

815 KAR 7:110. Criteria for expanded local jurisdiction.

RELATES TO: KRS 67A, 67C, 82.105(1), 83, 83A, 198B.040(7), 198B.050, 198B.060, 198B.070, 212.626(5), 227.489

STATUTORY AUTHORITY: KRS 198B.050(5), 198B.060(5), (6), (18)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.060(5) and (6) authorize a local government to petition the commissioner to request additional plan review and inspection functions. This administrative regulation establishes the requirements for local governments to request and be granted expanded jurisdiction for building code plan review and inspection.

Section 1. Definitions.

- (1) "Local governing body" means the chief governing body of a city, county, consolidated local government, or urban-county having legislative powers.
- (2) "Local government" means:
 - (a) A city, as established by KRS Chapters 67A, 67C, 83, and 83A;
 - (b) A county, as defined by KRS 212.626(5);
 - (c) A consolidated local government; or
 - (d) An urban-county government.

Section 2. Uniform Criteria for Granting Expanded Jurisdiction.

- (1) Inspector requirements. A local government shall employ or execute a legal contract with at least one (1):
 - (a) Individual certified as a building inspector, level III, in accordance with 815 KAR 7:070. The building inspector, level III, shall be responsible for reviewing plans, reviewing specifications, and performing building inspections; and
 - (b) Certified electrical inspector in accordance with KRS 227.489 and 815 KAR 35:015. The certified electrical inspector shall enforce the National Electric Code (NFPA 70) as adopted and incorporated into the Kentucky Building Code and Kentucky Residential Code.
- (2) Record retention.
 - (a) The local government shall be responsible for maintaining all records in compliance with the department's record retention schedule in accordance with 725 KAR 1:061.
 - (b) If the local government contracts with a person, firm, or company to perform plan and specification inspections or building inspection functions pursuant to KRS 198B.060(15), the local government shall be responsible for the records produced by the person, firm, or company in compliance with paragraph (a) of this subsection.
- (3) Minimum jurisdiction responsibilities. The local government shall maintain the minimum responsibilities required by KRS 198B.060(2), unless additional responsibilities are specifically agreed upon in writing between the local government and the department pursuant to KRS 198B.060(5) and this administrative regulation.
- (4) State jurisdiction. The department shall retain plan review, inspection, and enforcement responsibility pursuant to the Kentucky Building Code, 815 KAR 7:120, for all buildings that are:
 - (a) Institutional buildings;
 - (b) Educational buildings;
 - (c) Licensed facilities as mandated by the Cabinet for Health and Family Services, including day care centers, hospitals, and nursing homes;
 - (d) State-owned and state-leased buildings and facilities;
 - (e) High-hazard occupancies, unless specifically agreed in writing by the local government and the department; and

(f) Industrialized building systems (including modular homes), except for site placement and assembly of individual modular homes. A local government may permit placement and assembly locally. Local placement and assembly shall not commence until the local government submits written notification to the department for each placement.

Section 3. Application for Expanded Jurisdiction.

(1) Application. An authorized representative of a local government shall submit to the department:

- (a) A completed Application for Local Expanded Jurisdiction, Form BCE/EJ #1;
- (b) An affidavit certifying the local government employs or contracts with a certified building inspector, level III, and a certified electrical inspector, and the name and job title for each inspector;
- (c) A complete list of code enforcement personnel employed by or contracted with the local government, including the name, job title, and certification status of each individual;
- (d) Documentation of all permits issued and fees collected for the previous calendar year, if any, and an estimation of the anticipated increase in activity if granted expanded jurisdictional authority;
- (e) A complete list of each:
 - 1. Building occupancy, classification, and size for which expanded jurisdiction is requested; and
 - 2. Building occupancy, classification, and size for which expanded jurisdiction is not requested;
- (f) A copy of the local ordinance requiring single-family dwelling plan review and inspection within the jurisdiction;
- (g) A copy of the schedule of relevant fees adopted by the local governing body;
- (h) A copy of any agreement between the applicant and another local government pursuant to KRS 198B.060(14); and
- (i) A copy of any agreement between the applicant and any person, firm, or company to perform plan and specification inspections or building inspection functions pursuant to KRS 198B.060(15).

(2) Expanded jurisdiction agreement.

- (a) If the application is approved by the department, the department and the local government shall enter into an expanded jurisdiction agreement.
- (b) Each agreement for expanded jurisdiction shall be in effect for three (3) years, unless:
 - 1. Canceled by one or both parties in writing; or
 - 2. Preempted in whole or in part pursuant to subsection (1) of this section.
- (c) The local government shall notify the department within thirty (30) days of any changes in personnel or fees that differ from the terms of the agreement.

Section 4. Procedures for Maintaining Expanded Jurisdiction.

(1) Renewal. Before the expiration of the agreement, the local jurisdiction shall submit a Renewal Application for Expanded Jurisdiction on Form BCE/EJ #2. The renewal application shall include the submissions required by Section 3 of this administrative regulation.

(2) Renewal application review. After receiving and reviewing the local government's application for renewal, the department shall:

- (a) Reevaluate the building code enforcement program of the local government; and
- (b) Renew the local government's expanded jurisdiction agreement or deny the renewal request within forty-five (45) days of receiving the local program's renewal application and supporting documentation.

(3) Expanded jurisdiction monitoring. The department shall monitor the program of each local government granted expanded jurisdiction responsibilities. If a local government violates the requirements of this administrative regulation, the Kentucky Building Code, 815 KAR 7:120, the Kentucky Residential Code, 815 KAR 7:125, the terms of the expanded jurisdiction agreement, or KRS Chapters 198B, 236, or 318, the local government shall be subject to preemption, in whole or in part, by the department.

(4) The department shall retain plan review, inspection, and enforcement responsibility pursuant to the Kentucky Building Code, 815 KAR 7:120, for all buildings as specified in the original agreement for expanded local jurisdiction with the local government.

Section 5. Local Appeals Board.

(1) The local government with expanded jurisdiction may establish a local appeals board. A local appeals board shall operate in accordance with KRS 198B.070.

(2) If the local government establishes a local appeals board, the local government shall send a written notice to the department, which shall:

(a) Identify each member by name and qualifications for being appointed to the appeals board; and

(b) Include contact information for the local appeals board.

(3) If a local appeals board is not established, all costs incurred by the department to conduct hearings for appeals filed pursuant to KRS 198B.070(5) shall be charged to the local government.

Section 6. One

(1) and Two (2) Family Dwellings. (1) The local building inspection program shall not include the plan review and inspection for one (1) and two (2) family dwellings that are:

(a) Manufactured homes;

(b) Modular homes; or

(c) Farm dwellings.

(2) The local building inspection program shall include permits and inspections for the foundation system and other on-site construction related to modular home installations.

Section 7. Incorporation by Reference.

(1) The following material incorporated by reference:

(a) "Application for Local Expanded Jurisdiction", Form BCE/EJ #1, May 2020; and

(b) "Renewal Application for Expanded Jurisdiction", Form BCE/EJ #2, May 2020.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(27 Ky.R. 1405; 1812; eff. 1-15-2001; 34 Ky.R. 1224; 1739; eff. 2-1-2008; 37 Ky.R. 859; 1209; eff. 11-17-2010; 39 Ky.R. 1503; 1886; eff. 4-5-2013; 44 Ky.R. 2439; 45 Ky.R. 343; eff. 8-22-2018; TAm eff. 5-29-2020.)