

**Prohibitions on
Regulation of
Building Products,
Materials, or
Methods**

Notwithstanding any other law and except as provided by Government Code 3000.002(c), a governmental entity, including a college district, may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that:

1. Prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or
2. Establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

A governmental entity that adopts a building code governing the construction, renovation, maintenance, or other alteration of a residential or commercial building may amend a provision of the building code to conform to local concerns if the amendment does not conflict with the above provisions.

Gov't Code 3000.002(a)–(c)

**Accessibility for
Individuals with
Disabilities**

Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity, including a college district, shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Each facility or part of a facility which is altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities. *28 C.F.R. 35.151(a)–(b), 34 C.F.R. 104.23(b)*

Except as otherwise provided in *28 C.F.R. 35.150*, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of a public entity or be subjected to discrimination by any public entity. *29 U.S.C. 794, 42 U.S.C. 12132; 28 C.F.R. 35.149, 34 C.F.R. 104.21*

A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

This paragraph does not:

1. Necessarily require a public entity to make each of its existing facilities or every part of a facility accessible to and usable by individuals with disabilities;
2. Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or
3. Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with 28 C.F.R. 35.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

28 C.F.R. 35.150(a); 34 C.F.R. 104.22(a)

A recipient may comply with the requirements of 28 C.F.R. 35.150 and, if applicable, 34 C.F.R. 104.22(a) through such means as:

1. Redesign or acquisition of equipment.
2. Reassignment of classes or other services to accessible buildings.
3. Assignment of aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.

7. Construction of new facilities.
8. Any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities.

A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with 28 C.F.R. 35.150, and if applicable, 34 C.F.R. 104.22(a). A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of 28 C.F.R. 35.151. In choosing among available methods for meeting these requirements, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 C.F.R. 35.150(b); 34 C.F.R. 104.22(b)

Review of Plans

All plans and specifications for construction of or for the substantial renovation or modification of a building or facility must be submitted to the Department of Licensing and Regulation for review and approval if the building or facility is subject to Government Code Chapter 469 and if the estimated construction cost is at least \$50,000. *Gov't Code 469.101*

The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the required plans and specifications. The owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the department. On application to a local governmental entity for a building construction permit, the owner shall submit to the entity proof that the plans and specifications have been submitted to the department under Government Code Chapter 469.

Approved plans and specifications to which any substantial modification is made shall be resubmitted to the department for review and approval.

The owner of a building or facility described by Government Code 496.101 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, or modification of the building or facility is completed. The inspection must be performed by the department, an entity with which the

commission contracts under Government Code 469.055, or a person who holds a certificate of registration to perform inspections under Government Code Chapter 469, Subchapter E.

Gov't Code 469.102(a), (c), .103, .105

**Outdoor Lighting
Fixtures**

An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if:

1. The new or replacement outdoor lighting fixture is a cutoff luminaire if the rated output of the outdoor lighting fixture is greater than 1,800 lumens;
2. The minimum illuminance adequate for the intended purpose is used with consideration given to nationally recognized standards;
3. For lighting of a designated highway of the state highway system, the Texas Department of Transportation determines that the purpose of the outdoor lighting fixture cannot be achieved by the installation of reflective road markers, lines, warning or informational signs, or other effective passive methods; and
4. Full consideration has been given to energy conservation, reducing glare, minimizing light pollution, and preserving the natural night environment. "Energy conservation" means reducing energy costs and resources used and includes using a light with lower wattage or a timer switch.

Health and Safety Code 425.002(a)–(b)

Exceptions

The standards for state-funded outdoor lighting fixtures do not apply if:

1. A federal law, rule, or regulation preempts state law;
2. The outdoor lighting fixture is used on a temporary basis because emergency personnel require additional illumination for emergency procedures;
3. The outdoor lighting fixture is used on a temporary basis for nighttime work;
4. Special events or situations require additional illumination;
5. The outdoor lighting fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest exists that cannot be addressed by another method.

Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

Health and Safety Code 425.002(c)–(d)