

## Updating Projects to Meet the New California Building Code

**STARTING ON JANUARY 1, 2008**, all building projects submitted for plan check to permitting agencies must comply with the new 2007 California Building Standards Code (CBSC), Title 24 of the California Code of Regulations. The new code differs significantly from prior California building codes due principally to the adoption of the International Code Council's International Building Code and International Fire Code, the International Association of Plumbing and Mechanical Officials' Uniform Plumbing Code and Uniform Mechanical Code, and the National Fire Protection Association's National Electrical Code, with specific amendments to each.

The California Building Standards Code applies to all occupancies in California. Contrary to popular belief, a model code is not directly adopted by local jurisdictions in California. The model codes are adopted into the CBSC, which regulates California construction. Thereafter, a local jurisdiction may amend its code with more restrictive amendments to the CBSC, but a local jurisdiction must at a minimum enforce the CBSC in full.

Now that California has adopted the 2007 CBSC, each jurisdiction will in turn be required to adopt the code, with an opportunity to add amendments based on local geographical, climatic, and topographical conditions.<sup>1</sup> The law requires local jurisdictions to put the new CBSC into effect within a minimum of 30 days after the official adoption on January 31, 2008. Based on this requirement, the permit application for a project designed using the 2001 California Building Code will have to be submitted to the enforcing agency prior to the effective date of the newer code.<sup>2</sup>

The application of the 2007 CBSC will be a challenge for the building industry and will likely trigger claims relating to the following or similar designer contract language: "The Construction Documents shall comply with all applicable governmental laws, codes, ordinances, and regulations and be complete and coordinated in all respects. Any errors, omissions, or ambiguities shall be resolved by the Architect at no cost to the Owner." An attorney's responsibility is to advise the client to check with designers and the local authority with jurisdiction over the project for the date when the new code will become effective. State law requires that the code edition on which the project is based be determined at the time of application or filing for plan check, not at the time when a permit is actually issued.

The following scenarios may present challenges to clients, attorneys, building officials, and designers in processing projects during the transition from the 2001 CBSC to the new code.

**Filing for a new project.** The new code will be effective at the time of submittal, formal application for plan check, and payment of fees—not the date of obtaining a permit. If the designer or owner has a project in plan check before the effective date of the new code, it will remain under the 2001 code until the building permit is obtained. However, caution should be exercised not to let the plan check

period expire. The designer, builder, or attorney should approach officials if a need for additional time arises. The law allows for the building official to grant one extension for an additional 180 days to the developer or owner, unless the delays are caused by the jurisdiction in the processing of the project, in which case additional extensions may be granted.

**Changes to a permitted project.** Changes to a project under construction or an already permitted project are processed by the jurisdiction as revisions unless they represent a change in scope to the project. Examples of scope changes are the addition of square footage,

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change in building footprint, or change in use and occupancy. Should the change in the scope occur, the changes will likely be required to meet the requirements of the new code.

**Additions, alterations, and tenant improvements.** These three scenarios are by far the most challenging. Changes to a building that require a permit must be based on the current code even when the building was constructed according to prior code editions. The law requires that any new building component must comply with the current code, including change in proposed occupancy for an existing building. If the building occupancy changes, then the whole building must comply with the current code, not just the addition, alteration, or tenant improvement. Many building officials offer preliminary code reviews and use alternate methods and materials provisions in the code to address such situations. Communications with building officials should help avoid surprises and assist in attaining a compliant project.

Clients, attorneys, building officials, designers, and others involved in the building construction industry will have to become familiar with different wind, seismic, and material design standards (concrete, masonry, steel, and wood). Interestingly, the new fire resistant design requirements result in an overall decrease in requirements. It is clear that the adoption of the 2007 CBSC is likely to create problems for clients in the building industry. Training will be required to understand the changes in the new CBSC and for the California building industry to grasp fully not only which code version applies but also what the new code requires. ■

<sup>1</sup> HEALTH & SAFETY CODE §§18941.5, 17958.7.

<sup>2</sup> HEALTH & SAFETY CODE §18938.5(a).

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