

**Initial Statement of Reasons
Amendments to the
2001 California Historical Building Code**

Chapter 8-1 Administration

8-101.1 Title

The Board is proposing to modify the language for clarity and specificity. The modification is proposed to remove “State” and insert “California”. The statute, Health and Safety Code § 18950-18961 is called the State Historical Building Code. For clarity, the regulation is titled the California Historical Building Code. The terminology in the section was also in conflict with the code title. The modification has no change in the regulatory effect.

8-101.2 Purpose

The Board is proposing to modify the language for clarity and specificity. The Board is proposing to remove the word “alternative” as it is redundant in this context. The intent of this section is to provide solutions, not alternative solutions. The language has been modified to provide clarity and specificity for the code user. The modification has no change in regulatory effect.

The board is proposing to modify the language with the addition of the phrase “to promote sustainability”. The language is proposed to reflect recommendations proposed by the California Energy Commission to tighten the existing language that allows a complete exemption from Title 24, Part 6. This proposal recognizes that energy and sustainable practices are an essential part of all California building regulations. The proposal in this section supports a modification in Chapter 8-9. The modification has no change in regulatory effect.

8-102.1 Application

The Board is proposing to modify the language for clarity and specificity. The Board is proposing to strike “building” from the first sentence. The proposed language aligns the code with Health and Safety Code §18955, the definition of a qualified historical building or property that includes types of constructions that are not buildings per se. Deleting the word “building” eliminates conflicts within the code, especially Chapter 10, Historic Districts, Sites and Open Spaces. The modification has no change in regulatory effect.

The Board is proposing to strike the word “alternative” and associated language as it is redundant in this context. The intent of the code and this section is to provide solutions, not alternative solutions to code issues. The modification has no change in regulatory effect.

The Board is proposing to modify the language of this section. The proposed language brings the code into conformance with the language in Health and Safety Code §18954 which was changed in 2003 to include the phrase. This language also brings intent

from Health and Safety Code §18956 into the code. The modification is made to eliminate confusion over which agencies are required to apply the code. The regulatory effect is to widen the application of the code to a greater number of agencies.

8-102.1, Item 1.

The Board is proposing to move Section 8-103.1 Authority, to this section to provide clarity and specificity for the user as to which agencies shall apply the code. The modification has no change in regulatory effect.

8-102.1, Item 2.

The Board is proposing to add language to clarify and provide specificity on the responsibility of state agencies to apply the code. This language brings the intent of Health and Safety Code and §18954 and §18959(a) into the code where previously the Board relied on the statutory language for enforcement. The modification has no change in regulatory effect.

8-102.1.1 Additions, Alterations and Repairs

The Board is proposing to move Item 1 of this section into the main text and strike sub-item 2. The first modification is done since the second is removed. Item 2 is redundant to language in Chapter 8-7, Section 8-704. The modification has no change in regulatory effect.

8-102.1.2 Relocation

The Board is proposing to modify the language for clarity and specificity. The modification has no change in regulatory effect.

8-102.1.4

The Board is proposing to add language from prior editions of the CBC to the code. The modification has no change in regulatory effect.

8-102.1.5 Unsafe Buildings

The Board is proposing to make these editorial modifications which have no change in regulatory effect. The proposed "Note" is replaced by language formerly in Chapter 8-7. The modification has no change in regulatory effect.

8-102.1.6 Additional Work. The board is proposing to add the language of this section to provide specificity to a long standing board precedent. The board has determined through appeal that additional work that is mandated because of work undertaken is not required for qualified historical buildings and properties. Regular code, state and local ordinance can have built in requirements to upgrade or bring additional parts of a building up to the current standards. The board has used the term "triggers" as it is used, "proposed work triggers additional work". SHBSB precedent is recognized under Health and Safety Code, Section 18960 (C)(1), (2), (3) and as specified in Health and Safety Code 18944.7. The board precedent is cited: SHBSB Case number 940901, the ruling established a ministerial function of the code. The date of adoption, October 13, 1994. The board cited Health and Safety Code, Division 13, Part 2.7, Section 18956

and 18950. The motion states: “Where a trigger of a competing code or ordinance is reached, then the SHBC governs (for historical buildings and properties) and its life safety provisions apply.” The specifics of the case were over the application of the Alquist/Priolo Act. Where a building was under a seismic upgrade process the Alquist/Priolo Act requires that the building within a certain distance of the fault (near fault) trace be upgraded to regular code in all respects or demolished. The board vacated that requirement. The regulatory effect is to support long standing board precedent and appeal decision.

8-103.2 State Enforcement

The Board is proposing to make an editorial correction. The modification has no change in regulatory effect.

8-104.2.1 State Agencies

The Board is proposing to modify the section by adding language to clarify and provide specificity on the responsibility of state agencies to apply the code. The language is brought from Health and Safety Code §18961 where previously the Board relied on the statutory language for enforcement. Health and Safety Code §18961 mandates that a state agency consult with the SHBSB. The modification has no change in regulatory effect.

8-104.2.2 Imminent Threat

The Board is proposing to modify this section by adding language to clarify and provide specificity on the responsibility of state agencies to apply the code. The language is intended to add authority given in Health and Safety Code §18961 to the code where previously the Board relied on the statutory language for enforcement. This section has the regulatory effect to give the Board authority to comment on and consult with state agencies that have jurisdiction during declared emergencies, where their actions affect qualified historical buildings and properties.

8-104.3 SHBC Appeals

The Board is proposing to modify this section with language that reflects previous precedent that the Board has not attempted to recover costs. The modification has no change in regulatory effect.

8-104.4 Costs for Board Action and Informational Material

The Board is proposing to eliminate the language indicating the contact for cost estimates. The modification reflects previous precedent that the Board has not attempted to recover costs. The modification has no change in regulatory effect.

8-105.1 Repairs

8-105.2 Alternatives to the California Historical Building Code

The Board is proposing to make editorial corrections. The modifications have no change in regulatory effect.

8-106.1 General

The Board is proposing to make modifications that reflect the statutory authority of the Board in providing past appeals and decisions as precedence. The note is eliminated due to the lack of progress on the proposed document. The modification has no change in regulatory effect.

CHAPTER 8-2 DEFINITIONS

SECTION 8-802 – A

ALTERATION. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect.

SECTION 8-203—B

BUILDING. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect.

BUILDING STANDARD. The Board is proposing to modify the language of this section with the addition of a definition of “building standard”. The definition of building standard within building standards code does not provide a scope that fits the purpose and application of the SHBSB. The term is used in Chapter 8-10, Historic Districts, Sites and Open Spaces where the CHBC has authority. The regulatory effect of this modification gives the user clarity and specificity on the definition of “building standards” in the context of the CHBC.

SECTION 8-204—C

CULTURAL RESOURCE. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect.

SECTION 8-205—D

DISTRICT. The Board is proposing to strike this definition. The CHBC definition of this word does not differ from the common usage within historic preservation terminology. The modification has no change in regulatory effect.

SECTION 8-207—F

FACILITIES. The Board is proposing to strike this definition. The CHBC definition of this word does not differ from the common usage within historic preservation terminology. The modification has no change in regulatory effect.

SECTION 8-210—I

IMMINENT THREAT. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect. The modification has no change in regulatory effect.

SECTION 8-213 – L

LIFE SAFETY EVALUATION. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect. The modification has no change in regulatory effect.

LIFE SAFETY HAZARD. The Board is proposing to modify the language for clarity and specificity. Distinct and Life Safety hazard, while having the same definition, are used separately in the code. To assure the user that the two terms have the same meaning this definition is added and referenced. The modification has no change in regulatory effect.

SECTION 8-217—O The board is proposing to strike this section to be consistent with striking the sole definition.

OBJECT. The Board is proposing to strike this definition. The CHBC definition of this word does not differ from the common usage within historic preservation terminology. The modification has no change in regulatory effect.

SECTION 8-218—P

PERIOD OF SIGNIFICANCE. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect.

PRESERVATION. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect.

SECTION 8-218—Q

QUALIFIED HISTORICAL BUILDING OR PROPERTY. The Board is proposing to modify the language for clarity and specificity. The section name is amended to be consistent throughout the code. This modification has no change in regulatory effect.

The SHBC definition of a qualified historical building or property was amended in 2003 legislation. The definition provided here is consistent with the current legislative language. This modification has the effect of making the regulation consistent with the statute.

SECTION 8-219—R

RECONSTRUCTION. The Board is proposing to modify the language for clarity and specificity. The use of the phrase “qualified historical building or property” is proposed to be used consistently throughout the CHBC. This modification has no change in regulatory effect.

SECTION 8-221 – T

TREATMENT. The Board is proposing to modify the language of this section for the purpose of clarity and specificity. Treatment is used in a preservation context within the code. This modification has no change in regulatory effect.

Chapter 8-3 Purpose and Scope

8-301.1 Purpose. The board is proposing to modify the language for clarity and specificity. The modifications have no change in regulatory effect.

8-301.2 Scope. The Board is proposing to strike “building” from the first sentence. The proposed language aligns the code with Health and Safety Code §18955, the definition of a qualified historical building or property that includes types of constructions that are not buildings in the common definition. Deleting the word “building” eliminates conflicts within the code. The modification has no change in regulatory effect.

8-302.1 Existing Use. The board is proposing to modify the language for clarity and specificity. The modifications have no change in regulatory effect.

8-302.2 Change in Occupancy. The board is proposing to modify the language to provide clarity and specificity.

The word “prevailing” is stricken and “regular” inserted to conform with the definitions of regular code in Chapter 2. The modification has no change in regulatory effect. This modification is made in other places in this chapter. The modification has no change in regulatory effect.

The board is proposing to modify the language to provide clarity and specificity on the requirements of changing occupancies. Existing language includes fire fighting personnel. The purpose of this code is to provide reasonable safety of the occupants and users (Health and Safety Code §18951). The jurisdiction is given the opportunity to determine whether a proposal for a change of occupancy provides for safety of the occupants. Providing for the safety of the occupants and users provides sufficient safety for emergency personnel. It is nearly impossible to determine a level of safety for fire fighting personnel due to the nature of their work, which is always dangerous. The proposals will reduce confusion and increase usability of this code consistent with previous interpretations by the board. The modifications have no change in regulatory effect.

The board is proposing to modify the language in the last sentence for clarity and specificity. The code user cannot be expected to make a clear determination of what other condition may be a hazard. The phrase, “Does not create a fire hazard or condition detrimental to the safety of ...” leaves the user many options as to what it means. The board proposes to reference standards of occupancy and relative hazard common in the industry. The board proposes to do this with a simple rating. The user is also guided to the references for the rating, current and past editions of codes for existing buildings that contain tables of relative hazard between occupancy groups for a number of conditions. The proposals will reduce confusion and increase usability of this

code consistent with previous interpretations by the board and users. The modifications have no change in regulatory effect.

8-302.3 Occupancy Separations. The board is proposing to modify the language to provide clarity and specificity. The word “approved” is redundant. An automatic sprinkler system must be approved to be permitted. The word “prevailing” is stricken and “regular” inserted to conform with the definitions of regular code in Chapter 2. The modification has no change in regulatory effect. This change is made in other places in this chapter.

The board is proposing to modify the language to provide clarity and specificity for the user. The reference to a new section is added to this section. Currently the CHBC has no definition of automatic sprinkler system and relies on the regular code definition of “automatic” and the sections of the CBC that relate to the requirements of sprinkler systems in specific occupancies. The addition of the reference relates the exception for using sprinkling to the NFPA standard required.

8-302.4 Maximum Floor Area. The board is proposing to modify the language to provide clarity and specificity. The current language of the first sentence has the phrase “historical building” which proposed to be modified to “qualified historical building or property” to be consistent with the definition. The word “prevailing” is stricken and the word “regular” inserted to be consistent with the definitions in Chapter 2. The modifications have no change in regulatory effect.

The board is proposing to bring a portion of this section out as an exception from the body of the text and add a second exception. The board is proposing to strike the word “walls”. Area separations can be constructed at both vertical and horizontal constructions – walls or floors/ceilings and there is no reason to differentiate or specify one or the other. The first exception is created from the original text but is modified to specify occupancies rather than the general classification of all historical buildings. The modification has no change in regulatory effect.

The board is proposing to add the language of the second exception for clarity and specificity. With exception #2 the board proposes to create a differentiation between occupancies and the use of fire sprinklers. This exception creates additional options for creating a safe condition for occupancy. The board recognizes that non-hazardous occupancies and residential occupancies can have the hazard to the occupants reduced to a reasonable level by notification and evacuation from the building. Thus an alarm system performs that function. This code has differentiated between life safety and property protection in other chapters and is a tenant of the purpose (see Chapter 1, Section 8-101.2 Purpose). Exception #2 provides for life safety of the occupants. This exception can be applied by the user where automatic fire sprinklers are not practical. The provision of the exception also limits its application to buildings that provide adequate exiting features that are conforming or equivalent to regular code. Alarm and annunciation are effective at getting the occupants to evacuate, but the exiting system must provide a path to a safe place.

Non-hazardous and residential occupancies are identified pursuant to a previous section (8-302.2) that describes hazard by occupancy. The board proposes a simple ranking of hazard for occupancy. The user is also directed to references of current and past editions of codes for existing buildings that contain tables of relative hazard between occupancy groups for a number of conditions. The proposals will reduce confusion and increase usability of this code consistent with previous interpretations by the board and users. The regulatory effect of the modification will be to provide an alternate to automatic fire sprinklers.

8-302.5 Maximum Height. The board is proposing to modify the language to provide clarity and specificity. The board is proposing to strike the word “designated” as it is unclear how a designated design relates to the definition of a qualified historical building or structure. The simplicity of qualification for the SHBC conflicts with the definition of a qualified historical building or property. The modification has no change in regulatory effect.

8-303.7 Alteration and Repair. The board is proposing to modify the language for clarity. The phrase “in existence” is redundant.

The board is proposing to modify the language for consistency within the code, and provide clarity and specificity. This section provides that any alteration or repair may be permitted that does not create a life safety hazard. The definition of a life safety hazard in this code is created for existing conditions. Conditions that are being altered or repaired need to be consistent with the intent and character of this code that will mitigate those kinds of hazards. The modification has no change in regulatory effect.

Chapter 8-4 Fire and Life Safety

8-402.1 Exterior Wall Construction. The board is proposing to clarify the standards for fire sprinkling to those required by occupancy, exposure and construction. This section prescribes how an exterior exposure fire system is to be installed but has created confusion by the users as to how a system is designed. The proposed language clarifies the design standard by referencing new language proposed to be added in this chapter in Section 8-410.2.

The board is proposing to add language to clarify how a small exterior exposure system is designed. The proposed language allows the user to have an automatic sprinkler system that can be installed per the prescriptive requirements in this section with guidance from NFPA 13D. This makes the design of such a small system as simple as possible with no system engineering as required in NFPA 13D. The details of the system are proposed to be “appropriate to the application” that phrase is intended to reference NFPA 13D for system design. Systems of greater complexity are directed to Section 8-410.2 where the proper system design standard is prescribed.

8-402.2 One-hour Construction. The board is proposing to make a specific prescriptive alternative for upgrading construction ratings of corridors. Intumescent paint has been approved in this application on a number of occasions but is little known. This proposal will provide an inexpensive and a less destructive alternate to adding layers of materials to increase ratings that will also allow much of historic detailing to remain visible or look untouched.

8-402.3 Glazing Openings in Fire Rated Systems. The board is proposing to clarify the code for retention of historic transom windows and unrated doors in corridors that are required to be 1 hour rated. The need to achieve 1 hour ratings for these historic elements has been proven to be sufficiently achieved by the installation of automatic sprinklers. The board is proposing to add a section to Chapter 8-4 to clarify how an automatic sprinkler system applies to a building by occupancy and to take advantage of the three NFPA standards. Currently the CHBC has no definition of automatic sprinkler system and relies on the regular code definition of “automatic” and the sections of the CBC that relate to the requirements of sprinkler systems in specific occupancies. The addition of the reference relates the exception for using sprinkling to the NFPA standard required.

SECTION 8-403 — INTERIOR FINISH MATERIALS

The board is proposing to modify the language of this section for clarity and specificity. The proposal is to strike the complete reference to “fire retardant” materials. Fire retardant is incorrect terminology, the correct term is flame spread. Use of fire retardant materials on existing finishes is not a practical solution to flame spread issues. The typical flame retardant leaves a film that is not permanent, can be washed off, and is tacky to the touch. The modified language also recognizes that the flame spread of many historic finish materials does not constitute a hazard. Where a hazard is

recognized, the jurisdiction can request an analysis of the flame spread hazard and make a determination based on that information. The modifications have no change in regulatory effect.

SECTION 8-407 — VERTICAL SHAFTS

SECTION 8-408 ROOF COVERING

The board is proposing to modify the code to provide clarity and specificity for the user by omitting a part of the section, Item 1 that describes the performance of a roof covering. The performance of the roof covering is not regulated by code.

The board is proposing to update the reference to Class “C” roof coverings to be consistent with current state requirements on the sale and use of wood roofing products, and inserting Class “B” fire retardant treated wood products. This code is concerned with the preservation of the character defining features as they are affected by the application of code. Fire retardant treated wood roofing products present an appearance that is consistent with the character of untreated wood roofing products. This modification has no change in regulatory effect.

The board is proposing to add clarity and specificity for the user by adding language to be consistent with State Fire Marshal regulations regarding the use of fire retardant treated wood roof covering products in Class “A” roof assemblies. Recent changes and additions to wildland and urban wildland ratings and zones have created confusion as to the applicability of the CHBC to regulate roofing and wall systems on qualified historical buildings and structures. The State Fire Marshal permits Class “A” roof assemblies in all fire zones in California and the amended CHBC language will be consistent with that regulation. This code is concerned with the preservation of the character defining features as they are affected by the application of code. Fire retardant treated wood roofing products in Class “A” assemblies present an appearance that is consistent with the character of original untreated wood roofing products.

The board is proposing to add clarity and specificity for the user by adding language describing the correct procedure for amending this code due to local conditions as described in Building Standards Law. Jurisdictions with authority in wildland fire zones have banned installation of all wood roofing products through the use of local ordinance. Legal opinion on the subject of the authority of the SHBC/SHBSB has determined that the board has authority to review the application of amendments, on a case by case basis, where the jurisdiction has applied the amendments without due consideration of the unique provisions of the SHBC/CHBC. The board may review the jurisdictions decision through an appeal hearing based on the submitted documentation. This modification is consistent with existing statute, Health and Safety Code Section 18959 (f). This modification has no change in regulatory effect.

SECTION 8-410 — AUTOMATIC FIRE EXTINGUISHING SPRINKLER SYSTEMS

The board is proposing to modify the title of the section, and the phrase “fire extinguishing” in all locations in this code. Sprinkling systems are not intended for fire extinguishing. The discussion of “extinguishing” versus “fire sprinkling” or just “sprinkling” are beyond the scope of this SOR and the reader is directed to references such as those produced by NFPA and others. For the purposes of this code, an automatic sprinkler system provides fire suppression and protection from loss of life and property. The word automatic is defined in regular code as a system that provides emergency function without human intervention and is activated by temperature, rate of rise of temperature or level of combustion products. This modification will provide the user increased clarity and consistency with regular code and code standards. This modification has no change in regulatory effect.

8-410.1 The board is proposing to add language to make the phrase “qualified historical building or property” consistent with the definition in Chapter 8-2, throughout the code.

The board is proposing to modify the language of this section for clarity and specificity by the addition of a new section, 8-411- Other Technologies, in this chapter. The amendment is intended to provide the user the ability to take advantage of new technologies when automatic sprinklers are unfeasible or when other considerations make them unpractical. This amendment changes the regulatory effect of this section from the 2001 CHBC.

8-410.2 The board is proposing to add language to clarify the use and provide the user greater flexibility and direction in applying the requirements for automatic sprinkler systems as allowed in this code. This amendment will change the regulatory effect of this chapter.

The provisions of the 2001 CHBC do not provide a definition, nor describe a standard for the design and installation of automatic sprinkler systems. The 2001 CHBC has 10 sections with provisions or exceptions for the use of automatic sprinkler systems. The sections are not coordinated nor do they provide specificity to direct the user to the implications of the regular code having more than one standard.

The regular code describes different standards for the design of automatic sprinkler systems based on occupancy. The NFPA publishes the standards in the National Fire Codes, Volume 1. NFPA has 3 sprinkler standards with decreasing complexity: NFPA 13, NFPA 13R and NFPA 13D.

Existing building codes have generally created exceptions for deficiencies in code compliance based on occupancy, area, and exposure by the use of automatic sprinkler systems.

Where the NFPA 13R and 13D systems are used, a limitation of using those systems for multiple exceptions is proposed. The SHBSB life safety committee has studied the

use of automatic sprinkler in multiple applications has determined that the next more stringent sprinkler design standard be used for multiple exceptions.

8-410.3 The board is proposing to modify the language for clarity and specificity.

8-410.4 The board is proposing to modify the language for clarity and specificity.

8-411 OTHER TECHNOLOGIES. The board is proposing to modify the language by the addition of specificity in acknowledging new technologies that can be used to mitigate hazards where automatic sprinkler systems have been used previously. The language provides the user the ability to create a life safe alternative to building code requirements.

8-412 HIGH RISE BUILDINGS. The board is proposing to modify for clarity and specificity for the user. The added language acknowledges current application of the regular code for buildings over the height of 75 feet that have affected the application of this code. This section refers to earlier sections in this Chapter that are specifically created for high rise buildings. The user will be able to rely on this section rather than having to work solely with regular code. This modification does not change the regulatory effect of the code because the regular code has been applied

Chapter 8-5 Means of Egress

SECTION 8-502 GENERAL

8-502.1 General. The Board is proposing to modify the language of this section for clarity and specificity. The Board is proposing to strike the first sentence and replace it with the language from 8-502.1 General, Exception 3. The stricken language is redundant. The modification has no change in regulatory effect.

The Board is proposing to strike the exceptions in this sub-section and reformat them as individual provisions in sub-sections. Exception 3 is moved to become the General provision. The modification has no change in regulatory effect.

8-502.2 The Board is proposing to modify the language of this section for clarity and specificity. Language from Section 8-502.1, Exception 3, “examples” is moved to become this sections provision. The modification has no change in regulatory effect.

8-502.3 Stairs. The Board is proposing to modify the language of this section for clarity and specificity. Language from Section 8-502.1, Exception 3, “examples” is moved to become the provision of this section. The modification has no change in regulatory effect.

8-502.4 Main Entry Doors. The Board is proposing to modify the language of this section for clarity and specificity. Language from Section 8-502.1, Exception 4, is moved to become the provision of this section. The modification has no change in regulatory effect.

8-502.5 Existing Fire Escapes. The Board is proposing to modify the language of this section for clarity and specificity. Language from Section 8-502.1, Exception 2, is moved to become the provision of this section. The modification has no change in regulatory effect.

8-502.6 New Fire Escapes. The Board is proposing to modify the language of this section for clarity and specificity. Language from Section 8-502.1, Exception 1, is moved to become a part of the provision of this section. All of Section 502.2 is moved to become a part of the provision of this section. The modification has no change in regulatory effect.

SECTION 8-503 – ESCAPE OR RESCUE WINDOWS AND DOORS. The Board is proposing to modify the language of this section for clarity and specificity. The board is proposing to strike the exception as it is redundant. The modification has no change in regulatory effect.

SECTION 8-504 – RAILINGS AND GUARDRAILINGS.

8-504.1 The Board is proposing to add language to provide clarity and specificity. The Board, through long standing precedent, has supported the continued use of existing, non-conforming railings. Railings are a significant character defining feature of a historic building or property, be it a Victorian house, commercial building or highway bridge. The Board ruled in the case of the Crocker Art Gallery (SHBSB Case #880502) and the Ross House (SHBSB Case #890301) that non-conforming low height of the railings could be mitigated using alternate means. The new language links the continued use to distinct hazard as defined in this code. The modification has no change in regulatory effect over past precedent and administration of the code by the Board.

Chapter 8-6 ACCESSIBILITY

General

The board is proposing to make a modifications to this chapter to comply with California Government Code Section 4459(c) that indicates the scope of accessibility regulations in the California Building Standards Code (Title 24) shall not be less than the application and scope of accessibility requirements of the federal Americans with Disabilities Act (ADA) of 1990 as adopted by the United States Department of Justice (DOJ). ADA certification by the Department of Justice provides the most effective, recognized, and legal method for demonstrating that the California Building Code meets or exceeds the ADA requirements.

The Federal Department of Justice, Code of Federal Regulations (CFR), Part 36 – Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Sec.36.603, outlines the procedure for certifying a code. The effect of certification is stated in CFR, Sec.36.607(a)(1), Effect of certification, which states, “A certification shall be considered a certification of equivalency only with respect to those features or elements that are both covered by the certified code and addressed by the standards against which equivalency is measured.” Certification provides the user of this code greater confidence that when the provisions are followed there is additional evidence that the facility is compliant with ADA.

The area of alternatives to which the DOJ certification applies is directed at “alteration of facilities” for ADA entities that fall under Title III - Public Accommodations. Title III entities are defined in ADA as businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities. Public accommodations are private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs, transportation services, factories and warehouses.

The alternates of the CHBC may be applied to all of the ADA titles as well as all of the ADA scope. The Board is proposing to add language to the chapter that will limit the application of some of the provisions where they may be applied to alterations on Title III facilities. The proposed modifications align the CHBC with the provisions for historic properties, minimum standards, as described in the ADA Standards for Accessible Design (previously known as AADAG), 36.405 – Alterations: Historic Preservation, 4.1.7 of appendix A.

The CHBC applies to barrier removal described in CFR, 36.304 – Removal of Barriers, and CFR, 35.305 – Alternatives to barrier removal.

Businesses that serve the public must remove physical "barriers" that are "readily achievable," which means easily accomplishable without much difficulty or expense. All of the provisions of Chapter 8-6 apply to the removal of barriers in qualified historical buildings and properties.

The CHBC provisions are available for use by all entities described under the ADA Title II: State and Local Government Activities. Title II covers all activities of State and local governments. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. All of the provisions of Chapter 8-6 apply to Title II programs in qualified historical buildings and properties.

8-601.1 Purpose. The board is proposing to modify the language of this section for clarity and specificity. The original language using "buildings and structures" is redundant. The term "facility" is added to be consistent with the word as used in ADA documentation. The modification has no change in regulatory effect.

The board is proposing to modify the language of this section for clarity and specificity. The board proposes to strike the language "any reasonably equivalent" from this section. The DOJ questioned the language as being confusing to the reader that enforcing agencies would be forced to accept a proposed design as equivalent when the ADA guidelines mandate the historic preservation minimums. The modification has no change in regulatory effect.

8-601.3. Scope. The board is proposing to modify the language of this section for clarity and specificity. The board is proposing to add two sub sections the existing provision.

8-601.3, Item 1 The board is proposing to modify the language of this section for clarity and specificity. Item one is added to clarify the application of this chapter to buildings and properties that physically haven't existed for some period of time and are being reconstructed as replicas. The application is directed towards Title III entities. A historical note to the provision for application of the SHBC to reconstruction in Health and Safety Code Section 18951, "It is the purpose of this part to provide alternative regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of qualified historical buildings or structures... ." The phrase in parenthesis "including related reconstruction" was inserted into the code in the 1970s through discussions with the Department of Rehabilitation over language in SB 912 that would amend the SHBC. Quoting from the minutes of the June 8, 1977 meeting of the State Historical Building Code Advisory Board: "In regard to SB 912, the Department of Rehabilitation objected to the word reconstruction because they believe that reconstruction means the total recreation of a building. Mr. Girvigian explained that the reason for placing this word in a legal statute was to prevent the assumption by local building officials that this code would not apply to reconstruction which is related to restoration. A compromise was reached which inserted the words "(including related reconstruction)" after the word "restoration"."

The creation of replicas is a treatment that is often used by Title II entities for interpretive purposes. By this provision, publicly owned buildings and properties may not use the CHBC as authority for alternates to ADA requirements as they apply to reconstructions or replicas. Title II program entities can look beyond the CHBC for guidance in regards to reconstruction of qualified historical buildings and properties.

This modification will have the regulatory effect of limiting the ability of private owners and public entities to use the CHBC for new construction reconstruction/replicas. Where Title III entities are engaged in altering a facility, reconstruction or not, the historic preservation minimums will be the requirements.

601.3, Item 2 The board is proposing to modify the language of this sub-section for clarity and specificity. This provision directs the user to the definition of “alteration” as it is used in accessibility. The modification has no change in regulatory effect.

8-601.4 The board is proposing to modify the language of this sub-section for clarity and specificity. This language is added to provide the user the scope of application of this code under ADA. The ADA titles are described briefly in the General section above and the reader can refer to DOJ materials for more detailed information. The modification has no change in regulatory effect.

8-602.1 The board is proposing to modify the language of this sub-section for clarity and specificity. The board is proposing to add a reference for the reader to follow to the “regular” code for Title 24, California Building Standards Code (CBC), for accessibility. In California the building code for access is CBC, Chapter 11B. The modification has no change in regulatory effect.

8-602.1, Item 2 The board is proposing to modify the language of this section for clarity and specificity. The language of item 2 is stricken from the code to comply with comments from DOJ for the certification process. Alternate provisions for access should not be applied on a priority basis. The modification has no change in regulatory effect.

8-602.1, Item 2 The board is proposing to modify the language of this section for clarity and specificity. The numbering of item 3 of the 2001 CHBC is renumbered to be sub-section 2. The language of this item is modified with the addition of two prescriptive provisions that give the user guidance when gathering documentation required validating decisions made in applying the alternatives in this chapter. The modification has no change in regulatory effect.

8-602.1, Item 4 The board is proposing to modify the language of this section for clarity and specificity. Item 4 of this section is stricken from the code to comply with comments from DOJ for the certification process. The modification has no change in regulatory effect.

Section 8-603 The board is proposing to modify the language of this section for clarity and specificity. The language of the section title is modified by striking “preferred” to comply with comments from DOJ for the certification process. Alternate provisions for access should not be applied on a preferred basis. The modification has no change in regulatory effect.

8-603.1 The board is proposing to modify the language of this section for clarity and specificity. The numbering of “sub-section 1, Entry” of the 2001 CHBC is renumbered to be sub-section 2. A new sub-section, Alternative Minimum Standards is added to comply with comments from DOJ. The basic alternate to the ADA standards are the minimum building standards to be applied to all qualified historical buildings or properties as defined in the referenced part of ADA. This sub-section and the new standard is specifically directed to ADA Title III entities, the subject of DOJ certification. The breadth and scope of ADA Standards for Accessible Design and the opportunity for changes in those standards gives reason for this code to reference rather than quote the standards. The user is directed to use the federal document to gain the greater perspective of the DOJ information.

The regulatory effect of this section is the basis for DOJ certification of the CHBC. The alternative minimum standards are prescriptive minimums for ADA Title III entities. There is no “lesser” compliant standard. ADA Title III entities will have fewer alternatives to access compliance.

8-603.2 The board is proposing to modify the language of this section for clarity and specificity. The numbering of “sub-section 1, Entry” of the 2001 CHBC is renumbered to be sub-section 2. The board proposes to strike the language, “Alternates listed in order of priority are:” to comply with comments from DOJ. The modification has no change in regulatory effect.

8-603.2. Item 3 The board is proposing to modify the language of this section for clarity and specificity. The board is proposing to modify the language of this section to conform with ADA standards. The board proposes to add language to comply with comments from DOJ. This item mirrors requirements to provide a notification system at a secondary entrance. The CHBC requirement for an “entrance not used by the general public” is modified by this item. The modification has a regulatory effect.

8-603.3 The numbering to this section is modified due to inserting previous sections.

8-603.3, Exception The board is proposing to modify the language of this section, “Doors” for clarity and specificity. The board is proposing to add the language of this exception to conform with ADA standards and to comply with comments from DOJ. This exception allows previous language of the CHBC to be applied to ADA Title entities where appropriate. The regulatory effect of this exception is to add specificity to the scope of where the provisions of 8-603.3 apply.

8-603.4 The numbering to this section is modified due to inserting previous sections.

8-603.4 Exception The board is proposing to modify the language of this section, “Power-assisted Doors” for clarity and specificity. The board is proposing to add the language of this exception to conform with ADA standards and to comply with comments from DOJ. This exception allows previous language of the CHBC to be applied to ADA Title entities where appropriate. The regulatory effect of this exception is to add specificity to the scope of where the provisions of 8-603.4 apply.

8-603.5 The numbering to this section is modified due to inserting previous sections.

8-603.6 The numbering to this section is modified due to inserting previous sections.

8-603.6, Item 1 The board is proposing to modify the language of this section, “Power-assisted Doors” for clarity and specificity. The board is proposing to modify the horizontal distance required of the specified ramp. The language of this item will conform with ADA standards and comply with comments from DOJ. The modification has a regulatory effect.

8-603, Item 3 The board is proposing to modify the language of this section for clarity and specificity. The board proposes to strike the item to comply with comments from DOJ. The provisions of the item are redundant to section 604 that covers the alternatives for access. The modification has no change in regulatory effect.

Section 8-604 The board is proposing to modify the language of this section for clarity and specificity. The board proposes to strike the provision regarding “unreasonable hardship” to comply with comments from DOJ. Unreasonable hardship is not provided in ADA. The last sentence, “Alternatives to Section 6-804 are permitted only where the following conditions are met” is superfluous. The items are the provisions of the section, not conditions. The modification has no change in regulatory effect.

8-604, Item 3 The board is proposing to modify the language of this section for clarity and specificity. The board proposes to strike the language regarding “officially designated” organizations to comply with comments from DOJ. The provisions of the item provide the public and interested parties the ability to comment and be consulted without additional jurisdiction administrative requirement.

The board is proposing to modify the language of this section for clarity and specificity. The board proposes to add advisory language for the user with respect to providing documentation. This advisory proposes an additional location where the public can access and verify the process of approving an alternate under the CHBC Access provisions. These modifications have no change in regulatory effect.

8-604, Note The board is proposing to modify the language of this section for clarity and specificity. The board proposes to add advisory language for the user with respect to the use of Section 604 for ADA Title III entities. This advisory is added to comply with

comments from DOJ. Equivalent Facilitation is not prohibited for Title III entities, however the DOJ certification does not extend to their use. Use of this item negates the purpose of using a "DOJ Certified" access section. The modification has no change in regulatory effect.

CHAPTER 8-9 MECHANICAL, PLUMBING AND ELECTRICAL REQUIREMENTS

8-901.5 Energy Conservation. The Board is proposing to modify the language of this section from permissive language for installation of new appliances to mandatory. This modification follows the general requirement of state regulation to limit the amount of energy usage by buildings after they are constructed. This language follows the purpose and intent of this code to provide reasonable alternatives where code requirements threaten the qualities that make a building historic. This modification applies only to new energy consumptive elements being retrofitted into a historical building or property.

The California Energy Commission (CEC) has the authority to regulate energy consumption in appliances have a vested interest in the regulatory effect of this section. Part 6 of Title 24, Section 100 (a)(3)(C) Exception mirror the exemption in this chapter. The CEC supports that exemption, but have expressed the concern that this code provide as much of a mandate to conserve energy as can be done within the intent of this code.

Nonresidential and Residential Manuals for Part 6 of Title 24, Historic Buildings – Lighting Standards has language regulating the energy efficiency of lighting in historic buildings. The language limits the exemption in Section 100(a) of Part 6 and goes beyond the regulatory effect of Section 8-901.5

They have provided comments regarding the definition of an “appliance” and have suggested that the scope of the word “appliance” is insufficient to cover all of the elements that might be regulated by this language. Language has been added to meet the comments provided by the addition of “lighting and space conditioning system components, devices, appliances and equipment.”

The regulatory effect of the modification is to limit the exemption from energy compliance. The modification will make buildings and properties that use this code more energy efficient.

8-902.6.2 The Board is proposing to modify the language of this section for clarity and specificity. The modification adds a provision to assure an enforcing entity that an existing masonry flue is in good working order as it is in appearance from the exterior. Flue gases have acids that erode historic mortar often causing greater erosion on the interior than exterior. The modification will have a minor regulatory effect to assure reused chimneys are structurally sound.

8-903.2.7 The Board is proposing to modify the language of this section for clarity and specificity. Health and Safety Code §17921.3 gives the authority for allowing non-compliant “historic replicas and historic plumbing fixtures to be used in a historical context. This section is added to this code to allow the user an easy reference to the provision. The modification has no change in regulatory effect.

CHAPTER 10 HISTORIC DISTRICTS, SITES AND OPEN SPACES

SECTION 8-1001 PURPOSE AND SCOPE The board is proposing to modify the title of the section to conform to the format of the other chapters and sections. The modifications have no change in regulatory effect.

SECTION 8-1002 APPLICATION The board is proposing to modify the title and change the format to separate the application provisions of the section to conform to the format of the other chapters and sections. The modifications have no change in regulatory effect.

The board is proposing to add language to clarify and add specificity to the use of the code for building standards that apply to sites, districts and open spaces which are not covered under Chapter 8-3. The proposed amendments are intended to clarify a part of the code that has required interpretation and decisions by the Board. Section 18956 of the SHBC gives the code authority for application to the kinds of qualified historical buildings and properties that are noted in the definition Section 8-218. The language is consistent with long standing precedent and appeal decision by the Board. The modifications have the regulatory effect of setting in place existing precedent.

SECTION 8-1003 SITE RELATIONS. The board is proposing to modify the language for clarity and specificity. The board is proposing to make editorial changes that reflect the definition of a qualified historical building or property with the addition of the word "building" and changing "urban" to "historic". The modifications will make the section less confusing to the user. The modifications have no change in regulatory effect.