

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
DIVISION OF THE STATE ARCHITECT (DSA-AC)
REGARDING THE 2022 CALIFORNIA BUILDING CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
(DSA-AC 01/22)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Division of the State Architect (DSA-AC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The DSA-AC is proposing building standards related to the 2022 California Building Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(1) and 11346.8.

DSA-AC will hold a public hearing live on Zoom at 10:00 am, on March 23, 2023, during which time any person may present statements or arguments relevant to the proposed regulatory action summarized below.

Reference: Government Code Section 11346.5(a)(15).

Written comments will be accepted by CBSC regarding the proposed changes from March 10, 2023, until midnight on April 24, 2023.

Comments may be submitted to CBSC via:

[e-Comment form](https://dgs.ca.gov/BSC/e-comments): dgs.ca.gov/BSC/e-comments

US Mail postmarked no later than April 24, 2023:

California Building Standards Commission
Attention: Public Comments
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Note: Only comments received in an accessible format will be viewable via CBSC's website. Use the e-Comment form to ensure accessibility.

The public will have an opportunity to provide written and oral comments regarding the proposed action on building standards at a CBSC public meeting. CBSC will schedule the meeting near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.1. The purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Sections 4450 through 4452, 4455.5, 4456, 4457, 4459, 12955.1 and 14679, Health and Safety Code Sections 19952 through 19959 and Vehicle Code Section 22511.8.

The Division of the State Architect is proposing this regulatory action based on Government Code Section 4450.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Government Code Section 4450 authorizes the State Architect to develop regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.

Government Code Section 4451 limits the application to buildings and facilities intended for use by the public, with reasonable availability to persons with disabilities, including educational facilities and including those buildings and facilities constructed with state, county, or municipal funds, including any political subdivision thereof. Includes temporary and emergency construction.

Government Code Section 4452 states that it is the intent of the Legislature that the building standards relating to disabled access are intended to be used as minimum requirements to ensure that buildings and facilities are accessible to, and functional for, disabled persons.

Government Code Section 4455.5 establishes the need for elevators to have braille and raised numerals at buttons and door casings.

Government Code Section 4456 establishes that buildings and facilities constructed prior to Nov. 13, 1968 must comply with accessibility provisions when undertaking an alteration, structural repair, or addition.

Government Code Section 4457 requires that portable school buildings be accessible, with some exceptions.

Government Code Section 4459 directs the State Architect to develop amendments to building regulations as necessary to meet state regulations and minimum federal accessibility standards.

Government Code Section 12955.1 requires that building standards for public housing must meet minimum requirements of this section and meet or exceed the

requirements of the federal Fair Housing Act and implementing regulations; and gives the Division of the State Architect authority to propose regulations as deemed appropriate and necessary to implement, interpret, or make specific the provisions contained therein.

Government Code Section 14679 requires the State Architect to develop regulations for parking facility accessibility.

Health and Safety Code Section 18949.1 transfers responsibility to adopt regulations relating to building standards from the Division of the State Architect to the Building Standards Commission.

Health and Safety Code Section 19952 requires certain places of public amusement to provide accessible features and elements.

Health and Safety Code Section 19952.5 requires certain places of public amusement to provide adult changing facilities for the use of people with disabilities.

Health and Safety Code Section 19955 requires certain public accommodations and facilities be accessible to persons with disabilities.

Health and Safety Code Section 19956.5 requires that public walks and curbs be accessible.

Health and Safety Code Section 19957 provides exceptions from the literal building standards in the cases of unnecessary hardship or technical difficulty and sets enforcement and equivalent facilitation standards.

Health and Safety Code Section 19958 provides authority for enforcement of building regulations.

Health and Safety Code Section 19959 requires existing public accommodations to provide accessible features when alterations, structural repairs, or additions are undertaken.

Vehicle Code Section 22511.8 requires off street parking facilities to provide accessible parking and directs the State Architect to develop appropriate regulations to ensure compliance.

Summary of Existing Regulations

Existing regulations promulgated by DSA-AC are contained in the California Building Code (Title 24, Part 2). These regulations are applicable to:

1. Publicly funded buildings, structures, sidewalks, curbs and related facilities;
2. Privately funded public accommodations and commercial facilities;
3. Public housing and private housing available for public use;
4. Any portable buildings leased or owned by a school district; and
5. Temporary and emergency buildings and facilities.

Summary of Effect

The proposed action would update the CCR, Title 24, Part 2 by:

- Adding technical requirements for wheelchair spaces at Safe Dispersal Areas.
- Clarifying scoping and technical requirements for accessibility at multi-user all-gender toilet rooms.
- Adding technical requirements for accessibility at urinals in compartments.
- Revising existing scoping requirements for public housing to match scoping at federal Fair Housing Act.
- Revising existing requirements for Adult Changing Facilities to match Health and Safety Code requirements.
- Removing duplicative text for site impracticality tests.
- Adding technical requirements for privacy latches at individual toilet room compartments.
- Clarifying existing references to Chapters 11A and 11B.
- Clarify existing terminology for indicating a slope.

Comparable Federal Statute or Regulations

Comparable federal statutes and regulations include:

- Regulations for Title II and Title III of the Americans with Disabilities Act of 1990, as adopted by the US Department of Justice. The regulations provide enforceable standards for accessible design, known as the 2010 ADA Standards for Accessible Design, in three parts.
 1. 2010 Standards for State and Local Government Facilities: Title II Regulations at 28 CFR Part 35.151;
 2. 2010 Standards for Public Accommodations and Commercial Facilities: Title III Regulations at 28 CFR Part 36, Subpart D; and
 3. 2010 Standards for Title II and III Facilities: 2004 ADAAG
- Fair Housing Amendments Act of 1988.

Policy Statement Overview

The proposed building standards are intended to implement new accessibility provisions and clarify existing accessibility provisions contained in the 2022 California Building Code to ensure that publicly funded buildings, structures, sidewalks, curbs, and related facilities shall be accessible to and usable by persons with disabilities; privately funded public accommodations and commercial facilities shall be accessible to and usable by persons with disabilities; and public housing shall be accessible to and usable by persons with disabilities.

Evaluation of Consistency

There are no inconsistent or incompatible regulations proposed.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

There are no other matters prescribed by statute applicable to DSA-AC, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

DSA-AC has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

Estimate: \$0

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

DSA-AC has made an initial determination that the adoption of this regulation will make specific the effective date as required by statute (Ref. H&S 19952.5) for alterations to places of public amusement. The adoption of these regulations will not create adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states beyond the requirements as established by legislation.

Declaration of Evidence

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relied upon to support its initial determination of no effect.

No facts, evidence, documents, testimony or other evidence were submitted during pre-cycle outreach workshops indicating that there would be a significant statewide adverse economic impact to business.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

N/A

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

The Division of the State Architect estimates that the cost of compliance with these proposed regulations will be minimal. Clear and consistent scoping and technical requirements benefit code users, building officials, and building and facility owners.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The DSA-AC has assessed whether and to what extent this proposal will affect the following:

- A. The creation or elimination of jobs within the State of California.**
DSA-AC has determined that the proposed action has no effect.
- B. The creation of new businesses or the elimination of existing businesses within the State of California.**
DSA-AC has determined that the proposed action has no effect.
- C. The expansion of businesses currently doing business within the State of California.**
DSA-AC has determined that the proposed action has no effect.
- D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**
The Division of the State Architect has determined that the proposal establishes the minimum requirements to safeguard the public health, safety and general welfare through access to persons with disabilities.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

DSA-AC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

DSA-AC has determined that no reasonable alternative considered by DSA-AC or that has otherwise been identified and brought to the attention of DSA-AC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. In addition, no reasonable alternative considered by DSA-AC or that has otherwise been identified and brought to the attention of DSA-AC would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [CBSC website](https://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](https://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

DSA-AC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. The statement shall note that providing the accessible description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Irina Brauzman, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Eric Driever, Principal Architect
Division of the State Architect
Headquarters, Codes and Policies
(916) 443-9829
eric.driever@dgs.ca.gov

Back up Contact:

Michelle Davis, Supervising Architect
Division of the State Architect
Headquarters, Codes and Policies
(279) 799-3835
michelle.davis@dgs.ca.gov