

PUBLIC SAFETY DEPARTMENT[661]

Regulatory Analysis

Notice of Intended Action to be published:
Iowa Administrative Code 661—300, “State Building Code Administration”

Iowa Code section authorizing rulemaking: 103A.7 and 103A.23
State or federal law(s) implemented by the rulemaking: Iowa Code 103A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 29, 2025
2-3 p.m.

6200 Park Avenue
Des Moines, Iowa 50321

Virtual participation information will be available on the department website prior to the hearing.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this regulatory analysis must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed rulemaking repromulgates Chapter 661—300, “State Building Code - Administration” and implements Iowa Code section 103A, in accordance with the goals and directives of Executive Order 10 (January 10, 2023).

Iowa Code section 103A.7 provides that the state building code commissioner is empowered and directed to formulate and adopt, and from time to time amend or revise and to promulgate, in conformity with and subject to the conditions set forth in chapter 103A, reasonable rules designed to establish minimum safeguards in the erection and construction of buildings and structures, to protect the human beings who live and work in them from fire and other hazards, and to establish regulations to further protect the health, safety, and welfare of the public.

Pursuant to section 103A.23, the commissioner shall establish by rule a schedule of fees based upon the costs of administration and for the purpose of obtaining revenue to defray the costs of administering the provisions of chapter 103A. Fees shall be collected from persons whose manufacture, installation, or construction is subject to the provisions of the state building code. For the performance of building plan reviews by the department, the

commissioner shall establish by rule a fee, chargeable to the owner of the building, and the fee shall be equal to a percentage of the estimated total valuation of the building and shall be in an amount reasonably related to the cost of conducting the review.

The policy of Iowa is to insure the health, safety, and welfare of its citizens through the promulgation and enforcement of a state building code (*see* Iowa Code section 103A.2), and these rules aid in that policy by providing for the administration of the state building code. These rules provide for the administration of the state building code through the state building code bureau, including plan review and inspections, as well as fees for the same (as provided by Iowa Code section 103A.23(1)). The bureau has worked under this rule chapter for close to 20 years, conducting plan review of over \$1 billion worth of construction per year. The rules also provide guidelines for local jurisdictions to enforce the building code. All of the rules in this chapter support the state's policy of insuring the health, safety, and welfare of Iowa citizens.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

Initially, it should be clarified that the state building code only applies to the following: (1) all buildings and structures owned by the state or an agency of the state; (2) in each governmental subdivision (i.e., city, county, or combination thereof) where the governing body has enacted an ordinance accepting the application of the state building code; (3) all newly constructed buildings and structures the construction of which is paid for in whole or in part with moneys appropriated by the state but which are not wholly owned by the state; and (4) in each city with a population of more than 15,000 that has not adopted a local building code that is substantially in accord with the standards developed by a nationally recognized building organization. Iowa Code section 103A.10(2).

Therefore, when considering persons affected by, costs incurred for complying with, and benefits arising from this proposed rulemaking, it is important to remember that the state building code and this proposed rulemaking have limited applicability.

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Any public costs of compliance are born by owners/builders of projects subject to the state building code. Direct costs to owners/builders are plan review and inspection fees, set forth in rules 300.4 and 300.5. Notably, Iowa Code section 103A.23 requires the commissioner to establish a schedule of fees (including, specifically, a schedule of plan review fees) to defray the costs of administering chapter 103A. Additionally, owners/builders of projects subject to the state building code incur indirect costs by the nature of needing to meet requirements of the state building code.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowans and non-Iowans who live, work, and utilize buildings that are subject to the state building code during construction, benefit when building projects have safe, and plan reviews and inspections are conducted in a timely manner. There are no known injuries or deaths attributable to building construction for projects subject to the state building code, which is the ultimate metric as the purpose of Iowa's building code is to insure the health, safety, and welfare of Iowa citizens.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- **Quantitative description of impact:**

Direct costs related to construction of structures are subject to Iowa Code 103A, and these rules establish plan review fees and inspection fees. Under these rules, fees for plan review range from \$200 to \$580 for projects up to and including \$1M, and then \$580 for the first \$1M plus \$0.32 for each additional \$1k or fraction thereof for projects exceeding \$1M;

as well as \$100 to \$400 for fire protection systems. Fees for inspections range from \$598 to \$783, and follow-up inspections are \$214. In fiscal year 2023, the building code bureau collected \$241,075 in building code plan review and inspection fees. Notably, Iowa Code section 103A.23 requires the building commissioner to establish a schedule of fees (including, specifically, a schedule of plan review fees) to defray the costs of administering chapter 103A, and those total fees are less than the department's total budget to implement and enforce chapter 103A (*see* below). Furthermore, the plan review and inspection fees under these rules are comparable to or less than similar fees charged by neighboring and other states. For example, for a project with a value of \$10M, plan review fees in Iowa are \$3,460, but in Minnesota they are over \$47k, in Wisconsin approximately \$4,400 (estimated, as Wisconsin bases fees on square footage, rather than project value), in Nebraska \$500 (note that Nebraska caps plan review fees at \$500, well below all other states), in Arizona nearly \$34k, and in Idaho over \$13k. Furthermore, the energy review fee currently required by the rules is being proposed for repeal in this rulemaking.

- **Qualitative description of impact:**

Owners/builders of projects subject to the state building code indirectly incur costs by the nature of needing to meet requirements of the state building code. These indirect costs of compliance vary greatly based on multiple factors (including the size, complexity, and location of a project), are not easily quantified, and are necessary to insure the health, safety, and welfare of Iowans.

3. Costs to the State:

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the department related to implementation of Iowa Code chapter 103A and these rules include the costs of personnel to administer the state building code. The department maintains approximately nine full-time equivalent positions to administer the state building code. The department's total budget to implement and enforce the state building code, including these rules, is \$1,044,794. These costs are partially defrayed by fees established and collected pursuant to Iowa Code section 103A.23.

- **Anticipated effect on state revenues:**

In fiscal year 2023, the bureau collected \$241,075 in building code plan review and inspection fees, established and collected pursuant to Iowa Code Section 103A.23. These fees helped to defray the costs of administering chapter 103A.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Construction projects subject to the state building code have been safe and plan reviews and inspections conducted in a timely manner. There are no known injuries or deaths attributable to building construction for projects subject to the state building code, which is the ultimate metric as the purpose of Iowa's building code is to insure the health, safety, and welfare of Iowa citizens. The costs to owners to comply with and costs to the department to implement chapter 103A and these rules are insignificant compared to the costs of inaction, which can include death when minimum construction safety standards are absent.

Additionally, as discussed in the "Purpose and Summary" section above, the state building code is required by Iowa Code, so inaction is not an option.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Iowa Code requires the commissioner to promulgate, as the state building code, "reasonable rules designed to establish minimum safeguards in the erection and construction

of buildings and structures, to protect the human beings who live and work in them from fire and other hazards, and to establish regulations to further protect the health, safety, and welfare of the public.” Iowa Code section 103A.7(1).

It is the opinion of the department and commissioner that the state building code reasonably establishes these minimum safeguards. Additionally, as discussed in Section 1, the state building code has limited applicability. *See also* Iowa Code section 103A.10. Therefore, some rural areas of Iowa that have not otherwise adopted their own building code are already only regulated by the fire safety bureau’s general fire safety requirements. Making the state building code any less restrictive would negatively impact the minimum safeguards established by the state building code and risk unsafe building practices where the state building code applies.

The plan review and inspection fees under these rules are comparable to or less than similar fees charged by neighboring and other states. For example, for a project with a value of \$10M, plan review fees in Iowa are \$3,460, but in Minnesota they are over \$47k, in Wisconsin approximately \$4,400 (estimated, as Wisconsin bases fees on square footage, rather than project value), in Nebraska \$500 (note that Nebraska caps plan review fees at \$500, well below all other states), in Arizona nearly \$34k, and in Idaho over \$13k. Because fees are similar or less, a change in fees was not considered.

Finally, compared to the existing rules, these rules have been streamlined, clarified, and made less restrictive when possible in accordance with the goals and directives of Executive Order 10.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

Response in Section 5, above.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Response in Section 5, above.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

While some owners/builders of buildings subject to Iowa Code section 103A and these rules may be small businesses, these rules (required by Iowa Code) protect the health, safety, and welfare of Iowans and non-Iowans who own, reside in, visit, enter, or otherwise use buildings the construction of which are subject to Iowa Code section 103A and the state building code. Even if these rules have a substantial impact on small business (and as shown above, the direct costs to owner/builders are not substantial), to exempt or even

provide less stringent rules for small businesses would not be feasible or practicable because it would undermine public safety based on nothing more than the size of the business owning or building the subject building. Finally, any owner or builder (including a small business) can seek a waiver from provisions of these rules pursuant to the department's uniform waiver rules under 481—Chapter 6.

Text of Proposed Rulemaking

CHAPTER 300 STATE BUILDING CODE—ADMINISTRATION

661—300.1(103A) State building code promulgated; definitions. The definitions set forth in Iowa Code section 103A.3 are incorporated herein by reference.

Iowa Code section 103A.7 empowers and directs the commissioner to adopt and promulgate the state building code, with the approval of the council, except that adoption of the state historic building code requires the approval of the state historical society board, rather than the council, pursuant to Iowa Code section 103A.41.

The state building code includes 661—Chapters 16, 300, 301, 322 and 323.

661—300.2(103A) Building code commissioner. The commissioner appointed pursuant to Iowa Code section 103A.4 will: adopt, and amend as needed, the state building code, with the approval of the council, and the state historic building code, with the approval of the state historical society board; appoint the board of review from among the council membership; and consider any request for the use of alternate materials or methods of construction submitted to the building code bureau pursuant to Iowa Code section 103A.13, and either disapprove each such request or recommend approval of the request to the council.

661—300.3(103A) Building code advisory council. The council appointed pursuant to Iowa Code section 103A.14 will: consider amendments to the state building code proposed by the commissioner, other than amendments to the state historic building code; approve or disapprove any changes to the state building code proposed by the commissioner; and consider and approve or disapprove any requests for use of alternate materials or methods of construction, the approval of which has been recommended to the council by the commissioner.

661—300.4(103A) Plan reviews.

300.4(1) Plans and specifications review—approvals.

a. Submissions to the commissioner of architectural technical documents, engineering documents, and plans and specifications are the responsibility of the owner of the building or facility. The submission may be completed by an authorized agent of the owner or the responsible design professional.

b. “Responsible design professional” means a registered architect or licensed professional engineer who signs the documents submitted.

c. Plans, specifications and other supporting information have to be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code.

d. In sections 107.1 and 107.2.6 of the International Building Code, 2024 edition, the word “permit” is replaced by the words “plan review.”

e. Submittals to the commissioner have to be certified or stamped and signed according to Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

f. Plans and specifications for projects subject to plan review by the commissioner have to be submitted in a format specified on the plan review submittal form.

g. Architectural technical submissions, engineering documents, and plans and specifications for construction, renovation, or remodeling of all state-owned buildings or facilities, including additions to existing buildings, have to be submitted to the commissioner for review and comment. A written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments has to be submitted to and approved by the commissioner prior to the issuance of construction

documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

h. Architectural technical submissions, engineering documents, and plans and specifications for the initial construction of any building or facility that will not be wholly owned by the state or an agency of the state have to be submitted to the commissioner for review and comment, if the construction is financed in whole or in part with funds appropriated by the state and there is no local building code in effect in the local jurisdiction in which the construction is planned or, if there is such a local building code in effect, it is not enforced through a system which includes both plan reviews and inspections. A written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments has to be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

i. Architectural technical submissions, engineering documents, and plans and specifications for construction, renovation, or remodeling of all buildings or facilities, including additions to existing buildings, to which the state building code applies, other than those subject to paragraph "g" or "h," have to be submitted to the commissioner for review and comment, unless applicability of the state building code is based upon a local ordinance enacted pursuant to Iowa Code section 103A.12. A written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments has to be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

j. If the state building code applies to a construction project based upon a local ordinance adopting the state building code, the submission has to be made to the local jurisdiction, provided that the local jurisdiction has established a building department, unless the local jurisdiction requires submission to the commissioner. Review and approval of such documents by the commissioner are at the discretion of the commissioner based upon available resources.

k. A life cycle cost analysis will be needed for new public projects and additions over 20,000 square feet or a renovation that exceeds 50% of the value of the building pursuant to Iowa Code chapter 470 and will be submitted to the commissioner before construction commences. The department has developed life cycle cost analysis guidelines to assist architects and engineers in completing this analysis, and these guidelines are available on the department's website or upon request.

l. Any necessary energy code review pursuant to 661—Chapter 301, Part 3 will be completed prior to approval.

300.4(2) Copies and fees. See 661—Chapters 16 and 322 for fees pertaining to factory-built structures.

a. Codes and standards adopted by reference in the state building code which are published by other organizations, including, but not limited to, the American National Standards Institute, the International Code Council, the International Association of Plumbing and Mechanical Officials, and the National Fire Protection Association, may be purchased from the publishing organization. A copy of each code or standard adopted by reference in the state building code has been deposited in the Iowa state law library.

b. The fees for plan reviews completed by the building code bureau are calculated as follows:

Estimated Construction Costs	Calculation of Plan Review Fee
Up to and including \$1 million	\$.58 per thousand dollars or fraction thereof (minimum fee \$200)
More than \$1 million	\$580 for the first \$1 million plus \$.32 for each additional thousand dollars or fraction thereof
The plan review fees for fire suppression systems and fire alarm systems are separate fees and are calculated as follows:	
Fire Protection System Costs	Plan Review Fee

Fire suppression systems whose construction cost for materials and installation is calculated to be up to and including \$5,000	\$100
Fire suppression systems whose construction cost for materials and installation is calculated to be more than \$5,000 and up to and including \$20,000	\$200
Fire suppression systems whose construction cost for materials and installation is estimated to be more than \$20,000	\$400
Fire alarm systems whose construction cost for materials and installation is calculated to be up to and including \$5,000	\$100
Fire alarm systems whose construction cost for materials and installation is calculated to be more than \$5,000 and up to and including \$20,000	\$200
Fire alarm systems whose construction cost for materials and installation is estimated to be more than \$20,000	\$400

Payment of the assigned fee has to accompany each plan when submitted for review. Payment may be made by money order, check or draft made payable to the Treasurer, State of Iowa.

Note: Plan review fees for assisted living projects are contained in Iowa Code section 231C.18(2) “c.” Elder group home plan review fees are contained in Iowa Code section 231B.17. Adult day services plan review fees are contained in Iowa Code section 231D.4.

c. A person who has submitted a plan for review for which a fee has been assessed pursuant to paragraph “b” is eligible to receive a refund of the fee if the plan has not been approved or rejected within 60 calendar days of its receipt by the building code bureau. A person who believes that a refund is due may notify the commissioner, who will provide a form to request a refund. If the request for refund is approved, the commissioner will cause a check for the amount of the refund to be issued to the individual or organization that originally paid the fee. If the original submission of the plan is incomplete, the fee will be refunded only if the plan has not been approved or rejected within 60 days of a full and complete submission of the plan. “Approved or rejected within 60 days” means that a letter approving or rejecting the plan has been presented or mailed to the submitter within 60 days of the date of receipt by the building code bureau, within the meaning of “time” as defined in Iowa Code section 4.1.

300.4(3) Preliminary meeting. The responsible design professional for a project shall contact the building code bureau to schedule a preliminary meeting to discuss code compliance issues early in the design development phase. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, that person has to request a copy of the document “Preliminary Meeting Checklist” at the time the meeting is scheduled and be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project will not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the commissioner.

300.4(4) Requests for staged approvals.

a. Requests for approval to begin foundation work shall be submitted to the building code bureau in writing and may be transmitted by mail, E-mail or fax or in person. Foundation approval may be granted by the bureau in writing, following a preliminary meeting, if the construction plans and specifications are in compliance with the requisite code provisions.

b. Requests for approval to continue construction beyond the foundation, up to and including the shell of the building, shall be submitted to the bureau in writing and may be transmitted by mail, E-mail or fax or in person. These requests will be evaluated on a case-by-case basis, and approval or denial of the requests will be transmitted to the submitter in a written form.

300.4(5) Fast-track projects. While fast-track projects are not encouraged and will only be approved on the basis of good cause shown, fast-track projects may be considered by the commissioner on a case-by-case basis. If a fast-track project is initially approved, a written plan of submittal, review and approval will be developed for each project. A full set of construction documents are needed for a full review and approval in a timely manner.

661—300.5(103A) Inspections.

300.5(1) Any building or facility for which construction is subject to a plan review by the commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, is subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner or by a third party with whom the commissioner contracts to conduct inspections of buildings and facilities subject to the state building code.

Exception: Construction which is limited to building renovations or repairs is not subject to inspection by the commissioner.

300.5(2) Any construction involving any building or facility owned by the board of regents or by an institution subject to the authority of the board of regents is subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner.

Exception: Construction which is limited to building renovations or repairs is not subject to inspection by the commissioner.

300.5(3) Buildings subject to inspection by the commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall pay an inspection fee based upon the construction cost of the project. The inspection fee is calculated as follows:

Construction Cost	Base Inspection Fee
Up to \$100,000	\$598
\$100,001 to \$1,000,000	\$645
\$1,000,001 to \$10,000,000	\$722
\$10,000,001 and above	\$783
Follow-up inspection	\$214

The base inspection fee covers three inspections—a foundation, rough-in and final. The base inspection fee is due and payable at the time completed construction documents are submitted for review. The plan review will not be conducted until the proper base inspection fee is paid. Checks should be made payable to the Treasurer, State of Iowa, and delivered to the bureau office. This fee is separate and distinct from the plan review fee established in subrule 300.4(2).

Additional inspections may occur for any of the following reasons:

- a. During one of the three base inspections, code violations are identified that require that a follow-up inspection be conducted to verify that the violations have been corrected.
- b. The inspector finds that the project is not ready for the type of inspection requested.
- c. By special request of the project designer, contractor or owner.
- d. Upon order of the building code commissioner (no additional charge).

The fee for each additional inspection is calculated as follows:

One hour on site = \$206

One to two hours on site = \$240

Two to three hours on site = \$273

Three to four hours on site = \$307

Four to five hours on site = \$341

Five to six hours on site = \$374

Additional inspection fees will be billed to the responsible architect or building contractor on a monthly basis. The building may receive only temporary approval for occupancy if unpaid inspection fees remain at the time of final inspection.

Inspection fees and standard operating procedures for construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents will be established through a written agreement between the commissioner and the board of regents.

300.5(4) Any person who performs a building code inspection on behalf of the building code commissioner will have and maintain one of the following: (1) current certification as a commercial building inspector by the International Code Council, or (2) other equivalent certification approved by the building code commissioner. An employee of the department who performs an inspection on behalf of the building code commissioner will, in addition, meet any requirements for the job class in which the

employee is classified as established by the department of administrative services, pursuant to Iowa Code chapter 8A, subchapter IV, part 2.

Exception: An employee of the department who performs inspections on behalf of the building code commissioner may perform such inspections for no more than six months prior to obtaining certification.

661—300.6(103A) Local code enforcement. Provisions of the state building code applicable statewide or applicable in a local jurisdiction which has adopted the state building code by local ordinance may be enforced by the local jurisdiction.

Any local jurisdiction which adopts the state building code by local ordinance may further adopt provisions for the administration and enforcement of the building code by the local jurisdiction. These provisions may include administrative provisions contained in the codes adopted by reference as part of the state building code and may include other provisions at the discretion of the local jurisdiction.

300.6(1) *Creation of department.* There may be established within the governmental subdivision a “building department” which is under the jurisdiction of the building official designated by the appointing authority. Within the state building code, including publications adopted by reference within the state building code, the terms “administrative authority,” “authority having jurisdiction,” and “authorized representative” mean the building official. The local governmental subdivision must inform the state building code bureau, in writing transmitted by mail, email or fax, when it establishes or dissolves a building department.

300.6(2) *Powers and duties of building official.* The building official in those governmental subdivisions establishing a building department will enforce all the provisions of any applicable building code as prescribed by local law or ordinance and as outlined by Iowa Code section 103A.19.

300.6(3) *Permits only.* Any governmental subdivision that has not established a building department but requires a permit to construct or an occupancy permit or both is known as the “issuing authority.”

300.6(4) *Statement of compliance with energy conservation requirements.* Any application for a building permit, except for applications to renovate or remodel residential buildings of one or two units, shall include a statement that the construction will comply with all applicable energy conservation requirements.

These rules are intended to implement Iowa Code chapter 103A.