



## A SIMPLE TRUTH

Every citizen has the right to access their community; to contribute to and benefit from all that it has to offer.

*Accessing one's community begins at the front door.*

## THE PROBLEM

With most of today's homes designed and built without consideration for disability, access to community becomes a real problem should a home's resident suddenly be unable to use steps.

If it happens to be a child with a disability, there is a need for safe and easy access to school everyday during the school year.

## THE DANGER

Additionally, the inability to exit one's home quickly and safely in an emergency becomes dangerous, even life-threatening.

## THE SOLUTION

In most cases, the installation of a ramp or lift can make all the difference, providing the dignity and freedom that comes with independence.

## AS A ZONING OFFICIAL

As an elected or appointed official, it is your responsibility to be a part of the solution; to understand the laws as they pertain to **Reasonable Accommodation** and to support the resident and contractor as they explore options.

*Remember, these are people whose lives have been altered in unexpected ways and they are simply trying to regain a sense of normalcy and independence.*

*The assistance and expertise you provide during this time of transition can be key to the person reconnecting with community.*

## THE REALITY

In most situations, a ramp or lift can be designed and installed easily, adhering to the codes and specifications for such, with no need to consider variances to existing Zoning laws.

Occasionally, though, the only feasible option will require a variance to existing set-back laws. Understanding the rights of your fellow citizens and the laws that support those rights will be critical to the success of the project.

## ACCESS AND THE FUTURE

Disability is a part of life. As we age, chances of acquiring a disability increase. Currently in America there are **77 million baby-boomers** in their fifties and sixties. Service men and women are returning home with disabilities significant enough to require home modification, and state and federal disability support monies are being redirected from long-term care facilities to assisting individuals with living in their own homes. The need for access and accommodation support has never been greater and is only going to increase.

To maintain support for this brochure, **The Ability Center** has created a webpage which provides the information necessary to help you, as a citizen, get the access you need, and help you, as a zoning official, understand and easily provide the accommodation support necessary to make life better for your applicant.

To access this page, visit: [abilitycenter.org](http://abilitycenter.org) and click the link on the right that says: "Zoning Brochure Support."

On this page you will find this brochure as a PDF along with information to help you:

- Find your nearest Center For Independent Living
- Find Your Local Zoning Office
- Download a Standardized Reasonable Accommodation Form
- Find a Sample Model Ordinance for providing Reasonable Accommodation

# Zoning Laws and Reasonable Accommodation for Citizens with Disabilities



## A Guide to Your Rights as a Citizen with a Disability and Your Responsibility as a Zoning Official





## THE LAW

So, what does the law say about your rights as a citizen with a disability and your responsibility as a Zoning Official?

Both the *Federal Fair Housing Act (FHA)* and *Title II of the Americans with Disabilities Act (ADA)*, impose an affirmative duty on local government to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations “may be necessary to afford” a person with a disability “an equal opportunity to use and enjoy a dwelling”.

*“City governments are required to make reasonable modifications to policies, practices, or procedures to prevent discrimination on the basis of disability. Reasonable modifications can include modifications to local laws, ordinances, and regulations that adversely impact people with disabilities. For example, it may be a reasonable modification to grant a variance for zoning requirements and setbacks. In addition, city governments may consider granting exceptions to the enforcement of certain laws as a form of reasonable modification.”*

U.S. Dept. of Justice - [www.ada.gov/comprob.pdf](http://www.ada.gov/comprob.pdf)

*“A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.”*

ADA, Title II,- 28 C.F.R. § 35.130(b)(7).

State and Local Governments are required to ensure access to civil life by people with disabilities by a number of laws including: *The Fair Housing Amendments Act of 1988, specifically, 42 U.S.C. 3604(f)(3)(A) & (B), Americans with Disabilities Act of 1990, Title II, 42 U.S.C. §§ 12131–12165, Section 504 of the Rehabilitation Act of 1973 and O.R.C. 4112.02(H) (18)(a) & (19)*. These laws exist to ensure that people with disabilities can take part in, and benefit from, the programs and services of State and local government.

## THE IMPORTANCE

*Reasonable Accommodation requests are not the same as Variance requests. They are time-critical.* They should neither be delayed by review or appeal processes nor incur additional or excessive processing fees. Unnecessary delay has been viewed in the law as “*failure to accommodate.*”

## SHOULD YOU NEED A RAMP

*The following steps and suggestions are to be viewed as informal guidance only. Based on experience, the intent is to help your project run quickly and smoothly.*

**Step One:** Contact your area **Center for Independent Living (CIL)** to see if you qualify for *Minor Home Modification Assistance*. To find your closest Center, see the back panel of this brochure.

**Step Two:** As homeowner (or landlord) it is your responsibility to contact your local Zoning Official to determine whether or not a permit is needed for your project.

**Step Three:** Should you need or choose to use a contractor, ask your area CIL for a list of reputable, licensed contractors knowledgeable about Accessible Modification.

*When you speak with your contractor about your ramp or lift needs, ask that local ordinances and set-back restrictions be considered. Should the design need to infringe upon a restricted space, as a citizen with a disability, you have the right to request “reasonable accommodation”, a federal requirement which, in most cases, supercedes local restrictions.*

**Step Four:** Should you or your contractor determine a Zoning Variance is necessary, ask your Zoning Office for a *Standardized Reasonable Accommodation Form*. If they do not have one, you may use the generic form linked to on the back of this brochure.

**Step Five:** Complete and submit your request to your local Zoning Office along with project plan and explanation as to why your option is the only or best option for accessing your home. Issues of cost, convenience, safety and undue hardship are all relevant to this conversation.

## IF THERE IS A PROBLEM

If you are a qualified individual with a disability and you have been informed your permit application/drawing does not meet the local Zoning requirements, or your local Zoning/Building Official is unable to provide a written answer within a reasonable timeframe (30 days), please ask to speak to the jurisdiction’s **ADA Coordinator**. This information should be posted publicly. **§35.306**

*The Americans with Disabilities Act (ADA)* requires “a public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply and carry out its responsibilities under this part.” **§35.107**

If you are unable to find acceptable resolution with the ADA Coordinator, please reconnect with your area Center for Independent Living.