

AN ACT

Bill 19-1096

Emergency
Declaration
Res. 19-753
20DCStat 562

To require, on an emergency basis, all newly constructed, District financially assisted residential units (single-family homes, townhomes, ground units in a detached or attached multi-level building) to meet minimum standards of visitability for persons with disabilities or those who may acquire mobility and functional limitations as they age.

Codification
District of
Columbia
Official Code
2001 Edition

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Visitability Requirements Emergency Act of 2012”.

Visitability
Requirements
Emergency
Act of 2012

Sec. 2. Definitions.

Note,
§ 6-1401

For the purposes of this act, the term:

- (1) “Accessible route to entrance” means a continuous, unobstructed path that:
- (A) Connects one or more accessible entrances to a dwelling building or multi-family housing structure with public streets and sidewalks, accessible parking spaces or accessible passenger loading zones;
 - (B) Can be negotiated by a person with a disability using a wheelchair;
- and
- (C) Is safe for and usable by people with other disabilities and people without disabilities.
- (2) “Covered dwelling building” means:
- (A) A newly constructed:
 - (i) Detached single-family home;
 - (ii) Townhome or multi-level unit, detached or attached to other units or structures;
 - (iii) Ground-floor unit in a building of 3 or fewer units;
 - (B) A substantially rehabilitated multifamily property of 4 or more units with a replacement cost of 75 % or more of the completed property;
 - (C) Is designed as, or intended for occupancy as, a residence; and
 - (D) Was designed or constructed or commissioned, contracted, or otherwise arranged for design or construction by any person or entity who, at any time during the design or construction, received District financial assistance from any program or activity associated with the construction.
- (3) “District financial assistance” means any assistance or financial benefit that is provided or otherwise made available by any District government agency, quasi-governmental

or independent agency, commission, instrumentality, or entity or activity through any grant, loan, contract, or any other arrangement, including:

(A) Grants, subsidies, or any other funds;

(B) Real or personal property or any interest in or use of such property,

including:

(i) Transfers or leases of the property for less than the fair market value or for reduced consideration;

(ii) Proceeds from a subsequent transfer, lease, or write-down of the property value if the District share of its fair market value is not returned to the District government;

(iii) Any tax credit, mortgage, or loan guarantee or insurance; or

(iv) Any financial assistance similar to those described in subparagraphs (i), (ii), and (iii) of this subparagraph.

(4) “International Building Code” means a model building code developed by the International Code Council (“ICC”) and adopted by the District of Columbia Building Code.

(5) “Level” means a floor of a building, differentiated from other floors above or below.

(6) “Covered multifamily dwelling building” means a building, structure, or development with 4 or more separate residential dwelling units that are either owner-occupied or tenant-occupied, and includes apartment, condominium, and cooperative units as well separate units within a single or continuous structure separated by firewalls.

(7) “Person” or “entity” means one or more individuals, corporations, including not-for-profit corporations, partnerships, associations, labor organizations, legal representatives, mutual corporations, joint-stock companies, trusts, unincorporated associations, trustees, trustees in cases under Title 11 of the United States Code (Bankruptcy), receivers, and fiduciaries.

(8) “Replacement Cost” means the current cost of construction and equipment for a newly constructed housing facility of the size and type being altered.

(9) “ICC/ANSI A117.1” means standards for Accessible and Usable Buildings and Facilities developed and approved by the International Code Council (“ICC”) and the American National Standards Institute (“ANSI”). Unless otherwise noted, references to the ICC/ANSI standards in this act refer to the standards applicable to single-family residential dwelling units.

(10) “Site impracticability” means extremes in terrain or usual characteristics of the site which does not conform to the standards under ANSI A 117.1 Chapter 4 (2009).

(11) “Substantially rehabilitated” means the physical alteration or modification of a property to add, delete, or change the design or configuration of units, including common areas, kitchens, and bathrooms.

Sec. 3. Visitability requirements.

It shall be unlawful for any person receiving District financial assistance for a covered dwelling building to fail to ensure that the dwelling building contains at least one level that complies with the following requirements:

- (1) An accessible entrance;
- (2) Accessible interior doors and spaces;
- (3) Clear circulation path;
- (4) Accessible bathroom and reinforced bathroom walls;
- (5) Habitable interior space;
- (6) Accessible food preparation area; and
- (7) Accessible environmental controls and outlets.

Sec. 4. Visitability design features.

(a) Except as otherwise provided in section 5, each covered dwelling building shall be designed and constructed with the following features, consistent with the District of Columbia Building Code that incorporates International Building Code ("IBC") standards:

- (1) At least one step-free dwelling building entrance on a clear exterior circulation path from a public street or sidewalk, a covered dwelling unit driveway, or garage;
- (2) Accessible interior doors and doorways;
- (3) A clear interior circulation path between the dwelling building entrance and the interior spaces on the same level;
- (4) A full bathroom on the entrance level:
 - (A) With not less than one sink and one toilet, and at least one shower or bathtub;
 - (B) With adequate floor space and clearances:
 - (i) Where the door swings into the bathroom, a clear space of 48 inches (1220 mm) minimum length and 30 inches (760 mm) minimum width that is free of the swing of the door to position a wheelchair or other mobility aid to permit use of fixtures;
 - (ii) Where the door swings out of the bathroom, a clear space of 48 inches (1220 mm) minimum length and 30 inches (760 mm) minimum width within the room to position a wheelchair or other mobility aid to allow unobstructed use of fixtures;
 - (iii) To include knee and toe clearances beneath any fixtures; and
 - (iv) At least one clear unobstructed side of such clear floor space shall adjoin or overlap an accessible route or adjoin another clear floor space:
 - (I) Where both a bathtub and shower fixture are provided, at least one is made accessible;
 - (II) Where more than one sink in a bathroom is provided, at least one is made accessible; and
 - (III) Reinforcement in the bathroom walls to allow for later installation of grab bars around the toilet, bathtub or shower stall, and shower seat;

(5) At least one habitable interior space on the dwelling unit entrance level with a minimum area of 70 square feet that can be used as a bedroom;

(6) An accessible food preparation area; and

(7) Lighting controls, receptacle outlets, and environmental controls located at reachable heights.

(b) The design and construction of a building or structure that includes several covered multifamily dwelling buildings shall include, in addition to the design features required for covered dwelling buildings by subsection (a) of this section, the following design features applicable to the building site, building entrances, and common-use areas of the multifamily dwelling building:

(1) A continuous and accessible exterior route that connects one or more accessible entrances to a multifamily dwelling building with public streets and sidewalks, accessible parking spaces or accessible passenger loading zones, or with adjoining buildings or facilities of a multifamily development;

(2) One or more accessible and usable building entrance doorways connected to an accessible exterior route;

(3) All common-use areas or spaces connected to an accessible interior route with accessible and usable doorways; and

(4) An accessible interior route connecting accessible building entrances with all covered accessible dwelling units and common-use areas.

(c) Except as otherwise provided in subsection (a) of this section, a covered dwelling building or a covered multifamily dwelling building shall be deemed to be in compliance with the requirements of this act if it complies with ICC/ANSI A117.1-2009 Section 1005 (2009), or its successor.

(d) Where an exception or waiver of the requirements of subsection (a) of this section is provided pursuant to section 5, at least one accessible toilet room or bathroom shall be constructed.

(e) The standards set forth in this section are intended to supplement and not replace any comparable standards in existing local electrical, fire, and safety codes. Where specific requirements or design criteria in this section differ from, or conflict with, comparable requirements or criteria in such existing standards, the design criteria of this standard shall apply.

(f) Nothing in this act is intended to prevent the use of designs, clearances, specifications, or products as alternatives to those prescribed in this section; provided, that the requestor provides a clear objective, and the alternative results in equivalent or greater accessibility or ease of use for potential residents, and such equivalency has been confirmed and approved by the Department of Consumer and Regulatory Affairs ("DCRA"). A safe harbor for accessibility approved by Housing and Urban Development ("HUD") may be approved by the Department of Consumer and Regulatory Affairs.

Sec. 5. Exemptions.

(a) DCRA shall identify, to the extent practicable, specific circumstances in which a person involved in the design, development, or construction of a covered dwelling building, or a covered multifamily dwelling building, can demonstrate that compliance with one or more design standards in section 4 would be technically, structurally, or environmentally impractical.

(1) The unique characteristics of a building site may nullify the provisions of section 4(a)(1) if:

(A) The finished grade of the site is too steep to provide a path having a slope meeting the requirements of section 4(a)(1) at the front, side, or back of the unit;

(B) There is no driveway or public sidewalk serving or scheduled to serve the site or multifamily entrance; and

(C) There is no alley or other roadway capable of providing vehicular access to the rear of the unit.

(2) Existing zoning restrictions on dwelling size, lot size or configuration, community design restrictions and covenants, or other structural and legal restrictions outside the control of the person or persons responsible for the design or construction of a covered dwelling building, or a covered multifamily dwelling, that may limit numbers of entry-floor rooms, restrict interior clearances, or prevent compliance with other design features may be considerations for exemption.

(b) An exemption to the requirements of section 4 shall be granted in cases where a project is a multifamily property of 4 or more units that will be substantially rehabilitated to 75% or more of the replacement cost of the completed property either individually or as part of a multi-building project, and the property meets the requirements of section 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 701 *et seq.*).

(c) Granting of an exception where it can be demonstrated that full compliance with one or more design standards in section 4 is impractical or technically infeasible does not lessen or remove the obligation to provide for increased accessibility or other intended purpose of such standard to the greatest extent that is practical or feasible, nor does it remove the obligation to comply fully with all other design standards.

(d) A person seeking an exception from the requirements of section 4 shall submit a request at the time of application for a building permit, or immediately thereafter upon encountering topographic or structural difficulties that may necessitate such exception, which shall include:

(1) A statement describing the exception or exceptions requested;

(2) An explanation of the problems encountered that warrant each exception; and

(3) Such additional information regarding topographic conditions, local codes and ordinances, construction constraints, and other factors as may be necessary to adequately document need for each exception.

Sec. 6. Certification.

(a) Recipients of District financial assistance shall submit assurance certification to the originating financing District agency and to DCRA that all of its programs and activities will be conducted in compliance with this act.

(b) Recipients of District financial assistance who design, construct, commission, contract, or otherwise arrange for the design or construction of a covered dwelling building shall submit architectural and construction plans for the unit, building, or property to DCRA for the review and approval of construction plans for compliance with this act.

Sec. 7. Inclusive Home Design Task Force.

(a) The Inclusive Home Design Task Force (“Task Force”) is established to advise DCRA in the implementation of the provisions of this act.

(b) The Task Force shall consist of not less than 15 members and shall include:

(1) The Director of DCRA, or designee, who shall serve as Chairman;

(2) The Director of the District of Columbia Department of Housing and Community Development, or designee;

(3) The Director of the Department of Disability Services, or designee;

(4) The Director of the Office on Aging, or designee;

(5) A representative of the Attorney General’s office;

(6) A representative of the academic community with expertise in the design of accessible housing for older persons or persons with disabilities; and

(7) At least 6 public members, 3 appointed by the Mayor, and 3 appointed by the Council of the District of Columbia, to provide for balanced representation from among the following groups:

(A) Organizations representing builders, contractors, architects, real estate developers, or design professionals; and

(B) Organizations representing the interests of senior citizens and persons with disabilities.

(c) Members of the Task Force shall serve during such period as necessary to fulfill the responsibilities set forth in subsection (d) of this section, or for such longer period as determined necessary by the Chairman, and shall receive no compensation for their service on the Task Force.

(d) Responsibilities of the Task Force shall include:

(1) Providing recommendations to the Director of DCRA regarding the implementing regulations required by this act;

(2) Advising the Director of DCRA regarding issuance of guidance to be used by authorized agencies in granting exceptions to any design standard pursuant to section 5;

(3) Developing an instructional pamphlet or manual for use by architects, builders, and contractors that explains the purpose and requirements of this act and provides design specifications and technical criteria needed for compliance with design standards, together with examples of designs or features already employed in single-family and multifamily

construction that illustrate practical, cost-effective, or aesthetic methods for complying with specific design standards;

(4) Developing a pamphlet or other materials directed to the general public to explain the design features and advantages of inclusive design homes and to assist potential new home buyers in making informed decisions regarding the design of a future home;

(5) Providing recommendations regarding the advisability of establishing a state registry of inclusive design homes constructed in compliance with this act; and

(6) Such additional responsibilities as determined by the Director of the DCRA.

Sec. 8. Enforcement.

(a) DCRA is the District agency responsible for the review and approval of construction plans for compliance with generally applicable building codes or requirements.

(b) Recipients of financial assistance through the District government who design, construct, commission, contract, or otherwise arrange for design or construction of a covered dwelling building shall submit architectural and construction plans for such unit, building, or property to DCRA.

(c)(1) The District may not provide financial assistance to any project administered by a District housing agency unless the funding agency, in the determination of DCRA, is taking the enforcement actions under paragraph (2) of this subsection.

(2) The enforcement actions under this subsection include the following:

(A) Reviewing any plans for a covered dwelling building submitted pursuant to section 6(b) and approving or disapproving such plans based upon compliance of the property or dwelling unit with the requirements of this act; and

(B) Consistent with applicable District laws and procedures, withholding final approval of construction or occupancy of a covered dwelling building unless and until such compliance is determined.

(3) DCRA shall enforce all provisions of this act. Each funding agency will monitor compliance of its funded projects by conducting administrative as well as site reviews of DCRA's enforcement techniques of all provisions of this act.

(d) The Office of Human Rights ("OHR") shall conduct an administrative review within one year of rule implementation, and as needed thereafter, of DCRA's monitoring policies, inspection practices, and enforcement of noncompliance with this act.

Sec. 9. Applicability.

(a) This act shall apply to all permits for the construction, alteration, or rehabilitation of the covered dwelling buildings applied for after the effective date of this act.

(b) This act shall not apply to recipients of financial assistance through the District government who design, construct, commission, contract, or otherwise arrange for design or construction of a covered dwelling building who have established a contractual relationship with an architect, general contractor, or engineer before the effective date of this act.

Sec. 10. Penalties.

(a) Any person or entity who violates any of the provisions of this act or orders issued under the authority of this act shall, upon conviction, lose its certificate of occupancy until the violation is corrected, be subject to a fine of not less than \$2,000 or imprisoned for not more than 90 days, or both, for each unit in each covered dwelling building in violation of this act.

(b) Prosecutions pursuant to this section shall be brought in the name of the District of Columbia by the Attorney General for the District of Columbia.

Sec. 11. Civil action for private persons.

(a) Any person aggrieved by an act or omission that is unlawful under this act may commence a civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction against the person or entity subject to the requirements of this act who is responsible for any part of the design or construction of a covered dwelling building no later than 2 years after the occurrence or termination of the alleged unlawful conduct under this act.

(b) For the purposes of this section, a violation involving a covered dwelling building that is not designed or constructed in conformity with the requirements of this act shall not be considered to terminate until the violation is corrected.

Sec. 12. Construction of laws.

Nothing in this act shall be construed to invalidate or limit any District law that grants, guarantees, or provides the same rights, protections, and requirements provided by this act, but any law, policy, or regulation enacted by the Council, the Mayor, or a District agency, or other such jurisdiction, that purports to require or permit any action that would violate this act shall, to that extent, be invalid.

Sec. 13. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 14. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).