

What the Law Requires



Accessible Multi-family Housing in Iowa

A GUIDE FOR:

- Owners
- Developers
- Architects
- Engineers
- Builders
- Building contractors
- Anyone who designs or builds multi-family housing

Our message to builders and landlords across the nation is simple:

"Obeying this law isn't optional. It is mandatory. We are enforcing this law, and enforcing it vigorously."

HUD Secretary Andrew Cuomo, 1998

A joint project of:

Department of Architecture, College of Design, Iowa State University • Iowa Civil Rights Commission • Iowa Division of Persons with Disabilities • Iowa Department of Elder Affairs • Iowa Department of Justice • Iowa Governor's Developmental Disabilities Council • Iowa Program for Assistive Technology • Iowa University Affiliated Program • State Fire Marshal Office, Building Code Bureau

PLEASE PHOTOCOPY AND SHARE THIS DOCUMENT. (1/00)

It is available at: www.uiowa.edu/infotech/housingaccess.htm

You need to read this

if you own, design, build, or develop multi-family housing.

Reading this can help you avoid:

- *Legal expenses*
- *Costly retrofitting & structural changes*
- *Civil penalties*
- *Actual and compensatory damages*

In this guide you will find information about:

- Page 1 Why “accessible housing”?
- Page 1 Laws that mandate accessible housing in Iowa
- Page 4 Iowa housing providers face legal risks
- Page 4 How plans are reviewed and approved
- Page 4 The complaint process
- Page 5 The consequences of non-compliance
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- Page 10 Appendix 1: Iowa laws that may apply to construction and alteration projects

The purpose of accessible housing law is to prevent discrimination against people with disabilities. The end result is a living environment that is more usable for everyone.

Accessibility has been required by Iowa law since 1965.

What the Law Requires

Accessible Multi-family Housing in Iowa

WHY “ACCESSIBLE HOUSING”?

Remember the first time you set out to find your own place to live? You began by considering your options. Apartment or house? One story or two? What could you afford? What neighborhood would you like? You narrowed down your options by looking through the ads and talking to friends. It was an exciting experience.

For people with disabilities, however, housing options have been more limited. Today, state and federal laws are changing this. Who will benefit? All of us. For “accessibility” is an issue that, at one time or another, affects us all. This is true whether – temporarily or permanently – we use wheelchairs, need grab bars, cannot climb stairs, require easy-to-reach shelves, or rely on easy-to-navigate living spaces.

The primary purpose of accessible housing law is to prevent discrimination against people with disabilities, but the end result is a living environment that is more usable for everyone. For example, both the very young and the very old will find an accessible dwelling more comfortable. People with temporary limitations due to injury or illness will find it easier to live in. Such a home will be more welcoming to guests with disabilities.

LAWS THAT MANDATE ACCESSIBILITY IN MULTI-FAMILY HOUSING IN IOWA

Iowa multi-family housing falls under the mandates of both federal and state laws.

Federal laws

- Fair Housing Act
- Americans with Disabilities Act
- Rehabilitation Act

State laws (accessibility has been required by Iowa law since 1965)

- Iowa Civil Rights Act
- Iowa Administrative Code, Chapter 5 - State Fire Marshal Rules
- Iowa Administrative Code Chapter 16, Section 7 - Handicapped accessibility requirements
- Iowa Administrative Code, Chapter 18 - Parking for the handicapped

These state and federal laws apply to all Iowa multi-family housing. They apply to housing in towns and counties with or without building codes.

When more than one code or law applies, the more stringent standard takes precedence, and must be followed. (For more information, see Appendix 1: Iowa laws that may apply to construction and alteration projects.)

Iowa State Building Code

Iowa State Building Code

The Iowa State Building Code (ISBC) is applicable to state owned buildings and in cities or counties that have chosen to adopt it. A city or county has three choices:

1. It may adopt the Iowa State Building Code.
2. It may adopt another code such as the UBC (Uniform Building Code).
3. It may choose to have no building code.

Cities and counties that adopt a building code must administer and enforce it. They must also follow Chapter 5, known as the State Fire Marshal Rules; the Accessibility Rules in the Iowa Administrative Code, Chapter 16 (Section 7); and Accessible Parking Rules in Chapter 18. The Iowa Code, Chapters 103A and 104A, gives the authority to administer rules related to accessibility.

Each city or county that has adopted a building code has its own process for reviewing plans.

Many locations in rural Iowa have no building code. However, housing providers are still required to follow State Fire Marshal Rules and accessibility rules.

The ISBC has adopted as a building code the 1994 Uniform Building Code (UBC) with Chapter 11 omitted as the accessibility code and replaced with Iowa's accessibility rules.

Iowa Civil Rights Act of 1965

The Iowa Civil Rights Act prohibits discrimination in many areas. Two of these areas are public accommodations and housing. Iowa accessible housing law is based on the federal Fair Housing Act (below).

The Iowa Civil Rights Commission enforces the law through its fair housing program. This program:

- Informs people with disabilities about their rights and responsibilities
- Informs housing providers about their rights and responsibilities
- Monitors housing provider compliance with the law
- Investigates individual discrimination complaints
- Helps enforce judgments

The Fair Housing Act

The fair housing provisions of the Iowa Civil Rights Act are modeled very closely on the federal Fair Housing Act. Under Iowa law, seven design standards must be met by all new multi-family housing. These standards affect:

1. **Building entrances.** At least one building entrance must be on an accessible route.
2. **Public and common use areas.** Public and common use areas must be accessible to and usable by people with disabilities.
3. **Doors.** All doors must be wide enough to allow passage by people using wheelchairs.
4. **Routes into and through dwelling units.** Routes into and through the dwelling units must be accessible to people with disabilities.

The Iowa Civil Rights Act of 1965 prohibits discrimination in public accommodations and housing.

Federal and state laws require accessible:

- *Building entrances*
- *Public and common use areas*
- *Doors*
- *Routes into and through dwelling units*
- *Environmental controls*
- *Bathroom walls*
- *Kitchens and bathrooms*

5. **Environmental controls.** All light switches, electrical outlets, thermostats, and other environmental controls must be accessible.
6. **Bathroom walls.** Bathroom walls must be reinforced around toilet; tub, shower stall, and shower seat, to allow later installation of grab bars.
7. **Kitchens and bathrooms.** Kitchens and bathrooms must be usable for a person in a wheelchair.

Compliance with the American National Standard for buildings and facilities (ANSI A 117.1, 1986; see page 17, International Code Council) will satisfy the requirements of the federal Fair Housing Act.

The Americans with Disabilities Act (ADA)

The ADA also affects housing in Iowa. It may affect single family housing, as well as multi-family housing. This housing may be new, or remodeled.

- **Title II** of the ADA deals with programs and services provided by state or local governments.
- **Title III** of the ADA deals with public accommodations, including:
 1. Places of lodging
 2. Social service center establishments

Private entities may also be affected. This occurs if they own, lease, lease to, or operate a public accommodation. Some examples of housing that may need to meet ADA mandates include:

- ***Shelters for homeless people***

A shelter where homeless people may stay for long periods of time may be considered a dwelling. It may be a “place of lodging” if it allows very short (single night) stays. It may be considered a “social services center” if it provides services like meals or transportation.

- ***Common areas within residential facilities***

Common areas may be “places of public accommodation” if they are used by anyone other than owners, residents, and their guests.

- ***Sales offices in model homes***

Model homes are not considered public accommodations. However, a sales office located in a model home is considered a public accommodation.

The Department of Justice encourages developers to provide accessible model homes. A ramp can provide access to the first floor of a model home. Photos can show other levels of the home. Photos can also show other models available.

- ***Vacation timeshare property***

Vacation timeshare property may also be a place of public accommodation. Many variables affect this, including how it is constructed, scheduled, used, and managed.

Examples of housing that may need to meet ADA mandates:

- ***Shelters for homeless people***
- ***Common areas in residential facilities***
- ***Sales offices in model homes***
- ***Vacation timeshare property***

To learn whether your building project is affected by the ADA, call the Iowa Division of Persons with Disabilities at **515-242-6172** or **888-219-0471** (V/TTY). Or visit their web site at www.state.ia.us/government/dhr/pd/index.html.

Building Plans Examiners from the Iowa State Building Code Bureau must review for accessibility all plans for multi-family housing in locations that have not adopted building codes.

When a person believes they are facing housing discrimination, they can file a complaint with the Iowa Civil Rights Commission.

“Obeying this law isn’t optional. It is mandatory.”

HOW PLANS ARE REVIEWED AND APPROVED

A Building Plans Examiner from the Iowa State Building Code Bureau must review for accessibility all plans for multi-family housing (4 or more units) in Iowa that are located in areas that have not adopted a building code of their own. The examiner will also review renovations or additions that may occur in the future. When the review is complete, a letter is sent to the applicant explaining the results.

The letter explains what aspects of the plans are not acceptable. The applicant is then required to submit a revised plan with a response letter to the examiner.

An applicant can dispute the results of a review by calling or writing. An applicant may make a written request for an “alternate materials or methods” approval for “equivalent technology.” This request is reviewed by the State Fire Marshal and a letter will respond to the request.

Submitting plans or having them approved does not relieve a housing provider/designer/builder of responsibility or liability. As each review letter states:

Approval of submitted information shall not be construed to be a waiver of, a permit for, or an approval of any violation of any provisions of the rules and regulations enforced by this office.

The State Fire Marshal has designated the Department of Elder Affairs as the entity responsible for reviewing plans for assisted living programs.

THE COMPLAINT PROCESS

Sometimes a person believes they have encountered housing discrimination. When this happens, they can file a complaint with the Iowa Civil Rights Commission.

The Commission may also file a complaint on its own behalf. Complaints may be cross-filed with HUD if the incident is covered under the federal Civil Rights Act of 1968.

During the process the parties sometimes decide to settle the case through mediation. If the case is not resolved, the complaint will be investigated. When the investigation is complete, an administrative law judge determines whether there is reasonable cause to believe discrimination occurred. If the judge finds it has, each party has 20 days to choose a course of action. They can then proceed in district court, or they can continue with the public hearing process through the Commission.

IOWA HOUSING PROVIDERS FACE LEGAL RISKS

The Iowa Civil Rights Commission recently surveyed Iowa housing providers. They gathered information from architects, builders, and landlords. They found that many are not familiar with accessibility laws. This places them at legal risk.

Courts across America are telling us that all parties involved in building multi-family housing are liable if structures are not accessible. In 1998, an accessibility lawsuit cost a Nevada contractor more than \$37,000. Following the hearing, HUD Secretary Andrew Cuomo told the press,

Our message to builders and landlords across the nation is simple: “Obeying this law isn’t optional. It is mandatory. We are enforcing this law, and enforcing it vigorously.”

Recent findings conclude that accessibility laws apply to all parties:

- *Owners*
- *Developers*
- *Architects*
- *Engineers*
- *Builders*
- *Building contractors*
- *Anyone who designs or builds multi-family housing*

“...costs increase by only one-third of one percent”

The cost of non-compliance can be much higher...

...[\$40,000] to remodel unsold ground-floor condominiums and the common area

...\$6,000 in civil damages

THE CONSEQUENCES OF NON-COMPLIANCE

Responsibility for complying with the law rests with owners, developers, architects, engineers, builders, building contractors, and anyone who designs or builds multi-family housing. Failure to follow the requirements of the law can result in withholding of occupancy permits, licensure, and certifications until changes are made. The responsible parties will pay the costs of rebuilding and delayed occupancy.

When the law has been broken, an administrative law judge or a federal district court may hold the defendant liable for:

- Costs of structural changes or retrofitting in completed buildings
- Civil penalties ranging from \$10,000 to \$50,000
- Attorneys’ fees and costs
- Actual and compensatory damages

The district court or administrative law judge may also prevent the sale of non-compliant housing.

Litigation related to accessible housing is on the increase. General trends include:

- Findings that the law applies to all parties — owners, developers, architects, engineers, builders, building contractors, and anyone who designs or builds multi-family housing
- Consent orders that include:
 - Requiring the creation of escrow accounts to pay for retrofitting, gutting, or rebuilding noncompliant housing
 - Requiring payment of plaintiff’s attorney’s fees, damages, and civil penalties

A HUD-commissioned study found that construction costs increase by only one-third of one percent when a structure is built to comply with the Fair Housing Act. The cost of non-compliance can be much higher.

Recent cases include:

- An Illinois developer and an architectural firm designed and built a condominium development. After completion of the first building, a center for independent living filed a complaint. The judge ordered the builder:
 - To remodel unsold ground-floor condominiums and the common area (estimated cost: \$40,000)
 - Not to sell any other noncompliant ground floor units or transfer ownership of common areas in the second building until they were compliant
 - To pay \$6,000 in civil penalties and \$5,900 in damages to the center for independent living to cover the cost of monitoring the retrofitting.

The architectural firm separately agreed to establish an \$8,000 escrow fund to retrofit inaccessible units, and to pay \$1,000 in damages.

HUD v. Perland Corp. (HUDALJ 05-96-1517-8; 3/30/98)

*...\$35,000 ...to retrofit
28 ground floor units*

- As part of another settlement, the developer agreed to establish a \$17,000 escrow account to pay for retrofitting 28 ground floor units, and to pay a \$5,000 civil penalty.

HUD v. Hansen (No. HUDALJ 09-91-2048-3;
HUD Office of Admin. Law Judges 1992)

- Designers and builders were required to put \$35,000 into a fund for retrofitting 28 inaccessible ground floor units.

U.S. v. Golfview Estates, (N.D. Ill. 1996)

- The settlement called for the developer to make 12 units accessible, and to pay \$19,000 in attorneys' fees and costs for the organization that brought the complaint.

HIP v. Hovnanian, (NJ Super. Ct. Law Div. 1996)

- The builders were required to modify 37 unsold units, retrofit 7 occupied units, add curb cuts, eliminate a step down to the decks of 37 units, place electrical units in accessible locations, and rearrange sinks and dishwashers.

Baltimore Neighborhoods, Inc. v. Domain Builders, Inc.
(No. B96-917; D. Md. 1997)

- The settlement called upon the developers to create a \$26,000 fund to assist in remedying accessibility violations.

United States v. K-P Developers, Inc.
(A. No. 98C-4441; N.D. Ill. 1998)

*...reserved for trial
establishment of a
retrofitting fund ...in
excess of \$900,000*

- The court reserved for trial the establishment of a retrofitting fund estimated to be in excess of \$900,000. The court also reserved the matter of punitive damages, and rejected the defendant's argument that, if awarded, damages be limited to \$10,000.

Baltimore Neighborhoods, Inc. v. Sterling Homes
(No. B-96-915; D. Md. 1999)

FOR MORE INFORMATION AND ADDITIONAL RESOURCES

More information about meeting the mandates of accessible housing law can be found at:

American Institute of Architects, Iowa Chapter

American Institute of Architects, Iowa Chapter

Phone: 515-244-7502

- Maintains a library of code materials. Can also help obtain copies of other codes.

Center for Universal Design

Center for Universal Design

North Carolina State University

Box 8613

Raleigh, NC 27695-8613

Phone: 919-515-3082 (*voice and TTY*)

Phone: 800-647-6777 Requests for information

E-mail: cud@ncsu.edu

Web site: www.ncsu.edu/ncsu/design/cud/

- Provides guidance on accessible home design.

Fair Housing Information Clearinghouse

Fair Housing Information Clearing House

Phone: 800-343-3442

Phone: 800-290-1617 (TTY/TDD)

Web site: www.hud.gov/fhefhag.html

- Fair Housing Accessibility Guidelines are online.

Great Plains ADA Project

Great Plains ADA Project

Region VII Disability and Business Technical Assistance Center

Columbia, MO

Phone: 800-949-4232

Web site: www.adaproject.org

- Information, materials, and technical assistance related to the Americans with Disabilities Act.

International Code Council

International Code Council

Phone: 703-931-4533

Web site: www.intlcode.org/standards/a117.htm

- Provides information about the American National Standards Institute (ANSI).
- Provides information on how to obtain copies of other codes.
- Information about how to order the ANSI guidelines can be found online.

International Conference of Building Officials

International Conference of Building Officials

Phone: 562-699-0541

- Information on and copies of the Uniform Building Code (UBC). Can also help you obtain copies of other codes.

**Iowa Civil Rights
Commission**

Iowa Civil Rights Commission

Grimes Building
400 E. 14th Street
Des Moines, IA 50319

Phone: 515-281-4121

Phone: 800-457-4416 (toll-free)

Web site: www.state.ia.us/government/crc

- Answers questions about accessibility requirements under Iowa law. Provides additional copies of this booklet. It is available in print, or you can download it from:

www.uiowa.edu/infotech/housingaccess.htm

InfoTech

InfoTech (a service of the Iowa Program for Assistive Technology)

University Hospital School
100 Hawkins Drive, Room S295
Iowa City, IA 52242-1011

Phone: 800-331-3027 (voice/TTY)

319-356-0550 (voice/TTY)

Web site: www.uiowa.edu/infotech/

- Callers can use the 800 number above to get information about assistive technology.
- Assistive technology (AT) may be part of the solution for providing accessible housing. Some AT, like side-by-side refrigerators and lever door handles, is readily available. For AT that is harder to find, InfoTech can answer your questions and direct you to vendors.
- Examples of assistive technology that promotes accessibility in housing include:

Entrance

- Ramps
- Lever door handles
- Automatic door openers
- Keyless or remote entry systems

Bathroom

- Roll-in showers, adapted shower stalls, shower seats
- Grab bars and wall reinforcement

Kitchen

- Baseboard cupboards
- Side-by-side refrigerators
- Appliances with controls in the front

Public and common use areas

- Signage for persons who are blind or have low-vision
- Emergency alarm systems with flashing lights
- Front loading washers
- Pool lifts and ramps
- Picnic tables with wheelchair cut-outs
- Adapted exercise equipment

Iowa Division of Persons with Disabilities

Iowa Division of Persons with Disabilities

Lucas State Office Building
Des Moines, IA 50319

Phone: 515-281-5969

Phone: 888-219-0471 (toll-free, voice and TTY)

Web site: www.state.ia.us/government/dhr/pd/index.html

- Provides information and technical assistance to help housing developers comply with state and federal housing regulations. Serves both the public and private sectors. Can often suggest no cost/low cost solutions for dealing with architectural barriers. Services are free of charge.

Iowa State Building Code Bureau

Iowa State Building Code Bureau

c/o State Fire Marshal Office
621 E. 2nd Street

Des Moines, IA 50309-1831

Phone: 515-281-5821 State Fire Marshal reception desk

Phone: 515-281-5132 Building Code Bureau reception desk

Web site: www.state.ia.us/government/dps/fm/#building

- Reviews building plans and can provide information about:
 - Code requirements in specific counties and communities
 - Iowa Administrative Code, Chapters 5, 16, 18 (copies of the code are available for a fee. You can also find the code at www.legis.state.ia.us, under Administrative Rules, Iowa Administrative Code, Table of Contents listed under Public Safety Department (661).
 - Technical questions related to code requirements submitted in writing will be responded to by mail.

US Department of Housing and Urban Development (HUD)

US Department of Housing and Urban Development (HUD)

Office of Fair Housing and Equal Opportunity
Gateway Tower 2, 400 State Avenue
Kansas City, KS 66101-2406

Kansas: 913-551-6958

Phone: 800-795-7915 (USA)

Web site: www.hud.gov

- Answers questions about federal Fair Housing Act and accessibility requirements; provides *FHA Design Manual*.

US Department of Justice

US Department of Justice

950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Phone: 800-514-0301

E-mail: Web@usdoj.gov

Web site: www.usdoj.gov/

- Answers questions and handles complaints about ADA Titles II and III.

Appendix 1:

LAWS THAT MAY APPLY TO MULTI-FAMILY HOUSING CONSTRUCTION AND ALTERATION PROJECTS IN IOWA

Statutes ► Building type ▼	State Building Code, Iowa Code Ch.103A ¹	Accessibility Guidelines Iowa Code, Ch.104A ²	Iowa Civil Rights Act	Fair Housing Act ³	ADA Title II ⁴	ADA Title III
Single family homes	●					
Single family homes owned or leased by public entity for use as public housing	●				●	
Duplexes	●					
Duplexes owned or leased by public entity for use as public housing	●				●	
Apartment buildings of four or more units ⁵	●	●	●	●		
Townhomes ⁶	●		●	●		
Condominium complexes of four or more units ⁷	●	●	●	●		
Hotels/motels	●	●				●
Commercial buildings	●	●				●
Buildings containing places of public accommodation	●	●				●
Vacation time-share properties ⁸	●	●	●	●		●
Home-based business premises	●	●				●

¹The specific provisions known as the State Building Code appear in the Iowa Administrative Code at 661 IAC 5 et seq., and 16 et seq. The State Building Code is applicable to state-owned buildings, and to cities and counties that have adopted the State Building Code.

²The accessibility requirements are detailed in the Administrative Code at 661 IAC 16.7 and 18 et seq.

³Compliance with the Fair Housing Act Guidelines will satisfy the accessibility requirements of the Fair Housing Act, and are found in 24 CFR., Subtitle B, Ch. 1, Subchap. A, Appendix II.

⁴The standards for new construction and alterations in buildings covered by the ADA are set forth in either ADAAG, 28 CFR, part 36, or UFAS, 41 CFR, part 101-19.6 for public entities; and ADAAG, alone, for private buildings.

⁵The cited laws apply to all dwelling units in buildings containing four or more dwelling units if such buildings have one or more elevators, and all ground floor units in other buildings containing four or more units.

⁶The Fair Housing Act and Iowa Civil Rights Act apply to single-story townhomes, and to multi-story townhomes when they are located in buildings that have one or more elevators, in which case the primary entry level is covered. The State Building Code applies to townhomes regardless of the presence of an elevator.

⁷See note 5.

⁸If the vacation timeshare operation more closely resembles a hotel situation, it will be governed by the ADA. If the operation provides owners with more substantial rights to a particular unit, the FHA may apply.

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