

A PRIMER ON THE WASHINGTON STATE BUILDING CODE ADOPTION PROCESSES

The WA State building code adoption process (including all of the various codes included in the WA State Building Code Act) can be confusing to those who are not familiar with all of the various players and various processes involved. It is hoped this document will help in understanding an otherwise quite confusing process.

WA Legislature:

First—there is a statute (law) adopted by the WA State Legislature. That law is the Revised Code of Washington (RCW) 19.27, which adopts the various codes by reference. RCW 19.27.031 states,

Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

(1)(a) The International Building Code, published by the International Code Council[,] Inc.;

(b) The International Residential Code, published by the International Code Council, Inc.;

(2) The International Mechanical Code, published by the International Code Council[,] Inc., except that the standards for liquified petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquified Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

(3) The International Fire Code, published by the International Code Council[,] Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) Except as provided in RCW [19.27.170](#), the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That any provisions of such code affecting sewers or fuel gas piping are not adopted; and

(5) The rules adopted by the council (State Building Code Council) establishing standards for making buildings and facilities accessible to and usable by the physically disabled or elderly persons as provided in RCW [70.92.100](#) through [70.92.160](#).

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following.

The codes enumerated in this section shall be adopted by the council (State Building Code Council) as provided in RCW [19.27.074](#). The council (State Building Code Council) shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process.

State Building Code Council (SBCC):

As read in the last italicized paragraph, the various codes “*shall be adopted by the council as provided in RCW 19.27.074.*” That statement then removes the legislative duty of reviewing each new code version, amending those codes, and putting them into effect from the Legislature and empowers the SBCC to enter “rule-making” for the purpose of reviewing, amending and adopting the codes.

Rule-making by the SBCC is the same as for any other WA State Agency with rule-making authority, with one exception, as will be discussed later. But, for general purposes, rule-making by the SBCC has to comply with every requirement of RCW 34.05, the Administrative Procedures Act. That Act (law) puts into place the requirements for entering new rule-making, holding public hearings on the proposals, filing new rules with the Office of the Code Reviser, and having rules published for public use.

The SBCC, in accordance with RCW 34.05, enters rule-making to create a new Washington Administrative Code (WAC) rule. Remember that no WAC rule can be written or adopted without the original statutory authority behind it. If the Legislature doesn't tell an agency to write a rule about a certain subject, the agency cannot do so. Further, any rule that is adopted has to comply with the statute as it was written; and must be adopted in the manner prescribed in RCW 34.05.

So, here is what the SBCC does:

- Reviews new versions of the model codes for implementation in the State of WA

- Amends those codes as appropriate by WAC rule (51-50 [building code]; 51-51 [residential code]); etc.
- As mentioned above, the SBCC has one exception to the rule-making process that does not apply to any other agency. The SBCC is only State Agency with statutory timelines for adoption of WAC rules amending and implementing codes
 - All WAC rules amending and implementing the codes must be approved by December 1st of any given year, and cannot go into effect until after the next Legislative Session
 - Legislature not required to act on those rules for them to become effective.

The SBCC typically enters rule-making every year to review code changes submitted by interested parties. However, the SBCC's own rules advocates only having any rule amending a specific version of a model code have an effective date of when the new code is implemented. For example—the 2009 versions of the codes were made effective on July 1, 2010. Any rule-making done in 2011 should not go into effect in 2012, and now the effective date of the new 2012 version of the codes is July ,1 2013. This is an attempt to have new code requirements change only every three years. Of course, the SBCC can make an exception to this if a new code amendment

(rule) is determined to be of such importance to life safety and/or health that its early implementation is in the best interests of the public.

What is a “Model” Code?

A “model” code is one that is provided as a “base” document to be used by governmental bodies, either by adopting it as printed, or amending and adopting with those amendments.

The codes named within RCW 19.27.031 are “model” codes developed by non-profit code-promulgating organizations. The International Building Code, International Residential Code, International Mechanical Code, International Fire Code, International Fuel Gas Code, International Existing Building Code are all promulgated and published by the International Code Council (ICC).

The Uniform Plumbing Code is promulgated and published by the International Association of Plumbing and Mechanical Officials.

These are all national, model codes developed for their specific subject. Each code organization—ICC and IAPMO—develop and publish a new edition every three years. Hence,

the SBCC starts their review process of the newly published codes, and the process for amending and adoption starts over.

What is a “Standard” and how do Standards relate to the codes themselves?

As an illustration of one standard is the American National Standards Institute (ANSI) A117.1 . ANSI A117.1 is the “Standard on Accessible & Usable Buildings.” This standard just as written and as published has no force of law in and of itself. In its simplest explanation, a standard is an agreed, repeatable way of doing something. It is a published document that contains a technical specification or other precise criteria designed to be used consistently as a rule, guideline, or definition. Standards are created by bringing together the experience and expertise of all interested parties such as the producers, sellers, buyers, users and regulators of a particular material, product, process or service. In accordance with Federal Law, a Standard needs to be developed by a very specific process that provides:

- (i) Openness.
- (ii) Balance of interest.
- (iii) Due process.
- (vi) An appeals process.

(v) Consensus, which is defined as general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties, as long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reasons why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

The ANSI process is one such process that meets all of those requirements. Because of that, many different standards on very different subject have been developed using the ANSI process.

As noted above, a standard does not have the force of law unless there is a code (law) mandating its use. Just as a WAC rule cannot be implemented without the back-up statutory authority, a standard needs to be named within a code to have its content implemented. Again, using the example of ANSI A117.1, the International Building Code (IBC) in Chapter 11, and the International Residential Code (IRC) in Chapter 3, specify when accessibility needs to be applied within a building. They then after noting the requirement, state that it needs to be done in accordance with ANSI A117.1. That is now

what implements the standard for accessibility items within the building.

What is the role of local government in building codes?

All cities, towns and counties are mandated to enforce the State codes, RCW 19.27.050. A local government may amend the codes with the following exceptions:

- May not reduce the performance of the State code by local amendments, and
- May not make effective any local amendment that impacts construction of one- to 4-unit residential structures, unless local amendment is approved by the SBCC.

Except: may now adopt Appendix S (Residential Fire Sprinklers) locally without further SBCC approval

Who has the “final say” in an application of a building code provision in WA State?

There is only one person (repeated about 384 times—every single WA city, town or county) who has the final authority to

determine whether something meets code or not. That person is the local building official—the person who in that specific jurisdiction has been given the authority to be the final “arbiter” of the code within the boundaries of that jurisdiction. There is typically an appeal process within that specific jurisdiction, but there is no State oversight or appeal to a State body, as there is in other States.