

**BUILDING STANDARDS COMMISSION**

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CALIFORNIA BUILDING STANDARDS COMMISSION INFORMATION BULLETIN 19-05

DATE: June 24, 2019

TO: LOCAL BUILDING DEPARTMENTS
STATE AGENCIES AND DEPARTMENTS
CBSC INTERESTED PARTIES

SUBJECT: Applicability of California Building Standards and Local Government Amendments

This bulletin supersedes all other information bulletins previously issued by the California Building Standards Commission (CBSC) on this subject. This information bulletin serves to bring attention to requirements of state law establishing the application of the California Building Standards Code in Title 24 of the California Code of Regulations (Title 24), and how local government must enforce its provisions as applicable, may enact more restrictive requirements for local conditions, and adopt administrative regulations and approve alternatives.

Referenced State Law and Code

All state laws referenced herein may be viewed at the [California Legislative Information website](http://leginfo.legislature.ca.gov/) <http://leginfo.legislature.ca.gov/>. The thirteen parts of the California Code of Regulations, Title 24 may be accessed through the [California Building Standards Commission website](https://www.dgs.ca.gov/BSC) <https://www.dgs.ca.gov/BSC>. Referenced California Code of Regulations, Title 25, and provisions may be viewed at the [Office of Administrative Law website](https://oal.ca.gov/) <https://oal.ca.gov/>.

Applicability

The applicability of Title 24 is identified in the California Health and Safety Code (HS Code), which is state law. Within the HS Code there are two bodies of law addressing the application of Title 24. First is the California Building Standards Law, HS Code, Section 18901 et seq. found in Division 13, Part 2.5, and the second is the State Housing Law, HS Code, Section 17950 found in Division 13, Part 1.5. These provisions of law establish that Title 24 as published by the California Building Standards Commission and incorporating the latest editions of selected model codes

is the applicable code for all occupancies throughout the state, not the model codes by themselves. (The term “occupancy” as used in the California Building Standards Code is the method of classifying all buildings as to their designated use as structures).

Additionally, the Department of Housing and Community Development has adopted regulations implementing the State Housing Law in the California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1 (Title 25) for residential structures subject to the State Housing Law. These regulations, Title 24, and the requirements of the State Housing Law, are applicable in all parts of the state.

Local Government Adoption of Title 24 by Ordinance

- Title 24 is applicable to all occupancies throughout California, whether or not the local government takes an affirmative action to adopt Title 24. HS Code, Sections 17950 and 18938(d).
- The State Housing Law requires local building department enforcement of the Law, building standards, and implementation of regulations of the Department of Housing and Community Development for residential structures. HS Code, Sections 17950 and 18948.
- Local government should work closely with its legal counsel to develop an adopting ordinance pursuant to Government Code, Section 50020, et. seq., express findings for any amendment of Title 24, and provide for enforcement of Title 24.

Amendment by Local Ordinance

Local governments may amend the building standards, including the adoption of appendices, contained in Title 24 for all occupancies, and the regulations of the Department of Housing and Community Development in Title 25 applicable to residential structures. The provisions of law that permit these local government amendments contain subtle differences.

Local governments may also adopt other model codes, such as the Uniform Swimming Pool, Spa and Hot Tub Code, providing the adoption of such model codes does not conflict with state law, building standards or other adopted California regulations.

Local Government Amendments under the Building Standards Law

The Building Standards Law takes a straightforward approach to amendments by local governments. HS Code, Section 18941.5.

- The governing body of the local government must make express findings that amendments to the building standards, including green building standards and

adoption of appendices, contained in Title 24 are necessary because of local climatic, geological or topographical conditions. HS Code, Sections 17958.7 and 18941.5.

- The local government amendments must provide a more restrictive building standard, including green building standard, than that contained in Title 24. HS Code, Section 18941.5.
- The amendments are not effective until copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings, have been filed with the California Building Standards Commission. HS Code, Section 17958.7.

Local Government Amendments under the State Housing Law

The State Housing Law provides for amendment of building standards related to residential construction and for amendment of Title 25.

- The governing body of the local government must make an express finding that amendments to either the building standards, including green building standards and the adoption of appendices, for residential construction contained in Title 24, or the regulations of the Department of Housing and Community Development contained in Title 25, are reasonably necessary because of local climatic, geological or topographical conditions. HS Code, Sections 17958, 17958.5 and 17958.7. There is an exception in Title 25, Section 52 to the requirement for an express finding where alternate abatement procedures are determined by the local enforcement agency to be the equivalent of those contained in Title 25.
- Unlike the California Building Standards Law, there is no specific requirement in the State Housing Law that local government amendments provide either more restrictive building standards, including green building standards, than those contained in Title 24, or more restrictive regulations than those contained in Title 25. However, Title 24 provisions are the minimum standards, thus local amendments must be equivalent or more restrictive, but not less restrictive. HS Code, Sections 17958, 17958.5 and 17958.7.
- The amendments are not effective until copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings, have been filed with the California Building Standards Commission. HS Code, Section 17958.7.

Local Government Amendments under the Fire Protection District Law of 1987

Local government amendments to building standards in Title 24 adopted by the State Fire Marshal for fire and panic safety that are more stringent are permitted under this

provision of state law for fire protection districts organized under HS Code, Division 12, Part 2.7. Again, there are differences in how these amendments are implemented.

- The "governing body" shall be deemed to be the district board and the district shall be deemed to be the local agency. HS Code, Section 13869.7.
- The district board must make an express finding that amendments to building standards for fire and panic safety that are contained in Title 24 are necessary because of local climatic, geological or topographical conditions. HS Code, Section 13869.7.
- The district is required to notify the city, county, or city and county where the amendments will apply of the proposed amendments, and receive their comments. HS Code, Section 13869.7.
- Upon adoption by the district, the amendments are required to be presented for ratification to the city, county, or city and county where it will apply. HS Code, Section 13869.7.
- The amendment is not effective until ratification by the city, county, or city and county. Copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings, must be filed with the Department of Housing and Community Development by the city, county, or city and county where it will apply, along with the adopting ordinance and any findings of the city, county, or city and county. HS Code, Sections 17950, 17958.7 and 18941.5.

Filings with the California Building Standards Commission

Filings submitted to the California Building Standards Commission (CBSC) are reviewed and processed in the following manner:

- The absence of a filing with CBSC of local government amendments implies that Title 24 is applicable within that local jurisdiction, without amendment. HS Code, Sections 17950, 17958.7 and 18941.5

Local ordinances that only adopt Title 24 by reference without amendments need not be filed with the California Building Standards Commission or the Department of Housing and Community Development. Refer to HS Code, Section 18909 regarding a local regulation that is not deemed a building standard.

- CBSC may acknowledge in writing acceptance of the filings by local governments that meet the requirements of HS Code, Section 17958.7.
- CBSC is not authorized by law to evaluate the merits of the express findings of a local government as to the local climatic, geological or topographical conditions necessitating its amendments.

- CBSC will reject, in writing, the filings by local governments proposing to adopt and amend model codes. Only Title 24, incorporating model codes and including California amendments by the state agencies, and the related regulations of the Department of Housing and Community Development, are subject to adoption and amendment by local governments. HS Code, Sections 17958, 17958.5 and 17958.7.
- The California Building Standards Commission may reject, in writing, the filings by local governments where no express findings are submitted with proposed amendments. No express findings may be deemed to have been submitted under the following circumstances:
 - There is, in fact, no express findings submitted with the proposed amendments. HS Code, Section 17958.7.
 - The proposed amendments are not expressly marked and identified as to the applicable express findings. HS Code, Sections 17950 and 18941.5.
 - There is no evidence by signature(s), certification of the city/county clerk, transmittal letter or other reasonable means to validate that the express findings were a lawful action of the governing body of the local jurisdiction.

CBSC requests that electronically filed ordinances submitted to CBSC be provided in an accessible readable PDF (Portable Document Format) or that a website URL be provided that serves as a link to the ordinance(s) posted on the local jurisdiction's website. This is so that persons with disabilities can readily access and read the filings. California Government Code, Section 7405 enacted through Senate Bill 1442 (Liu, Chapter 870, Statutes of 2016) requires that state agencies comply with the accessibility requirements of the Federal Rehabilitation Act of 1973 and regulations implementing that Act. Electronic filings received by CBSC that are not accessible must be reformatted for posting on CBSC's website. Local jurisdiction assistance in this regard will help to avoid complications in making the filings readily available to the disability community.

Local Administrative Ordinances

Local regulations necessary to carry out procedures by a city, county, or city and county relating to civil, administrative, or criminal procedures and remedies available for enforcing code violations, and that do not establish building standards, may be enacted without meeting the requirements of HS Code, Sections 17958, 17958.5, 17958.7 and 18941.5.

However, amendments to administrative provisions in Title 24 that relate to the implementation or enforcement of a building standard that do not have express findings that each amendment is reasonably necessary because of local climatic, geological, topographic or environmental conditions and/or are not expressly marked is reason for rejection of the filing.

An example of an amendment of an administrative requirement necessitating an express finding is where a local ordinance changes when a permit is required by modifying the height provision for a fence. The administrative provisions of Title 24 do not require a permit for fencing not over 7' in height. A local ordinance changing the height requirement to 6' necessitates a permit, and compliance with design provisions (building standards) would be mandatory, thereby implementing or enforcing a building standard.

Local Approval of Alternatives

Local building departments have authority under HS Code, Section 17951(e) to allow alternative materials and methods of construction that are not specifically adopted in Title 24. Said section is from the State Housing Law with application to the design and construction of hotels, motels, lodging houses, apartments, condominiums and dwellings. Thus, an alternative material or method of construction not specifically adopted in Title 24 may be approved on a case-by-case basis for residential structure construction under the conditions stated in HS Code, Section 17951(e), without the need for a local ordinance or code amendment.

Additional Resources

The [Local Code Ordinances webpage](#) on CBSC's website has a number of helpful resources including the 2019 edition of the [Guide for Local Amendments of Building Standards](#), examples of acceptable ordinances that were filed in accordance with state law, and the *California Code Adoption for Local Jurisdictions* webinar which is in the process of being updated and expected to be available by July 1, 2019. This webinar is a joint effort with the California Building Standards Commission, California Building Officials Association and the International Code Council. We highly recommend reviewing the guide and updated webinar after reading this bulletin, as these additional resources provide an in-depth overview of required ordinance filings with numerous state agencies and the approval of certain building standards such as amendments to the California Energy Code, Part 6 of Title 24.

Questions or comments regarding the contents of this information bulletin should be directed to CBSC's staff at either (916) 263-0916 or [email CBSC](#).



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