

DRAFT

ORDINANCE NO. XX-2011

**AN ORDINANCE OF THE CITY OF FREMONT, ADDING
FREEMONT MUNICIPAL CODE TITLE VII, CHAPTER 14
REGARDING UNIVERSAL DESIGN STANDARDS**

THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. FMC TITLE VII, CHAPTER 14 ADDED.

Fremont Municipal Code Title VII, Chapter 14 is added to read as follows:

CHAPTER 14. UNIVERSAL DESIGN

- § 7-14100 Purpose and Intent.
- § 7-14110 Findings.
- § 7-14120 Definitions.
- § 7-14130 Scope and Application.
- § 7-14140 Exemptions.
- § 7-14150 Standards: Primary Entry.
- § 7-14160 Standards: Interior Routes.
- § 7-14170 Standards: Primary Floor Power Room/ Bathroom Entry and Facilities.
- § 7-14180 Standards: Kitchen and Facilities.
- § 7-14190 Standards: Common Use Room.
- § 7-14200 Standards: Bedroom.
- § 7-14210 Standards: Miscellaneous Areas.
- § 7-14220 Standards: General Components.
- § 7-14230 Standards: New Construction – Permissive Options.
- § 7-14240 Appeals.

Sec. 7-14100. Purpose and Intent.

- (a) The purposes of this chapter are:
 - (1) To facilitate the development of residential dwelling units that are visitable, usable and safe for occupancy by persons with disabilities;
 - (2) To allow new homebuyers the option of incorporating universal design principles into their future homes that would enhance their ability to remain in their homes during periods of temporary, developing, or permanent disabilities or frailties; and
 - (3) To accommodate a wide range of individual preferences and functional abilities while not significantly impacting housing costs and affordability.

Sec. 7-14110. Findings.

(a) Pursuant to California Health and Safety Code Section 17959, the City Council finds that:

- (1) In 2007, approximately 19,000 Fremont residents were over the age of 65 and of these, nearly 7,000 had a disability. Regarding Fremont residents between the ages of 16 and 64, over 10,000 had a disability. Also, the number of Fremont residents between the ages of 45 and 64 numbered nearly 54,000, or more than 25% of the City's population. This last group has created a surge in demand for housing as it passes through each stage of the life cycle. The desire for members of this generation to have access to housing that will accommodate their physical changes as they age may evolve as a critical market force supporting the provision of universal design features in new housing.
- (2) The provisions of this chapter are reasonably necessary to serve these populations as well as those anticipating a disability by enhancing opportunities for the full life-cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests. This is done in order to accommodate a wide range of individual preferences and functional abilities.
- (3) The provisions of this chapter are substantially the same as the model universal design ordinance adopted by the State of California Department of Housing and Community Development and are not less restrictive than the requirements of the California Building Code as adopted by the City.

Sec. 7-14120. Definitions.

For the purpose of this chapter, the following terms shall have the following definitions:

Accessible means consistent with or as defined by the California Building Code, Chapter 11A.

ANSI A117.1 means the most current version of the "Standard on Accessible and Usable Buildings and Facilities," commonly known as "ICC/ANSI A117.1," published by the International Code Council and American National Standards Institute, Inc.

Bathroom means a room containing a toilet (water closet), lavatory (sink), and either a shower, bathtub, combination bathtub/shower, or both a shower and bathtub. It includes a compartmented bathroom in which the fixtures are distributed among interconnected rooms.

CBC, Chapter 11A means Chapter 11A of the California Building Code (located in Part 2, Title 24, California Code of Regulations), or its successor provisions.

Common use room means a room commonly used by residents or guests to congregate.

Custom-built home means a single-family detached dwelling that is built to the owner's specifications and not part of a master planned development.

New construction means the construction of a new building. New construction does not include additions, alterations, or remodels to existing buildings.

Owner-occupied means any residential dwelling unit not intended, at the time of application for the building permit, to be occupied as a rental dwelling.

Powder room means a room containing a toilet (water closet) and lavatory (sink), but no bathtub or shower. It includes a compartmented powder room in which the fixtures are distributed among interconnected rooms.

Primary entry means the principal entrance through which most people enter a building or residential unit, as designated by the building official.

Rental means any residential dwelling unit not intended, at the time of application for a building permit, to be occupied by the owner.

Residential dwelling unit means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Visitable residential dwelling means a residential dwelling unit subject to the requirements of this chapter by virtue of being within the scope of this chapter as defined in Section 7-14130.

Sec. 7-14130. Scope and Application.

(a) Unit Coverage. All residential dwelling units which are, or are intended to be, owner-occupied or rental for which an application for a new construction building permit is submitted to the Building Division 30 or more days after the effective date of this chapter shall be visitable residential dwellings.

(b) Unit Types. New construction of all single-family, duplex, and triplex residential dwelling units except for custom-built homes shall be subject to this chapter.

Sec. 7-14140. Exemptions.

(a) When the applicant adequately demonstrates and the building official determines that compliance with any portion of any regulation under this chapter would create an undue hardship, or that equivalent facilitation is not available, an exemption to that portion of the regulation shall be granted.

(b) When the applicant adequately demonstrates and the building official determines that compliance with any portion of any regulation under this chapter would create an undue hardship due to topographical conditions of the site, the size of the site, other site constraints or legal constraints, and that no equivalent facilitation is available, an exemption to that portion of the regulation shall be granted.

(c) When the applicant adequately demonstrates and the building official determines that a

residential dwelling unit is being reconstructed as a result of a disaster, an exemption to all or any portion of this chapter shall be granted.

(d) This ordinance shall not be applicable to any residential structure constructed if the primary entry of that structure is above grade because the primary entry is located over subterranean or grade-level parking.

Sec. 7-14150. Standards: Primary Entry.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to a primary entry in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. The following options for the accessible entrance on the primary entry level shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) An exterior accessible route that is either:
 - (A) Consistent with the requirements of CBC Chapter 11A; or
 - (B) Not less than forty inches (40”) wide and not have a slope greater than one (1) unit vertical in twenty (20) units horizontal.
- (2) The accessible primary entry that is consistent with the requirements of CBC Chapter 11A.
- (3) The floor or landing at and on the exterior and interior side of the accessible entrance door that is either of the following:
 - (A) Consistent with the requirements of CBC Chapter 11A; or
 - (B) The width of the level area on the side to which the accessible entrance door swings shall extend twenty-four inches (24”) past the strike edge of the door.
- (4) The exterior accessible entry door that is either:
 - (A) Consistent with the requirements of CBC Chapter 11A, or
 - (B) Have a thirty-four inch (34”) net clear opening.
- (5) A second exterior door that is installed in a manner so that it is accessible as provided in this Section 7-14150 with a thirty-two inch (32”) net clear opening.
- (6) Where at least one eyehole is provided in the accessible entry door, one shall be at standard height and a second one that is between forty-two inches (42”) and forty-four inches (44”) from the finished floor.
- (7) Where at least one doorbell is provided for the accessible entry door, one that is between forty-two inches (42”) and forty-eight inches (48”) from the finished floor

must be offered.

Sec. 7-14160. Standards: Interior Routes.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to interior routes in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. The following options for accessible interior routes on the primary entry level shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) At least one accessible route through the hallways consistent with the requirements of CBC Chapter 11A from the accessible entrance of the residential dwelling unit to the primary entry level powder room or bathroom, a common use room, and the kitchen if located on the primary entry level.
- (2) No sunken or raised area in the bathroom or powder room, the common use room, and the kitchen, if on the primary entry level, on an accessible route.
- (3) Handrails installed in a manner consistent with CBC Chapter 11A on one or both sides of the accessible route, at the option of the purchaser.
- (4) Handrail reinforcement installed on one or both sides of the accessible route.
- (5) An accessible route with a minimum width of forty-two inches (42"). A thirty-nine inch (39") hallway width may be provided when all doors leading to any bathroom, powder room, common use room, or kitchen, if on the primary entry level, that must be accessible have a minimum clear door opening of thirty-four inches (34"), and a thirty-six inch (36") hallway width may be provided when all doors leading to any bathroom, powder room, common use room, or kitchen on the primary entry level that must be accessible have a minimum clear door opening of thirty-six inches (36").

Sec. 7-14170. Standards: Primary Floor Powder Room/Bathroom Entry and Facilities.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to the powder room, bathroom, or other facilities in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. The following options for the accessible bathroom or powder room on the route from the primary entry shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) At least one powder room or bathroom, at the option of the purchaser, on the primary entry level of a visitable residential dwelling which complies with the requirements of CBC Chapter 11A.
- (2) Clear space in the bathroom or powder room that is either:

- (A) Consistent with the requirements of CBC Chapter 11A; or
 - (B) Outside of the swing of the door and either a forty-eight inch circle, forty-eight inches by sixty inches (48" x 60") or a sixty-inch (60") diameter circle, at the option of the purchaser.
- (3) A bathtub or shower meeting the requirements of ANSI A117.1.
 - (4) Either of the following:
 - (A) Grab bar reinforcement consistent with CBC Chapter 11A; or
 - (B) Grab bars installed in a manner consistent with CBC Chapter 11A for the toilet, shower/bath, or lavatory, or any combination thereof, at the option of the purchaser.
 - (5) Faucets and handles not requiring tight grasping, pinching, or twisting of the wrist and consistent with the requirements of CBC Chapter 11A.
 - (6) A lavatory or sink installed consistent with CBC Chapter 11A.
 - (7) A toilet installed consistent with CBC Chapter 11A.
 - (8) Removable cabinets under the lavatory/sink.
 - (9) Where mirrors and towel fixtures are provided in the accessible bathroom or powder room, installation consistent with the requirements of CBC Chapter 11A.

Sec. 7-14180. Standards: Kitchen and Facilities.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to a kitchen in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. If there is a kitchen on the primary entry level, the following options shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) An accessible route to the kitchen, with a pathway through the kitchen to the stove, oven, or combination stove-oven consistent with the requirements of CBC Chapter 11A.
- (2) One or more of the following, at the purchaser's option:
 - (A) At least a forty-eight inch by sixty-inch (48" x 60") clear space in front of a stove at the base of a U-shaped kitchen;
 - (B) At least a thirty-inch by forty-eight inch (30" x 48") clear space in front of the sink (counting open access underneath, if available); or
 - (C) At least one eighteen-inch (18") wide breadboard and/or at least eighteen inches

(18”) in counter space at a thirty-four inch (34”) height, or any combination thereof, at the option of the purchaser.

- (3) Sink controls consistent with CBC Chapter 11A.
- (4) Adjustable sink and/or removable under-sink cabinets consistent with Chapter 11A.
- (5) Hood fan controls at light switch level or lower level.

Sec. 7-14190. Standards: Common Use Room.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to a common use room in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. The following options for the common use room on the primary entry level shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) At least one common use room, such as a dining room or living room, on the accessible route. Sunken or raised areas not exceeding fifty percent (50%) of the area of the room’s floor space shall be permitted as an option of the purchaser in a common use room on the accessible route when an accessible route connects a usable portion of the common use room to the accessible bathroom or powder room and the accessible exterior entrance door.
- (2) No sunken areas in a common use room on an accessible route.
- (3) Standards related to access to and flatness of any other common area room on the primary entry level.

Sec. 7-14200. Standards: Bedroom.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to a bedroom in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. If there is a bedroom on the primary entry level, the following options shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) At least one bedroom on the accessible route of travel with all components meeting the requirements of Section 7-14220. A closet shall have at least a thirty-two inch (32”) net opening and adjustable closet rods and shelving. A family room or den may satisfy this bedroom requirement if a sleeping structure (such as a bed, futon, hide-away, or Murphy bed) can be placed in the room and if the room complies with provisions for emergency escape and rescue and smoke alarms in the California Building Code.

Sec. 7-14210. Standards: Miscellaneous Areas.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to miscellaneous areas of a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. The following options shall be offered, and if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) If on the primary entry level, miscellaneous areas or facilities (such as a patio or yard, laundry room, or storage area) for the dwelling must have an accessible route to and from the accessible entrance, either through the residential dwelling unit or around the residential dwelling unit.

Sec. 7-14220. Standards: General Components.

(a) New Construction – Mandatory to Install. There are no mandatory installations related to general components in a visitable residential dwelling.

(b) New Construction – Mandatory to Offer. The following options shall be offered, and if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 7-14230:

- (1) Rocker light switches and controls installed pursuant to either of the following:

(A) In all rooms required to be accessible and on the accessible route; or

(B) Throughout the balance of the residential dwelling unit.

- (2) On an accessible route in an interior room or hallway, interior doors or openings for rooms and routes of travel required to be accessible consistent with CBC Chapter 11A.

EXCEPTIONS: A thirty-four inch (34") clear doorway width may be requested from a hallway with a thirty-nine inch (39") width, and a thirty-six inch (36") clear doorway width may be requested from a hallway with a thirty-six inch (36") width.

- (3) The width of the level area on the side toward which an accessible door swings consistent with CBC Chapter 11A.

- (4) If the building official or purchaser determines that the accessible route and doorway width options prescribed by Chapter 11A are not feasible and that a less wide accessible route is necessary, a functional alternative to ensure that all entries into rooms required to be accessible may be approved by the building official or purchaser if it meets at least one of the following requirements and if the hallway is not less than thirty-six (36") inches in width:

(A) The entry door to the room must be at the end of a hallway or passageway, or open directly from another room on an accessible route of travel, so that no turn of ninety

degrees (90°) or more is necessary to enter the room;

(B) The hallway wall opposite the room must be inset enough to allow an area of at least eight inches (8") wide with at least a sixty-inch (60") run centered on the center of the entry door opening (e.g., an 8" by 60" notch or alcove);

(C) The hallway wall on the same side as the room must be inset enough to allow an area of at least eight inches (8") wide with at least a sixty-inch (60") run centered on the center of the entry door opening (e.g., an 8" by 60" notch or alcove); or

(D) The hallway wall directly opposite the room door must open to another room with at least a sixty-inch (60") opening on a level with the accessible passageway or hallway.

NOTE: Doors or openings to the rooms required to be accessible may be wider and the notch or alcove smaller if equivalent access is not impeded. In addition, for a doorway at the end of a hallway or in other circumstances, the notch or alcove need not be centered on the doorway if equivalent access is not impeded.

- (5) Hand-activated door hardware complying with CBC Chapter 11A.
- (6) Flooring throughout the residential dwelling unit consistent with CBC Chapter 11A.
- (7) The installation of all receptacle outlets, lighting controls and environmental controls throughout the balance of the residential dwelling unit must comply with CBC Chapter 11A or applicable provisions of the California Electrical Code.
- (8) Standards pertaining to residential structures from ANSI A117.1 may be used throughout this chapter when CBC Chapter 11A does not contain specific standards or when the ANSI Standards are equivalent to the Chapter 11A standards.
- (9) Conduit for the future wiring of assistive technologies in all exterior walls consistent with the National Electrical Code.
- (10) Outlets at the bottom and top of any stairs to facilitate the use of a chair lift.

Sec. 7-14230. Standards: New Construction — Permissive Options.

(a) The developer or builder of a visitable residential dwelling must offer an opportunity to select any of the features listed in this chapter to a prospective purchaser of a visitable residential dwelling at the earliest feasible time after the prospective purchaser is identified.

(b) The developer or builder of a visitable residential dwelling shall construct or install any requested features identified in this chapter unless it would result in an unreasonable delay in the construction or significant unreimbursable costs to the developer or builder.

(c) The developer or builder of a visitable residential dwelling, at his or her option, may offer or utilize standards for structural or design features, components or appliances and

facilities, including but not limited to ANSI Standards, which meet or exceed CBC Chapter 11A and which offer greater availability, access or usability, and these are deemed to be in compliance with this chapter.

Sec. 7-14240. Appeals.

(a) Any person aggrieved by the building official's decision under this chapter may appeal the decision to the city manager by filing with the city clerk a statement setting forth the facts and circumstances regarding the building official's decision and the basis for the appeal. The appeal shall be accompanied by a fee as established by resolution of the city council. The city clerk shall provide written notification of the time and place set for hearing the appeal. The city manager, not less than ten days from the date on which the appeal was filed with the city clerk, shall hear the appeal and all relevant evidence, and shall determine the merits of the appeal. The city manager may sustain, overrule or modify the action of the building official, and the decision of the city manager shall be final.

(b) The right to appeal to the city manager shall terminate upon the expiration of ten days following personal delivery to the aggrieved person or the deposit of a letter in the United States mail advising such person of the action of the building official and of the right to appeal such action to the city manager, or upon the expiration of thirty days from the date of the action of the building official, whichever is earlier. For purposes of this section, "city manager" means the city manager or his or her designee.

SECTION 2. CEQA.

Exemption. The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Fremont hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect and will be enforced thirty (30) days after its adoption, provided that a copy of the ordinance has first been filed with the State of California Department of Housing and Community Development in accordance with Health and Safety Code Section 17959(b)(2).

SECTION 5. PUBLICATION AND POSTING.

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933(c), once in *The Tri-City Voice*, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause to be again published in *The Tri-City Voice* the summary of this ordinance with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on the ___th day of ___, 2011 and finally adopted at a regular meeting of the City Council held on the ___th day of ___, 2011 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

Deputy City Attorney