



ACCESSIBILITY IN A NUTSHELL

I. FAIR HOUSING ACT

The Fair Housing Act has seven requirements of accessibility. These requirements are triggered in covered multifamily housing built for first occupancy after March 13, 1991. "Multifamily" means a building with four or more individual dwelling units, regardless of whether the units themselves are subject to the Fair Housing Act requirements.

The requirements provide for accessibility of both common areas and "covered units," meaning **all** units if the building has an elevator, or the **ground floor units** if the building does not have an elevator. Note that a non-elevator building may have more than one ground floor if, for instance, it is built into a slope and has on-grade entrances on both the high and low sides.

Multi-story individual units are not covered by these requirements, unless they are located in a building with an elevator. In that case, the primary entry floor of the unit served by the elevator must be accessible, and that floor must have at least an accessible toilet facility (not necessarily a full bathroom).

The seven requirements are:

Requirement 1: Each covered building must have an accessible building entrance on an accessible route.

- If a building has multiple entrances providing access to the same space, only one entrance need be accessible. If the multiples entrances are to separate areas containing covered units, they must all be accessible.
- The general rule is that 100% of the covered units must be accessible. An exemption may be granted *in rare cases* for non-elevator buildings that have extreme slope or other site issues.

Requirement 2: Accessible and usable public and common use areas.

- The leasing or sales office, parking areas, and all recreational or other amenities (such as swimming pool, laundry facilities, trash disposal areas, playgrounds or picnic areas) must be on an accessible route. If there are multiples of any amenity (such as ten picnic tables, or fifty freestanding garages), only a "sufficient" number of these multiples need be made accessible. In most circumstances, 2% or one, whichever is greater is considered "sufficient."

- If ANSI 2009 applies, the access into the swimming pool itself (rather than just the route to the pool) must be accessible according to Sec. 1109, and play areas must be accessible according to Sec. 1108.
- There must be van accessible parking at the office. In addition, 2% of the parking available elsewhere must be accessible. If more than one kind of parking is available (such as open air, decks, freestanding garages), the accessible parking must be available in each kind of parking. If ANSI applies, 1 in every 6 (or fraction thereof) accessible spaces must also be van accessible, including the wider access aisle and vertical clearance.
- This requirement dictates that there must be ANSI-acceptable (usually lever) hardware on the exterior side of the primary entry door to covered units.
- It is acceptable to use ANSI A117.1-2003 to determine the specifications for public and common use area accessibility.
- Enforcement agencies have required a pedestrian route from every covered unit to every common amenity (or the accessible amenity if there are duplicates). HUD has made this element a requirement for "safe harbor" certification status.
- HUD's policy is that all covered units have a mailbox located on an accessible route and within the accessible reach range of 15"-54" AFF.

Requirement 3: Usable doors.

- All doors designed for passage must have a minimum of a nominal 32" clear opening, measured from the frame to the door face, when the door is open at a 90° angle. Generally, this requires the use of at least a 2'10" wide door, and a 6' wide slider.
- Even when two doors lead to the same space, they must both provide the required minimum clearance.
- Any door leading to a space that is 24" or less deep is not "designed for passage," and thus does not have to meet this requirement.
- Mechanical closets are not covered by this requirement, although storage closets are. Any closet that is a combination mechanical / storage and is deeper than 24" should have a usable door.
- Doors in common areas, and the primary entry door to covered units, must provide a *full* 32" clear opening, generally requiring the use of at least a 3'0" wide door.



- Doors in common areas must have 18" pull side, strike side maneuvering space, and 12" push side, strike side maneuvering space (if the door has both a latch and a closer). This requirement applies to the outside of the primary entry door to a unit. If ANSI 2009 applies, the pull side maneuvering space on the interior side of the primary entry door to the unit will also apply.

Requirement 4: Accessible route into and through the covered units.

- Thresholds at primary entry doors should be flush on the exterior side. If the surface outside the primary entry door is impervious (such as concrete), there can be a change in level of up to 1/2", although anything over 1/4" must be beveled.
- Changes in level throughout the unit should not exceed 1/4".
- Exterior thresholds of secondary doors can be up to 4" if the surface outside the door is impervious.
- Interior thresholds of secondary doors may not exceed 1/2" for swing doors, or 3/4" for sliding doors. In either case, the maximum abrupt rise is 1/4" and the remaining rise must be beveled at 1:2.
- All hallways (a passage deeper than 24") must be at least 36" wide.

Requirement 5: Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations.

- In general, this means that all these items must be mounted with operable controls no higher than 48" from the finished floor and no lower than 15" from the finished floor. The 1986 ANSI (a safe harbor) allows a side approach as high as 54".
- If the reach is over an obstruction (such as a cabinet), the height allowance is decreased to 46" for a parallel approach, and 44" for a forward approach.
- Circuit breakers and appliance controls are not governed by this standard, unless ANSI 2009 applies (in ANSI Type A units only).

Requirement 6: Reinforced bathroom walls for the later installation of grab bars.

- Grab bars are not required to be installed. However, there must be reinforcements in the walls of all bathrooms sufficient to support the installation of grab bars at the toilet, tub and shower.



Requirement 7: Usable kitchens and bathrooms.

- In a galley kitchen, there must be at least 40" clearance from side to side of the kitchen, with a 48" x 30" clear floor space to allow a parallel approach to each appliance and the sink.
- In a U-shaped kitchen, there must be a 60" diameter turning space, and a 48" x 30" clear floor space to allow a parallel approach to each appliance and the sink. (This diameter may be decreased if the sink is at the base of the U, and the cabinet under the sink is removable with a finished floor allowing for a forward approach to the sink.) If there is neither a sink nor a cooktop or range at the base of the U, the kitchen is considered a "galley" kitchen requiring only 40" clearance from side to side.
- If ANSI applies, the 40" or 60" clearance must extend the length of the kitchen.
- Bathrooms may be either "A" or "B" specification. If one bathroom is a "B" specification, the other bathrooms need only meet requirements 3-6. If the "A" specification is used, **all** bathrooms must be "usable." The primary difference in these two specifications is that a "B" bathroom has a full, unobstructed parallel approach to a bathtub or shower starting at the control wall.
- A usable bathroom has a 48" x 30" clear floor space outside the swing of the door, and a 48" x 30" clear floor space at each fixture.
- Freestanding showers that are required to be accessible must have an unobstructed parallel approach (30" x 48") starting at the control walls.
- Powder rooms (rooms with only a toilet and sink) are not required to meet this requirement unless they are the only facility on the accessible floor of a multistory unit in a building with an elevator.
- For both kitchens and bathrooms, enforcement policy is that the 30" x 48" clear floor space for a parallel approach must be centered on the appliance or fixture.
- If a Spec A bathroom has a double vanity, the clear floor space is required at both sinks.
- There is no height requirement for the lavatory in a bathroom, unless ANSI 2009 applies. Under ANSI 2009, the maximum height for the lavatory in the complying bathroom is 34" AFF.



II. SECTION 504

If a housing development has direct federal assistance, regardless of when it was built, it is subject to the accessibility requirements of Section 504 of the Rehabilitation Act. Examples of direct federal assistance include HOME funds and project-based Section 8 funds. Section 42 tax credits, standing alone, do not invoke Section 504; however, the tax credit authorizing agency often includes the Section 504 requirements in the QAP. In addition, the acceptance of tenant-based Section 8 housing vouchers does not trigger Section 504.

If covered by Section 504, new construction must be built with at least 5% of the units *fully* accessible for people with mobility impairments, and 2% of the units accessible for people with vision or hearing impairments. For new construction, these requirements would be *in addition to* any application of the Fair Housing Act accessibility requirements. Section 504 compliance is generally assessed in comparison to the Uniform Federal Accessibility Standards ("UFAS"). HUD, the enforcement agency for Section 504 compliance in housing, has not adopted the Access Board's updated ADAAG for Section 504 compliance.

If a property is altered (renovated or rehabbed), the alterations must comply with Section 504, including working toward the 5% and 2% goals listed above.

III. AMERICANS WITH DISABILITIES ACT

The ADA will apply to those areas of multifamily developments that are open to people **other than residents and their guests**, as these areas constitute "places of public accommodation." For most properties, this will be limited to the rental or sales office and any parking serving that office. Two main distinctions from Fair Housing Act requirements with regard to the leasing offices are that 1) any public restroom must provide the full 5' ADAAG clearance, and 2) there must be at least one van-accessible parking space serving the leasing office if parking is provided.

These areas of public accommodation, if constructed or renovated after January 26, 1993, must comply with the 2010 ADA Standards for Accessible Design, published by the Justice Department. Older places of public accommodation must "remove architectural barriers ... including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense." 28 CFR §36.304(a). Barrier removal may include installing ramps, widening doors, or rearranging furniture to create an accessible route.

IV. STATE REQUIREMENTS

Many state agencies that administer tax credits have their own requirements for accessibility, often tracking the Section 504 provisions. Those involved in tax



credit housing should make sure they are aware of the state's building standards and QAP for the relevant year.

In addition, many states and localities have a requirement for a specific number of ANSI "Type A" units in new multifamily developments. An ANSI Type A unit meets a higher level of accessibility than that provided by the Fair Housing Act requirements. Providing a percentage of ANSI Type A units does not eliminate the need to comply with the Fair Housing Act requirements.

Massachusetts, New Jersey, and California are examples of states that have building codes that go far beyond the Fair Housing Act's requirements for new construction and, as with all state and local codes, should be carefully consulted prior to design.

SOURCES:

For copies of the Fair Housing Act, the Fair Housing Act Guidelines, and the Fair Housing Act Design Manual, and information on the other designated "safe harbor" standards, go to:

www.fairhousingfirst.org

For copies of UFAS (the accessibility standard for Section 504) and the ADAAG, go to:

www.access-board.gov

ANSI is a private organization and ANSI A117.1 is not available online. To order a copy in either paper or electronic version, go to:

www.ansi.org

Some state and local accessible building codes are available online:

[http://ecodes.iccsafe.org/iccf/gateway.dll?
f=templates&fn=default.htm&vid=icc:free](http://ecodes.iccsafe.org/iccf/gateway.dll?f=templates&fn=default.htm&vid=icc:free)

DISCLAIMER: *This paper is intended as a summary of generally accepted accessibility principals. It is not intended as, and should not be construed as, either legal advice or statutory mandate. Always consult your legal counsel for interpretive and litigation advice.*

