

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO: Scott McCullough, PDS Director**

**FROM: Barry Walthall, Building Official**

**Date: January 13, 2011**

**RE: Accessibility Regulations for Residential Occupancies**

Accessibility requirements for residential occupancies vary depending on the scope of the project and number of dwelling or sleeping units being provided. There are three types of units that may be required in residential construction which must be designed and constructed to provide accessible elements as specified by the federal Fair Housing Act Design Manual.

The first unit type, an Accessible unit, is built to be fully accessible upon occupancy. The other two types of units, Type A and Type B adaptable units, are required to be constructed with the ability to be made accessible, if needed, by occupants at some point during the life of the structure.

The elements specified by the federal Fair Housing Act Design Manual include:

- Accessible Building Entrance on an Accessible Route
- Accessible and Usable Public and Common Use Areas
- Usable Doors
- Accessible Route into and Through the Covered Unit
- Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations
- Reinforced Walls for Grab Bars
- Usable Kitchens and Bathrooms

In addition to providing accessible and/or adaptable dwelling or sleeping units, newly constructed buildings must fully comply with federally mandated accessibility requirements contained in the building code.

Generally, the applicability of accessibility regulations for residential uses can be summarized as follows:

- Single family and duplex development is generally exempt from meeting accessibility regulations.
- New construction - newly constructed boarding houses, dormitories, fraternities/sororities, apartments, hotels/motels, etc. are generally required to meet accessibility regulations, though exemptions exist such as, but not limited to, site impracticality, technical infeasibility, and low unit count.

- Additions or alterations - Accessibility regulations apply to building elements that are altered or added to existing boarding houses, dormitories, fraternities/sororities, apartments, hotels/motels, etc.

A common development type, particularly near the KU campus, entails renovating existing residential buildings into congregate living facilities (boarding houses in Land Development Code language). A typical project would involve converting a multi-dwelling structure or single-family structure into a boarding house without any exterior additions. Accessible or adaptable units are not required when these existing buildings are altered; however, building elements being altered must be made accessible and, because of the change in use, at least one accessible building entrance and an accessible route to primary function areas must be provided. Where parking is provided, accessible spaces in the proper ratio may be required as well.

Additions to existing buildings must comply with the accessibility requirements for new construction. The attached table summarizes Accessible, Type A, and Type B dwelling and sleeping units required in various newly constructed residential buildings, and general accessibility requirements for alterations and additions to existing residential buildings.

The code references in the table are from the 2009 International Building Code (IBC), which is the currently adopted building code for the City. The IBC is recognized as a “safe harbor” for compliance with the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA). The Department of Justice and the Department of Housing and Urban Development, which are the federal agencies responsible for enforcement of the ADA and FHA respectively, have determined that design and construction in accordance with the IBC comply with the ADA and FHA standards.

Newly Constructed Residential Buildings		
Project Scope	Accessible or Adaptable Units Required	Code Reference
Detached one- and two-family dwellings	Exempt	IBC 1103.2.4
Boarding houses (transient) and congregate living facilities (transient) containing not more than five sleeping units for rent or hire that are also occupied as the residence of the proprietor  (Bed and Breakfast with fewer than five sleeping rooms for rent or hire)	Exempt	IBC 1103.2.11
Live/work units	Residential portion of unit evaluated separately	IBC 1103.2.13
Boarding houses (transient) and congregate living	Accessible units required	IBC 1107.6.1.1

<p>facilities (transient) containing more than 5 dwelling units or sleeping units</p> <p>(Hotel/Motel, Bed and Breakfast with more than 5 sleeping rooms for rent or hire)</p>	Type B units required	IBC 1107.6.1.2
Apartments	Type A units required if more than 20 dwelling or sleeping units	IBC 1107.6.2.1.1
	Type B units required if more than 4 or more dwelling or sleeping units	IBC 1107.6.2.1.2
<p>Boarding houses (nontransient) and congregate living facilities (nontransient) with more than 16 occupants, vacation timeshare properties</p> <p>(Dormitories; Fraternity or Sorority Houses; Boarding Houses and Cooperatives; and Group Homes, General that exceed 16 occupants)</p>	Accessible units required	IBC 1107.6.2.2.1
	Type B units required	IBC 1107.6.2.2.2
<p>Congregate living facilities with 16 or fewer occupants</p> <p>(Dormitories; Fraternity or Sorority Houses; Boarding Houses and Cooperatives; Group Homes, General; Group Homes, Limited with 16 or fewer occupants)</p>	Type B units required if four or more dwelling or sleeping units	IBC 1107.6.3
<p>Residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff</p> <p>(Assisted Living)</p>	Accessible unit required	IBC 1107.6.4.1
	Type B units required	IBC 1107.6.4.2
Parking for non-exempt newly constructed buildings	Accessible parking required in accordance with IBC Table 1106.1 for transient occupancies, and at least 2% but not less than one space	IBC 1106.1 IBC 1106.2

	for nontransient occupancies.	
<b>General Exceptions</b>		
<b>The number of Type A and Type B units may be reduced as follows</b>		
Structures without elevator service	One story with Type B units required	IBC 1107.7.1.1
	Other stories with a building entrance in proximity to arrival points, depending on slope of site	IBC 1107.7.1.2
Multistory dwelling or sleeping units	Exempt if not served by elevator	IBC 1107.7.2
Site impracticality	On sites with multiple buildings without elevator service, the number of Type B units may be reduced depending on percentage of site with grades, prior to development, which are less than 10 percent	IBC 1107.7.4
<b>Alterations to Existing Buildings</b>		
<b>Project Scope (All Residential Occupancies)</b>	<b>Summary of Accessibility Requirements</b>	<b>Code Reference</b>
Extent of Application	An alteration of an existing element, space or area of a building or facility shall not impose a requirement for greater accessibility than that which would be required for new construction.	IBC 3411.3
Existing buildings undergoing a partial change of occupancy	Type B units not required	IBC 3411.1, Exception
	Building elements being altered must comply with applicable provisions of IBC chapter 11 unless technically infeasible	IBC 3411.4.1
	Where an alteration affects the accessibility to, or contains an area of primary function, the route to the primary function must be accessible	IBC 3411.7

Existing buildings undergoing a complete change of occupancy	All of the above requirements for buildings undergoing a partial change of occupancy apply, and shall have additional accessible features, including: <ul style="list-style-type: none"> <li>• At least one accessible building entrance</li> <li>• At least one accessible route from an accessible building entrance to primary function areas</li> <li>• Accessible parking, where parking is being provided</li> </ul>	IBC 3411.4.2
Additions to existing buildings	Provisions for new construction apply	IBC 3411.5
	Where an addition affects the accessibility to, or contains an area of primary function, the route to the primary function must be accessible	
Alterations to existing buildings	Type B units not required	IBC 3411.1, Exception
	Buildings that are altered must comply with applicable accessibility provisions unless technically infeasible. Where compliance is technically infeasible, the alteration shall provide access to the maximum extent technically feasible.	IBC 3411.6
Parking	Where parking is altered or added, accessible spaces must be provided in accordance with IBC Chapter 11 unless technically infeasible.	IBC 3411.5 IBC 3411.6
Accessible dwelling or sleeping units	Applies to quantity of spaces altered or added	IBC 3411.8.7
Type A units	Applies to quantity of spaces altered or added	IBC 3411.8.8
Type B units	Applies to quantity of spaces altered or added	IBC 3411.8.9

### Definitions

Accessible unit – *A dwelling unit or sleeping unit that complies with the 2009 IBC and the provisions for Accessible units in ICC A117.1.*

*Boarding house – A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.*

*Congregate living facilities – A building or part thereof that contains sleeping units where residents share bathroom and/or kitchen facilities.*

*Dwelling unit – A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.*

*Primary function – A primary function is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer service lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other private entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors and restrooms are not areas containing a primary function.*

*Sleeping unit – A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.*

*Technically infeasible – An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.*

*Transient – Occupancy of a dwelling unit or sleeping unit for not more than 30 days.*

*Type A unit – A dwelling unit or sleeping unit designed and constructed for accessibility in accordance with the 2009 IBC and the provisions for Type A units in ICC A117.1.*

*Type B unit – A dwelling unit or sleeping unit designed and constructed for accessibility in accordance with the 2009 IBC and the provisions for Type B units in ICC A117.1, consistent with the design and construction requirements of the federal Fair Housing Act.*