

Creating Healthier Housing Through Standards

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Early Housing Codes Led to Major Health Gains, but Subsequent Evolution of Health Codes Has Led to a “Stove Pipe” Approach to Healthy Housing

Housing codes, when enforced, provide the strongest and most direct legal tool for preventing and remediating indoor health hazards, particularly in multifamily and rental housing. For example, requirements to prevent leaky plumbing, faulty gutters, and excessive moisture intrusion help to prevent mold growth and pest infestations. Prohibitions on deteriorating paint reduce lead hazards in high-risk housing. Such prevention-based housing code provisions have proven more cost-effective for housing providers—and healthier for residents—than the traditional approach of responding only after someone has become sick or injured.

Early U.S. housing codes focused intensively on preventing major public health problems, particularly the spread of communicable diseases, through sanitation, access to fresh air, and avoiding overcrowding. For example, The *New York Tenement House Act of 1901* forced the replacement of the “dumbbell” multi-family housing style with “central court tenements,” distinguished by open space amidst a group of buildings, which increased access to fresh air and recreation space. Public health officials created, implemented, and enforced these early codes.

However, as improvements in sanitation and medicine curbed the outbreak of communicable diseases, the

public health community became less involved and separate departments were established to develop and enforce housing and building codes. The separation of public health from housing and building codes led to a “stove pipe” approach, whereby health inspectors have limited authority and resources to proactively address housing-related health hazards. Similarly, housing and building inspectors tend to focus on building safety and life-threatening hazards, leaving chronic problems related to health, such as moisture, lead-based paint, radon, and pests unaddressed.

Although housing code development and enforcement have traditionally been a state and local matter, the societal costs of poor quality housing, ranging from the direct medical expenses to the loss in work productivity, are often borne at least in part by the federal government through Medicaid, Medicare, and other programs. Thus, the federal government and national organizations have a stake in improved housing codes and code enforcement.

Most Localities Now Base Their Laws on Model Codes, but the Models Do Not Address All of the Major Home Health and Safety Hazards

To avoid a complicated patchwork of differing requirements, most jurisdictions today do not develop their own housing codes but rather start with a model code. The most widely used models are developed by the International Code Council (ICC). Using a consensus-based process, the ICC allows anyone to submit proposed changes or additions, which then are voted on by a committee at a public hearing process. After committee consideration, proposals are voted on by code officials at a final action hearing. States and localities may then adopt or modify the model code to match their needs.

The ICC model housing and building codes contain numerous provisions that help promote a healthy home environment.

The National Center for Healthy Housing and the Alliance for Healthy Homes jointly proposed changes to the *International Property Maintenance Code* and the *International Residential Code* in 2007 and 2009. The ICC accepted proposals for non-toxic pest control, exterior exhaust of clothes dryers, CO alarms a requirement in new construction and existing structures, safe repair of paint hazards in pre-1978 homes, and prohibiting the use of unvented combustion heaters for comfort heating. Other requirements that should be added to make the codes health protective include:

- Removal, replacement, or remediation of porous or permeable surfaces with visible mold;
- Use of lead-safe work practices during repair work in older homes (consistent with EPA's renovation rule);
- Radon risk reduction in new construction in high risk counties designated Zone 1 and 2; and
- Use of a licensed pest management professional when the code official orders pest control.

In addition, the property maintenance code needs a definition of "sanitary" so code inspectors can more effectively apply the term, and modification to the definition of "infestation" to expressly include bedbugs, cockroaches, rodents, and, where infestation is active, visible pest residues or debris. Establish clear provisions in the IPMC for standards to address specific health issues.

Sufficient Code Enforcement Powers and Resource—An Equal Challenge

The existence of even the most progressive housing code, however, does not guarantee safe and healthy housing. Many local code enforcement agencies rely on complaints to trigger an inspection because they are hamstrung by limited resources or have insufficient enforcement powers (e.g., to order prompt remediation and impose stringent penalties). Tenants are often reluctant to file a complaint for fear of retaliation. Thus, systematic code enforcement is an important supplement to complaint-based enforcement. For example, when Los Angeles, New Jersey, and St. Louis added mandatory, regular, and systematic inspections, it led to significant improvements, particularly in high-risk and rental housing. A 2006 amendment to the City of

Rochester, New York's certificate of occupancy procedures added a requirement for regular visual and lead-dust inspections in high-risk rental housing. This resulted in the remediation of lead hazards in 12% of properties and decreased the risk of lead poisoning of children substantially.

Effective Government Standards Affect Building Practices and Code Enforcement

While the consensus organizations perform an important function in engaging scientific testing and building professionals in developing proprietary standards products, the expertise of federal agencies and research partners can contribute to standards where the private sector voice is disparate or silent. The statute that directed EPA to develop a lead hazard standard eventually led to a protective bright line for too much lead, and requires EPA to update it if petitioned. No such standard has been mandated for indoor exposure to radon, carbon monoxide, mold, or other contaminants.

FY 2010 Policy Agenda Related to Healthy Housing Codes and Standards

- 1) **Amend the ICC Model Codes:** The ICC's products have been adopted widely by states and localities and, thus, are quite influential. We can incorporate unaddressed health hazards into housing and building codes by seeking to amend current ICC model codes. One option is to create a new healthy housing chapter in the International Property Maintenance Code as has been proposed in previous years.
- 2) **Establish a Minimum Federal Standard for Private Rental Housing based on Updated Standards:** A direct federal requirement that rental housing meet a minimum set of healthy housing standards would go a long way toward creating a decent housing baseline. It is likely that such a proposal would be met with objections of federalism, given that housing regulation is typically focused locally, and therefore left to states, cities, and counties. However, federal requirements directing rental property owners to disclose hazards and comply with environmental laws has been exercised without effective challenge. The United Kingdom has a National Health Housing Rating System to ensure the safety and health of all housing and which is enforced by local housing authorities. A similar federal standard would fill a

public policy void that only private sector consensus organizations address.

3) Incentivize Better Enforcement of Current

Codes Nationwide: Unless a code is coupled with resources or incentives to encourage systematic enforcement, it is difficult for states and localities to implement it. Federal assistance (either as a new grant or requirement for an existing grant) could incentivize communities to implement systematic inspections of rental properties for health hazards via additional staffing and/or training for code enforcement officers. The Community Building Code Administration Grant Act (S. 970, H.R. 2246), passed by the House of Representatives in 2009, has been added to the Energy Efficiency in Housing Act. It authorizes HUD to distribute up to \$20 million in competitive grants to local building code enforcement departments annually, especially those departments that “work cooperatively with other local code enforcement offices, health departments, and local prosecutorial agencies.” Localities implementing proactive code enforcement and emphasizing repair over demolition would be more competitive for funding.

FY2011 Policy Initiatives (Discussion Draft)

In addition to continuing to pursue the above policy initiatives, the Coalition is proposing to add the following initiatives to its priorities for FY2011:

1) Amend the Safe Chemicals Act of 2010 (S. 3209) to Include Standards for Building Materials and Indoor Exposure.

Chemicals in building materials deserve explicit attention in the Toxic Substance Control Act (TSCA) reform discussions. Asbestos, lead, formaldehyde, arsenic, and Chinese drywall have already carried new health risks into homes, and we’ve learned over the years that it is an expensive endeavor to remove these hazardous materials from our homes after they’ve been installed. TSCA reform provides an opportunity for preventing these problems by establishing standards for chemicals

in building materials as well as action levels for substances of concern.

2) Amend the Home Star Legislation (H.R. 5019, S. 3177) to Require EPA to Set Minimum Standards for Health and Safety.

Home Star for Energy Retrofit is an important initiative that will improve the quality of life for millions of families through energy savings, environmental responsibility, and improved comfort. However, as buildings become more airtight in the effort to conserve energy, indoor air quality can suffer and moisture and mold problems can arise. This happens because the reduction in air leakage that saves energy also creates excess moisture buildup. The resultant mold, moisture, and other air quality problems trigger asthma, allergies, and other negative effects on occupant health. Home Star can assure indoor air quality by permitting the supplementation of retrofit measures with mitigation of the negative effects of increased tightening of the building envelope.

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