

Understanding State and Local Code Adoption Processes

Introduction: In the United States authorities having jurisdictions (AHJ) over the development and enforcement of building codes are: states, counties, and municipalities. Most AHJs develop their respective building codes with only a few modifications to nationally developed model codes.

Further, the success of major changes or new criteria proposed to the model codes often requires early adoption by proactive AHJs. In addition, voting on the final action on proposed changes to the International Code Council model codes is determined via online voting by qualified state and local officials. Having a relationship with these individuals is invaluable for both state and local adoptions and model code development.

Information providing general guidance on state and local code adoption is provided here. An in-depth investigation of each process of the authority having jurisdiction will provide further insight and reveal more specifics about the processes. The information is only intended to provide basic guidance.

Process – entities empowered to adopt building codes

Timeline – discussion of frequency of code adoptions and modifications

Scope – purview of building codes with regard to ownership and occupancy

Modifications – ability for local jurisdictions to modify statewide codes

Basis – model codes serving as the basis for the statewide codes

Regulations – examples of building codes within codes of regulations

Process: Each state and local jurisdiction adopting building codes has their own unique code adoption process. Typically, one of three basic approaches are followed.

- 1) The state legislature enacts legislation regarding code adoption which may be a model code with or without modifications to model codes.
- 2) State legislative action empowers a council working with a governmental body to develop and maintain the building code.
- 3) State legislative action empowers local jurisdictions to develop and maintain building codes.

Timeline: The code adoption cycle might be determined by the legislature or government agency maintaining the building code. There may or may not be a frequency specified in the legislation or rules and there may or may not be a specific timeline assigned to the code adoption process. Table 1 provides information about states that have legislated building code adoption cycles.

Scope: In addition to the various authoritative approaches, the six most common applications of buildings codes adopted at the state level are:

- 1) State wide building code applicable to all buildings.
- 2) Statewide building code applicable to all buildings except one- and two-family dwellings.
- 3) Statewide building code only applicable to state-owned or funded projects.
- 4) Statewide building code only applicable to state-owned or funded projects and specific building types or occupancies.
- 5) No statewide building code.
- 6) No statewide code, but if a code is adopted by local jurisdiction the locally adopted building code must meet or exceed the requirements of the state adopted code.

The level of building code adoption, state or local, is shown for each state in Table 1.

Modifications: Legislation or regulations at the state level determine the ability of local jurisdictions to adopt or modify statewide codes. The three most common provisions governing local amendments to statewide codes are:

- 1) Statewide building code with no local amendments permitted.
- 2) Statewide building code with modifications that are only more restrictive.
- 3) Statewide building code with modifications permitted to be more restrictive or more permissive.

General indications of the ability of local jurisdictions to modify statewide codes are shown in Table 1. States may or may not require approval of local modifications by a council or agency.

*Last update September 2019.

Basis: Most state and local jurisdictions select a model building code that serves as the basis for the building code that is adopted and enforced. The AHJ simply typically modifies the model code selected. Some modifications are enacted to align the administrative requirements of the model code with the rules and regulations of the AHJ. Other modifications may be technical to the building code enforced reflects local conditions including but not limited to climate, demographics, disaster recovery capabilities, economy, emergency response capabilities, geography, geology, politics, and population density. The two primary advantages of basing state and local building codes on model codes are:

- 1) Reduction in administrative costs related to the development, adoption, and maintenance of a building code.
- 2) Minimization of design and construction errors combined with positive cost impacts due to uniformity of most requirements from one jurisdiction to the next.

An example of an additional benefit is access to education and training programs based on the model code requirements and the requirements of referenced standards.

This is not only important because of issues related to standards of reasonable care, but also to help assure that the level of life, health, safety, and welfare of the public provided is appropriate.

Regulations: State, county and municipal codes are developed and maintained through legislation at the respective levels. The building code is only a portion of the state, county or municipal code, as shown in Table 4. The legislation may identify specific model codes with or without modifications to be implemented within the AHJ. The most common approach is where legislation identifies an agency and/or a process for implementing a building code. Recently, due to political pressure from builders and developers, state and some jurisdictions have enacted or are considering legislation that sets the time frame for code adoptions, extending the time to 6 years or more.

States tend to follow one of two types of rules regarding empowerment of local jurisdictions: Home Rule or Dillon's Rule. Ten states are exclusively Home Rule: AK, IA, MA, MT, NJ, NV, OH, OR, UT and WV. In these states the state code of regulations may be pre-empted by the local AHJ. Nine states are exclusively Dillon Rule states: AL, DE, MS, NE, NH, OK, VA, VT, and WY. In these states the local AHJ is restricted from modifying the state code of regulations. Two states follow neither Dillon's Rule nor Home Rule: NM and SC. The remaining states have a combination of Dillon's Rule and Home Rule. Combinations occur when states require local AHJs to adhere to state restrictions on portions of the state code of regulations, which may or may not include the building code.

The further decisionmakers are from implementation of building codes, the less likely there is an appropriate understanding for the need to comply with current codes and standards. Legislative decisions tend to be based more on political advocacy rather than on technical merit.