

arate application is required for each advertised vacancy on a Code Advisory Committee. The Commission will not maintain applications on file for future consideration.

(b) **Application form.** For each Code Advisory Committee vacancy, a completed *Application for Code Advisory Committee Appointment*, form BSC-7, shall be submitted to the office of the Executive Director, California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, CA 95833. The current address may be verified at the Commission's website: www.bsc.ca.gov. The application form is available from the Commission or may be obtained on the Commission's website under Forms, Templates and Checklists.

The application shall be accompanied by a resume and may be further supported by attachments including letters of support or recommendation and other materials demonstrating expertise and knowledge applicable to the Code Advisory Committee position.

(c) **Application period.** When advertising a vacancy on a Code Advisory Committee, the Commission may establish an application period with a closing date and may, at its discretion, consider applications received after the closing date.

(d) **Selection decision.** The Commission will consider applications and make selections based on qualifications applicable to the Code Advisory Committee vacancy. All decisions by the Commission regarding appointments to Code Advisory Committees are final and are not subject to appeal.

(e) **Notice of appointment.** The Executive Director, or his or her designee, shall provide written notice to applicants selected by the Commission for appointment to a Code Advisory Committee. Written notice shall also be provided to all applicants not selected for appointment to a Code Advisory Committee.

(f) **Application fee.** There is no application fee.

Authority: Health and Safety Code Sections 18909(c), 18929, 18930.5, 18949.6 and 18931(f).

Reference: Health and Safety Code Sections 18927, 18929, 18930.5, 18931(f), 18934, 18936 and 18949.6.

HISTORY:

1. (BSC 2/92) Regular order by the California Building Standards Commission to adopt Section 1-901, Part 1, Title 24, California Code of Regulations. Filed with the Secretary of State February 10, 1994; effective March 12, 1994. Approved by the Office of Administrative Law on February 10, 1994.
2. (BSC 02/08) Article 1-9, Code Adoption Process. Amend Section 1-902. Effective June 21, 2009.
3. (BSC 01/13) Supplement to correct website references in Section 1-211. Approved by the California Building Standards Commission on July 22, 2014, filed with Secretary of State on July 30, 2014, effective August 30, 2014.

**ARTICLE 3
APPEALS AND PETITION PROCEDURES**

1-301. Appeals and petitions. The public may submit appeals and petitions to the Commission as prescribed in this Article.

1-303. Scope of appeals and types of appellants. Appeals to the Commission and the matters which can be appealed are as follows:

(a) An appeal may be submitted by any person adversely affected by the administration of building standards or admin-

istrative regulations of Title 24, or the enforcement or the lack of enforcement of Title 24, by any state agency as prescribed in Health and Safety Code Section 18945(a) and this article.

(b) An appeal may be submitted by any person adversely affected by the enforcement of Title 24 by a local enforcement agency, in the company of the local enforcement agency, as prescribed in Health and Safety Code Section 18945(b) and this article. Such joint appeals must have statewide significance.

(c) An appeal may be filed by any person, including a state or local agency adversely affected by an apparent conflict, duplication or overlap of any current Title 24 provision, or any other matter of statewide significance relating to the application of Title 24.

(d) The Commission may accept appeals relating to actions and decisions by state and local agencies to enforce building standards, but may only make recommendations for reconsideration. The Commission has no authority to overturn a decision by a state or local agency when the matter is within the jurisdiction of that state or local agency.

(e) When the basis of an appeal is the action of a state agency other than the Commission, the appellant must obtain a final determination from the state agency in question relating to the issue under appeal before the Commission will hear the appeal.

Exception: An apparent conflict, duplication or overlap in other available state appeals procedures or within the regulations or code.

Authority: Health and Safety Code Sections 18931, 18945, 18946 and 18949.

Reference: Health and Safety Code Sections 18931, 18945, 18946 and 18949.

HISTORY:

1. (BSC 1/89) Regular order by the California Building Standards Commission to amend Section 1-601, Part 1, Title 24, California Code of Regulations. Filed with the Secretary of State April 1990; effective April 17, 1990. Approved as a regular order by the California Building Standards Commission on April 16, 1990.

1-305. (a) Time limitations for appeals. Appeals will be accepted by the Commission only within:

1. Six months of when the act, interpretation, decision or practice complained of occurred, or
2. As determined by the Commission if special circumstances are found to exist.

1-307. Appeal form and filing fee.

(a) The appeal shall be in writing and shall specifically set forth:

1. The specific regulation, rules, interpretation or decision of any state agency respecting the administration of any building standard being appealed.
2. The dates of any act, interpretation or decision of any state agency related to the complaint.
3. The nature of any act, interpretation or decision of any state agency related to the complaint.
4. The reasons for the appeal.
5. Documentation of the official action of the applicable state agency with respect to the agency's final determination on the issue.
6. Identification of witnesses, experts and other representatives of the appellant.

(b) The appeal shall be filed with the Executive Director, California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, California 95833. The address should be confirmed at the commission website: www.bsc.ca.gov.

(c) **Filing Fee:** Health and Safety Code Section 18949 requires the Commission to recover the cost of administrating appeals. Accordingly, a nonrefundable fee of \$450.00 shall be submitted with the initial request for appeal. In addition, any and all costs for an administrative law judge or costs related to a hearing before the appeals subcommittee will be the responsibility of the appellants.

Authority: Health and Safety Code Sections 18931 and 18945.

Reference: Health and Safety Code Sections 18931 and 18945.

HISTORY:

1. (BSC 01/13) Supplement to correct title of Commission and add a website reference in Section 1-307. Approved by the California Building Standards Commission on July 22, 2014, filed with Secretary of State on July 30, 2014, effective August 30, 2014.

1-309. Receipt and processing appeals.

(a) Receipt of any appeal shall be acknowledged in writing by the Executive Director within 30 days of receipt advising the appellant and the state agency of the acceptance or rejection of the appeal as filed. The reply shall also set forth the planned action of the Commission in response to the application together with reasons for the proposed actions.

(b) If the Executive Director determines that additional information is needed in order to process the appeal, the Executive Director may request such additional information and defer action on the appeal until such additional information is received. If the Executive Director requests additional information, the appellant shall have 30 days from the date of the Executive Director's request within which to submit the information. If the requested information is not received within 30 days, the Executive Director may treat the appeal as having been abandoned or may, upon written notice to the appellant and any state agency a part of the appeal, process the appeal on such information as is available. Upon written request the Executive Director may, for good cause, extend the 30-day period by one additional 30-day period.

(c) The Executive Director and the Chair of the three-member Appeals Committee, appointed by the Chair of the Commission, shall, acting together, recommend to the Commission whether the appeal should be heard by the Appeals Committee or the full Commission. Suggested schedules for such hearings shall also be submitted. The recommendations shall be contained in the consent calendar of the next Commission meeting. The Executive Director shall advise the appellant and any state agency a part of the appeal, in writing within 15 days of the Commission's determination and the procedures and schedules to be followed for the hearing.

Authority: Health and Safety Code Section 18945.

Reference: Health and Safety Code Sections 18931 and 18946.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-603, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-311. Hearings for appeals.

(a) If it is determined by the Commission that the appeal shall be heard by the Appeals Committee, the following provisions shall apply:

1. Time and place of hearing as determined by the Commission shall be noticed to the appellant and any state agency a part of the appeal, within 15 days of its determination; date of said hearing shall be within 60 days of date of said notice.
2. The Executive Director shall provide written notice of the date, time and location of hearing to interested parties and may invite experts or other witnesses as necessary for the hearing.
3. The Appeals Committee shall not be bound by the rules of evidence or procedure applicable in the courts. Appellant, appellant's witnesses, and any other interested persons may present testimony, argument and/or documentary material concerning the matter(s) under consideration.
4. The Appeals Committee shall prepare its finding(s) and decision within 30 days after the appeal hearing.
5. The Executive Director shall, in writing, advise the appellant and any state agency a part of the appeal, of the decision within 15 days and shall advise the Commission of the decision by memorandum at the next Commission meeting.
6. If an appeal is heard by the Appeals Committee, either party may request a reconsideration by the Commission. Said request must be submitted to the Executive Director no less than 30 days after the determination by the Appeals Committee and shall be acted upon by the Commission no later than 60 days after said request is received. Reconsideration by the Commission shall be based upon the record of the appeal hearing and additional information or testimony that is specifically requested by the Commission. Notice of the determination of the Commission upon reconsideration shall be sent to all parties involved within 15 days of the action by the Commission.

(b) If an appeal is not delegated, or if the Commission elects to conduct the hearing, or if the appellant appeals a decision of the Appeals Committee to the Commission, the following procedure will be used:

1. Time and place of the hearing as determined by the Commission shall be noticed to the appellant and any state agency a part of the appeal within 15 days. The date of the hearing shall be within 60 days of date of notice.
2. The Executive Director shall provide written notice the time, date and location of the hearing to interested parties and invite expert or other witnesses as necessary for the hearing.
3. The hearing shall be conducted at a regularly scheduled or specially designated Commission meeting, under its own rules, accepting evidence as it requires, and chaired by its regular Chairperson. Appellant and other interested parties may present relevant testimony, argument or documentary material as acceptable to the Commission consistent with the requirements of Section 1-306(a).

4. The Commission shall make a decision on the appeal at an open meeting thereof, provided that the matter may be continued or taken under advisement for decision at a later meeting of the Commission, or re-referred to the Appeals Committee for further consideration and report to the Commission. No Commissioner may cast a vote on the determination of an appeal unless the Commissioner was present at the hearing held for appeal.
5. Notwithstanding the foregoing, the appeal may be withdrawn at any time by the appellant upon written notice to the Executive Director. Upon withdrawal, no further proceedings as specified above shall take place. The withdrawal of the appeal shall be accepted with or without prejudice, as determined by the Commission.
6. The Executive Director shall, in writing, advise the appellant, and any state agency a part of the appeal, of the decision of the Commission within 15 days from the date of the official Commission decision in the appeal.

(c) The Commission may elect to refer the appealing parties to a hearing officer appointed by the Office of Administrative Hearings as described in Health and Safety Code Section 18946.

(d) Action by the Commission on the appeal of a building standards issue within the authority of the Commission shall exhaust the administrative relief of the appellant.

Authority: Health and Safety Code Section 18945.

Reference: Health and Safety Code Sections 18931 and 18946.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-604, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-313. Petitions.

(a) Any local governmental agency, firm or member of the public may petition either the Commission or the authoritative agency for the proposal, adoption, amendment or repeal of any building standard or administrative regulation in Title 24 of the California Code of Regulations.

(b) The Commission may refer received petitions to the state agency, or multiple agencies, having specific jurisdiction for the subject of the adopted building standard or for the subject of the proposed building standard as proposed by the petitioner. A state agency receiving a petition referred by the Commission shall process the petition as required by this Article, including the reporting of actions and decisions by the agency to the Commission.

(c) Petitions are not to be used to address matters relating to currently proposed buildings standards. Any concerns relating to currently proposed building standards should be brought forward during the public comment period designated for the proposed building standard.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-801, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-315. Criteria for petition. A petition for the adoption, amendment or repeal of a state building standard must meet the following criteria:

(a) The subject issue must have statewide significance and must have implications for a whole category of projects or a broad range of project types, and:

(b) The rationale for the petition must take the form of at least one of the following criteria:

1. A current building standard conflicts with pertinent statute(s). To substantiate this criterion, the petitioner must cite the subject building standard and the conflicting statute(s), and provide a clear written description of why the two are inconsistent.
2. Compliance with a current building standard is routinely impossible or onerous. To substantiate this criterion, the petitioner must cite the current building standard, present written or photographic evidence of the difficulty in complying with it, and clearly show that the problem is common or potentially common to many different projects or project types in many different circumstances. This criterion shall not be used to justify a petition for the repeal or amendment of a current building standard that poses difficulty to a single project.
3. A current building standard is inefficient or ineffective. To substantiate this criterion, the petitioner must cite the subject building standard, provide clear and concise written or photographic evidence of its ineffectiveness or inefficiency, describe a proposed alternative, and provide clear and convincing written or photographic evidence that it is more efficient or effective.
4. A current building standard is obsolete. To substantiate this criterion, the petitioner must show at least one of the following facts:
 - A. A material or product specified in the building standard is not available, or
 - B. There is no statute authorizing the subject building standard, or
 - C. Significant developments in procedures, materials or other issues subject to the building standard have created a need for amendment or deletion of the building standard; that current state statutes permit amendment or deletion of the building standards; and that the building standard has the effect of prohibiting the use of a material or procedure that has demonstrated satisfactory performance and meets the intended purpose of building standards.
5. There is a need for a new building standard. To substantiate this criterion, the petitioner must provide a clear written description of the proposed building standard, explain why it is necessary, and cite the statute(s) that require or authorize the new building standard.

Note: The California Building Standards Commission provides a petition form available at the website <http://www.bsc.ca.gov/pubs/forms.aspx>.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-802, Part 1, Title 24, California Code of

Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-317. Emergency petition.

(a) A petitioner may assert that the petition requires immediate action because there is imminent danger to the public health, safety or welfare. To substantiate the existence of a potential danger, the petitioner must include in the petition a written description of the specific facts showing the need for immediate action.

(b) If the emergency petition is approved by the Commission and if the petition is accepted pursuant to this Article, the proposing agency or adopting agency shall develop and/or adopt new or amended building standards necessary to satisfy the cause for the petition. The new or amended building standards shall be proposed and adopted as emergency regulations as permitted by Health and Safety Code Sections 18934.8 and 18937.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-803, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-319. Petition processing by the Commission and agencies.

(a) Within 45 days after receiving a petition, the Commission shall determine whether the petition meets the requirements of this article for petitions and provide the petitioner written notification.

(b) If the Commission determines that the petition does not meet the requirements of this article for petitions, the petition shall be returned to the petitioner without action but with written notification including itemization of the missing or incomplete items.

(c) If the Commission determines that the petition meets the requirements of this article for petitions, the Commission shall provide the petitioner notification of the acceptance of the petition and planned action.

(d) The Commission shall act on the accepted petition by commencing a rulemaking process, or shall forward a complete petitions to the appropriate proposing agency or adopting agency having specific jurisdiction for the subject of the petition.

(e) The proposing agency or adopting agency shall have 45 days following receipt of the petition from the Commission to dispute the determination of completeness and/or the Commission's determination of jurisdiction. If the agency determines that the petition is incomplete, it shall, by the close of business on the 45th day following receipt of the petition, return the petition to the Commission, with an itemization of the missing or incomplete items, and the Commission shall return the petition to the petitioner within 30 days of receiving the returned petition without action in accordance with the procedures provided in subparagraph (b) above.

(f) The Commission shall maintain records relating to the submittal and disposition of petitions received by the Commission.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-804, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-321. Petition processing by agencies. Upon receiving a petition referred by the Commission, or a petition received directly from a petitioner, the proposing agency or adopting agency shall be responsible for the following duties:

(a) If the proposing agency or adopting agency disagrees with the Commission's determination that a petition is complete, or if the proposing agency or adopting agency believes the petition is in the jurisdiction of a different agency, the proposing agency or adopting agency shall notify the Commission no more than 45 days after receiving a petition.

(b) If the proposing agency or adopting agency determines that a petition received directly from the public does not meet the requirements of this article for petitions, the agency shall provide the petitioner written notification of the determination with itemization of the missing or incomplete items. The agency shall provide the Commission a copy of the notification.

(c) If the proposing agency or adopting agency determines that it has jurisdiction and that a received petition is complete, it shall take one of the following actions, communicating with the petitioner and Commission, within the noted time lines:

1. The agency may reject, accept or approve a petition in part and may grant such other relief or take such other action as it may determine to be warranted by the petition and shall notify the petitioner and Commission in writing of such action.
2. If the agency denies the petition for cause pursuant to Section 1-323 of this article [Criteria for Denying a Public Petition for Cause], it shall do so in writing within 45 days after the date of receiving the petition from the petitioner, or the referral by the Commission.
3. If the agency accepts the petition, it shall notify the petitioner and Commission in writing within 45 days after the date of receiving the petition. For the purposes of this section, accepting the petition indicates that the agency believes the issue(s) merit proceeding to code development as prescribed in this chapter.
4. If the approved petition contains an emergency clause, the agency shall also rule on the existence of an emergency, and if it concurs that an emergency exists, shall schedule code development and adoption procedures on an emergency basis.

Authority: Health and Safety Code Sections 18931, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6, Statutes of 1990.

Reference: Health and Safety Code Section 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-805, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-323. Criteria for denying a petition. The Commission, proposing agency or adopting agency, whichever is processing a petition, may deny a petition for cause using at least one of the following criteria:

(a) The subject building standard is already scheduled for review at the next regular triennial or other scheduled adoption. To substantiate this criterion, the Commission or agency shall include in its written denial a schedule for the planned review. Alternatively, the agency may approve a petition but defer its implementation until the next scheduled adoption.

(b) The issues cited by the petitioner are factually incorrect. To substantiate this criterion, the Commission or agency shall identify in its written denial the incorrect facts.

(c) The issues cited by the petitioner are not within the State's jurisdiction. To substantiate this criterion, the Commission or agency shall show in its written denial why the issues are outside its jurisdiction.

(d) The issues cited by the petitioner have been raised and answered through another petition or during the previous rulemaking. To substantiate this criterion, the Commission or agency shall include with its written denial a copy of the previous petition and its response or the pertinent rulemaking file information.

Note: If new facts or substantiating data, pertinent to a petition, are provided, this criterion shall not be grounds for denying a petition.

(e) Resolving the issues raised by the petitioner would compromise the agency's ability to carry out its legal mandate. To substantiate this criterion, the Commission or agency shall include with its denial the specific ways in which its legal mandate would be compromised.

(f) The building standard proposed by the petitioner would create unnecessary hardship or expense; inappropriately exclude materials, equipment or brands; include only specific brands; conflict with federal or state laws or regulations or existing building standards; or the building standard is otherwise without merit and public benefit.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-806, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-325. Reconsideration of denied petition. A petitioner may request reconsideration of any part or all of a decision of any proposing or adopting agency or the Commission on any denied petition. Any such request shall be submitted in accordance with these petition procedures and shall include the reason or reasons why the decision to deny the petition should be reconsidered. Such request for reconsideration must be submitted no later than 60 days after the date of the decision involved. The agency's or Commission's reconsideration of any matter relating to a petition shall be subject to the provisions of this article.

Authority: Health and Safety Code Sections 18931, 18945, and 18949.6.

Reference: Health and Safety Code Sections 18931, 18945, and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-807, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-327. Reconsideration by the commission.

(a) The Commission shall have no authority to reevaluate or reverse the decisions on petitions made by a proposing agency or adopting agency when the subject of the petition is within the specific jurisdiction of the proposing agency or adopting agency.

(b) Requests for the reconsideration of a decision by the commission shall meet the requirements of Section 1-325 of this article.

(c) Should the Commission reverse its previous decision made on a petition, the petition shall be considered accepted and a rulemaking process shall begin as provided in this chapter.

Authority: Health and Safety Code Sections 18931, 18945, and 18949.6.

Reference: Health and Safety Code Sections 18931, 18945, and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-808, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-329. Substitution of or supplementation by agency procedures.

(a) The provisions of this article pertaining to petitions shall not apply when an agency notifies the Commission that a petition process is mandated by specific statutes in addition to Government Code Sections 11340.6 and 11340.7, and/or that it has adopted its own regulations or procedures complying with Government Code Sections 11340.6 and 11340.7, and that it has notified the public of the existence of these statutes, regulations or procedures. Notification to the Commission shall consist of a written copy of such statutes, regulations or procedures and a description of the methods used to make the public aware of their existence. Upon such notification, the Commission shall exclude the agency from compliance with this Article pertaining to Petitions. If the Commission receives a petition pertaining to an excluded agency's jurisdiction, the Commission shall forward the petition without undertaking any of the duties prescribed by this Article pertaining to petitions directly to the agency and shall notify the petitioner of that fact.

(b) These regulations are not intended to be the sole means by which the proposing agency or adopting agencies and the interested public can raise, discuss and resolve issues pertaining to building standards. Agency procedures such as public participation meetings, advisory committees, written and verbal correspondence between members of the public and agency personnel, and other methods are considered alternatives that may be chosen by a member of the public instead of or in addition to the petition procedures described in this Article.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.