

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGARDING THE 2019 CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
(HCD 01/19)**

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et seq.,. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the California Department of Housing and Community Development (HCD), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. HCD is proposing building standards related to the 2019 California Building Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 24, 2020**, until **5:00 PM on June 8, 2020**.

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 **June 8, 2020**:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Michael Nearman, Deputy Executive Director

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

Written comments may also be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date 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 the 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).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code sections 1101.4 and 1101.5; and Government Code sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on HSC sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 17958.12, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5, 18938.3, 18944.11, and 19990; and Government Code section 12955.1.

INFORMATIVE DIGEST

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

Summary of Existing Laws

HSC section 17040 requires HCD to adopt building standards for employee housing for "... the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

HSC section 17921 and Government Code section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards to the CBSC.

HSC section 17958.12 requires HCD to adopt regulations to recognize retroactive permits.

HSC section 17980.12 provides for delays in corrections of building violations to accessory dwelling units. Operative until January 1, 2035.

HSC sections 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

Government Code section 8698 authorizes local agencies to declare a shelter crisis which will suspend state or local building standards for emergency housing. Government Code section 8698.3 specifically addresses a shelter crisis for the City of San Jose requiring a minimum of 70 square feet interior space for one

occupant for emergency sleeping cabins as used for emergency bridge housing.

Summary of Existing Regulations

The 2019 California Building Standards Code, title 24, California Building Code (CBC), part 2, adopted by reference the 2018 International Building Code (IBC) with California amendments, and became effective on January 1, 2020.

Existing CBC regulations specifically related to the proposed changes:

- Require permits to be based on building standards approved by the CBSC and in effect at the time of permit application.
- Require building permits to be obtained prior to the construction or alteration of buildings.
- Address local authority to enforce and provide a reference to the State Housing Law related to several actions available for enforcing unsafe buildings and structures.
- Includes definitions to clarify terms as used within the text of the CBC.
- Provides a reference to specific HSC sections specifying requirements for garage door openers for new construction.
- Requires a 10-day notification period for informing adjacent building owners when excavating on neighboring property.
- Provides a voluntary Appendix O, available for adoption by local agencies, for purposes of providing minimum standards for emergency housing. When adopted as-is or as-amended by local agencies, the appendix becomes mandatory at the local level.

Summary of Effect

Summary of effect of the proposed specific changes on existing CBC regulations:

- Addition of text related to the use of retroactive permits for approval of existing unpermitted residential structures and recognition of the application of prior applicable building codes, in force, at or near the time of the unpermitted construction, based on the determination of the local enforcing agency. This is not a mandate and clarifies existing law and practice. The benefit of this amendment will make clear to local enforcing agencies the ability to issue retroactive permits which will increase the number of legally permitted existing buildings that were constructed without construction permits issued by the local enforcement agency and ensure the health and safety therein.
- Addition of text providing a reference to special enforcement procedures related to delayed correction of building violations will allow occupancy of accessory dwelling units that need correction, but do not endanger health and safety. The text also acts as a reference to the statutory section authorizing the delay in correction.
- Addition of text requiring an inspection for wood covers protecting connections in mass timber buildings.

- Definitions are proposed for “accessory dwelling unit” and “mass timber” to clarify the meaning of the terms as used in new proposed text. The definition for “wall, load-bearing” is amended to clarify application to construction Type IV-Heavy Timber.
- Addition of text and a reference to existing statute related to garage door openers will notify code users of prohibitions on sale, installation of garage door openers without a battery backup function and the requirement that when a garage door containing a non-battery backup function is replaced, the new garage door must include a door opener with a battery backup
- Adds an exception to the minimum interior size of emergency housing structures based on discretion of the local enforcing agency. The minimum size is reduced from 70 square feet to 53 square feet to allow use of an eight-foot square unit.
- Adds several new sections related to special inspections for mass timber buildings and amends some sections to and make other clarifying changes related to special inspections.
- Adds a method for determining fire resistance ratings for connections in mass timber buildings.
- Adds clarifying changes to sections addressing floors and roof decks in heavy timber buildings.
- Clarifies provisions addressing membrane structures to only apply to the original Type IV Heavy Timber construction type.
- Addition of a note to clarify that the Civil Code includes a 30-day time period for property owners to protect their property which may be impacted by adjacent excavation. This note clarifies that a longer time period will be allowed versus the 10-day notification period in the current existing regulations.
- Adds a new referenced standard to Chapter 35’s list of referenced standards.

These changes will affect the following programs:

- a) State Housing Law: Relative to residential occupancies, buildings or structures accessory thereto in accordance with HSC section 17910 et seq. Relative to the Federal Fair Housing Amendment Act and state statutory accessibility requirements in accordance with Government Code sections 12955.1 and 12955.1.1, except where the application is for public accommodations only.
- b) Employee Housing: relative to the use of any buildings or structures used for employee housing in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300 and 18865.
- d) Factory-built Housing: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance

with HSC section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The proposed regulations will adopt, amend or repeal existing building standards and establish new building standards, which will affect residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs. Further benefits anticipated from this proposed regulatory action include more opportunities for available housing by increasing awareness of the statutory provisions for retroactive permits, permitting occupancy to continue in ADU's and delays a building violation corrections when the violation is not impactful to health and safety; and allowing additional types of structures to be used for emergency housing purposes.

Proposal of code changes related to tall wood buildings and mass timber, implement the Governor's Executive Order B-52-18 and the Legislature's Assembly Concurrent Resolution 102 (June 6, 2019) urging the Office of the State Fire Marshal (SFM) to adopt regulations for the use of mass timber products for residential and commercial building construction. Code changes proposed for tall wood buildings and use of mass timber are co-adoption with the SFM and other state agencies.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

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).

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD's proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

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

An estimate, prepared in accordance with instructions adopted by the 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 additional costs or savings beyond those imposed by existing law.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No additional costs or savings beyond those imposed by existing law.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: There is no additional cost of compliance for the proposed regulations. See discussions in Initial Statement of Reasons for individual sections for benefits and any assumptions.

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 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.

HCD has made an initial determination that the amendment of these regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

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 relies upon to support its initial determination of no effect.

HCD's proposed regulations recognize the consideration and possible issuance of retroactive permits by local agencies and possible delay in correction of ADU building violations. Neither would have an adverse impact on businesses. Statutory provisions related to the proposed regulations will have been in effect by the time the regulations become effective and therefore no additional costs beyond those already in existing law.

In addition, the provisions related to retroactive permits address existing practices at the local agency level.

The proposed regulations related to garage door openers provide references (pointers) to existing statutory requirements, therefore, the statutory requirement will prevail whether these regulations are adopted or not. HSC section 19892 also prohibits the sale and installation of garage door openers without battery backup as of July 1, 2019. Therefore, there is no increased cost for compliance beyond the existing statutory requirement since only the garage door openers with battery backup would be available for purchase and installation in California. HCD has confirmed the availability of garage door openers with battery backup functions on popular hardware store websites.

The proposed regulations related to construction of tall wood buildings and use of mass timber provide an optional (voluntary) design and construction method using mass timber. The regulations do not mandate building with mass timber, therefore, there is no mandated fiscal impact. The proposed regulations related to decreasing the allowable minimum interior floor space of emergency housing will allow the use of additional structures currently viewed as non-compliant. Therefore, the proposed regulations will not have an adverse economic impact on businesses.

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.

No reporting requirements are proposed.

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:

HCD is not aware of any additional cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action beyond current costs based on existing law. The use of mass timber or construction of tall wood buildings is a design option and not mandated, therefore, the related provisions do not have mandated costs.

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

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

HCD has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of businesses within the State of California. However, these regulations may provide the incentive to produce cross-laminated timber in California, but according to the SFM, it is unlikely to occur within the 18-month effective period of the regulations. These proposals may create the opportunity for manufacturers to move into the state, but to what extent is unknown.

C. The expansion of businesses currently doing business within the State of California.

These regulations may affect the expansion of businesses currently doing business within the State of California if the mass timber/tall wood buildings become a common design option chosen by designers and builders. The acceptance and use of this building type cannot be determined at this time.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations may allow occupancy of previously unpermitted structures or structures needing repair while ensuring protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

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

No increased cost of compliance (from the existing statutory requirements) for the proposed California amendments. See additional information in the Initial Statement of Reasons.

CONSIDERATION OF ALTERNATIVES

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

There were no feasible alternatives available to HCD. The exclusion of statutory requirements may cause conflict within the code and confusion for code users. The Governor's Executive Order B-52-18 directed HCD and other specified agencies to consider proposing adoption of the International Code Council's Ad Hoc Committee on Tall Wood Buildings proposals for the intervening code cycle.

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](#).

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](#).

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

HCD 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, and that providing the 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:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-5888

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

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

Emily Withers, Codes and Standards Administrator II
California Department of Housing and Community Development
P.O. Box 278180
Sacramento, CA 95827-8180
Telephone: (916) 263-2998
Email: Emily.Withers@hcd.ca.gov

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