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INFORMATION BULLETIN 2016-01 (MH, FBH, SHL, MP/SOP, RT, OL)

TO: **City and County Building Officials**
Mobilehome and Special Occupancy Park Enforcement Agencies
Division Staff

SUBJECT: TINY HOMES

This Information Bulletin is intended to clarify the legality of use, design and construction approval of any residential structure that may be commonly referred to as a tiny home. Currently, neither the Department of Housing and Community Development ("HCD") nor any other state or local agency has specific statutory or regulatory definition authority of construction approval for tiny homes as a specialty product. These structures, which may range anywhere from 80 to 400 square feet in size, may be built with a variety of standards or no construction standards; may or may not be constructed on a chassis (with or without axles or wheels); and are usually offered for use and placement in a variety of sites. It is the purpose of this Information Bulletin to describe when a tiny home fits the definition of one of the following: recreational vehicle (including park trailer), manufactured home, factory-built housing, or a site-constructed California Building Standards Code dwelling and therefore would be legal to occupy.

As residential structures, tiny homes must receive one of several types of state or local government approvals prior to occupancy, depending on the design of the structure and the location of its installation. While HCD supports efforts to make housing more affordable and efficient, state laws mandate that residential structures meet state standards. Failure to comply with these statutory requirements results in the tiny home being a noncomplying residential structure in which occupancy is illegal and is subject to punitive action by the appropriate enforcement agency, including the U.S. Department of Housing and Urban Development ("HUD").

Due to confusion about which building code standards apply to tiny homes, they are often mischaracterized for purposes of enforcement. In order to be occupied, a tiny home must comply with the standards of, and be approved as one of the following types of structures: a HUD-Code manufactured home ("MH"), California Residential Code or California Building Code home ("CRC" or "CBC"), factory-built housing ("FBH"), recreational vehicle ("RV"), park trailer ("PT") or camping cabin ("CC"). The approving agency will vary depending upon whether the tiny home is located inside or outside of a mobilehome park or special occupancy park.

The following information may be used to determine whether a tiny home is subject to and must comply with the California Building Standards Code ("CBSC") or may be required to comply with the RV, PT, MH, FBH, or CC design and construction standards, or whether it is a nonconforming structure in which occupancy is illegal and subject to prosecution.

California Building Standards Code

Tiny homes, like all residential structures not classified as an MH, FBH, RV, PT or CC within California, are required to comply with the CBSC, Title 24, California Code of Regulations ("CCR"). Within the CBSC is the California Residential Code ("CRC") and California Building Code ("CBC") both of which contain the standards applicable to R-3 Occupancies, one-and two-family dwellings, efficiency dwelling units, and townhouse structures statewide. To access all parts of the CBSC visit the California Building Standards Commission website: http://www.bsc.ca.gov/.

CRC §R202, CRC Chapter 2 Definitions, defines a dwelling as any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes. It also defines a dwelling unit as a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A tiny home that is site-constructed or mobile, and does not fit the definition of an MH, FBH, RV, PT or CC, is a dwelling unit and must comply with the CBSC in order to be legally occupied.

The CRC includes, but is not limited to, a variety of structural, plumbing, electrical, mechanical, and fire protection standards, as well as requirements for light, ventilation, heating, minimum room sizes, ceiling heights, sanitation, toilet, bath and shower spaces, emergency escape and rescue openings, means of egress, smoke alarms and carbon monoxide alarms. Dwelling units must meet all the minimum requirements found within the CRC including the following:

- Minimum ceiling height of 7 feet 6 inches, with several exceptions.
- A minimum of one room with at least 120 square feet of gross floor area.
- A net floor area of not less than 70 square feet for all other habitable rooms.

One exception to the general standards is found in CRC §R304.5, CRC Chapter 3 - Building Planning, which allows an Efficiency Dwelling Unit to comply with minimum requirements including, but not limited to, the following:

- A living room of not less than 220 square feet of floor area, and an additional 100 square feet of floor area for each occupant of the unit in excess of two.
- A kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches, and a separate closet.
- Light and ventilation conforming to the CRC.

Enforcement of construction and maintenance of housing units constructed to the CBSC/ CRC standards is performed by local building departments pursuant to Health and Safety Code ("HSC") §17961. Pursuant to State Housing Law ("SHL"), local governments may, by ordinance, adopt alternate construction standards in limited circumstances (HSC §17958.5) and may approve alternate materials, methods and work under specified circumstances [HSC §17951(e)].

Recreational Vehicles

Recreational Vehicles ("RVs") are defined in HSC §18010. RVs may include a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human

habitation for recreational, emergency or other occupancy. RVs are not for occupancy as a permanent dwelling. An RV meets all of the following criteria:

- It contains less than 320 square feet of internal living room area, excluding built-in equipment, such as wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.
- It contains 400 square feet or less of gross area measured at maximum horizontal projections.
- It is self–propelled, truck–mounted, or permanently towable on the highways without a permit and is built on a single chassis.

RVs constructed on or after January 1, 1999, but before July 14, 2005, must comply with the ANSI A119.5 standard. RVs manufactured on or after July 14, 2005, must be constructed in accordance with the NFPA 1192 standard. Compliance with these standards can be determined by an owner-provided label or insignia similar to those issued by the Recreational Vehicle Industry Association (RVIA) that is permanently affixed to the RV. However, an insignia issued exclusively by RVIA is not required (HSC §18027.3). For more information regarding RVIA certification, see http://www.rvia.org/.

Unless otherwise allowed by a local ordinance, RVs generally may be occupied only in mobilehome parks or special occupancy parks governed by the Mobilehome Parks Act ("MPA"), HSC §§18200, et seq., and Title 25, CCR §§1000, et seq., or the Special Occupancy Parks Act ("SOPA"), HSC §§18860, et seq., and Title 25, CCR §§2000, et seq. Either HCD or a local enforcement agency which has assumed enforcement authority for the MPA or SOPA pursuant to HSC §18300 or 18865, is obligated to ensure that any residential structures on an MPA or SOPA lot comply with statutory construction and maintenance code requirements.

Park Trailers

Park Trailers ("PTs") are a type of recreational vehicle defined in HSC §18009.3 and are often considered tiny homes built on a chassis with wheels. PTs, like RVs, are designed as temporary living quarters for recreational or seasonal use only, and not as a year-round or permanent dwelling. PTs are constructed to ANSI A119.5 and NFPA 1192 standards and are certified by the manufacturer with a label of approval, such as those provided by the RVIA, or owner-provided.

PT standards are specified by state law and include, but are not limited to, the following requirements:

- It contains 400 square feet or less of gross floor area when set up, excluding loft area space if that loft area space meets the requirements of HSC §§18009.3(b) and 18033. It may not exceed 14 feet in width at the maximum horizontal projection.
- It is built on a single chassis and may only be transported upon the public highways with a permit issued pursuant to Vehicle Code §35780.
- The loft area, in order to be excluded from the floor area standard, must meet all of the requirements of HSC §18033.

Structures that may resemble PTs but exceed 400 square feet are considered either a manufactured home ("MH") if their design and construction are consistent with HUD's

manufactured housing standards or will be determined to be a nonconforming structure (for which occupancy is illegal) unless they meet other permitted standards as approved by HCD.

Unless otherwise allowed by a local ordinance, PTs generally may be occupied only in mobilehome parks or special occupancy parks governed by the MPA, HSC §§18200, et seq., and Title 25, CCR §§1000, et seq., or the SOPA, HSC §§18860, et seq., and Title 25, CCR §§2000, et seq. Either HCD or a local enforcement agency which has assumed enforcement authority for the MPA or SOPA pursuant to HSC §18300 or 18865, is obligated to ensure that any residential structures on a MPA or SOPA lot comply with statutory construction and maintenance code requirements.

Manufactured Homes

HSC §18007, in part, defines a new manufactured home ("MH") as a structure constructed on or after June 15, 1976; is transportable in one or more sections; is 8 body feet or more in width or 40 body feet or more in length; when erected on-site is 320 or more square feet; and includes use of a permanent chassis. It must meet all applicable federal standards (HSC §18025) as well as a number of state standards found in the Manufactured Housing Act of 1980, HSC §§18000, et seq., and Title 25, CCR, §§4000, et seq.

MHs may be occupied outside or inside of mobilehome parks and installation and approval for occupancy is governed by the Mobilehome Parks Act ("MPA"), HSC §§18200, et seq., and Title 25, CCR §§1000, et seq. Either HCD or a local enforcement agency which has assumed enforcement authority for the MPA and installation of MH's inside or outside of mobilehome parks pursuant to HSC §18300 is obligated to ensure that any residential structures on a park lot or outside of a park comply with statutory construction and maintenance code requirements.

Factory-Built Housing

Factory-built Housing ("FBH") are residential structures designed, constructed, and installed pursuant to CBSC requirements in HSC §§19960, et seq., and Title 25, CCR §§3000, et seq. A FBH unit is a residential structure constructed in an off-site location for placement on a foundation and generally must comply with the same standards as those applicable to conventional (CBSC) housing units (HSC §19990). FBH may or may not be constructed and transported on a chassis. HCD is responsible for the development and enforcement of FBH standards, except that local building departments are responsible for approval of the installation of FBH. HCD has not approved any tiny home FBH units, and the ability in the future to approve such units would depend on their compliance with the statutory and regulatory requirements.

Camping Cabins

A camping cabin ("CC") is a special relocatable hard sided structure with a floor area less than 400 square feet without plumbing designed to be used <u>only</u> within a recreational vehicle park. It may contain an electrical system, including electrical space conditioning, but is otherwise limited with respect to internal appliances and facilities. Standards for a CC are provided in HSC §§18662.5 and 18871.11 and Title 25, CCR §2327. Either HCD or a local enforcement agency which has assumed enforcement authority for the SOPA, pursuant to HSC §18865, is obligated to ensure that any residential structures on a park lot comply with statutory construction and maintenance code requirements.

Enforcement and Prosecution

If a structure called a tiny home or similar name is sold, offered for sale, leased, rented or occupied as a residential structure which does not comply with the standards for any of the units described above, the enforcement authority having appropriate jurisdiction (as described above) is responsible for pursuing the appropriate legal remedies to terminate the sales, rentals or occupancies. The enforcement agency may initiate actions under the authorities listed previously and/or any other authority it has to abate the sale or occupancy of unpermitted structures including, but not limited to, the following:

- Prohibiting occupancy if the nonconforming structure violates local land use laws or violates any state or local public health, safety, fire, or similar authorities.
- Prohibiting the manufacture, sale, lease, rental or use in California.
- Mandating correction of any violations of applicable laws and regulations of a unit sold, leased, rented or occupied in California.

SUMMARY

A tiny home sold, rented, leased or occupied within California may be legal if used on an approved location, complies with all applicable laws, and is either:

- Built on a chassis with axles; contains 400 square feet or less of gross floor area (excluding loft area space); is considered an RV, CC or PT; is not under HCD's jurisdiction for the design and construction of the unit; and its construction and occupancy is enforced by local enforcement agencies with appropriate jurisdiction; or
- Not constructed on a chassis with axles; is placed on a foundation or otherwise permanently affixed to real property; and complies with CBSC or FBH standards; and may be enforced by local enforcement agencies having appropriate jurisdiction.

If you have any questions regarding tiny homes as they relate to this Information Bulletin, please contact the Manufactured Housing Program at (916) 445-3338 or by email to either Cesar.Ponce@hcd.ca.gov or Mitchel.Baker@hcd.ca.gov.

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