Housing rehabilitation codes

Overview

Housing rehabilitation codes (or rehab codes) are building codes designed to reduce the costs of renovating and rehabilitating existing buildings, thereby facilitating the continued availability and habitability of older rental housing and owner-occupied homes.

Under traditional building codes, property owners seeking approval for minor renovations may be required to make comprehensive changes to bring an older home or apartment building into full compliance with current standards for new buildings. The scope of work required to bring the older buildings up to code can be extensive and costly enough to derail all planned improvements, causing existing buildings to fall farther into disrepair. Rehab codes align code requirements with the scale of the proposed project, prioritizing those improvements strictly needed to improve safety while making the rehabilitation of existing buildings more feasible. This flexibility facilitates the preservation of older affordable homes that might otherwise be demolished.

Housing rehab codes will have the greatest immediate impact in local jurisdictions with an older housing stock, although changes adopted today will become more relevant over time as newer homes age. This section provides guidance for cities, towns and counties that are considering a housing rehab code.
Approach

States and local jurisdictions generally adopt rehab-friendly building codes in order to address provisions in the existing code that could otherwise deter rehabilitation and preservation of older single-family and multifamily homes. These homes are more likely than new construction to be affordable to lower-income households without any public assistance and in many cities make up a critical part of the housing stock. However, they are also vulnerable to loss if current codes make it difficult or impossible to make necessary repairs or upgrades at a reasonable cost. Rehab projects are almost always undertaken by small developers, builders, and property owners, who have little margin for uncertainty or added costs. Rehab codes help to bring greater proportionality and predictability to code compliance. They ensure the scope of the required upgrades aligns with the proposed rehab activity, remove ambiguity in how codes will be interpreted, and help to make the project cost and timeline more certain.

In particular, rehab codes help to remedy two provisions that historically appeared in model building codes and posed major obstacles to redevelopment: the “25-50 percent rule” and the “change of occupancy” rule. The 25-50 percent rule establishes broad requirements for code compliance based on the total estimated cost of the proposed project relative to the estimated replacement cost of the building. Requirements grow more stringent as proposed project costs increase from less than 25 percent of the estimated cost to replace the building to between 25 and 50 percent, and are often subject to the discretion of individual code inspectors. When the estimated project cost is greater than 50 percent of the replacement cost, the entire building must be brought into compliance with the current building code under this provision – including sections of the building or building systems that are not undergoing any rehabilitation. The change of occupancy provision requires existing buildings that are changing use or occupancy to be fully upgraded to comply with standards for new construction—even if the new use is considered to be less hazardous (e.g., conversion of a factory to housing). Under both of these rules, property owners may be required to make changes such as raising the ceiling or widening all stairways and halls that have no bearing on the safety or soundness of the building—and are unrelated to the proposed rehab activity—but can significantly increase costs or even make the project practically impossible to carry out.

Rehab codes are designed to make rehab of older structures more cost-effective while prioritizing code provisions designed to ensure the safety of residents. Local jurisdictions that are interested in adopting a housing rehab code (or working with the state to do so) may want to start by developing a clear picture of the challenge.
Preliminary consultation with code staff, housing developers, affordable housing providers, and representatives from historic preservation and environmental groups can help to provide insights into common problems and specific barriers to renovation. Analysis of the latest local housing study or other housing data can also establish the number of lower-cost properties that are vulnerable to loss without a streamlined approach to rehabilitation, as well as the characteristics of these properties in terms of size, structure type, and location.

States and local jurisdictions that decide to proceed with building code changes to facilitate rehabilitation have a variety of options in how to structure their approach. A primary decision is whether to write a new code that is specific to the jurisdiction, adopt a model rehab code, or make amendments to remedy obstacles in the existing building code. The State of New Jersey pioneered the creation of a rehab code by writing its own code in 1997, before development of any national or international model code. New Jersey's code serves as the basis for the Nationally Applicable Recommended Rehabilitation Provisions, a model code developed by HUD. The International Code Council has also issued a model rehab code, called the International Existing Building Code.[1]

Although some jurisdictions write their own codes, revision of an existing code or adoption of a model code (as-is or with amendments) is likely to be more sensible in most communities. In some cases, communities make only minor revisions to their existing building code to provide relief in specific areas, rather than undertaking a wholesale re-write. In Chicago, for example, the Department of Buildings issued code clarifications authorizing small changes that can make a big difference in the feasibility of residential rehab without compromising safety. These include reductions in natural light and ventilation requirements in residential basements and electrical code relief that allows alternative locations for the "service disconnecting means" (i.e., the manual circuit breaker or on/off switch that ensures the circuit is completely disconnected for service or maintenance).

States and local jurisdictions that are authorized to adopt their own building codes may also choose to take a more comprehensive approach and adopt a model rehab code. Adoption of a model code can result in a more consistent set of rules (compared to isolated amendments to the existing building code) that are tailored specifically to rehab activities and regularly updated by industry experts. To the extent that they are adopted by states for enforcement across all jurisdictions, model codes also promote greater consistency and clarity for developers and property owners seeking to understand the requirements and expectations associated with a proposed project.

Model codes and community-written codes alike often establish a graduated approach
to rehab requirements, with compliance keyed to the type and scale of the work being done. While similar in principle to the 25-50 percent rule, this approach allows for greater nuance and often uses factors other than cost when determining rehab requirements. These other factors may provide a more meaningful indication of the scope of repairs. For example, gradations may be based on the specific rehab-related activity or activities or the amount or share of floor space affected by the rehab. Minor repairs may require only minimal updates, while more extensive alterations and additions are held to a higher standard for compliance with current code. Detailed guidance helps to create greater predictability in how the code will be interpreted, and to minimize guesswork about the ultimate code compliance requirements and project cost.

**Other considerations**

- **Training.** Even for the best-written code, successful implementation will require adequate training for building inspectors and other code enforcement officials. Training helps to ensure correct interpretation of the new code and consistent enforcement. Communities may also wish to provide education sessions for the builders and developers who will be expected to comply with the new code.

- **Compliance with the Americans with Disabilities Act.** Localities considering adopting or amending Housing Rehabilitations Codes should look closely at the proposed code revisions and the relationship to potential building improvements that may encourage compliance with the [Americans with Disabilities Act](https://www.ada.gov). Code revisions that discourage or reduce potential compliance with ADA may inadvertently inhibit important building improvements and create [Fair Housing](https://www.hud.gov) challenges for the locality.

**Example**

- In 2001, the State of Maryland first adopted the Maryland Building Rehabilitation Code to “streamline and harmonize” the code requirements for rehab work. The code applies to all buildings over one year old. Initially based on the Nationally Applicable Recommended Rehabilitation Provisions, the current version of the code is based on the 2015 International Existing Building Code. Modifications to the model code adopted by Maryland include the creation of a Building Rehabilitation Code Advisory Council to advise on development, adoption, and revisions to the rehab code, as well as to provide technical advice on code interpretation. Modifications also establish a process for convening a preliminary meeting with agency representatives for complex projects that involve multiple codes. See [here](#) for more information.
Related resources

**General**

- [Rehabilitating Rehab Through State Building Codes](#), The Yale Law Journal (2006) – This journal article provides historical background on the development of model building codes and then examines three approaches to implementing a model code – in New Jersey, which wrote and published its own code in 1998, in Maryland, which adopted the Nationally Applicable Recommended Rehabilitation Provisions in 2001, and in Pennsylvania, which adopted the International Existing Building Code in 1999 – and draws out implications from each of these states.

- [Smart Codes in Your Community: A Guide to Building Rehabilitation Codes](#), U.S. Department of Housing and Urban Development (2001) – This report provides a practical overview of building codes and the role of HUD’s Nationally Applicable Recommended Rehabilitation Provisions. The report concludes with specific steps that communities interested in adopting a rehab code should take.

**Implementation**

- [Rehabilitation Subcodes](#), OneSTL – This entry in OneSTL’s Sustainable Solutions Toolkit provides examples of communities that have adopted model rehab codes or adopted their own codes, as well as practical details related to implementation.

**Local example**

- [Rehabilitation Subcode](#), State of New Jersey Department of Community Affairs – This website provides detailed information about New Jersey’s Rehabilitation Subcode, including links to a discussion of the process for developing the subcode and detailed review of the components of the subcode. The full Subcode is also available for download.


**See also:**

- [Streamlined environmental review processes](#)
- [Changes to increase the predictability of the regulatory process](#)
- [Reductions in impact fees and exactions](#)