

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS**

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**To: City and County Building Officials
Interested Parties (SHL)
Division Staff**

SUBJECT: Universal Design: New Model Local Ordinance Availability and New Builder Checklist Requirement

This Information Bulletin is intended to provide information regarding two recent actions by the Department of Housing and Community Development ("Department") to implement recent laws enacted by the Legislature related to "universal design". Both laws are part of the State Housing Law, Sections 17910 and following, of the Health and Safety Code (HSC), subject to local enforcement. Universal design guidelines are intended to enhance the full life cycle use of housing and to accommodate a wide range of individual preferences and functional abilities.

1 Universal Design Model Ordinance

HSC section 17959 (enacted by Assembly Bill 2787, Chapter 726 of the Statutes of 2002) requires the Department to develop and certify one or more model universal design ordinances applicable to new construction and alterations for voluntary adoption by local governments. The Department certified a model ordinance on October 31, 2005, which now may be adopted by cities and counties. Notwithstanding laws restricting the authority of local governments to adopt building standards that vary from the California Building Standards Code, the model ordinance may be adopted as new building standards.

If adopted, the ordinance identifies rooms and denotes features which must be offered by a builder in residential units subject to the ordinance that are being newly-constructed or substantially rehabilitated; they need only be installed if requested by the buyer/owner and if the installation would not cause an unreasonable delay or significant unreimbursable cost to the developer or builder.

The model ordinance standards should not be confused with Chapter 11A, Accessibility Standards, of the California Building Code (Part 2, Title 24, California Code of Regulations): the specific standards for construction and installation are specified in the ordinance. They generally track the minimum standards imposed by the federal Fair Housing Amendments Act and Chapter 11A, rather than the standards imposed by Chapter 11B of the California Building Code. By its terms, the ordinance would be enforceable by the local government, and plan review and approval would be subject to

the special standards of the ordinance unless other standards were specifically agreed to by the buyer/owner and the builder.

2 Universal Design Buyer/Builder Checklist

HSC section 17959.6 (enacted by Assembly Bill 1400, Chapter 648 of the Statutes of 2003) requires California builders constructing new for-sale residential units to provide a “checklist” of universal accessibility features to a purchaser of a home beginning 90 days after the Department certifies a model checklist. The Department certified a model checklist on October 28, 2005. Therefore, a checklist must be offered to a buyer of housing units for which a building permit application is submitted on or after January 26, 2006.

The checklist must be provided for new single-family, duplex, triplex, townhouse, condominium or other dwellings. It must include specified standards and features, and any other features requested by the buyer at a reasonable time, if reasonably available and feasible to install or construct. Each feature must be indicated on the list as “standard”, “limited”, “optional”, or “not available”, and the developer is not required to provide any feature on the list. The Department’s model checklist, if used by the builder, is deemed to comply with the law’s requirements. Builders may develop their own checklists, as well. A violation of section 17959.6 is punishable by a civil penalty of \$500.

The checklist may specify the standards required as part of the contract between the builder and buyer. Any plan review and site inspection should include a copy of the executed checklist in order to ensure that the proper standards are reflected on the plans and in construction.

Enforcement by Building Departments and Adoption of Local Ordinances

The Department has oversight responsibilities for proper enforcement of the State Housing Law, HSC 17910 et seq., and the California Building Standards Code related to specified residential occupancies. Enforcement responsibilities, including the authority to impose civil penalties, are delegated to local enforcement agencies by the Legislature through the State Housing Law. HSC Section 17960 states that every city or county shall enforce all of the provisions published in the State Housing Law and the California Building Standards Code.

If you do not have a copy of the Health and Safety Code, it can be found online at <http://www.leginfo.ca.gov>. Copies of both certification notices, summaries of the ordinance and the checklist, and the text of the model ordinance and the checklist are available for download from the HCD website, www.hcd.ca.gov/codes.

Please direct questions or comments regarding this Information Bulletin to Dave Walls, State Housing Law Program Manager, at the address above, at (916) 445-9471, or by electronic mail to dwalls@hcd.ca.gov.

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