



FAIR HOUSING ACT DESIGN MANUAL

**A MANUAL TO ASSIST
DESIGNERS AND BUILDERS
IN MEETING THE
ACCESSIBILITY REQUIREMENTS
OF THE FAIR HOUSING ACT**



**U. S. Department
of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Office of Housing**

Preface

The Department is pleased to present the Fair Housing Act Design Manual. The manual was first published in August, 1996, and was updated in 1998. This republication of the 1998 manual is intended to provide clear and helpful guidance about ways to design and construct housing that complies with the Fair Housing Act.

The manual provides comprehensive information about accessibility requirements which must be incorporated into the design and construction of multifamily housing covered by the Act. It carries out two statutory responsibilities:

- first, it provides a clear statement of HUD's interpretation of the accessibility requirements of the Act, so that readers may know what actions on their part will provide them with a "safe harbor," and
- second, it provides guidance in the form of recommendations which meet the Department's obligation to provide technical assistance on alternative accessibility approaches.

Readers following the revised manual can rely on it. They will be in compliance with the Act's accessibility provisions if they carry them out. However, it should be noted that when the manual uses the terms: recommended, preferred, should, could, or uses italics or text labeled as "recommended," the material involved is provided as a suggestion for accessibility and not a requirement under the Act. In addition, HUD currently recognizes six other safe harbors for compliance with the Fair Housing Act's design and construction requirements. The other safe harbors are:

1. HUD's March 6, 1991 Fair Housing Accessibility Guidelines (the Guidelines), and the June 28, 1994 Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines;
2. ANSI A117.1-1986, used in conjunction with the Act and HUD's regulations, and the Guidelines;
3. CABO/ANSI A117.1-1992, used in conjunction with the Act, HUD's regulations, and the Guidelines;
4. ICC/ANSI A117.1-1998, used in conjunction with the Act, HUD's regulations, and the Guidelines;
5. *Code Requirements for Housing Accessibility 2000 (CRHA)*, approved and published by the International Code Council (ICC), October 2000;
6. *International Building Code 2000 (IBC)* as amended by the *IBC 2001 Supplement to the International Codes*.

It is important to note that the ANSI A117.1 standard contains only technical criteria, whereas the Fair Housing Act, the regulations and the Guidelines contain both scoping and technical criteria. Therefore, in using any of the ANSI standards it is necessary to also consult the Act, HUD's regulations, and the Guidelines for the scoping requirements.

Providing an environment where persons with disabilities can have the same access to, and ability to use, housing that persons without disabilities enjoy is both a worthwhile goal and the law. The Department is committed to helping those who develop housing to meet the requirements of the law, so that we can reach the goal of providing meaningful access for people with disabilities.

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for
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Special appreciation to the Barrier Free Environments, Inc. staff who contributed to this publication, including Leslie Young, Rex Pace, and Ron Mace. Special thanks also to Geoff Sifrin in South Africa and Lucy Harber.

Every attempt was made with this project to provide a concise and easy-to-follow guide on the construction requirements of the Fair Housing Act. Our hope is that the construction and disability communities to whom this manual is directed will be able to use and benefit from our efforts.

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Part One



INTRODUCTION



INTRODUCTION

THE FAIR HOUSING ACT

Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act, prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, and national origin. In 1988, Congress passed the Fair Housing Amendments Act. The Amendments expand coverage of Title VIII to prohibit discriminatory housing practices based on disability¹ and familial status. Now it is unlawful to deny the rental or sale of a dwelling unit to a person because that person has a disability.

As a protected class, people with disabilities are unique in at least one respect because they are the only minority that can be discriminated against solely by the design of the built environment. The Fair Housing Act remedies that in part by establishing design and construction requirements for multifamily housing built for first occupancy after March 13, 1991. The law provides that a failure to design and construct certain multifamily dwellings to include certain features of accessible design will be regarded as unlawful discrimination.

The design and construction requirements of the Fair Housing Act apply to all new multifamily housing consisting of four or more dwelling units. Such buildings must meet specific design requirements so public and common use spaces and facilities are accessible to people with disabilities. In addition, the interior of dwelling units

covered by the Fair Housing Act must be designed so they too meet certain accessibility requirements.

The Fair Housing Act is intended to place “**modest** accessibility requirements on covered multifamily dwellings These **modest** requirements will be incorporated into the design of new buildings, resulting in features which do not look unusual and will not add significant additional costs” (House Report 711² at 25 and 18). Fair Housing units are not fully accessible, nor are they purported to be; however, new multifamily housing built to comply with the Guidelines will be a dramatic improvement over units built in the past.

The Fair Housing Act gives people with disabilities greater freedom to choose where they will live and greater freedom to visit friends and relatives. But the Fair Housing Act has other broad implications. It proactively addresses the needs of an evolving population, looking ahead at future needs. With the aging of the population and the increase in incidence of disability that accompanies aging, significant numbers of people will be able to remain in and safely use their dwellings longer. For example, housing designed in accordance with the Fair Housing Act will have accessible entrances, wider doors, and provisions to allow for easy installation of grab bars around toilets and bathtubs, i.e., features that make housing safer and more responsive to all users.

¹The Fair Housing Act statute uses the term “handicap”; however, this manual uses the terms “disability” or “persons with disabilities” to the greatest extent possible to be consistent with current preferred terminology as reflected in the Americans with Disabilities Act of 1990.

²House Report No. 711, 100th Congress, 2nd Session

THE ROLE OF HUD

The U.S. Department of Housing and Urban Development (HUD) is the Federal agency responsible for enforcement of compliance with the Fair Housing Act. On January 23, 1989, HUD published its final rule implementing the Fair Housing Act. In the preamble to this rule, HUD indicated that it would provide further guidance on meeting the new construction requirements of the Act by developing accessibility guidelines. The preamble stated that until these guidelines are published, designers and builders may be guided by the requirements of the ANSI A117.1-1986 *American National Standard for Buildings and Facilities – Providing Accessibility and Usability for Physically Handicapped People*. More information on the ANSI standard appears on page 13.

The final Fair Housing Accessibility Guidelines (the Guidelines) were published on March 6, 1991 (56 Federal Register 9472-9515, 24 CFR³ Chapter I, Subchapter A, Appendix II and III). The Guidelines provide technical guidance on designing dwelling units as required by the Fair Housing Act. The Guidelines are not mandatory, but are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act. The Guidelines are included in this manual as Appendix B.

The Guidelines published on March 6, 1991, remain unchanged. However, on June 28, 1994, HUD published a supplemental notice to the Guidelines, “Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines.” This supplemental notice reproduces questions that have been most frequently asked by members of the public, and

HUD’s answers to those questions. The Supplement also is included in this manual as Appendix C.

Under the Fair Housing Act, HUD is not required to review builders’ plans or issue a certification of compliance with the Fair Housing Act. HUD prepared the Guidelines and will answer technical questions. HUD also provides this publication as additional guidance.

The burden of compliance rests with the person or persons who design and construct covered multifamily dwellings. HUD or an individual who thinks he or she may have been discriminated against may file a complaint against the building owner, the architect, the contractor, and any other persons involved in the design and construction of the building. See page 22 for additional information on enforcement.

THE PURPOSE OF THE MANUAL

This design manual has been produced by HUD to assist designers, builders, and developers in understanding and conforming with the design requirements of the Fair Housing Act. It contains explanations and uses detailed illustrations to explain the application of the Guidelines to all aspects of multifamily housing projects.

The manual consists of three parts:

Part One: THE INTRODUCTION contains an overview of the Fair Housing Act, outlines other national laws and standards that regulate accessible design, presents the types of buildings/dwellings that are covered by the Fair Housing Act, and gives a brief discussion of the different types of disabilities.

³CFR = Code of Federal Regulations

Part Two: THE DESIGN REQUIREMENTS OF THE GUIDELINES is a detailed, illustrated explanation of the seven requirements of the Fair Housing Accessibility Guidelines.

Part Three: THE APPENDIX contains additional information that may be useful to anyone needing to be familiar with the design requirements of the Fair Housing Act. Included are a list of product resources, a list of selected references, a reprint of the Guidelines, and a reprint of the Supplemental Notice to the Guidelines.

LAWS AND CODES THAT MANDATE ACCESSIBILITY

Over the past two and a half decades, several statutes have been enacted at various levels of government that ensure nondiscrimination against people with disabilities, both in the design of the built environment and in the manner that programs are conducted. Even though this manual addresses the application of the Fair Housing Act and the Guidelines, certain dwellings, as well as certain public and common use areas, may be covered by several of the laws listed below. A brief synopsis of the landmark legislation follows to show where the Fair Housing Act fits into the overall history of accessibility legislation.

THE ARCHITECTURAL BARRIERS ACT (1968)

This Act stipulates that all buildings, other than privately owned residential facilities, constructed by

or on behalf of, or leased by the United States, or buildings financed in whole or in part by the United States must be physically accessible for people with disabilities. The Uniform Federal Accessibility Standards (UFAS) is the applicable standard.

SECTION 504 OF THE REHABILITATION ACT (1973)

Under Section 504 of the Rehabilitation Act of 1973 as amended, no otherwise qualified individual with a disability may be discriminated against in any program or activity receiving federal financial assistance. The purpose of Section 504 is to eliminate discriminatory behavior toward people with disabilities and to provide physical accessibility, thus ensuring that people with disabilities will have the same opportunities in federally funded programs as do people without disabilities.

Program accessibility may be achieved by modifying an existing facility, or by moving the program to an accessible location, or by making other accommodations, including construction of new buildings. HUD's final regulation for Section 504 may be found at 24 CFR Part 8. Generally, the UFAS is the design standard for providing physical accessibility, although other standards which provide equivalent or greater accessibility may be used.

THE FAIR HOUSING ACT OF 1968, AS AMENDED

The Fair Housing Act provides equal opportunities for people in the housing market regardless of disability, race, color, sex, religion, familial status or national origin, regardless of whether the housing is

publicly funded or not. This includes the sale, rental, and financing of housing, as well as the physical design of newly constructed multifamily housing. The Fair Housing Act is discussed in more detail in the next section, “General Provisions of the Fair Housing Act.”

THE AMERICANS WITH DISABILITIES ACT (1990)

The Americans with Disabilities Act (ADA) is a broad civil rights law guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. Title III of the Act covers all private establishments and facilities considered “public accommodations,” such as restaurants, hotels, retail establishments, doctors’ offices, and theaters. People with disabilities must have equal opportunity in these establishments, both in terms of physical access and in the enjoyment of services. Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. With respect to housing, this includes, for example, public housing and housing provided for state colleges and universities.

Under Title I of the ADA, employers may not discriminate in hiring or firing, and must provide reasonable accommodations to persons with disabilities, such as providing special equipment or training and arranging modified work schedules. A discussion of the relationship between the ADA and the Fair Housing Act appears on page 2 of the “Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines” at Appendix C.

STATE AND LOCAL CODES

All states and many cities and counties have developed their own building codes for accessibility, usually based in whole or in part on the specifications contained in the major national standards such as ANSI and UFAS. Many states also have nondiscrimination and fair housing laws similar to the Fair Housing Act and the Americans with Disabilities Act.

When local codes differ from the national standard, either in scope or technical specification, the general rule is that the more stringent requirement should be followed. Many states also have provisions that a certain percentage (often 5%) of new multifamily housing must meet more stringent physical accessibility requirements than required under the Fair Housing Act. In such cases, both the state’s mandated percentage of accessible units must be provided and all dwellings covered by the Fair Housing Act must meet the Guidelines.

GENERAL PROVISIONS OF THE FAIR HOUSING ACT

The 1988 amendments to the Fair Housing Act extend to persons with disabilities and to families with children the same kinds of nondiscrimination protections afforded to persons based on race, color, religion, sex, and national origin. Thus, the Fair Housing Act protects persons with disabilities from discrimination in any activities relating to the sale or rental of dwellings, in the provision of services or facilities in connection with such dwellings, and in the availability of residential real estate related transactions.

The Fair Housing Act covers most types of housing. In some circumstances it exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

The design and construction requirements of the Fair Housing Act and the Guidelines apply only to new construction of housing built for first occupancy after March 13, 1991. Those requirements are the focus of this manual; however, a brief discussion follows on the effect of the Fair Housing Act on policies and procedures in both new and existing multifamily housing developments.

The broad objective of the Fair Housing Act is to prohibit discrimination in housing because of a person's race, color, national origin, religion, sex, familial status, or disability. To ensure that persons with disabilities will have full use and enjoyment of their dwellings, the Fair Housing Act also includes two important provisions: one, a provision making it unlawful to refuse to make **reasonable accommodations** in rules, policies, practices, and services when necessary to allow the resident with a disability equal opportunity to use the property and its amenities; and two, a provision making it unlawful to refuse to permit residents with disabilities to make **reasonable modifications** to either their dwelling unit or to the public and common use areas, at the residents' cost.

REASONABLE ACCOMMODATIONS

Under the Fair Housing Act, it is unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when

such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy the dwelling. For example, in buildings with a "no pets" rule, that rule must be waived for a person with a visual impairment who uses a service dog, or for other persons who use service animals. In buildings that provide parking spaces for residents on a "first come, first served" basis, reserved parking spaces must be provided if requested by a resident with a disability who may need them. Sales material for apartments may need to be provided in a format so an individual with a visual disability may access the information.

REASONABLE MODIFICATIONS

When a resident wishes to modify a dwelling unit under the reasonable modification provisions of the Fair Housing Act, the resident may do so. The landlord/manager may require that the modification be completed in a professional manner under the applicable building codes, and may also require that the resident agree to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.

Landlords may not require that modifications be restored that would be unreasonable, i.e., modifications that in no way affect the next resident's "enjoyment of the premises." For example, in existing construction, a resident needs grab bars and pays to have the original wall reinforced with blocking between studs so grab bars can be securely mounted. It would be reasonable to require that the resident remove the grab bars at the end of the tenancy; however, it would be unreasonable to require that the blocking be removed since the reinforced wall would not

interfere with the next resident's use and enjoyment of the dwelling unit and may be needed by some future resident.

However, if a resident who uses a wheelchair were to remove a kitchen base cabinet and mount a lowered countertop to a height suitable for his or her use, the landlord may condition permission on the resident agreeing to restore the cabinet to its original condition when the resident vacates the unit. On the other hand, if a resident who uses a wheelchair finds that the bathroom door in the dwelling unit is too narrow to allow his or her wheelchair to pass, the landlord must give permission for the door to be widened, at the resident's expense. The landlord may not require that the doorway be narrowed at the end of the resident's tenancy because the wider doorway will not interfere with the next resident's use of the dwelling.

Residents also may make modifications to the public and common use spaces. For example, in an existing development it would be considered reasonable for a resident who uses a wheelchair to have a ramp built to gain access to an on-site laundry facility. Modifications of this type are not required to be returned to their original condition. If a resident cannot afford such a modification, the resident may ask a friend to do his or her laundry in the laundry room, and the landlord must waive any rule that prohibits nonresidents from gaining access to the laundry room.

Regarding the cost of special modifications in new construction, builders or landlords are responsible only for meeting the design requirements specified by the Fair Housing Act. If a particular resident intends to buy a unit and needs additional modifications to meet the needs of his or her disability, then the resident may ask for such

modification and the builder may not refuse.

However, the resident is responsible for any extra cost that the modifications might create over and above what the original design would have cost.

**THE SCOPE OF THE DESIGN
AND CONSTRUCTION REQUIREMENTS
OF THE FAIR HOUSING ACT**

The accessibility requirements of the Fair Housing Act are intended to provide usable housing for persons with disabilities without necessarily being significantly different from conventional housing. The Fair Housing Act specifies certain features of accessible design and certain features of adaptable design. These basic design features are essential for equal access and to avoid future de facto exclusion of persons with disabilities, as well as being easy to incorporate into housing design and construction. These design features assist not only persons with disabilities but also other persons to use and enjoy all aspects of a residential development.⁴

ADAPTABLE DWELLING UNITS

Covered dwelling units that meet the design requirements of the Guidelines are sometimes referred to as “adaptable dwelling units” or units that meet “certain features of accessible design.” The Guidelines incorporate accessibility features that are both accessible and adaptable. Accessible elements and spaces are those whose design allows them to be used by the greatest number of users without being modified. For example, the requirement within the covered dwelling unit for “usable” doors, with a nominal clear opening of 32 inches, ensures that dwelling unit doors are not too narrow or impassable for any resident.

Adaptable/adjustable elements and spaces are those with a design which allows them to be adapted or adjusted to accommodate the needs of

different people. The Fair Housing Act incorporates the adaptable/adjustable concept in bathroom walls by requiring that they contain reinforced areas to allow for later installation of grab bars without the need for major structural work on the walls.

**DWELLINGS COVERED
BY THE DESIGN REQUIREMENTS**

The design requirements apply to buildings built for first occupancy after March 13, 1991, which fall under the definition of “covered multifamily dwellings.” See page 12 for a discussion of “first occupancy.” Covered multifamily dwellings are:

1. all dwelling units in buildings containing four or more dwelling units if such buildings have one or more elevators, and
2. all ground floor dwelling units in other buildings containing four or more units.

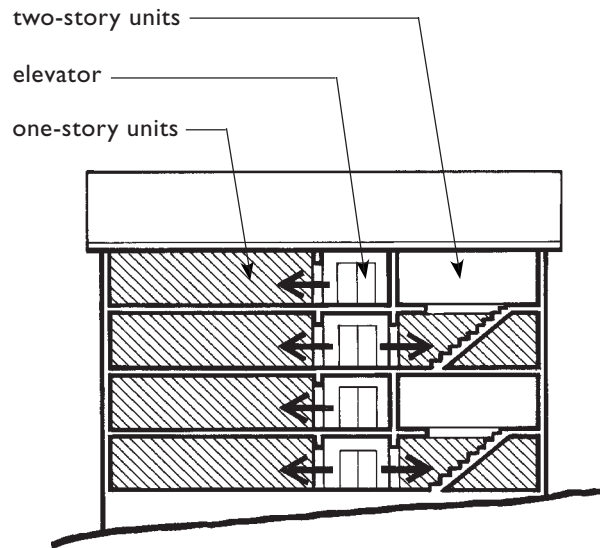
To be a covered unit, all of the finished living space must be on the same floor, that is, be a single-story unit, such as single-story townhouses, villas, or patio apartments. Even though raised and sunken areas are permissible in covered dwelling units, there are limitations to their use and they are discussed in Chapter Four: “Accessible Route Into and Through the Covered Unit.” Multistory dwelling units are not covered by the Guidelines except when they are located in buildings which have one or more elevators, in which case, the primary entry level is covered.

⁴House Report No. 711, 100th Congress, 2nd Session

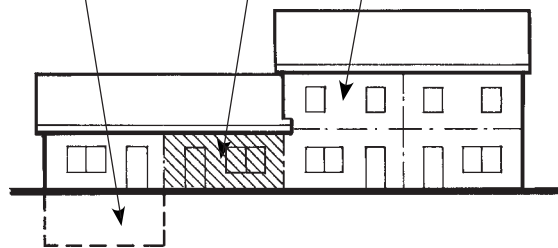
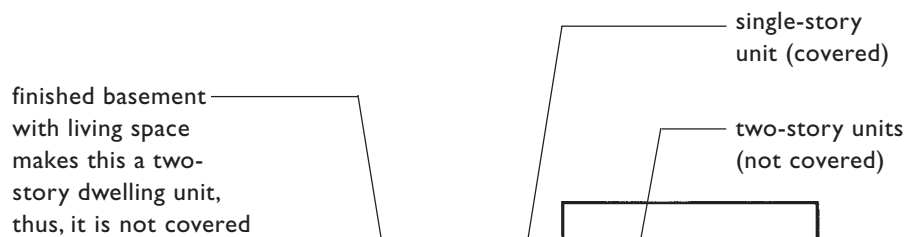
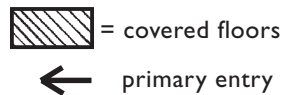
Dwelling Units in Buildings with Elevator(s)

As is evident from the preceding discussion, the Fair Housing Act’s definition of “covered multifamily dwellings” distinguishes between buildings with elevators and buildings without elevators. Thus, if a building has one or more elevators, all of the dwelling units in the building are covered.

There is one exception to this requirement, and that is when an elevator is provided only as a means of creating an accessible route to dwelling units on a ground floor. In that case, the elevator is not required to serve dwelling units on floors which are not ground floors, and the building is not considered to be a “building with one or more elevators” that would require all of the dwelling units to meet the requirements of the Guidelines. This concept is discussed more fully in Chapter 1: “Accessible Building Entrance on an Accessible Route,” starting on page 1.21.



Buildings with Elevator(s): All Single-Story Units and the Primary Entry Level of Multistory Units Are Covered



Ground Floor Units in Buildings of 4 or More Units Are Covered



Ground Floor Dwelling Units

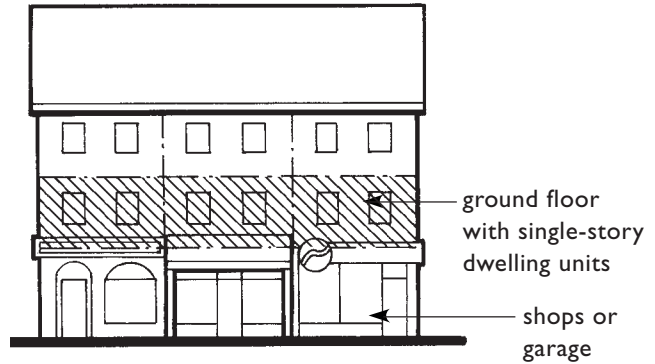
The **ground floor** is defined as a floor of a building with a building entrance on an accessible route. The ground floor may or may not be at grade.

The definition of **ground floor** further provides that where the first floor containing dwelling units in a building is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered to be a ground floor.

If more than one story can be designed to have an accessible entrance on an accessible route, then each story becomes a ground floor and all units on those stories are covered. However, the Fair Housing Act and the Guidelines do not require that there be more than one ground floor. See Chapter 1: “Accessible Building Entrance on an Accessible Route” for more detailed discussion of covered ground floors.

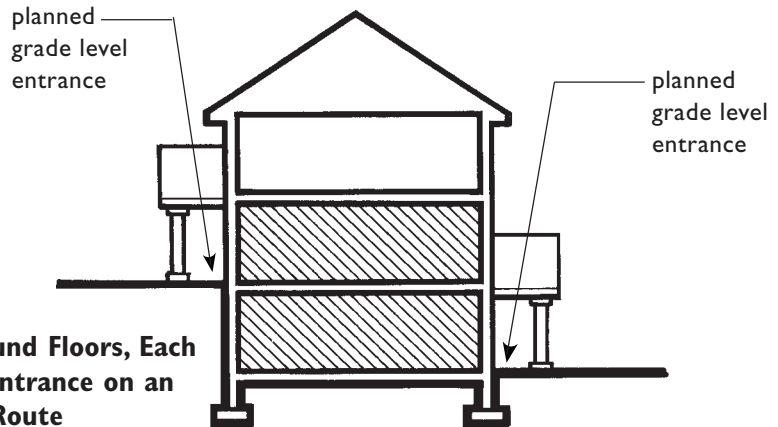
an accessible route via a ramp or elevator must be provided to the first floor of dwelling units

placing shops or garages under multi-family housing is a design choice and is not dictated by extremes of terrain

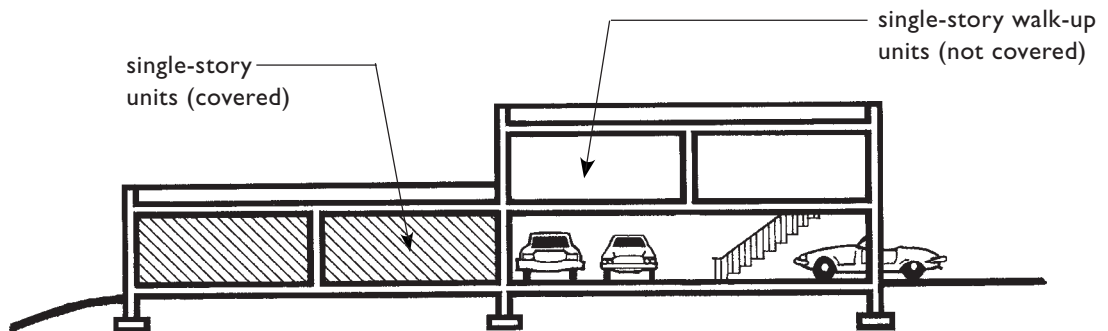


Covered Dwelling Units Over Shops and Garages

 = covered floors



Building Has Two Ground Floors, Each with an Accessible Entrance on an Accessible Route



Dwelling Units on the Ground Floor Are Covered (the Guidelines Do Not Require that There Be a Second Ground Floor)

EXAMPLES OF COVERED MULTIFAMILY DWELLINGS

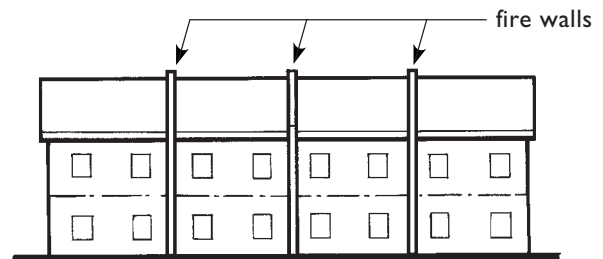
The Fair Housing Act does not distinguish between different forms of ownership when determining whether a unit or building is covered. Condominiums are covered by the Fair Housing Act even if they are pre-sold as a shell and the interior is designed and constructed by the buyer. All covered units must comply with the design and construction requirements of the Guidelines. Single-story townhouses are covered, as are other types of housing including vacation timeshare units, college dormitories, apartment housing in private universities, and sleeping accommodations intended for occupancy as a residence in a shelter.

Continuing care facilities or retirement communities are covered even when they include health care, provided the facility includes at least one building with four or more dwelling units. Whether a facility is considered a “dwelling” depends on whether the facility is to be used as a residence for more than a brief period of time. The operation of each continuing care facility must be examined on a case-by-case basis to determine whether it contains covered multifamily dwellings.

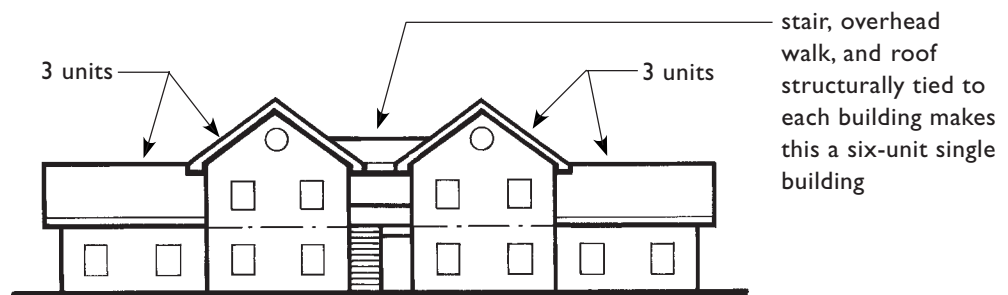
Buildings Separated by Firewalls or Covered Walkways

Dwellings built within a single structure but separated by a firewall are treated under the Fair Housing Act as a single building. For example, a structure containing two units on each side of a firewall would not be regarded as four two-unit buildings (and thus not covered by the Guidelines) but as a single eight-unit building.

In other situations where the dwelling units are connected, such as by stairs or a walkway that is structurally tied to the main body of the building, for purposes of the Guidelines, they are considered a single building and ground floor units in such buildings without elevators are covered.



**Building with Firewalls
Is Treated as a Single Building**



**For Purposes of the Guidelines, Two Structurally Joined Buildings
Are Treated as a Single Building**

Building Conversions

If a building was used previously for a nonresidential purpose, such as a warehouse, office building, or school, and is being converted to multifamily housing, the conversion is not covered. The Fair Housing Act only applies to covered buildings for first occupancy after March 13, 1991. The regulations define “first occupancy” as “a building that has never before been used for any purpose.” See page 12 for additional discussion of “first occupancy.”

New Construction Behind Old Facade

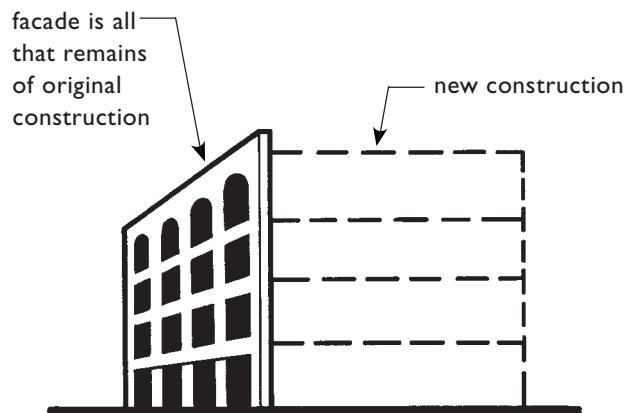
In cases where the facade of a building is preserved, but the interior of the building, including all structural portions of floors and ceilings is removed, and a new building is constructed behind the old facade, the building is considered a new building for the purposes of the Fair Housing Act. Thus, it is covered and must comply with the Guidelines.

Additions to Existing Buildings

When an addition is built as an extension to an existing building, the addition of four or more units is regarded as a new building and must meet the design requirements of the Guidelines. If any new public and common use spaces are added, they are required to be accessible. If, for example, an apartment wing is added to an existing hotel, the apartments are covered by the Fair Housing Act.

Housing for Older Persons Is Covered

Housing built specifically for older persons is exempt from complying with the Fair Housing Act’s prohibition against discrimination based on familial status (see 24 CFR 100.303 and 100.304). However, such housing is still subject to the Fair Housing Act’s other requirements, including the design requirements for accessibility.



**New Construction Behind
Old Facade Is Covered**

FIRST OCCUPANCY AFTER MARCH 13, 1991

The Fair Housing Act does not require any renovations to existing buildings. Its design requirements apply to new construction only – to covered multifamily dwellings that are built for first occupancy after March 13, 1991. First occupancy is defined as “a building that has never before been used for any purpose.” See also “Definitions Used in the Guidelines,” page 16.

A building is not subject to the design requirements of the Fair Housing Act if:

1. it was occupied on or before March 13, 1991,
- or –
2. the last building permit or renewal thereof was issued by a state, county, or local government on or before June 15, 1990.

For a building to be considered occupied, the following criteria must be met:

1. a certificate of occupancy must have been issued,
- and –
2. at least one dwelling unit actually must be occupied.
 - a. For a building containing **rental units**, this means that a resident has signed a lease and taken possession of a unit. The resident must have the legal right to occupy the premises, but need not have physically moved in yet.
 - b. For a building containing **for-sale units**, this means that a new owner has completed settlement and taken possession of a unit. The new owner must have the legal right to occupy the premises, but need not have physically moved in yet.

A certificate of occupancy, or the fact that units are being offered for sale but not yet sold, would not be an acceptable means of establishing occupancy. For a project consisting of several buildings which are constructed in phases spanning the March 13, 1991 date, first occupancy will be determined on a building-by-building basis.

THE ANSI STANDARD, THE FAIR HOUSING ACT, AND THE GUIDELINES

The Fair Housing Act requires certain features of accessible design for covered multifamily dwellings built for first occupancy after March 13, 1991. The Act and HUD's implementing regulations, as well as the final Fair Housing Accessibility Guidelines (the Guidelines) reference the 1986 ANSI A117.1 *American National Standard for Buildings and Facilities – Providing Accessibility and Usability for Physically Handicapped People* as an acceptable standard to meet when designing accessible elements, spaces, and features outside covered dwelling units.

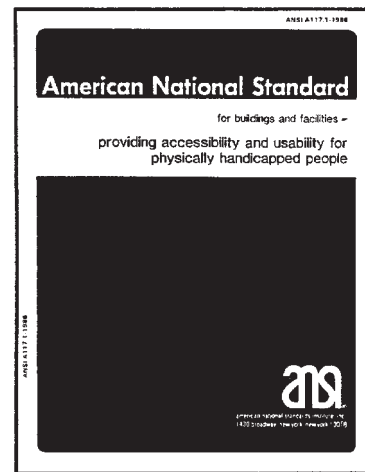
The level of accessibility required by the Fair Housing Act is relatively high on the site and in common use areas where compliance with much of the ANSI Standard is required. Accessibility is less stringent within the dwelling units where only specific features outlined in the Guidelines are required. In some instances, the specification is a modification of the related ANSI section, and in other instances the Guidelines substitute specifications.

The Guidelines state in the “Purpose” Section that the Guidelines are to provide technical guidance on designing dwelling units that are in compliance with the Fair Housing Act, and are not mandatory. Rather, the Guidelines provide a safe harbor for compliance with the accessibility requirements of the Act.

The “Purpose” Section also states, “Builders and developers may choose to depart from these Guidelines and seek alternate ways to demonstrate that they have met the requirements of the Fair Housing Act.” However, it is recommended that,

if a designer or builder chooses to follow an accessibility standard other than the 1986 ANSI A117.1 Standard, or a more recent version of the ANSI A117.1, such as the 1992 CABO/ANSI, that care be taken to ensure the standard used is at least equivalent to or stricter than the 1986 ANSI A117.1 Standard.

Note: Whenever this Manual states the ANSI Standard or the ANSI A117.1 Standard “must be followed,” it means the 1986 ANSI A117.1 Standard or an equivalent or stricter standard.



THE GUIDELINES

The design requirements of the Guidelines to which new buildings and dwelling units must comply are presented in abridged form below. Dwelling units are not subject to these requirements only in the rare instance where there are extremes of terrain or unusual characteristics of the site. Such instances are discussed in detail in Chapter One: “Accessible Building Entrance on an Accessible Route.”

REQUIREMENT 1

Accessible Building Entrance on an Accessible Route: Covered multifamily dwellings must have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site. For all such dwellings with a building entrance on an accessible route the following six requirements apply.

REQUIREMENT 2

Accessible and Usable Public and Common Use Areas: Public and common use areas must be readily accessible to and usable by people with disabilities. See Chapter Two.

REQUIREMENT 3

Usable Doors: All doors designed to allow passage into and within all premises must be sufficiently wide to allow passage by persons in wheelchairs. See Chapter Three.

REQUIREMENT 4

Accessible Route Into and Through the Covered Dwelling Unit: There must be an accessible route into and through the dwelling units, providing access for people with disabilities throughout the unit. See Chapter Four.

REQUIREMENT 5

Light Switches, Electrical Outlets, Thermostats and Other Environmental Controls in Accessible Locations: All premises within the dwelling units must contain light switches, electrical outlets, thermostats and other environmental controls in accessible locations. See Chapter Five.

REQUIREMENT 6

Reinforced Walls for Grab Bars: All premises within dwelling units must contain reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat, where such facilities are provided. See Chapter Six.

REQUIREMENT 7

Usable Kitchens and Bathrooms: Dwelling units must contain usable kitchens and bathrooms such that an individual who uses a wheelchair can maneuver about the space. See Chapter Seven.

DEFINITIONS USED IN THE GUIDELINES

This is the complete list of definitions used in the Guidelines, excluding a definition for “handicap” and “controlled substance.” See Appendix B of this manual for a reprint of the Guidelines, which contains the complete list. Two additional definitions, taken from the regulations and a Guideline Requirement, are provided below. They are so noted with the definition.

Accessible

when used with respect to the public and common use areas of a building containing covered multifamily dwelling units, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase “readily accessible to and usable by” is synonymous with accessible. A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986, a comparable standard, or these Guidelines is “accessible” within the meaning of this paragraph.

Accessible route

means a continuous and unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair, and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986, a comparable standard, or

Requirement 1 of these Guidelines is an “accessible route.” In the circumstances described in Requirements 1 and 2, “accessible route” may include access via a vehicular route.

Adaptable dwelling units

when used with respect to covered multifamily dwellings, means dwelling units that include the features of adaptable design specified in 24 CFR 100.205(c) (2)-(3).

ANSI A117.1 - 1986

means the 1986 edition of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people.

Assistive device

means an aid, tool, or instrument used by a person with disabilities to assist in activities of daily living. Examples of assistive devices include tongs, knob-turners, and oven-rack pusher/pullers.

Bathroom

means a bathroom which includes a water closet (toilet), lavatory (sink), and bathtub or shower. It does not include single-fixture facilities or those with only a water closet and lavatory. It does include a compartmented bathroom. A compartmented bathroom is one in which the fixtures are distributed among interconnected rooms. A compartmented bathroom is considered a single unit and is subject to the Act’s requirements for bathrooms.

Building

means a structure, facility, or portion thereof that contains or serves one or more dwelling units.

Building entrance on an accessible route

means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to parking or passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1 -1986 (see Requirement 1 of these Guidelines) or a comparable standard complies with the requirements of this paragraph.

Clear

means unobstructed.

Common use areas

means rooms, spaces, or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings. See Requirement 2 of these Guidelines.

Covered multifamily dwellings

or covered multifamily dwellings subject to the Fair Housing Amendments means buildings consisting of four or more dwelling units if such buildings have one or more elevators, and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

Dwelling unit

means a single unit of residence for a household of one or more persons. Examples of dwelling units covered by these Guidelines include: condominiums, an apartment unit within an apartment building, and other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

Entrance

means any exterior access point to a building or portion of a building used by residents for the purpose of entering. For purposes of these Guidelines, an “entrance” does not include a door to a loading dock or a door used primarily as a service entrance, even if nondisabled residents occasionally use that door to enter.

Finished grade

means the ground surface of the site after all construction, levelling, grading, and development has been completed.

First occupancy

means a building that has never before been used for any purpose. (Definition found in regulations at 24 CFR 100.201)

Ground Floor

means a floor of a building with a building entrance on an accessible route. A building may have one or more ground floors. Where the first floor containing dwelling units is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered a ground floor.

Loft

means an intermediate level between the floor and ceiling of any story, located within a room or rooms of a dwelling.

Multistory dwelling unit

means a dwelling unit with finished living space located on one floor and the floor or floors immediately above or below it.

Powder room

A room containing a toilet and a sink. (Definition found in Requirement 6 of the Guidelines.)

Public use areas

means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

Single-story dwelling unit

means a dwelling unit with all finished living space located on one floor.

Site

means a parcel of land bounded by a property line or a designated portion of a public right of way.

Slope

means the relative steepness of the land between two points and is calculated as follows: The distance and elevation between the two points (e.g., an entrance and a passenger loading zone) are determined from a topographical map. The difference in elevation is divided by the distance and that fraction is multiplied by 100 to obtain a percentage slope figure. For example, if a principal entrance is ten feet from a passenger loading zone, and the principal entrance is raised one foot higher than the passenger loading zone, then the slope is $1/10 \times 100 = 10\%$.

Story

means that portion of a dwelling unit between the upper surface of any floor and the upper surface of the floor next above, or the roof of the unit. Within the context of dwelling units, the terms “story” and “floor” are synonymous.

Undisturbed site

means the site before any construction, levelling, grading, or development associated with the current project.

Vehicular or pedestrian arrival points

means public or resident parking areas, public transportation stops, passenger loading zones, and public streets or sidewalks.

Vehicular route

means a route intended for vehicular traffic, such as a street, driveway, or parking lot.

DISABILITY TYPES AND IMPLICATIONS FOR DESIGN

TYPES OF DISABILITIES

Most people will, at some time during their life, have a disability, either temporary or permanent, which limits their ability to move around in and use the built environment. In fact, more than one in five Americans aged 15 and over have some type of disability; problems with walking and lifting are the most common. Not until fairly recently have the needs of people with disabilities been given adequate attention. The passage of the Fair Housing Act is another step in the process to create a built environment where people with disabilities can move freely in society as do persons who have no disability.

According to the “Statistical Report: the Status of People with Disabilities,” compiled by the President’s Committee on Employment of People with Disabilities, published in 1994⁵:

- 48.9 million Americans are persons with disabilities;
- 32 million Americans are age 65 or over;
- 3.3 million Americans are 85 and older, and this number is projected to grow by 100%, to over 6 million by 2010;
- 70% of all Americans will, at some time in their lives, have a temporary or permanent disability that makes stair climbing impossible;
- 8,000 people survive traumatic spinal cord injuries each year, returning to homes that are inaccessible;
- 17 million Americans have serious hearing disabilities;
- 8.1 million Americans have vision disabilities;
- 27 million Americans have heart disease and reduced or limited mobility.

There are hundreds of different disabilities and they manifest themselves in varying degrees. One person may have multiple disabilities while another may have a disability whose symptoms fluctuate. Most standards and design criteria are based on the needs of people defined by one of the following four general categories:

I. MOBILITY DISABILITIES

This category includes people who use wheelchairs and those who use other mobility aids.

Wheelchair Users

People with severe mobility disabilities use either a power-driven or manually operated wheelchair or, the more recent development, the three-wheeled cart or scooter to maneuver through the environment. People who use wheelchairs have some of the most obvious access problems. They include maneuvering through narrow spaces, going up or down steep paths, moving over rough or uneven surfaces, making use of toilet and bathing facilities, reaching and seeing items placed at conventional heights, and negotiating steps or changes in level at the entrance to a dwelling unit.

The design and construction requirements of the Fair Housing Act and the Guidelines focus primarily on the spatial needs of people who use wheelchairs because those needs are met more easily in the initial construction phase of a building project. This section provides basic information on the spatial requirements for an average seated adult

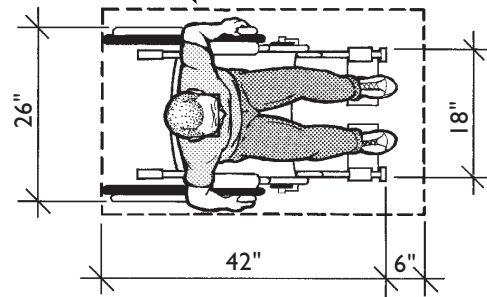
⁵Based on the census report *Americans With Disabilities 1991/1992*, published January 1994

in a stationary position and the space necessary to execute the two most common turns typically described in accessibility standards. The specifications given here are based on the A117.1 - 1986 ANSI Standard (see ANSI 4.2, 4.3, and 4.4).

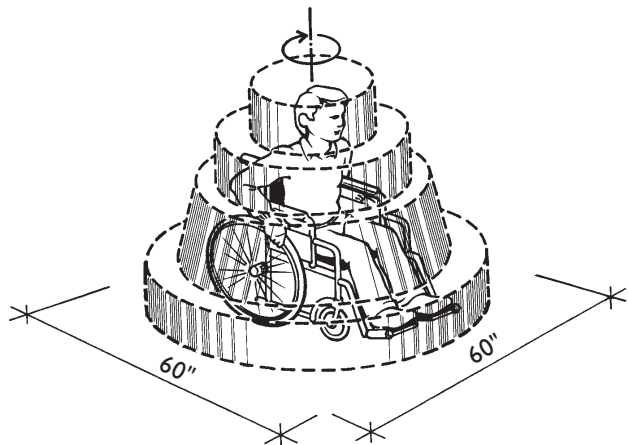
Clear Floor Space: The minimum clear floor space required to accommodate a single, stationary wheelchair is 30 inches by 48 inches. For an approach to an object, counter, or control, depending upon the object, the user may position his or her chair either parallel or perpendicular to the object. These two types of approaches are discussed in more detail in Chapters Five and Seven.

Turning Spaces: The space required for a person using a wheelchair to make a 180-degree turn is a circle with a diameter of 60 inches. Alternatively, a person can make a T-shaped turn, similar to a three-point turn in a car, at the intersection of a hall or in a room where some of the space necessary to perform the turn may be under a desk, table, or countertop.

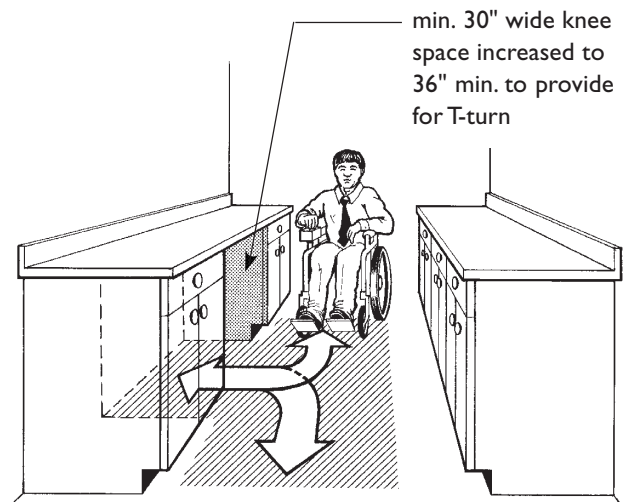
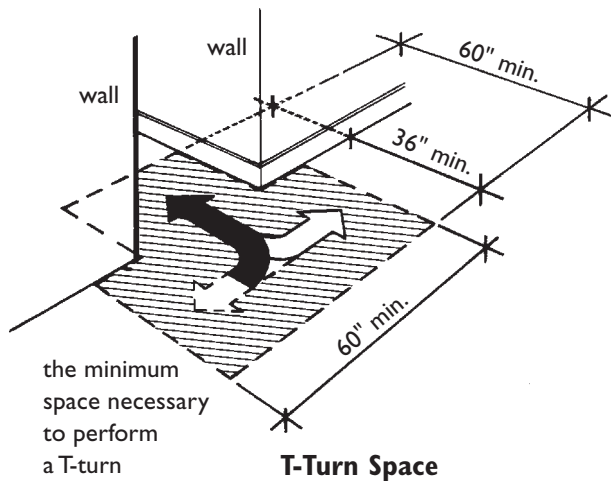
30" X 48" clear floor space
 footrests and toes may extend farther for some people



Space Allowances and Approximate Dimensions of Adult-Sized Wheelchairs



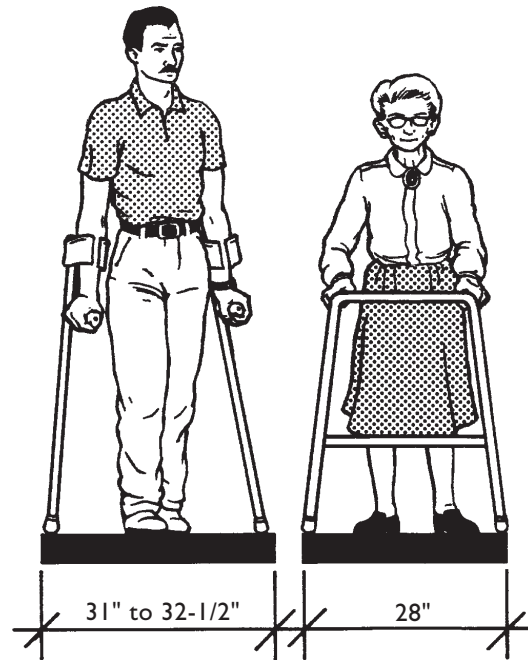
Pivoting Turn Space



T-Turn within a Knee Space

Ambulatory Mobility Disabilities

This category includes people who walk with difficulty or who have a disability which affects gait. It also includes persons who do not have full use of arms or hands, or who lack coordination. Persons who use crutches, canes, walkers, braces, artificial limbs, or orthopedic shoes are included in this category. Activities that may be difficult for people with mobility disabilities include walking, climbing steps or slopes, standing for extended periods of time, reaching, and fine finger manipulation.



**Space Necessary for Adults
Using Crutches or Walker**

2. VISUAL DISABILITIES

This category includes people with partial vision or total vision loss. Some people with a vision disability can distinguish light and dark, sharply contrasting colors, or large print, but cannot read small print, negotiate dimly lit spaces, or tolerate high glare. Many people who are blind depend upon their sense of touch and hearing to perceive their environment and communicate with others. Many use a cane or have a service animal to facilitate moving about.



**Minimum Space Necessary for Person
with a Service Animal**

3. HEARING DISABILITIES

People with partial hearing often use a combination of speech reading and hearing aids which amplify the available sounds. Echo, reverberation, and extraneous background noise can distort hearing aid transmission. People who are deaf and who rely on lip reading for information must be able to see clearly the face of the individual who is speaking. Those who use sign language to communicate also may be adversely affected by poor lighting. People who are hard of hearing or deaf may have difficulty understanding oral communication and receiving notification by equipment that is exclusively auditory such as telephones, fire alarms, public address systems, etc.

4. COGNITIVE DISABILITIES AND OTHER HIDDEN CONDITIONS

People with cognitive and learning disabilities may have difficulty using facilities, particularly where the signage system is unclear or complicated. In addition to people with permanent disabilities, there are others who may have a temporary condition which affects their usual abilities. Broken bones, illness, trauma, or surgery – all may affect a person's use of the built environment for a short time. Frequently, people have diseases of the heart or lungs, neurological diseases with resulting lack of coordination, arthritis, or rheumatism that may reduce physical stamina or cause pain. Reduction in overall ability is also experienced by many people as they age. People of extreme size or weight often need special accommodation as well.

ENFORCEMENT

Under the Fair Housing Act, discrimination includes a failure to design and construct covered multifamily dwellings in a manner which includes the specific features of accessible design delineated in the Act. Thus, responsibility for complying with the law rests with any and all persons involved in the design and construction of covered multifamily dwellings. This means, for example, that if a complaint is filed, the complaint could be filed against all persons involved in the design and construction of the building, including architects, builders, building contractors, the owner, etc.

HUD has the responsibility for enforcement of the Fair Housing Act. The Fair Housing Act provides that an aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary of HUD. The Secretary, on the Secretary's own initiative, also may file such a complaint. With respect to the design and construction requirements, complaints could be filed at any time that the building continues to be in noncompliance, because the discriminatory housing practice – failure to design and construct the building in compliance – does not terminate.

Following the filing of the complaint, an investigation is conducted and completed within 100 days, unless impracticable to do so. During the period beginning with the filing of the complaint and ending with the filing of a charge or a dismissal by the Secretary, HUD will engage in conciliation.

If a charge of discrimination is issued after an investigation, an aggrieved person or a respondent may elect, in lieu of an administrative proceeding with HUD, to have the complaint decided

in a civil action. An aggrieved person may bring a civil action in state or federal district court within two years after occurrence or termination of an alleged discriminatory housing practice.

If an administrative law judge finds that a respondent has engaged in or is about to engage in a discriminatory housing practice, the administrative law judge will order appropriate relief. Such relief may include actual and compensatory damages, injunctive or other equitable relief, attorney's fees and costs, and may also include civil penalties ranging from \$10,000 for the first offense to \$50,000 for repeated offenses. In addition, in the case of buildings which have been completed, structural changes could be ordered, and an escrow fund might be required to finance future changes.

With respect to the design and construction requirements, HUD may encourage, but cannot require, states and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with the requirements of the Fair Housing Act, HUD's implementing regulations, and the Fair Housing Accessibility Guidelines.

HUD provides technical assistance to states and units of local government and other interested persons, in order to implement the design and construction requirements of the Fair Housing Act. Architects, designers and builders may contact HUD with questions, either by telephone or by letter. However, HUD is not required to, nor does the agency have a procedure

for, review and approval of building plans to determine if they are in compliance. Technical assistance provided by HUD serves only as general interpretation of law and regulations and is not binding on the agency with respect to a specific case.

Some states have incorporated the requirements of the Fair Housing Act into their state laws. How this is done may differ from state to state. Some states, for example, have included the design and construction requirements as a part of the state law and simply incorporated HUD's Fair Housing Accessibility Guidelines by reference. Other states have drafted their own language to implement the design and construction requirements of the Fair Housing Act into the state building code. States which have incorporated the requirements of the Fair Housing Act into their state laws enforce those laws independently of the federal government. However, it should be noted that it is the state law that is being enforced. Such enforcement will not preclude any individual from exercising his or her right to file a complaint with HUD under the Fair Housing Act, or from filing a private lawsuit; nor does it preclude HUD from conducting a Secretary-initiated complaint.

The Fair Housing Act does not invalidate or limit any law of a state or local government that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater accessibility than the requirements of the Fair Housing Act. Likewise, the Fair Housing Act does not invalidate or replace other federal laws which require greater accessibility in certain housing, such as Section 504 of the Rehabilitation Act of 1973 or the Architectural Barriers Act of 1968.

The following is a list of HUD enforcement offices. Architects, builders and other users of this manual are encouraged to contact these and other HUD Fair Housing field offices for technical assistance as needed.

New England

U.S. Department of Housing
and Urban Development
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 308
Boston, Massachusetts 02222-1092
(617) 994-8300

**Connecticut, Maine, Massachusetts,
New Hampshire, Rhode Island, Vermont**

New York/New Jersey

U.S. Department of Housing
and Urban Development
26 Federal Plaza
New York, New York 10278-0068
(212) 264-1290

New Jersey, New York

Mid-Atlantic

U.S. Department of Housing
and Urban Development
The Wanamaker Building
100 Penn Square East
Philadelphia, Pennsylvania 19106-3392
(215) 656-0647

**Delaware, District of Columbia, Maryland,
Pennsylvania, Virginia, West Virginia**

Southeast/Caribbean

U.S. Department of Housing
and Urban Development
Five Points Plaza
40 Marietta Street
Atlanta, Georgia 30303-3388
(404) 331-5140

**Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South Carolina,
Tennessee, Puerto Rico, Virgin Islands**

Midwest

U.S. Department of Housing
and Urban Development
77 West Jackson Boulevard
Chicago, Illinois 60604-3507
(312) 353-7776

**Illinois, Indiana, Minnesota, Michigan,
Ohio, Wisconsin**

Southwest

U.S. Department of Housing
and Urban Development
801 North Cherry Street
Fort Worth, Texas 76113-2905
(817) 978-5900

**Arkansas, Louisiana, New Mexico,
Oklahoma, Texas**

Great Plains

U.S. Department of Housing
and Urban Development
Gateway Tower II, 400 State Avenue
Kansas City, Kansas 66101-2406
(913) 551-6958

Iowa, Kansas, Missouri, Nebraska

Rocky Mountain

U.S. Department of Housing
and Urban Development
First Interstate Tower North
633 17th Street
Denver, Colorado 80202-2349
(303) 672-5434

**Colorado, Montana, North Dakota, South
Dakota, Utah, Wyoming**

Pacific/Hawaii

U.S. Department of Housing
and Urban Development
Phillip Burton Federal Building
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, California 94102-3448
(415) 436-6569

**Arizona, California, Hawaii, Nevada, Guam,
American Samoa**

Northwest/Alaska

U.S. Department of Housing
and Urban Development
Federal Office Building
909 First Avenue, Suite 200
Seattle, Washington 98104-1000
(206) 220-5170

Alaska, Idaho, Oregon, Washington