

## NEBRASKA ADMINISTRATIVE CODE

### TITLE 156 - STATE FIRE MARSHAL PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES

#### CHAPTER 1 - SCOPE

001. These regulations shall apply to buildings and facilities which are newly constructed for first occupancy and to alterations of existing buildings and facilities used by the public.

001.01. For the purposes of these regulations, alterations of an existing building or facility used by the public shall include remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangements in the plan or configuration of the height of walls or partitions. Normal maintenance, reroofing, painting, wallpapering, asbestos removal, or changes to mechanical and electrical systems shall not be considered alterations.

002. Exemptions and Exclusions. These regulations shall not apply to any private club (except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation), or to any religious entity.

003. For purposes of these regulations, terms shall be defined according to 28 Code of Federal Regulations (C.F.R.) Part 36.104, which is attached and hereby adopted by reference.

**TITLE 156 - STATE FIRE MARSHAL  
PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES**

**CHAPTER 2 - NEW CONSTRUCTION**

001. Commercial Facilities Located in Private Residences.

001.01. When a commercial facility is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this chapter, but that portion used exclusively in the operation of the commercial facility or that portion used both for the commercial facility and for residential purposes is covered by the new construction and alterations requirements of this chapter

001.02. The portion of the residence covered under 001.01 above extends to those elements used to enter the commercial facility, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by employees or visitors of the commercial facility, including restrooms.

002. Exceptions for Structural Impracticability.

002.01. Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

002.02. If full compliance with this chapter would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

002.03. If providing accessibility in conformance with this chapter to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing or mental impairments) in accordance with this chapter.

003. Elevator Exemption.

003.01. For purposes of this section:

003.01A. Professional office of a health care provider means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility housing the Aprofessional office of a health care provider@ only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

003.01B. Shopping Center or Shopping Mall Means:

003.01B1. A building housing five or more sales or rental establishments; or

003.01B2. A series of buildings on a common site, either under common ownership or common control or developed either as one project or as a series of related projects, housing five or more sales or rental establishments. The facility housing a “shopping center or shopping mall” only includes floor levels housing at least one sales or rental establishment, or any floor level designed or intended for use by at least one sales or rental establishment.

003.02. This chapter does not require the installation of an elevator in a facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses one or more of the following:

003.02A. A shopping center or shopping mall, or a professional office of a health care provider.

003.02B. A terminal, depot, or other station used for specified public transportation, or an airport passenger terminal. In such a facility, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities, and other common areas open to the public, must be on an accessible route from an accessible entrance.

**TITLE 156 - STATE FIRE MARSHAL  
PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES**

**CHAPTER 3 - ALTERATIONS**

001. Alteration to existing buildings and facilities shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

002. If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of chapter 4 of this title.

003. To the maximum extent feasible. The phrase, "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

004. Alterations: Path of Travel.

004.01. An alteration that affects or could affect the usability of or the access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

004.02. Primary Function. A primary function<sup>®</sup> is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services 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.

004.03. Alterations to an Area containing a primary function.

004.03A. Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to:

004.03A1. Remodeling merchandise display areas or employee work areas in a department store;

004.03A2. Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

004.03A3. Redesigning the assembly line area of a factory; or

004.03A4. Installing a computer center in an accounting firm.

004.03B. For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

004.04. Landlord/tenant: If a tenant is making alterations that would trigger the requirements of this section, those alterations by the tenant in areas that only the tenant occupies do not trigger a path of travel obligation upon the landlord with respect to areas of the facility under the landlord's authority, if those areas are not otherwise being altered.

004.05. Path of Travel.

004.05A. A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

004.05B. An accessible path of travel may consist of walks, and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

004.05C. For the purpose of this part, the term "path of travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.

004.06. Disproportionality.

004.06A. Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

004.06B. Costs that may be counted as expenditures required to provide an accessible path of travel may include:

004.06B1. Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

004.06B2. Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

004.06B3. Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a telecommunications device for deaf persons (TDD);

004.06B4. Costs associated with relocating an inaccessible drinking fountain.

004.07. Duty to Provide Accessible Features in the Event of Disproportionality.

004.07A. When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

004.07B. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

004.07B1. An accessible entrance;

004.07B2. An accessible route to the altered area;

004.07B3. At least one accessible restroom for each sex or a single unisex restroom;

004.07B4. Accessible telephones; 004.07B5. Accessible drinking fountains; and

004.07B6. When possible, additional accessible elements such as parking, storage, and alarms.

004.08. Series of smaller alterations.

004.08A. The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

004.08B. If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

005. Alterations: Elevator Exemption.

005.01. This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses a shopping center, a shopping mall, the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation, or an airport passenger terminal.

005.01A. For the purposes of this section, a professional office of a health care provider<sup>®</sup> means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a professional office of a health care provider<sup>®</sup> only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

005.01B. For the purposes of this section, shopping center or shopping mall means:

005.01B1. A building housing five or more sales or rental establishments; or

005.01B2. A series of buildings on a common site, connected by a common pedestrian access route above or below the ground floor, that is either under common ownership or

common control or developed either as one project or as a series of related projects, housing five or more sales or rental establishments. The facility housing a shopping center or shopping mall<sup>®</sup> only includes floor levels housing at least one sales or rental establishment, or any floor level designed or intended for use by at least one sales or rental establishment.

005.02. The exemption provided in 005.01 above does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this chapter. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

006. Alterations: Historic Preservation.

006.01. Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 USC 470 et seq.), or are designated as historic under the State or local law, shall comply to the maximum extent feasible with section 4.1.7 of chapter 4 of this title.

006.02. If it is determined under the procedures set out in section 4.1.7 of chapter 4 that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided.

007. Standards for New Construction and Alterations.

007.01. New construction and alterations subject to this title shall comply with the standards for accessible design in chapter 4 of this title.

**TITLE 156 - STATE FIRE MARSHAL  
PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES**

**CHAPTER 4 -ACCESSIBILITY GUIDELINES FOR PUBLIC & COMMERCIAL  
BUILDINGS AND FACILITIES**

001. Appendix A to Chapter 1 of Title 28 of the Code of Federal Regulations (CFR), Part 36 is hereby adopted by reference. The full text of these regulations are available for viewing at the office of the State Fire Marshal, 246 South 14th Street, Lincoln, Nebraska 68508-1804, and at the Nebraska Secretary of State, Rules and Regulations Division, Room 343, State Capitol, Lincoln, Nebraska.

**TITLE 156 - STATE FIRE MARSHAL PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES**

**CHAPTER 5 - EFFECTIVE DATE**

001. These regulations shall apply to all plans submitted for review on or after October 1, 1994. Buildings and facilities newly constructed for first occupancy on or after January 1, 1995 shall comply with these regulations notwithstanding the date of submittal of plans for review.

**TITLE 156 - STATE FIRE MARSHAL  
PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES**

**CHAPTER 6 - ENFORCEMENT**

001. When plans are reviewed by a political subdivision for building code regulations, enforcement of this title shall be the responsibility of the building code officials of the political subdivision.

002. When no building code plan review is conducted by a political subdivision, and plans are reviewed solely for fire code regulations, the State Fire Marshal shall be responsible for enforcement of this title.

**TITLE 156 - STATE FIRE MARSHAL  
MULTI-FAMILY DWELLINGS**

**CHAPTER 7 - SCOPE**

001. These regulations apply to newly constructed buildings consisting of four or more dwelling units.

001.01. For the purposes of these regulations, alterations to existing buildings do not apply. Additions to existing buildings will be considered new construction.

001.02. For the purposes of these regulations, no distinctions will be made based on ownership. These regulations will apply to any building housing four or more dwelling units regardless of whether the units are privately owned, leased or rented.

001.03. For the purposes of these regulations, continuing care facilities may be viewed as multi-family dwellings based on unit use, length of stay, and other services within the facility.

002. Terms shall be defined according to 24 Code of Federal Regulations (CFR) 100.201, which is attached and hereby adopted by reference.

**TITLE 156 - STATE FIRE MARSHAL  
MULTI-FAMILY DWELLINGS**

**CHAPTER 8 - NEW CONSTRUCTION**

001. Covered Multi-Family Dwellings. All dwellings units in buildings containing four or more units if such buildings have one or more elevators and all ground floor dwellings units in other buildings containing four or more units shall be covered by these regulations.

001.01. A ground floor is a floor of a building with an entrance on an accessible route. The ground floor may or may not be at grade and all multi-family dwellings with four or more units shall have at least one ground floor.

001.02. If more than one-story is designed with an accessible entrance or on an accessible route, then each story becomes a ground floor and all units on those stories are covered.

002. Multi-Story, Multi-Family Dwelling Units. To be a covered unit, all of the finished living space must be on the ground floor unless the multi-story unit is located within a building which has an elevator or elevators, in which case, the primary entry level of the unit is covered.

003. Private Ownership. These regulations shall apply to the design and construction of covered multi-family dwellings regardless of whether the building or unit is designed or constructed for sale, rent or lease.

004. Continuing Care. Continuing care facilities shall be covered by these regulations if the facility is used as a residence and is not a licensed health-care facility primarily used to prolong or sustain human life.

005. Standards for new construction are subject to this title and shall comply with Chapter 10 of this title.

**TITLE 156 - STATE FIRE MARSHAL  
MULTI-FAMILY DWELLINGS**

**CHAPTER 9 - ALTERATIONS & ADDITIONS**

001. Alterations made to any existing building or facility will not be required to comply with these regulations unless the alteration could be considered an addition.

002. Additions of any building structure to a new or existing building or facility shall comply with the standards set forth by Chapter 10 of Title 156. Additions will be considered new construction.

**TITLE 156 - STATE FIRE MARSHAL  
MULTI-FAMILY DWELLINGS**

**CHAPTER 10 - ACCESSIBILITY GUIDELINES FOR MULTI-FAMILY  
DWELLINGS**

001. Subchapter A, Subpart D of Title 24 of the Code of Federal Regulations, Section 100.205 is hereby adopted by; reference. The full text of these regulations is available for viewing or inquiry at the Offices of the Nebraska State Fire Marshal, located at 246 So. 14th Street, Lincoln, Nebraska 68508 (402)471-2027, or District AB@ office at 438 West Market, Albion, NE 68620, (402) 395-2164 or District AC@ office at the Craft State Office Building, 200 South Silber, North Platte Nebraska 69101, (308) 535-8181. Copies are also located at the Office of the Secretary of State, Rules and Regulations Division, Room 343, Nebraska State Capitol, Lincoln, Nebraska.

**TITLE 156 - STATE FIRE MARSHAL  
MULTI-FAMILY DWELLINGS**

**CHAPTER 11 - EFFECTIVE DATE**

001. These regulations shall apply to plans submitted for review on or after October 1, 1998.

**TITLE 156 - STATE FIRE MARSHAL  
MULTI-FAMILY DWELLINGS**

**CHAPTER 12 - ENFORCEMENT**

001. When plans are reviewed by a political subdivision for building code regulations, enforcement of this title shall be mandatory except as stated in section 002. of this Chapter.

002. Plans reviewed by a political subdivision in second-class cities and villages shall have the option to defer enforcement to the State Fire Marshal so long as this intent is placed in writing, to the Nebraska State Fire Marshal's Office, prior to the plan submittal date.

003. When no building code plan review is conducted by a political subdivision and plans are reviewed solely for fire codes regulations, the State Fire Marshal shall be responsible to enforcement of this title.

Legal Citation: Title 156, Chapter(s) 1 through 12, Nebraska State Fire Marshal

Statutory Citation: Neb. Rev. Stat. 81-5,147 to 81-5,149 (amended - 1998)