

# HEALTH AND SAFETY CODE

## SECTION 18935-18944.15

18935. (a) Notice of proposed building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of the building standards and submission to the commission for approval. The notice of proposed building standards and the initial statement of reasons for the proposed building standards shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The adopting agency or state agency that proposes the building standards shall submit the notice and initial statement of reasons for proposed building standards to the California Building Standards Commission, which shall review them for compliance with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. If the commission determines that the adopting agency or state agency that proposes the building standards has complied with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the commission shall approve the notice and initial statement of reasons for proposed building standards, and submit them to the Office of Administrative Law for the sole purpose of inclusion in the California Regulatory Notice Register. The Office of Administrative Law shall publish only those notices of proposed building standards which have been approved by, and submitted to, the office by the California Building Standards Commission.

(b) In order to ensure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the commission prior to public notices of the hearing being given by the adopting agencies.

(c) If, after building standards are submitted to the commission for approval, the commission requires changes therein as a condition for approval, and the changes are made, no additional hearing by the affected state agency shall be required in connection with making the changes when the commission determines the changes are nonsubstantial, solely grammatical in nature, or are sufficiently related to the text submitted to the commission for approval that the public was adequately placed on notice that the change could result from the originally proposed building standards.

18936. The commission shall mail notices of meetings with respect to its proposed action on any building standards to any design profession organizations, chambers of commerce, consumer groups, building and construction industry organizations, governmental agencies, and other parties and organizations that have submitted a written request therefor at least 15 days prior to any meeting

thereon, provided that the failure to do so shall not invalidate any commission action.

18937. (a) Emergency standards shall be acted on by the commission within 30 days and only when the adopting agency or state agency that proposes the building standards has made the finding of emergency required by Sections 11346.1 and 11346.5 of the Government Code and the adopting agencies have adopted the emergency standard in compliance with Section 11346.1 of the Government Code, and the commission concurs with that finding. Both the concurrence and the approval of the emergency building standards require an affirmative vote of two-thirds of the members of the commission attending a meeting, or not less than six affirmative votes, whichever is greater.

(b) Emergency standards approved by the commission pursuant to subdivision (a) shall be filed by the commission pursuant to Section 11346.1 of the Government Code and shall be subject to that section.

18938. (a) Building standards shall be filed with the Secretary of State and codified only after they have been approved by the commission and shall not be published in any other title of the California Code of Regulations. Emergency building standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the commission as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.

(b) The building standards contained in the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc., the Uniform Building Code of the International Conference of Building Officials, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the National Electrical Code of the National Fire Protection Association, and the Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as referenced in the California Building Standards Code, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Building Standards Code by the California Building Standards Commission or at a later date after publication established by the commission.

(c) Except as otherwise provided in this subdivision, an adoption, amendment, or repeal of a building standard shall become effective 180 days after its publication in the triennial edition of the California Building Standards Code or one of its supplements, or at any later date as approved by the California Building Standards Commission, with the exceptions of standards adopted pursuant to Section 25402 of the Public Resources Code and those regulations that implement or enforce building standards. Regulations that implement or enforce building standards shall become effective 30 days after filing by the commission with the Secretary of State. This

subdivision shall not apply to emergency building standards. An amendment or a repeal of a building standard in the California Building Standards Code that, as determined by the commission, would result in a less restrictive regulation, shall become effective 30 days after filing of the amendment or repeal by the commission with the Secretary of State.

(d) Emergency standards defined in subdivision (a) of Section 18913 shall become effective when approved by the commission, and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11346.1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties. Notice of repeal, pursuant to Section 11346.1 of the Government Code, of emergency standards defined in subdivision (a) of Section 18913 within the period specified by that section, shall also be given to the parties by the affected agencies promptly after the termination of the statutory period pursuant to Section 11346.1 of the Government Code.

(e) This section shall not be applicable to the time limits set forth in Sections 17922 and 17958 for approval of uniform codes and for changes by local agencies in the California Building Standards Code.

18938.3. With respect to the model codes that are designated in Sections 17922 and 18938 to serve as the basis for the California Building Standards Code but are no longer published, the building standards adopted and approved by the commission shall be those contained in the most recent editions of the model codes adopted or approved by the commission to serve as the basis for the 2007 triennial edition of the California Building Standards Code. Those model codes designated in Sections 17922 and 18938 that continue to be published and updated shall continue to serve as the basis for the California Building Standards Code. With respect to Section 17922, other model codes may be considered for use, proposal, approval, or adoption, or any combination thereof, provided they do not duplicate building standards, as proposed by the Department of Housing and Community Development and adopted by the commission, the subject matter of the model codes which serve as the basis for the 2007 triennial edition of the California Building Standards Code.

18938.5. (a) Only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, shall apply to the plans and specifications for, and to the construction performed under, that building permit.

(b) (1) A local ordinance adding or modifying building standards for residential occupancies, which are published in the California Building Standards Code, shall apply only to an application for a building permit submitted after the effective date of the ordinance and to the plans and specifications for, and the construction performed under, that permit.

(2) Paragraph (1) shall not apply to any of the following:

(A) A city or county that has been subject to an emergency

proclaimed pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8850) of Division 1 of Title 2 of the Government Code).

(B) A permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or the permittee has suspended or abandoned the work authorized by the permit at any time after the work is commenced.

(C) A permit that is subsequently deemed suspended or revoked because the building official has, in writing, suspended or revoked the permit due to its issuance in error or on the basis of incorrect information supplied.

(c) No model code made applicable to any additional occupancy shall apply to any project that has been submitted for a building permit prior to the effective date of that model code.

18940. Codification of building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Code of Regulations.

18941. All building standards shall be administered and enforced and, whenever practicable, written on a performance basis consistent with state and nationally recognized standards for building construction in view of the use and occupancy of each structure to preserve and protect the public health and safety.

18941.5. (a) (1) Amendments, additions, and deletions to the California Building Standards Code, including, but not limited to, green building standards, adopted by a city, county, or city and county pursuant to Section 18941.5 or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(2) The publication date established by the commission shall be no earlier than the date the California Building Standards Code is available for purchase by the public.

(b) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards, including, but not limited to, green building standards, reasonably necessary because of local climatic, geological, or topographical conditions. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply to that finding. Nothing in this section shall limit the authority of fire protection districts pursuant to subdivision (a) of Section 13869.7. Further, nothing in this section shall require findings required by Section 17958.7 beyond those currently required for more restrictive building standards related to housing.

18941.6. (a) Notwithstanding any other provision of this part, ordinances and programs adopted on or before January 1, 1993, that contain standards to strengthen potentially hazardous buildings pursuant to subdivision (b) of Section 8875.2 of the Government Code, shall incorporate the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials published in the California Building Standards Code, except for standards found by local ordinance to be inapplicable based on local conditions, as defined in subdivision (b), or based on an approved study pursuant to subdivision (c), or both. Ordinances and programs shall be updated in a timely manner to reflect changes in the model code, and more frequently if deemed necessary by local jurisdictions.

(b) For the purpose of subdivision (a), and notwithstanding the meaning of "local conditions" as used elsewhere in this part and Part 2.5 (commencing with Section 18901), the term "local conditions" shall be limited to those conditions that affect the implementation of seismic strengthening standards on the following only:

(1) The preservation of qualified historic structures as governed by the State Historical Building Code (Part 2.7 (commencing with Section 18950)).

(2) Historic preservation programs, including, but not limited to, the California Mainstreet Program.

(3) The preservation of affordable housing.

(c) Any ordinance or program adopted on or before January 1, 1993, may include exceptions for local conditions not defined in subdivision (b) if the jurisdiction has approved a study on or before January 1, 1993, describing the effects of the exceptions. The study shall include a seismic hazards assessment, seismic retrofit cost comparisons, and earthquake damage estimates for a major earthquake, including the differences in costs, deaths, and injuries between full compliance with Appendix Chapter 1 of the Uniform Code for Building Conservation and the ordinance or program. No study shall be required pursuant to this subdivision if the exceptions for local conditions not defined in subdivision (b) result in standards or requirements that are more stringent than those in Appendix Chapter 1 of the Uniform Code for Building Conservation.

(d) Ordinances and programs adopted pursuant to this section shall be conclusively presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.

18941.7. Subject to Section 14877.3 of the Water Code, a city, county, or other local agency may adopt, after a public hearing and enactment of an ordinance or resolution, building standards that are more restrictive than the graywater building standards adopted by the Department of Housing and Community Development under Section 17922.12 and published in the California Building Standards Code.

18941.8. (a) As used in this section, "graywater" has the same meaning as defined in Section 17922.12.

(b) Notwithstanding Chapter 22 (commencing with Section 14875) of Division 7 of the Water Code, as a part of the next triennial edition of the California Building Standards Code (Title 24 of the California Code of Regulations) adopted after January 1, 2011, the commission shall adopt building standards for the construction, installation, and alteration of graywater systems for indoor and outdoor uses in nonresidential occupancies.

(c) In adopting building standards under this section, the commission shall do all of the following:

(1) Ensure protection of water quality in accordance with applicable provisions of state and federal water quality law.

(2) Consider the adopted building standards for the construction, installation, and alteration of graywater systems for indoor and outdoor uses in residential buildings.

(3) Consider existing research available on the environmental consequences to soil and groundwater of short-term and long-term graywater use for irrigation purposes.

(4) Consider graywater use impacts on human health.

(5) Consider the circumstances under which the use of graywater treatment systems in nonresidential occupancies is recommended.

(6) Consider the use and regulation of graywater in other jurisdictions.

(7) Use Chapter 16 of the Uniform Plumbing Code, adopted by the International Association of Plumbing and Mechanical Officials, as the starting point for the building standards and amend those standards as necessary.

(d) The commission may revise and update the standards adopted under this section at any time.

(e) The commission's adoption of building standards for graywater systems pursuant to this section shall terminate the authority of the Department of Water Resources to adopt and update standards for the installation, construction, and alteration of graywater systems in nonresidential buildings pursuant to Chapter 22 (commencing with Section 14875) of Division 7 of the Water Code.

18941.9. The commission shall, in the next triennial adoption process for the code adopted after the development of a standard specification by the Department of Transportation pursuant to subdivision (b) of Section 71400 of the Public Resources Code, consider incorporating that specification as an additional strategy for Heat Island Effect: Hardscape Alternatives in the California Green Building Standards Code (Section A5.106.11.1 of Appendix 5 of Part 11 (commencing with Section 101.1) of Title 24 of the California Code of Regulations).

18942. (a) The commission shall publish, or cause to be published, editions of the code in its entirety once in every three years. In the intervening period the commission shall publish, or cause to be published, supplements as necessary. For emergency building standards defined in subdivision (a) of Section 18913, an emergency building standards supplement shall be published whenever the commission determines it is necessary.

(b) The commission shall publish the text of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division

104, within the requirements for single-family residential occupancies contained in Part 2.5 of Title 24 of the California Code of Regulations, with the following note:

"NOTE: These regulations are subject to local government modification. You should verify the applicable local government requirements at the time of application for a building permit."

(c) The commission shall publish the text of Section 116064.2 within Part 2 of Title 24 of the California Code of Regulations.

(d) The commission may publish, stockpile, and sell at a reasonable price the code and materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price. Each state department concerned and each city, county, or city and county shall have an up-to-date copy of the code available for public inspection.

(e) (1) Each city, county, and city and county, including charter cities, shall obtain and maintain with all revisions on a current basis, at least one copy of the building standards and other state regulations relating to buildings published in Titles 8, 19, 20, 24, and 25 of the California Code of Regulations. These codes shall be maintained in the office of the building official responsible for the administration and enforcement of this part.

(2) This subdivision shall not apply to a city or county that contracts for the administration and enforcement of the provisions of this part with another local government agency that complies with this section.

18942.1. (a) If a regulation or order of repeal is filed with the Office of Administrative Law, and if it appears to be a building standard, as defined by Section 18909, which has not been approved by the commission, the Office of Administrative Law shall consult with the commission or the commission's staff to determine the character and status of the filed regulation or order. Any building standard improperly transmitted to the Office of Administrative Law, as determined according to this section, shall not be then filed with the Secretary of State, but, instead, the Office of Administrative Law shall transmit the building standard to the commission and notify the adopting agency of this action.

(b) If an administrative regulation or order of repeal is filed with the commission and it does not directly apply to the implementation or enforcement of a building standard, it shall not be submitted to the commission for action, but, instead, the commission shall transmit the regulations to the Office of Administrative Law and notify the submitting agency of this action.

18943. Building standards in individual titles of the California Code of Regulations other than the California Building Standards Code shall have no force or effect after January 1, 1985.

18944. State agencies shall adopt regulations for publication in

the titles of the California Code of Regulations containing other regulations of the agency to identify, by reference, the appropriate sections of the California Building Standards Code containing those building standards for which that agency has enforcement responsibility.

18944.5. The code shall be binding on the state and other public agencies, including federal agencies to the extent permitted by federal law, in the same manner as it binds private parties or entities.

18944.7. The alternative building regulations and building standards authorized under the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13) which have been published in Part 8 of the California Building Standards Code shall be maintained as a separate and distinct part or portion of the California Building Standards Code pursuant to that title.

18944.11. On or before July 1, 2009, any state agency that adopts or proposes building standards for plumbing systems shall consider developing building standards that would govern the use of nonwater-supplied urinals for submission to the California Building Standards Commission in accordance with Sections 17921.4 and 18930.

18944.15. (a) Upon the publication date of the 2013 California Building Standards Code as adopted by the commission as part of the 2012 triennial code adoption cycle, for the purpose of any claim brought under Section 51, 54, 54.1, or 55 of the Civil Code based in whole, or in part, on an alleged violation of a construction-related accessibility standard, compliance with the building standards for disabled accessibility as provided in Chapter 11B of Part 2 of Title 24 of the 2013 California Building Standards Code shall be authorized as an alternative method of compliance.

(b) Subdivision (a) shall become inoperative when the provisions of the 2013 California Building Standards Code become effective pursuant to Section 18938.

(c) This section shall become operative on January 1, 2013.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

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