



**SECTION 504 OF
THE REHABILITATION ACT**
**Americans with Disabilities Act &
Fair Housing Act**



Accessibility Guidelines

Purpose

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that no otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development.

Applicable Criteria

Section 504

New Construction – (housing facilities), a new multi-family (4 units or more) housing project shall be designed and constructed to be readily accessible to and usable by individuals with handicaps. A minimum of 5% of the dwelling units or at least one unit, whichever is greater, shall be made accessible for persons with mobility impairments. An additional 2% of the units (but not less than one unit) shall be accessible for persons with hearing or visual impairments.

Substantial Alteration – (existing housing facilities), if alterations are undertaken to a project that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, then the provisions for new construction above apply.

NOTE: If a project involves fewer than 15 units or the cost of the alterations is less than 75% of the replacement cost of the completed facility, the Department of HUD strongly encourages a recipient to make 5% of the units (or at least one unit) readily accessible to and usable by individuals with mobility impairments.

ADA (Americans with Disabilities Act)

In most cases, the ADA does not apply to residential housing. Title II of the ADA covers the activities of public entities (state and local governments). Title II requires “public entities to make both new and existing housing facilities accessible to persons with disabilities.” Each part of a facility built after January 26, 1992 must be designed and constructed to be accessible. Housing covered by Title II of the ADA includes, for example, public housing authorities and housing operated by States or units of local government, such as housing on a State university campus.

Title III of the ADA prohibits discrimination against persons with disabilities in commercial facilities and public accommodations. Facilities built after January 26, 1993 must be in compliance with the ADA Standards for Accessible Design and barriers in existing buildings must be removed if it is readily achievable to do so. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public or when they are made available to the general public. For example, it

covers the rental office, since, by its nature, the rental office is open to the general public. In addition, if a day care center or a community room is made available to the general public, it would be covered by Title III. Title III applies, irrespective of whether the public and common use areas are operated by a federally assisted provider or by a private entity. However, if the community room or day care center were only open to residents of the building, Title III would not apply.

Fair Housing Act of 1988

The Federal Fair Housing Act (FHAct), 42 U.S.C. § 3601-19, prohibits discrimination in housing practices on the basis of race, color, religion, sex, national origin, familial status, and disability. The Act prohibits housing providers from discriminating against persons because of their disability or the disability of anyone associated with them and from treating persons with disabilities less favorably than others because of the disability. The Act also requires housing providers “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling.” In addition, the Act requires that housing providers allow tenants to make reasonable modifications to units and common spaces in a dwelling. The Act applies to the vast majority of privately and publicly owned housing including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance.

First Occupancy Rule

The Fair Housing Act design and construction requirements apply to “covered multifamily dwellings” designed and constructed “for first occupancy” after March 13, 1991.

A building was not designed or constructed for first occupancy if:

- It was occupied on or before March 13, 1991.
- If the last building permit or renewal of a building permit was issued on or before June 15, 1990.

Buildings where the last building permit was issued on or before June 15, 1990 are not covered by the design and construction requirements. Even if the last building permit was issued after June 15, 1990, if the building was occupied before March 13, 1991, it is not covered. HUD adopted these dates to allow time for the requirements to be considered during the design and construction phase of new properties.

The “first occupancy” language in the statute has been defined in HUD’s Fair Housing Act regulations as “a building that has never before been used for any purpose.” This means buildings that are rehabilitated are not covered by the design and construction requirements even if rehabilitation occurs after March 13, 1991 and even if it is substantial rehabilitation.

Design and Construction Requirements for New Buildings

In buildings that are ready for first occupancy after March 13, 1991, and have an elevator and four or more units:

- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
 1. An accessible route into and through the unit
 2. Accessible light switches, electrical outlets, thermostats and other environmental controls
 3. Reinforced bathroom walls to allow later installation of grab bars and
 4. Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units. These requirements for new buildings do not replace any more stringent standards in State or local law.

Units that are Not Covered

- Detached single family houses
- Duplexes or triplexes
- * Multistory townhouses

* One question that sometimes arises is whether a building with four or more units that contains some multistory townhouses and some flat units is covered by law. The answer is that if there are four or more units in the building, the building as a whole is covered. Even if the building includes some multistory townhouses that are not covered, any ground floor single story units in the building are covered.

However, there are two situations where multistory townhouses are covered:

- If an elevator provides access to the different levels in a multistory townhouse.
- If a multistory townhouse is located in a building that has one or more public elevators, the entry level of a multistory townhouse must be the level served by the elevator, and that level must comply with the other Fair Housing Act requirements for access.

Determining Which Accessibility Law Applies

In many jurisdictions, buildings must meet state or local building codes to get building permits. As of January 2003, most state and local building codes do not contain accessibility requirements that meet the standards in the Fair Housing Act or other federal laws that require accessibility. Builders, architects and others should not assume that compliance with state or local codes means compliance with federal access standards. In cases under the Fair Housing Act, courts have rejected the argument that approval by a local code official meant that there was no violation of the Fair Housing Act's design and construction requirements.



AMERICAN WITH DISABILITIES ACT (ADA)



Guidelines for Hearing & Visually Impaired Individuals

HEARING IMPAIRED

*** Auxiliary Alarms:**

Sensory (vibratory) Alarms:

sensory alarms may be devices such as electrical solenoids placed on bed frames to vibrate when activated or fans that move air. A 110 volt electrical receptacle is required to provide power to such an alarm.

Visual Alarms:

electrically powered internally illuminated emergency exit signs shall flash as a visual emergency alarm in conjunction with audible emergency alarms.

- * The auxiliary alarms and the optional receptacles are required to be connected to the building emergency alarm system. In buildings not having a central alarm system, these requirements cannot be met. In buildings having a central alarm system, these requirements can be met minimally by installing in sleeping areas one or more receptacles that are energized only when the building alarm system is activated.

VISUALLY IMPAIRED

Audible Alarms:

audible emergency alarms shall produce a sound that exceeds the prevailing equivalent sound level in the room or space by at least 15 decibels or exceeds any maximum sound level with a duration of 30 seconds by 5 decibels, whichever is louder. Sound levels for alarm signals shall not exceed 120 decibels.

Tactile Warnings on Doors to Hazardous Areas:

Doors that lead to areas that might prove dangerous to a blind person (e.g. doors leading to platforms, boiler rooms, stages and the like) shall be made identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughing or by a material applied to the contact surface. Such textured surfaces shall not be provided for emergency exit doors or any other doors other than those to hazardous areas. Textured surfaces for tactile door warnings shall be standard within the building, facility, site, or complex of buildings.