifty persons who may be seated within such building in the part thereof intended for public assemblage and with proper and sufficient ways and passages leading to and from every such doorway, so that in case of fire or other sudden alarm those who may be within such building may speedily and safely escape therefrom.

SECTION 7. Appropriation - adjustments to the 2008 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public safety inspection fund created in section 8-1-151, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the division of oil and public safety, for the fiscal year beginning July 1, 2008, the sum of seventy thousand nine hundred eighty-six dollars (\$70,986) cash funds and 0.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the fire safety inspection cash fund created in section 24-33.5-1207.7, Colorado Revised Statutes, not otherwise appropriated, to the department of public safety, for allocation to the office of preparedness, security, and fire safety, for the fiscal year beginning July 1, 2008, the sum of two hundred forty-three thousand four hundred thirty-six dollars (\$243,436) cash funds and 3.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2008, shall be adjusted as follows:

(a) The appropriation to the department of public safety, office of preparedness, security, and fire safety, for personal services, is decreased by one hundred eighty thousand one hundred twenty-nine dollars (\$180,129) reappropriated funds and 3.5 FTE.

(b) The appropriation to the department of public safety, office of preparedness, security, and fire safety, for operating expenses, is decreased by sixty-three thousand sixty-one dollars (\$63,061) reappropriated funds.

SECTION 8. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 22, 2008