

Regulatory Oversight over Factory-Built Structures

High-Level: Building Codes & Standards (BCS) operating within DOLA's Division of Housing is the state agency responsible for authorizing, inspecting, and certifying factory-built structures and components, including closed panel systems, across all areas of the state. This program has been in existence since before the federal government began regulating manufactured homes. This state-wide regulatory program reviews and approves quality assurance procedures and construction plans, and ensures in-plant and site inspections are performed to verify that structures are completed and installed per the codes and standards reflected in the approved plans and installation manual for these structures. The vast majority of the codes and standards that are applied are adopted by the State Housing Board after a public rulemaking hearing process has concluded where it considers the recommended codes and standards along with any public testimony entered into the record. The proposed rules presented to it for its consideration are only noticed after a robust stakeholder engagement process utilizing the diverse expertise seated on the Technical Advisory Committee has first concluded. Registration is required with the program for manufacturers, installers, installation inspectors, and sellers to do business in Colorado. The program also authorizes third-party plan review and inspection agencies to assist with its regulatory oversight of this industry, including those local governments interested and able to perform inspections on its behalf. The program also manages a complaint process for consumers.

Governing Statute and Rules: [C.R.S. 24-32-3301 to 24-32-3329](#); [Administrative Rules 8 CCR 1302-14](#)

Current Adopted Codes:

- 2023 National Electric Code, as adopted by the State Electrical Board
- 2021 International Code Council Set - IBC, IRC, IMC, IPC (as adopted by the State Plumbing Board), IFGC, and IECC (in compliance with HB22-1362)
- Energy Code Board's Model Electric Ready and Solar Ready Codes

Responsible for:

- Off-site construction, both residential and non-residential, where the product arrives at the installation site and the local building department is unable to determine if it was constructed to code due to the inability to access electrical, insulation, mechanical, or plumbing that was installed in the structure off-site and closed before it was shipped to the installation site.
- Installation of factory-built structures, specifically one- or two-family dwellings, tiny homes, and multi-family structures.

What are factory-built structures?

- Commercial Modular Structures, also called-Factory Built Non-Residential structures
 - o Commercial structures built to the International Building Code. May include some multi-family units. Includes apartments and hotels. Includes components, such as modular bathroom units for a site-built hospital.
- Modular Homes, also called Factory Built Residential structures
 - o One- or two-family dwellings built to the International Residential Code. This may also include some multi-family units, e.g. townhomes.
- Tiny Homes
 - o Residential structures less than 400 sq ft, built on a permanent chassis, not self-propelled, and constructed to the adopted International Residential Code as a dwelling for long-term occupancy.

Who we work with:

- State Agencies: Department of Regulatory Agencies (Electrical and Plumbing boards), the Division of Fire Prevention and Control, and the Colorado Energy Office.
- Local Jurisdictions with Building Departments
- Third-Party Agencies

How we work with Local Jurisdictions that have a Building Department:

- On-site construction “OC” items
 - Not all construction of factory-built structures is completed offsite at the plant. Typical factory-built construction has transportation or other logistical constraints that may prevent the structure from being completed 100% at the factory. In these instances, construction—per the plans as approved by the Division of Housing—is finished on-site under the Division’s oversight. The local authority may accept the responsibility of inspecting these items on behalf of the Division to the codes/standards adopted by the State Housing Board or it may defer these inspections to the Division. If deferred, the Division may elect to authorize a third-party inspection agency to conduct these inspections on its behalf.
- Installation of factory-built structures
 - A local authority may register with the Division as a “Participating Jurisdiction”, where they are authorized to conduct installation inspections on behalf of the Division for one- or two-family dwellings, tiny homes, or multi-family structures.
- Training
 - The Division provides free training for installations, rules and regulations of the program (code requirements), and may provide pre-construction guidance for projects.
- Local design criteria
 - The Division understands the importance of building safety and the vast differences in minimum design criteria at site locations around Colorado, and defers the following building design requirements to local governments with a building department:
 - Through statute - site accessibility standards for structures with 7 or more residential units (Title 9, Article 5), zoning, foundation systems, unique public safety requirements related to geographic or climatic conditions, e.g. wind shear (with a minimum of 115 mph (Vult), Exposure C set in rule), snow load (roof with a minimum set at 30 psf, non-reducible in rule), wildfire risk.
 - Through administrative rule - frost line, winter design temperature, flood hazard, air freezing index, mean annual temperature, radon mitigation, ADU separation, and whether or not an automatic fire sprinkler system must be installed.
 - Through code - thermal zone.

Local Authority over Factory-Built Structures:

- Construction plan review with respect to: permitting, property value, siting (roads, utilities, etc.), construction inspections and zoning requirements for all site-built systems for the factory-built structure. Local building departments may not charge for services performed by the state unless they are performing this work on behalf of the state, ie. OC inspection or work as a Participating Jurisdiction
 - Areas with jurisdictional overlap between state and local:

- Drainage - water must drain away from the structure to prevent water buildup beneath the structure
- On-site built accessory structures - if it is structurally attached to the factory-built structure and it alters the already approved construction plan for the factory-built structure prior to state certification

How we work with State Agencies:

- **DORA (Electrical and Plumbing)**
 - DOLA's program - in-plant construction and on-site completion work, and all inspections to certify factory-built structures, are done by qualified personnel with appropriate credentials (minimum ICC certifications). Installations and inspections of installations (IRC, tiny home, and multi-family) are reviewed and approved by qualified personnel outlined in the Division's administrative rules, including experience and training requirements.
 - DORA's programs - site utility connection is conducted by licensed electricians and plumbers, and inspected by licensed electricians and plumbers as regulated through DORA's administrative rules, including deferring to local governments. May also assist local jurisdictions with on-site completion work on behalf of a local government that elects to take on this responsibility on behalf of the Division but the locals do not have capacity for electrical or plumbing inspections.
- **DFPC - Fire suppression (sprinklers)** - some jurisdictions have adopted building codes that require sprinkler systems, and some have amended that requirement out of locally adopted codes. With regard to factory-built structures, through administrative rules, automatic sprinkler requirements are "deferred to local".
 - DFPC amended their rules around October of 2023, to now require that the installation and inspection of sprinkler systems be performed by a person or entity authorized by them; this has created issues for the industry, for both the manufacturers ensuring they are installed either offsite or onsite per these new requirements as well as the third-party inspection agencies ensuring they are authorized to inspect them. As a result, this added delays and additional costs to their process.
- **DFPC - Wildfire Mitigation**
 - Recent legislation (SB23-166) charges DFPC with developing a wildland urban interface (WUI) map and code. The Division is providing input to this development process. This bill will require further collaboration to ensure effective implementation of both bills.
 - Currently, the Division is responsible for plan reviews and construction inspections related to local jurisdiction WUI design criteria for the unit if the local jurisdiction has adopted wildland fire mitigation design criteria.
 - Currently, locals or DFPC are responsible for vegetation (defensible space), water supply, and access requirements on-site.
- **CEO - The Colorado Energy Office's Energy Code Board** is responsible for adopting model electric ready and solar ready codes, and model low energy and carbon code. The Division of Housing adopted the model electric ready and solar ready code as well as the 2021 IECC by 1/1/25 as required by statute (HB22-1362). And it will adopt the model low energy and carbon code by 1/1/30 as required.

Opportunities:

- Working together across state agencies, local jurisdictions, and industry partners will yield results in this re-emerging segment of the construction industry. SB25-002 is an important step in that direction by providing Colorado a path forward to being a leader in producing factory-built structures. It provides:
 - Clearer lines of authority between state agencies and facilitate communication on rules and communication, especially with respect to fire suppression (inside the building), wildfire mitigation (structure hardening and defensible space), updated construction code amendments, and the upcoming carbon code planned for 2030.
 - More opportunities for education and training between the state and local jurisdictions to cooperatively inspect factory-built structures.
 - Education and certification opportunities for our industry partners, i.e. developers, financial institutions, general on-site contractors, and housing authorities on how best to implement factory-built projects in their development plans/goals.
 - Establishes regional codes which allows manufacturers to approve plans for more than a specific address location while meeting required climatic considerations. This will help with production planning and reduce the number of construction plans required, i.e. result in cost savings to the consumer.
 - Study how to move forward in the future with consideration of methodologies to allow streamlined approval and inspections for not only the structure, but above grade attachments and inclusions (study only).
- From a code perspective, the following elements are what the bill moves from local governments and one state agency to be housed under DOLA:

Local Governments

- Through statute - unique public safety requirements related to geographic or climatic conditions, e.g. wind shear, snow load, wildfire risk.
- Through administrative rule - frost line, winter design temperature, flood hazard, air freezing index, mean annual temperature, radon mitigation, ADU separation, and whether or not an automatic fire sprinkler system must be installed.

State Agencies

- From DFPC - the requirements to install or inspect a fire sprinkler system

Summary:

The current program already provides oversight over the vast majority of what is required to construct a factory-built structure and to install it through codes adopted by the State Housing Board and enforced through DOLA's Division of Housing in coordination with its partners, e.g. local governments, other state agencies, and third-party agencies. We have an opportunity through this bill to dramatically help improve the landscape for more affordable, safe, and code compliant factory-built construction options in Colorado. This bill furthers this work by applying regional code uniformity and improved construction timeline certainty in allowing factories to produce a product that isn't just custom made for a single site, and lowering costs through time savings and reducing expenses by cutting unnecessary red tape in the form of double regulation, eliminating confusion around oversight and code application, and providing a coordinated approach to regulation across the state.