

# BUILDING STANDARDS BULLETIN 09-02

**DATE:** February 1, 2009

**TO:** INTERESTED PARTIES

**SUBJECT:** APPLICABILITY OF CALIFORNIA BUILDING STANDARDS AND LOCAL GOVERNMENT AMENDMENTS THERETO

This bulletin supersedes Building Standards Bulletin 99-01 issued on March 17, 1999. While most provisions of the original bulletin remain valid the attachments had become outdated and there has become a need to expand on matters regarding local government adoptions. The information and references herein are to bring attention to requirements of state law establishing the application of the California Building Standards Code found in Title 24 of the California Code of Regulations, and how local government must enforce its provisions as applicable, and how local government may enact more restrictive requirements for local conditions, adopt administrative regulations and approve alternatives.

## **APPLICABILITY:**

The applicability of California Building Standard Code (CBSC) is identified in the California Health and Safety Code (HSC), which is state law. Within the HSC there are two portions of law addressing the application of the CBSC. First is the California Building Standards Law<sup>1</sup> found in Division 13, Part 2.5, and second is the State Housing Law<sup>2</sup> found in Division 13, Part 1.5. These portions of law establish that the CBSC as published by the California Building Standard Commission that incorporates the latest editions of selected model codes is the applicable code for all occupancies<sup>3</sup> throughout the state, not the model codes by themselves.

Additionally, the Department of Housing and Community Development has adopted regulations implementing the State Housing Law in the California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1 (CCR, T-25), for residential structures subject to the State Housing Law. These regulations, the

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<sup>1</sup> H&SC § 18938(b), "...to all occupancies throughout the state..."

<sup>2</sup> H&SC § 17950, "...to apartment houses, hotels, motels, and dwellings, and buildings and structures accessory thereto..."

<sup>3</sup> The term "occupancy" as used in the California Building Standards Code is the method of classifying all buildings and structures.

CBSC, and the requirements of the State Housing Law, are applicable in all parts of the State.<sup>2</sup>

### **LOCAL GOVERNMENT AMENDMENTS:**

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

#### **Local Government Amendments under the Building Standards Law:**

The Building Standards Law takes a straight forward approach to amendments by local governments:<sup>4</sup>

- The governing body of the local government must make express findings that amendments to the building standard contained in CCR, T-24 are necessary because of local climatic, geological or topographical conditions.<sup>5</sup>
- The local government amendments must provide a more restrictive building standard than that contained in CCR, T-24.<sup>4</sup>
- The amendments are not effective until copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings, have been filed with the California Building Standards Commission.<sup>6</sup>

#### **Local Government Amendments under the State Housing Law:**

The State Housing Law provides for amendment of building standards related to residential construction and for amendment of CCR, T-25.

- The governing body of the local government must make an express finding that amendments to either the building standards for residential construction contained in CCR, T-24, or the regulations of the Department of Housing and Community Development contained in CCR, T-25, are necessary because of local climatic, geological or topographical conditions.<sup>7</sup> There is an exception in CCR, T-25, § 52 to the requirement for an express finding where alternate abatement procedures are determined by the local enforcement agency to be the equivalent of those contained in CCR, T-25.

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<sup>4</sup> H&SC, § 18941.5

<sup>5</sup> H&SC, §§ 18941.5 and 17958.7

<sup>6</sup> H&SC, 17958.7

<sup>7</sup> H&SC, §§ 17958, 17958.5 and 17958.7

- Unlike the California Building Standards Law, there is no specific requirement in the State Housing Law that local government amendments provide either more restrictive building standards than those contained in CCR, T-24, or more restrictive regulations than those contained in CCR, T-25.<sup>7</sup>
- The amendments are not effective until copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings have been filed with the California Building Standards Commission.<sup>6</sup>

### **Local Government Amendments under the Fire Protection District Law of 1961:**

Local government amendments to building standards in the CBSC adopted by the State Fire Marshal for fire and panic safety are permitted under this provision of state law for fire protection districts organized under HSC, Division 12, Part 2.7. Again, there are differences in how these amendments are implemented.

- The "governing body" shall be deemed to be the district board and the district shall be deemed to be the local agency.<sup>8</sup>
- The district board must make an express finding that amendments to building standards for fire and panic safety that are contained in CCR, T-24 are necessary because of local climatic, geological or topographical conditions.<sup>8</sup>
- The district is required to notify the city, county, or city and county where the amendments will apply of the proposed amendments, and receive their comments.<sup>8</sup>
- Upon adoption, the amendments are required to be presented for ratification to the city, county, or city and county where it will apply.<sup>8</sup>

The amendment is not effective until copies of both the express findings and the amendments, with the amendments expressly marked and identified as to the applicable findings, have been filed with the Department of Housing and Community Development by the city, county, or city and county where it will apply, along with the adopting ordinance and any findings of the city, county, or city and county.<sup>9</sup>

<sup>8</sup>H&SC, § 13869.7

<sup>9</sup>H&SC, §§ 13869.7, 17958.7 and 18941.5 (b) NOTE: H&SC, § 17958.7 was amended by Chapter 645 of the 1997 Statutes to provide that the required filings be with the California Building Standards Commission, notwithstanding the reference in H&SC, § 13869.7 that filings be with the Department of Housing and Community Development.

### **Local Government Adoption of the CBSC by Ordinance:**

- The CBSC is applicable to all occupancies throughout California, whether or not the

local government takes an affirmative action to adopt those CBSC.<sup>10</sup>

- The State Housing Law requires local building department enforcement of the Law, building standards, and implementing regulations of the Department of Housing and Community Development for residential structures.<sup>11</sup>
- Local governments should work closely with counsel to develop an adopting ordinance<sup>12</sup>; any expressed findings for any amendment of the CBSC, and provide for enforcement of the CBSC.
- **Filings with the California Building Standards Commission:**
  - The absence of a filing with the California Building Standards Commission of local government amendments implies that the CBSC and the related regulations of the Department of Housing and Community Development are applicable within that local jurisdiction, without amendment.<sup>13</sup>
  - The California Building Standards Commission will acknowledge by letter the filings by local governments that meet the requirements of H&SC, § 17958.7.
  - The California Building Standards Commission will not question the merits of the express findings of a local government as to the local climatic, geological or topographical conditions necessitating their amendments.
  - The California Building Standards Commission will reject, by letter, the filings by local governments proposing to adopt and amend model codes. Only the CBSC, incorporating model codes and including state agency amendments, and the related regulations of the Department of Housing and Community Development, are subject to adoption and amendment by local governments.<sup>13</sup>
  - The California Building Standards Commission will reject, by letter, the filings by local governments where no express findings are submitted with

<sup>10</sup>H&SC §§ 17950 and 18938 (b)

<sup>11</sup>H&SC, § 17960

<sup>12</sup>GC, § 50020, et seq.

<sup>13</sup> HSC, § 18938 (b), 17950 and 17958.7

proposed amendments. No express findings will be deemed to have been submitted under the following circumstances:

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- There are, in fact, no express findings submitted with the proposed amendments.
- The proposed amendments are not expressly marked and identified as to <sup>10</sup>HSC, §§ the applicable express findings.
- There is no evidence by signatures or the certification of the city/county clerk that the express findings were a lawful action of the governing body of the local jurisdiction.

### **Local Administrative Regulations:**

Local regulations necessary to carryout the application of the CBSC that do not establish building standards may be enacted without meeting the requirements of HSC sections 18941.5, 17958, 17958.5 and 17958.7. As discussed previously, said HSC sections require local amendments for more restrictive building standards with an expressed finding of need based on local conditions.

### **Local Approval of Alternatives:**

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

If you have any questions concerning this bulletin, or if additional clarification would be helpful, please contact CBSC at 916-263-0916.

Dave Walls  
Executive Director

## CALIFORNIA GOVERNMENT CODE

### Title 5, Division 1, Part 1

**§50020.** When a statute requires a local agency to take legislative action by resolution and the local agency is required by its charter to take legislative action by ordinance, action by ordinance is compliance with the statute for all purposes.

**§50022.1.** (a) "Code," as used in this article, means any statute, or any published compilation of rules, regulations or standards adopted by the federal government or the State of California, or by any agency of either of them. It shall include any codification or compilation of existing ordinances of the adopting local agency. It shall include any nationally recognized or approved published compilations of proposed rules, regulations or standards of any private organization or institution which has been in existence for a period of at least three years.

(b) "Primary code," as used in this article, means any code which is directly adopted by reference, in whole or in part, by any ordinance passed pursuant to this article.

(c) "Secondary code," as used in this article, means any code which is incorporated by reference, directly or indirectly, in whole or in part, in any primary code or in any secondary code.

(d) "Published," as used in this article, means issued in printed, lithographed, multigraphed, mimeographed or similar form.

(e) "Approved," as used in this article, means the approval of the legislative body of the local agency, as the result of investigation and tests conducted by such agency or by reason of the accepted principles or tests by recognized national or state authorities, technical, or scientific organizations.

**§50022.2.** Provided that all the procedures and requirements of this article are complied with, any local agency is hereby authorized to enact any ordinance which adopts any code by reference, in whole or in part; and such primary code, thus adopted, may in turn adopt by reference, in whole or in part, any secondary codes duly described therein. Every primary code which is incorporated in any such adopting ordinance shall be specified in the title of the ordinance. A local agency ordinance may adopt a code, the adoption of which is expressly required or permitted as a condition of compliance with a state statute, by reference without complying with the procedures and requirements of this article.

**§50022.3.** After the first reading of the title of the adopting ordinance and of the title of the code to be adopted thereby, and of the title of the secondary codes therein adopted by reference, the legislative body shall schedule a public hearing thereon. Notice of the hearing shall be published pursuant to Section

6066 in a newspaper of general circulation in or nearest to the adopting local agency. If there is no such newspaper in the county the notice shall be posted in the same manner as provided for the posting of a proposed ordinance. The notice shall state the time and place of the hearing. It shall also state that copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the clerk of the legislative body, and are open to public inspection. The notice shall also contain a description which the legislative body deems sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof.

**§50022.4.** After the hearing, the legislative body may amend, adopt or reject the adopting ordinance in the same manner in which it is empowered to act in the case of other ordinances; and, except as to the adoption of a code of existing ordinances of the adopting agency, nothing in this article shall be deemed to permit the adoption by reference of any penalty clauses which may appear in any code which is adopted by reference. Any such penalty clauses may be enacted only if set forth in full, and published, in the adopting ordinance. It is further provided that all changes or additions to any code made by the legislative body shall be published in the manner which is required for ordinances.

**§50022.5.** Nothing contained in this article shall be deemed to relieve any local agency from the requirement of publishing in full the ordinance that adopts any code, and all provisions applicable to the publication shall be fully carried out.

**§50022.6.** At least one copy of each primary code adopted by reference, and of each secondary code pertaining thereto, all certified to be true copies by the clerk of the legislative body, shall be filed in the office of the clerk of the legislative body at least 15 days preceding the hearing, and shall be kept there for public inspection while the ordinance is in force. However, after the adoption of the code by reference, one copy of the primary code and of each secondary code may be kept in the office of the chief enforcement officer instead of in the office of the clerk of the legislative body. Following the adoption of any code, the clerk of the legislative body shall at all times maintain a reasonable supply of copies of the primary code and of any secondary codes incorporated in it by reference, available for purchase by the public at a moderate price, not to exceed the actual cost thereof to the adopting local agency.

**§50022.7.** If at any time any code which any local agency has previously adopted by reference, shall be amended by the agency which originally promulgated or adopted it, then the legislative body may adopt such amendment or amended code by reference through the same procedure as required for

the adoption of the original code; or an ordinance may be enacted in regular manner, setting forth the entire text of such amendment.

**§50022.8.** Copies of such codes in published form, duly certified by the clerk of the legislative body, shall be received without further proof as prima facie evidence of the provisions of such codes or public records in all courts and administrative tribunals of this State.

**§50022.9.** A city may enact ordinances which adopt by reference county ordinances, codes, or any parts thereof and any amendments thereto by complying with the requirements of this article.

**§50022.10.** A code adopted and fully published or adopted by reference as provided in this article, may be subsequently recodified or recompiled and thereafter adopted by reference in the same manner as prescribed by this article for the original adoption by reference of the code.

**§50023.** The legislative body of a local agency, directly or through a representative, may attend the Legislature and Congress, and any committees thereof, and present information to aid the passage of legislation which the legislative body deems beneficial to the local agency or to prevent the passage of legislation which the legislative body deems detrimental to the local agency. The legislative body of a local agency, directly or through a representative, may meet with representatives of executive or administrative agencies of state, federal, or local government to present information requesting action which the legislative body deems beneficial to, or opposing action deemed detrimental to, such local agency. The cost and expense incident thereto are proper charges against the local agency.

**§50024.** The legislative bodies of local agencies may enter into associations and through a representative of the associations attend the Legislature and Congress, and any committees thereof, and present information to aid the passage of legislation which the association deems beneficial to the local agencies in the association, or to prevent the passage of legislation which the association deems detrimental to the local agencies in the association. The cost and expense incident thereto are proper charges against the local agencies comprising the association.

**§50025.** By resolution, a legislative body may withdraw from the association at any time.

**§50026.** The legislative body of any local agency, chartered or general law, which is otherwise authorized by law or charter to impose any tax on the privilege of earning a livelihood by an employee or any other tax, fee or charge on or measured by the earnings, or any part thereof, of any employee, shall

not impose any such tax, fee or charge on the earnings of any employee, when such employee is not a resident of the taxing jurisdiction, unless exactly the same tax, fee or charge at the same rate, with the same credits and deductions, is imposed on the earnings of all residents of the taxing jurisdiction who are employed therein.

This section shall not be construed as authorizing any tax prohibited by Section 17041.5 of the Revenue and Taxation Code or any other provision of law, nor shall it be construed so as to prohibit the levy or collection of any otherwise authorized tax upon a business measured by or according to gross receipts.

**§50026.5.** (a) The legislative body of any local agency, chartered or general law, which is otherwise authorized by law or charter to impose any tax, shall not impose any tax, fee, or charge on or measured by the sale of any stocks, bonds, or any other securities.

(b) It is the intent of the Legislature to prohibit any imposition of any local tax, fee, or charge, in connection with the sale of those securities, whether that imposition is imposed on the transaction itself, on the privilege of engaging in any transaction, or in any other form.

(c) The Legislature finds and declares that the need for uniform statewide regulation and taxation of securities transactions is a matter of statewide concern, and it is the Legislature's intent to regulate the subject matter of securities comprehensively and to occupy the field to the exclusion of local action.

**§50027.** Any city, county, or city and county in the State of California may, pursuant to such provisions as may be prescribed by its governing body, prohibit or regulate the practice of astrology for compensation. In connection therewith, the governing body may prescribe such rules and regulations as it deems advisable to protect users of such astrological services. The power granted cities, counties, and cities and counties pursuant to this section is in addition to any authority granted by Section 37101 or by charter provision or by Sections 16000 and 16100 of the Business and Professions Code.

**§50028.** (a) The legislative body of any county, city, or city and county, whether general law or chartered, may adopt, by ordinance, such rules and regulations as it deems necessary, which require any coin-operated viewing machine to have permanently attached thereto a tally counter which will count each coin, and accumulate such count or the accumulated amount of money, deposited in such coin-operated viewing machine. Such tally counter shall be resistant to tampering, and shall not be capable of being reset to a lower number, and shall display the count in such a manner that the accumulated total is readily visible near the coin insertion slot or opening. For the purposes of this section, "coin-operated viewing machine" means any projector, machine, television, or other device which displays for viewing motion pictures, projection slides, filmstrips, photographic

pictures, video tapes, or drawings, and which is operated by the viewer, or for the viewer, by means of inserting a coin into the device, an attachment thereto, an enclosure surrounding such device, or any other device electrically or mechanically connected thereto. For the purposes of this section, "coin" means any physical object, including, but not limited to, a piece of metal issued by the federal government as money. "Coin-operated viewing machine" does not include electronic video game of skill wherein the image is created, generated, or synthesized electronically, or coin-operated television receivers which display commercial or public service broadcasts.

**(b)** Notwithstanding any other provision of law, any county ordinance adopted pursuant to this section shall be enforceable within the incorporated, as well as the unincorporated, area of the county, whether general law or chartered, unless a city ordinance in direct conflict with such county ordinance has been adopted, in which case such county ordinance shall be enforceable in the area of the county outside of such city.

**(c) (1)** Any person who violates the provisions of the ordinance adopted pursuant to this section shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each such machine and each day in which such violation occurs.

**(2)** In determining the amount of such penalty, the court shall take into consideration all relevant circumstances, including but not limited to, the frequency of inspection, the cash flow through such machine, the amount of revenue derived by other such machines in the vicinity, prior revenues generated, the nature and persistence of the violation, and prior violations by the same person or establishment.

**(d)** No peace officer, as defined in Section 830 of the Penal Code, shall check such tally counters, provided, however, that an ordinance adopted pursuant to this section may provide for checking of such tally counters by a person or persons employed by the adopting county, city, or city and county, other than a peace officer, on a predetermined schedule.

**(e)** The provisions of this section shall not be construed to limit, or otherwise affect, any other power of a county, city, or city and county to license, tax, or regulate business or commercial enterprises or property within their jurisdiction, but shall be in addition to such powers.

**§50029.** The board of supervisors of the County of Orange or the city council of any city in that county may, by resolution, establish a fee program requiring the payment of a fee as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares pursuant to the procedures set forth in Section 66484.3.

**§50030.** Any permit fee imposed by a city, including a chartered city, a county, or a city and county, for the placement, installation, repair, or

upgrading of telecommunications facilities such as lines, poles, or antennas by a telephone corporation that has obtained all required authorizations to provide telecommunications services from the Public Utilities Commission and the Federal Communications Commission, shall not exceed the reasonable costs of providing the service for which the fee is charged and shall not be levied for general revenue purposes.

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**CALIFORNIA HEALTH AND SAFETY CODE**

**Division 12, Part 2.7  
Fire Protection District Law of 1961**

**§13869.7. (a)** Any fire protection district organized pursuant to Part 2.7 (commencing with Section 13800) of Division 12 may adopt building standards relating to fire and panic safety that are more stringent than the building standards adopted by the State Fire Marshal and contained in the California Building Standards Code. For these purposes, the district board shall be deemed a legislative body and the district shall be deemed a local agency. Any changes or modifications that are more stringent than the requirements published in the California Building Standards Code relating to fire and panic safety shall be subject to subdivision (b) of Section 18941.5.

**(b)** Any fire protection district that proposes to adopt an ordinance pursuant to this section shall, not less than 30 days prior to noting a proposed ordinance for public hearing, provide a copy of that ordinance, together with the adopted findings made pursuant to subdivision (a), to the city, county, or city and county where the ordinance will apply. The city, county or city and county, may provide the district with written comments, which shall become part of the fire protection district's public hearing record.

**(c)** The fire protection district shall transmit the adopted ordinance to the city, county, or city and county where the ordinance will apply. The legislative body of the city, county, or city and county, may ratify, modify, or deny an adopted ordinance and transmit its determination to the district within 15 days of the determination. Any modification or denial of an adopted ordinance shall include a written statement describing the reasons for any modifications or denial. No ordinance adopted by the district shall be effective until ratification by the city, county, or city and county where the ordinance will apply. Upon ratification of an adopted ordinance, the city, county, or city and county, shall file a copy of the findings of the district, and any findings of the city, county, or city and county, together with the adopted ordinance expressly marked and identified to which each finding refers, with the

Department of Housing and Community Development.<sup>7</sup>

**(d)** Nothing in this section shall authorize a district to mandate, nor prohibit a district from mandating, the installation of residential fire sprinkler systems within newly constructed dwelling units or in new additions to existing dwelling units, including, but not limited to, manufactured homes as defined in Section 18007.

**(e)** Nothing in this section shall authorize a district to mandate, nor prohibit a district from mandating, the retrofitting of existing dwelling units for the installation of residential fire sprinkler systems, including, but not limited to, manufactured homes as defined in Section 18007.

**(f)** Nothing in this section shall apply in any manner to litigation filed prior to January 1, 1991, regarding an ordinance or regulation which mandates the installation of residential fire sprinkler systems within newly constructed dwelling units or in new additions to existing dwelling units.

**(g)** This section shall not apply to fire and panic safety requirements for the public schools adopted by the State Fire Marshal pursuant to Section 13143.

**(h) (1)** A city, county, or city and county that ratifies an ordinance relating to fire and panic safety pursuant to this section shall delegate the enforcement of the ordinance to either of the following:

**(A)** The chief of the fire protection district that adopted the ordinance, or his or her authorized representative.

**(B)** The chief building official of the city, county, or city and county, or his or her authorized representative.

**(2)** Any fee charged pursuant to the enforcement authority of this subdivision shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, pursuant to Section 66014 of the Government Code.

## CALIFORNIA HEALTH AND SAFETY CODE

### Division 13, Part 1.5 State Housing Law

**§17922. (a)** Except as otherwise specifically provided by law, the building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and the other rules and regulations, which are

contained in Title 24 of the California Administrative Code [*sic*], adopted, amended, or repealed from time to time pursuant to this chapter shall be adopted by reference, except that the building standards and rules and regulations shall include any additions or deletions made by the department. The building standards and rules and regulations shall impose substantially the same requirements as are contained in the most recent editions of the following uniform industry codes as adopted by the organizations specified:

**(1)** The Uniform Housing Code of the International Conference of Building Officials, except its definition of "substandard building."

**(2)** The Uniform Building Code of the International Conference of Building Officials.

**(3)** The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

**(4)** The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

**(5)** The National Electrical Code of the National Fire Protection Association. In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for publication in the State Building Standards Code and in promulgating other regulations, the department shall consider local conditions and any amendments to the uniform codes referred to in this section. Except as provided in Part 2.5 (commencing with Section 18901), in the absence of adoption by regulation, the most recent editions of the uniform codes referred to in this section shall be considered to be adopted one year after the date of publication of the uniform codes.

**(6)** Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

**(b)** Except as provided in Section 17959.5, local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are hereby specifically and entirely reserved to the local jurisdictions notwithstanding any requirements found or set forth in this part.

**(c)** Regulations other than building standards which are adopted, amended, or repealed by the department, and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodging house, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standards Code and the other rules and regulations of the department or alternative local standards adopted pursuant to subdivision (b) of Section 17920.7 or 17958.5 and

<sup>7</sup> Changed to the California Building Standards Commission in the State Housing Law and Building Standards Law, Ch. 645, Stats. of 1997. Filings received by HCD will be forwarded to the Commission.

does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements for new buildings or structures specified in this part, or in building standards published in the State Building Standards Code, or in the other rules and regulations adopted pursuant to this part. However, the additions and alterations shall not cause the building to exceed area or height limitations applicable to new construction.

(d) Regulations other than building standards which are adopted by the department and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 governing alteration and repair of existing buildings shall permit the use of alternate materials, appliances, installations, devices, arrangements, or methods of construction if the material, appliance, installation, device, arrangement, or method is, for the purpose intended, at least the equivalent of that prescribed in this part, the building standards published in the State Building Standards Code, and the rules and regulations promulgated pursuant to the provisions of this part in performance, safety, and for the protection of life and health. Regulations governing abatement of substandard buildings shall permit those conditions prescribed by Section 17920.3 which do not endanger the life, limb, health, property, safety, or welfare of the public or the occupant thereof.

(e) No local enforcement agency may prohibit the use of materials, appliances, installations, devices, arrangements, or methods of construction specifically permitted by the department to be used in the alteration or repair of existing buildings, but such materials, appliances, installations, devices, arrangements, or methods of construction may be specifically prohibited by local ordinance as provided pursuant to Section 17958.5.

(f) No local ordinance may permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the violation is a misdemeanor.

**§17922.6.** (a) The Office of Noise Control in coordination with the department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18934) of Part 2.5 of this division and shall adopt, amend, and repeal rules and regulations other than building standards which establish uniform minimum noise insulation requirements for hotels, motels, apartment houses, and dwellings other than detached single-family dwellings.

(b) Such requirements shall be based on performance in order to require compliance on site where the hotel, motel, apartment house, or dwelling other than a detached single-family dwelling, is located.

(c) Such requirements shall be sufficient to

protect persons within the hotel, motel, apartment house, or dwelling other than a detached single-family dwelling, from the effects of excessive noise, including, but not limited to, hearing loss or impairment and persistent interference with speech and sleep.

(d) The provisions of this section, the building standards published in the State Building Standards Code relating to noise insulation, and the other rules and regulations adopted pursuant to this section, shall apply equally to those hotels, motels, apartment houses, and dwellings other than detached single-family dwellings, owned, operated, or maintained by any public entity. The department shall enforce such building standards published in the State Building Standards Code and such other rules and regulations with respect to any such hotel, motel, apartment house, or dwelling other than a detached single-family dwelling, which is not subject to the jurisdiction of any local building department.

(e) The provisions of this section, the building standards published in the State Building Standards Code relating to noise insulation, and the other rules and regulations adopted pursuant to this section shall not apply to detached single-family dwellings.

(f) Such other rules and regulations adopted by the Office of Noise Control shall become operative six months after their date of adoption.

(g) Sections 17925, 17958, 17958.5, and 17958.7 shall not apply to the provisions of this section.

**§17925.** Except as provided in Section 17922.6, any person, firm, corporation, or governmental agency that opposes the application of any applicable building standard published in the State Building Standards Code or any other rule or regulation adopted by the department within a particular local area may request a hearing before the local appeals board regarding the matter. If the local appeals board determines after the hearing that because of local conditions or factors it is not reasonable for the building standard, rule, or regulation to be applied in the local area, the building standard, rule, or regulation shall have no application within that local area. A copy of the determination of the local appeals board, together with a report of the local conditions upon which the determination is based, shall be filed with the department pursuant to Section 17958.7.

**§17950.** The provisions of this part the building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part which relate to apartment houses, hotels, motels, and dwellings, and buildings and structures accessory thereto, apply in all parts of the state.

**§17951.** (a) The governing body of any county or city, including a charter city, may prescribe fees for permits, certificates, or other forms or documents

required or authorized by this part or rules and regulations promulgated pursuant thereto.

**(b)** The governing body of any county or city, including a charter city, or fire protection district, may prescribe fees to defray the costs of enforcement required by this part to be carried out by local enforcement agencies.

**(c)** The amount of the fees prescribed pursuant to subdivisions (a) and (b) of this section shall not exceed the amount reasonably required to administer or process these permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes. The fees shall be imposed pursuant to Section 66016 of the Government Code.

**(d) (1)** The provisions of this part are not intended to prevent the use of any manufactured home, mobile home, material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by the California Building Standards Code or this part, provided that this alternate has been approved.

**(2)** The building department of any city or county may approve an alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the California Building Standards Code or this part in performance, safety, and for the protection of life and health.

**(3)** The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, building standards published in the California Building Standards Code, or the other rules and regulations promulgated pursuant to this part and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or the owner's agent by an approved testing agency selected by the owner or the owner's agent.

**§17958.** Except as provided in Sections 17958.8 and 17958.9, any city or county may make changes in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose those requirements or make changes or modifications in those

requirements upon express findings, the provisions published in the California Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it and shall become effective 180 days after publication by the California Building Standards Commission. Amendments, additions, and deletions to the California Building Standards Code adopted by a city or county 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 California Building Standards Commission.

**§17958.5.** Except as provided in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city or county may make such changes or modifications in the requirements contained in the provisions published in the California Building Standards Code and the other regulations adopted pursuant to Section 17922 as it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions.

For purposes of this subdivision, a city and county may make reasonably necessary modifications to the requirements, adopted pursuant to Section 17922, contained in the provisions of the code and regulations on the basis of local conditions.

**§17958.7.** **(a)** Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological or topographical conditions. Such a finding shall be available as a public record. A copy of those findings, together with the modification or change expressly marked and identified to which each such finding refers, shall be filed with the California Building Standards Commission. No modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the California Building Standards Commission.

**(b)** The California Building Standards Commission may reject a modification or change filed by the governing body of a city or county if no finding was submitted.

**§17958.8.** Local ordinances or regulations governing alterations and repair of existing buildings shall permit the replacement, retention, and extension of original materials and the use of original methods of construction as long as the hotel, lodging house, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standards Code and the other rules and regulations of the department or alternative local stan-

dards adopted pursuant to Section 17920.7<sup>8</sup> and does not become or continue to be a substandard building.

**§17958.9.** Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1978, permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the building standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

**§17960.** The building department of every city or county shall enforce within its jurisdiction all the provisions published in the State Building Standards Code, the provisions of this part, and the other rules and regulations promulgated pursuant to the provisions of this part pertaining to the erection, construction, reconstruction, movement, enlargement, conversion, alteration, repair, removal, demolition, or arrangement of apartment houses, hotels, or dwellings.

**§17995.** Any person who violates any of the provisions of this part, the building standards published in the State Building Standards Code relating to the provisions of this part, or any other rule or regulation promulgated pursuant to the provisions of this part, is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

## CALIFORNIA HEALTH AND SAFETY CODE

### Division 13, Part 2.5 Building Standards Law

**§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, 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 building standards adopted by the Occupational Safety and Health Standards Board, standards adopted pursuant to Section 25402 of the Public Resources Code, and those regulations that implement or enforce building standards. Building standards adopted by the Occupational Safety and Health Standards Board and those 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, and building standards approved pursuant to subdivision (b) of Section 142.3 of the Labor Code and published pursuant to subdivision (b) of Section 18943. 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.

**§18941.5 (a) (1)** Amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to Section 18941.5 or pursuant to Section 17958.7,

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<sup>8</sup> Repealed

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 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.

**§18942. (a)** The commission shall publish, or cause to be published, editions of the code in its entirety once in every three years. In each intervening year 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. The commission shall also publish, for emergency standards defined in subdivision (b) of Section 18913 and for building standards or administrative regulations that apply directly to the implementation or enforcement of building standards approved pursuant to subdivision (b) of Section 142.3 of the Labor Code, a semiannual supplement, or a more frequent supplement if required by federal law.

(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 California Code of Regulations, Title 24, Part 2 requirements for single-family residential occupancies, 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 may publish, stockpile, and sell at a reasonable price the code and any 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.

(d) (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 any city or county which contracts for the administration and enforcement of the provisions of this part with another local government agency which complies with this section.

## **CALIFORNIA CODE OF REGULATIONS Title 25, Division 1, Chapter 1, Subchapter 1**

### **ARTICLE 1 APPLICATION AND SCOPE**

**§1. (a)** New Construction. The provisions of this subchapter shall apply in all parts of the state and shall apply to the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court area, sanitation, maintenance, and ventilation of all hotels, motels, apartment houses and dwellings, or portions thereof and buildings and structures accessory thereto approved for construction on or after the effective date of this subchapter except as hereinafter provided.

(b) Existing Buildings. The provisions of this subchapter relating to use, maintenance and change of occupancy shall apply to all buildings, or portions thereof, approved for construction or constructed before or after the effective date of this subchapter.

### **ARTICLE 2 DEFINITIONS**

**§4.** The following definitions and the definitions contained in California Administrative Code, Title 24 shall apply to the provisions of this subchapter as applicable.

"Building Official." The Department or the local government agency so designated as the enforcement agency in Division 13, Part 1.5, Health and Safety Code.

"Labeled." Bearing a label of an approved testing agency or other approved means of identification.

"Local Appeals Board." The board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the requirements of the city or county relating to the use, maintenance, and change of occupancy of hotels, motels, lodging houses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, including requirements governing alteration, additions, repair, demolition, and moving of such buildings if also authorized to hear such appeals. In any area in which there is not such a board or agency, "housing appeals board" means the local appeals board having jurisdiction over such area.

**ARTICLE 3  
ADMINISTRATION AND ENFORCEMENT**

§6. The governing body of every city or county shall adopt ordinances or regulations imposing the same requirements as are contained in this subchapter. Such regulations shall be adopted pursuant to the provisions of Sections 17958, 17958.5, 17958.7, 17958.8, 17958.9 and 17959 of the Health and Safety Code.

**NOTE: The regulations contained in Section 20 and Section 24 (f) through (k) of this subchapter are intended to be enforced by the department. The provisions of these sections need not be adopted by the governing body of any city or county.** *[Emphasis added.]*

§8. As set forth in Section 17922.1 of the Health and Safety Code, any city or county may modify or change the requirements contained in this subchapter if they make a finding that temporary housing is required for use in conjunction with a filed mining claim.

§10. Enforcement of the provisions of Division 13, Part 1.5 of the Health and Safety Code and the provisions of this subchapter shall be as designated by Sections 17952, 17960, 17961, 17962, 17964, 17965 and 17966 of the Health and Safety Code.

§12. Local appeals boards and their actions shall be as set forth in Sections 17920.5, 17920.6 and 17925 of the Health and Safety Code.

§14. As set forth in Section 17951(d) of the Health and Safety Code, the building department of any city or county may approve alternate materials or methods of construction not specifically prescribed in this subchapter.

§16. No person shall erect, construct, reconstruct, install, relocate or alter any building or structure subject to the provisions of this subchapter without first obtaining a written construction permit therefore from the enforcement agency.

§18. Wherever the department is the enforcement agency, an environmental impact report or negative declaration prepared by or under the supervision of the local planning agency shall be submitted with an application for a permit to construct a project subject to the Environmental Quality Act of 1970 (Public Resources Code, commencing with Section 21000). The environmental impact report or negative declaration shall comply with the applicable requirements of the California Administrative Code, Title 14, Division 6, Chapter 3.

§20. *[Not printed, HCD only.]*

**ARTICLE 4  
NEW CONSTRUCTION, ADDITIONS,  
ALTERATIONS**

§22. Except as otherwise permitted or required by Division 13, Part 1.5 of the Health and Safety Code and by this subchapter, all buildings and structures subject to this subchapter shall comply with the basic construction regulations contained in Part 2, Title 24, California Administrative Code.

See Chapters 2-18 and 2-19 in Part 2, Title 24, California Administrative Code for special requirements relating to high rise buildings.

See Subchapter 2-12 in Part 2, Title 24, California Administrative Code for requirements related to limited density owner-built rural dwellings.

§24. *[Not printed, HCD only.]*

§26. All buildings and structures subject to the provisions of this subchapter shall comply with the basic mechanical requirements contained in Part 4, Title 24, California Administrative Code.

NOTE: The provisions contained in the Unfired Pressure Vessels Safety order, California Administrative Code, Title 8, Part 1, Chapter 4, Subchapter 1, except as permitted or required by the Uniform Mechanical Code, when not otherwise subject to enforcement by the Division of Industrial Relations, shall apply to this Subchapter.

§28. All buildings and structures subject to the provisions of this subchapter shall comply with the basic electrical requirements contained in Part 3, Title 24, California Administrative Code.

§30. All buildings and structures subject to the provisions of this subchapter shall comply with the basic electrical requirements contained in Part 5, Title 24, California Administrative Code.

**ARTICLE 5  
EXISTING BUILDINGS**

§32. Except as otherwise permitted or required by Health and Safety Code, Division 13, Part 1.5 and this subchapter, the provisions of the 1997 Edition of the Uniform Housing Code, Chapters 4, 5, and 6, and Sections 701.2 and 701.3, as adopted by the International Conference of Building Officials, with the following State amendments, are hereby incorporated by reference and shall apply to buildings or structures subject to the provisions of this subchapter.

(a) HOT WATER is water supplied to plumbing fixtures at a temperature of not less than 110 degrees F (43.3 degrees C).

(b) MECHANICAL CODE is the California Mechanical Code contained in Part 4, Title 24, California Code of Regulations.

(c) PLUMBING CODE is the California Plumbing Code contained in Part 5, Title 24, California Code of regulations.

**§34. (a)** Every dwelling unit and guest room used or offered for rent or lease shall continue to be provided with heating facilities capable of maintaining a minimum room temperature of 70 degrees F. at a point three feet above the floor in all habitable rooms and when the heating facilities are not under the control of the tenant or occupant of the building owner and/or manager shall be required to provide said heat at a minimum temperature of 70 degrees F. 24 hours a day. Such facilities shall be installed and maintained in a safe condition and in accordance with Chapter 37 of the Uniform Building Code, the Uniform Mechanical Code, and other applicable laws. No unvented fuel burning heaters shall be permitted. All heating devices or appliances shall be of the approved type.

**(b)** The provisions of Subsection (a) are subject to the exemption for existing buildings provided in Section 103(a) of the Uniform Housing Code.

**(c)** Those buildings and structures which are exempt from the requirements of Subsection (a) shall be provided with heat at a temperature as close to 70 degrees as the existing heating facilities are capable of providing at a point three feet above the floor in all habitable rooms when the heating facilities are not under control of the tenant.

**§36.** Rehabilitation and repair of existing buildings shall be subject to the requirements of Section 17922(c), Health and Safety Code.

**§38.** An adequate number of appropriate receptacles with close-fitting covers for garbage and rubbish as may be considered necessary by the enforcing agency shall be provided for the occupant of every dwelling unit by the owner or operator of every apartment house, hotel or combination thereof. Each receptacle shall be kept in a clean condition and in good repair.

**§40.** In every apartment house or hotel, every part of every bed, including the mattress, sheets, blankets, and bedding shall be kept in a clean, dry sanitary condition, free from filth, urine, or other foul matter, and from the infection of lice, bedbugs or other insects. The bed linen in a hotel shall be changed before a new guest occupies the bed. In every dwelling unit where linen is furnished, the linen shall be changed before a new guest occupies the dwelling unit.

**§42.** A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, and of every hotel in which there are 12 or more guest rooms, in the event that the owner of any such apartment house or hotel does not reside upon said premises. Only one caretaker would be required for all structures under one ownership and on one continuous parcel of land. If the

owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating his name and address, or the name and address of his agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.

**§44.** The use of hotplates existing in rooms prior to September 20, 1963 shall be in accordance with the provisions of Section 17921.1 of the Health and Safety Code.

**§46.** Portable fire extinguishers shall be provided and maintained in every apartment house and hotel. The number and type of portable fire extinguishers to be installed shall be determined by the enforcement agency. However, the minimum requirements shall be as set forth in Title 19, Chapter 1, Subchapter 3, California Administrative Code.

## **ARTICLE 6 ACTIONS AND PROCEEDINGS**

**§48.** Access for inspection and repair of buildings subject to the provisions of this subchapter shall be as provided by Sections 17970, 17971, and 17972, of the Health and Safety Code.

**§50.** Abatement Actions instituted by an enforcement agency shall be in accordance with the provisions set forth in Sections 17980 through 17990 Health and Safety Code.

**§52.** The procedures for abatement, hereinafter outlined, or such other procedures as determined by the enforcement agency to be equivalent for the purpose intended may be used.

**§54.** Whenever any building or portion thereof, has become substandard as defined in Section 17920.3, Health and Safety Code and when determined to be a nuisance as defined in Section 17920, Health and Safety Code by the enforcing agency, the following shall apply:

The enforcement agency shall notify the owner of such building and any mortgagee or beneficiary under any deed of trust, or record, in the manner hereinafter stated. The notice shall state the conditions which render the building unfit for human habitation and shall order the building, or portion thereof, vacated and shall institute proceedings for the correction or abatement thereof, either by demolition, closing or repair, within 30 days after date of notice. If, in the opinion of the enforcement agency, such conditions can be corrected or abated by repair thereof, the notice shall state the repairs which will be required.

If such building is encumbered by a mortgage or deed of trust, of record, and the owner of such building shall not have complied with the order of the enforcement agency on or before the expiration of 30 days after the mailing and posting of the notice, the mortgagee or beneficiary under such deed of trust may,

within 15 days after the expiration of said 30-day period, comply with the requirements of the order of the enforcement agency, in which event the cost to such mortgagee or beneficiary shall be added to and become a part of the lien secured by said mortgage or deed of trust and shall be payable at the same time and in the same manner as may be prescribed in said mortgage or deed of trust for the payment of any payment of any taxes advanced or paid by said mortgagee or beneficiary for and on behalf of said owner.

If the order of the enforcement agency shall not have been complied with on or before the expiration of 45 days after the mailing and posting of the notice, the enforcement agency may institute such appropriate action or proceeding to correct or abate any nuisance or any violation of any other provision of this article or an alternative procedure such enforcement agency may institute proceedings for the abatement of such nuisance, after notice and hearing, before the governing board of such agency in the manner hereinafter set forth.

**§56.** For the purpose of providing for the advancement of costs in the enforcement of the provisions of this article, any city or county may create revolving funds or funds from which may be paid the costs of enforcing the provisions of this article and into which may be paid the receipts from the collection of costs or fines imposed in the enforcement thereof.

**§58.** The notices required in Section 54 shall be given in the following manner: The enforcement agency shall post conspicuously at least one copy of the notice on the building alleged to be unfit and shall send another copy by registered or certified mail, postage prepaid, return receipt requested, to the person owning the land on which building is located as such person's name and address appear on the last equalized assessment roll or as known to the clerk of the governing board of such enforcement agency and to any mortgagee or beneficiary; and if such address is unknown to the enforcement agency, then said fact shall be stated in said copy so mailed and it shall be addressed to him at the county seat of the county wherein said property is situated.

The officer or employee of the enforcement agency upon giving notice as aforesaid shall file an affidavit thereof with the clerk of the governing board of such enforcement agency certifying to the time and the manner in which such notice was given. He shall also file therewith any receipt card which may have been returned to him in acknowledgement of the receipt of such notice by registered mail. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken hereunder.

**§60. (a)** If the enforcement agency determines to proceed with the abatement of such nuisance through proceedings instituted before its governing board, it shall give a second notice in the same manner as set forth in Section 58 directing the owner of such building

to appear before the governing board of the enforcement agency at a stated time and place and show cause why such building should not be condemned as a nuisance and said nuisance be abated as herein provided, and a copy of said notice shall be mailed to each mortgagee or beneficiary under any deed of trust, of record, in the manner prescribed in Section 58. Said notice shall be headed "Notice to Abate Nuisance" in letters of not less than three-fourths of an inch in height and shall be substantially in the following form:

**NOTICE TO ABATE NUISANCE**

The owner of the building situated at \_\_\_\_\_ is hereby notified to appear before \_\_\_\_\_ (insert name of governing board) of the \_\_\_\_\_ (insert name of enforcement agency) at its meeting to be held \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ (place of meeting) at the hour of \_\_\_\_\_ o'clock \_\_\_\_m., or as soon thereafter as he may be heard, and show cause, if any he has, why said building should not be condemned as a public nuisance and said nuisance be abated by reconstructing or properly repairing said building or by razing or removing same.

Dated \_\_\_\_\_

\_\_\_\_\_  
(Name of enforcement agency)

By \_\_\_\_\_  
(Name of officer)

**(b)** The officer or employee of the enforcement agency giving such notice shall file an affidavit of posting and mailing in the manner required by Section 62 hereof, but the failure to any owner or other required by such notice shall not affect in any manner the validity of any proceeding taken hereunder.

**§62. (a)** At the time fixed in said notice, the governing board of the enforcement agency shall proceed to hear the testimony of the officers or employees of the enforcement agency and the owner or his representatives, if present at said hearing, and other competent persons who may be present and desire to testify, respecting the condition of said building, the estimated cost of its reconstruction, repair or removal, and any other matter which said governing body may deem pertinent thereto. Upon the conclusion of said hearing, said governing board may, by resolution, declare its findings and, in the event that it so concludes, it may declare said building to be a nuisance and direct the owner to abate the same within 30 days after the date of posting on said premises a notice of the passage of said resolution by having said building properly reconstructed or repaired, or having the same razed or removed and notifying said owner that if said nuisance is not abated said building will be razed or removed by the enforcement agency and the expense thereof made a lien on the lot or parcel of land upon which said building is located.

**(b)** At any time within 60 days after the passage of any resolution directing the abatement of a nuisance, the enforcement agency shall post a copy thereof conspicuously on the building so declared to be a nuisance and mail another copy by registered mail, postage prepaid, return receipt requested, to the person

owning the land on which the building is located as such person's name and address appear on the last equalized assessment roll or as known to the clerk of the governing board of such enforcement agency, and a copy of said notice shall be mailed to each mortgagee or beneficiary under any deed of trust, or record, at the last known address of such mortgagee or beneficiary, and if such address is unknown to the enforcement agency, then said fact shall be stated in said copy so mailed and it shall be addressed to him at the county seat of the county where said property is situated. The officer or employee of the enforcement agency, upon giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in Section 58 thereof. The governing board of the enforcement agency may grant any extension of time to abate said nuisance that it may deem justifiable upon good cause therefore being shown.

**§64.** Any owner or other interested person having any objections, or feeling aggrieved at any proceedings taken by the governing board of the enforcement agency in ordering abatements of any nuisance, must bring an action in a court of competent jurisdiction within 30 days after the date of posting on said premises a notice of the passage of the resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution; otherwise all objections will be deemed to have been waived.

**§66.** Thirty days after the posting of the copies of the resolution declaring any building a nuisance, the enforcement agency shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the building, unless the nuisance is abated by the owner or other person interested within the 30-day period or any extension thereof granted by the governing board as provided for in this article. In the event that the nuisance is not abated within the time prescribed the enforcement agency may thereupon raze and remove the building so declared to constitute a nuisance or have the same done under its direction and supervision.

**§68.** The building materials contained in such building so razed or removed may be sold by the governing board at public sale to the highest responsible bidder after not less than five days notice of intended sale published at least once in a newspaper of general circulation published in the city or county wherein such building is located, either before or after said building has been razed or removed and any amount received from the sale of such building materials shall be deducted from the expense of razing or removing said building. The enforcement agency shall keep an itemized account of the expense involved in the razing or removing of any such building and shall deduct therefrom the amount received from the sale of the building materials. The enforcement agency shall cause to be posted conspicuously on the property from which the building was razed or removed a statement verified

by the officer of the enforcement agency in charge of doing the work showing the gross and net expense of the razing or removing of such building together with a notice of the time and place when and where said statement shall be submitted to the governing board of the enforcement agency for approval and confirmation and at which time said governing board of the enforcement agency for approval and confirmation and at which time said governing board shall consider any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such work and any other interested persons. A copy of said statement and notice shall be mailed in the manner prescribed in Section 58 and an affidavit of such posting and mailing shall be filed in the manner prescribed in said section. The time for confirmation shall be not less than five days from the date of the posting and mailing of said statement and notice.

**§70. (a)** At the time fixed for the hearing of the statement of expense the governing board of the enforcement agency shall consider the statement, together with any objections or protests which may be raised by any of the property owners liable to be assessed for doing the work and any other interested persons; and thereupon said governing board may make such revision, correction, or modification in the statement as it may deem just, after which, by motion or resolution, said report as submitted, or in the event any revisions, corrections or modifications have been ordered made by said governing board then said statement as revised, corrected or modified, shall be confirmed. The board may adjourn said hearings from time to time and its decisions on said statement and on all protests and objections which may be made shall be final and conclusive.

**(b)** In the event that the cost for razing or removing said nuisance exceeds the proceeds received from the sale of any materials, then the amount of the net expense of abating such nuisance, if not paid within five days after the decision of said governing board on said statement, shall constitute a lien on the real property upon which the same was abated or removed, which lien shall continue until the amount thereof and interest thereon at the rate of 6 percent per annum, computed from the date of confirmation of the statement until paid, or until it is discharged of record. Such lien shall, for all purposes, be upon parity with the lien of State, county, and municipal taxes. In the event of nonpayment the governing board shall, at any time within 60 days after the decision of the governing board on the statement, cause to be filed in the office of the county recorder of the county in which such property is located a certificate substantially in the following form:

**NOTICE OF LIEN**

Pursuant to the authority vested in the undersigned by Division 13, Part 1.5 of the Health and Safety Code and California Administrative Code, Title 25, Chapter 1, Subchapter 1, of the State of California, the undersigned did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_, cause a nuisance to be abated on the real property hereinafter

described; and the undersigned did on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, by action duly recorded in its official minutes as of said date, assess the cost of such abatement, less the amount received from the sale of any building materials upon the real property hereinafter described, and the same has not been paid nor any part thereof; and the said \_\_\_\_\_ (enforcement agency) does hereby claim a lien on said real property for the net expense of the doing of said work in the sum of \$\_\_\_\_, and the same shall be a lien upon said real property until the said sum, with interest at the rate of 6 percent per annum, from the said \_\_\_\_ day of \_\_\_\_\_, 19\_\_, (insert date of confirmation of statement) has been paid in full and discharged of record. The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, and particularly described as follows:

Dated \_\_\_\_\_

\_\_\_\_\_  
(Name of enforcement agency)

By \_\_\_\_\_(Name of officer)

(c) From and after the date of the recording of said notice of lien all persons shall be deemed to have had notice of the contents thereof. The statute of limitations shall not run against the right of the enforcement agency to enforce the payment of said lien.

(d) In the event that the amount received from the sale of material exceeds the expenses of razing or removing such building, then such excess shall be deposited with the treasurer of the enforcement agent to the credit of the owner of said property or to such other person legally entitled thereto, and such excess shall be payable to said owner or other person on demand and upon producing evidence of ownership satisfactory to said treasurer.

## **ARTICLE 7 PENALTIES**

§72. Any violation of this subchapter or of the Health and Safety Code, Division 13, Part 1.5, commencing with Section 17910 (State Housing Law) shall be subject to the penalties as set forth in Section 17995 of the Health and Safety Code.

## **ARTICLE 8 OWNER-BUILD RURAL DWELLINGS**

[Not printed, local government option.]