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Affordable Multifamily Accessibility Comparison Report

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OVERVIEW OF THE HOUSING TAX CREDIT PROGRAM

What is the Low Income Housing Tax Credit (LIHTC) program?

The federal Low Income Housing Tax Credit program (LIHTC or Housing Tax Credit) was created as part of the 1986 tax reform passed during the Reagan administration. It has garnered strong bipartisan support for its success in incentivizing the private sector to provide equity investment in developing and preserving quality affordable housing.

LIHTCs are awarded by State Housing and Finance Authorities (HFAs) to for-profit and nonprofit developers of affordable rental housing who use the tax credits to raise private sector equity for their housing projects. Since inception, the LIHTC program has helped developers construct or preserve more than 86,000 affordable rental units in Colorado by leveraging over \$6 billion in private sector equity investment into the state's affordable housing need.

How does the LIHTC program work?

Federal housing tax credits are awarded to developers of qualified projects. Developers then sell these credits to investors to raise capital (or equity) for their project. The equity reduces the amount of debt financing or other funding sources required to make affordable housing developments financially feasible and able to be leased at below market-rate rents as required under the program.

What is CHFA?

For 50 years, Colorado Housing and Finance Authority (CHFA) has strengthened Colorado by investing in affordable housing and community development. CHFA has invested more than \$35.3 billion into Colorado's economy since 1974. CHFA invests in affordable homeownership, the development and preservation of affordable rental housing, helps small- and medium-sized businesses access capital, and supports local communities and mission-aligned nonprofits through technical assistance and philanthropic investment. CHFA is not a state agency. CHFA is a self-sustaining public enterprise. For more information about CHFA, please visit chfainfo.com or call 1.800.877.chfa (2432).



EXECUTIVE SUMMARY

Report purpose

The purpose of this report is to provide a comparison of accessibility requirements for affordable multifamily rental developments by providing an overview and comparison of housing accessibility standards required by federal and state law.

Accessibility and Housing Tax Credit developments

CHFA requires all developments awarded federal or state Housing Tax Credits to be designed and constructed to meet applicable accessibility requirements for residential units, residential common use areas, and general public use areas under federal and state law.

The following laws provide accessibility requirements that are applicable to all Housing Tax Credit developments:

1. Colorado Building Code (CBC)
2. Fair Housing Act (FHA), as amended, 42 U.S.C. § 3604 et seq.
3. Colorado Antidiscrimination Act (CAA), CO Code § 24-34-501 et seq.

The Americans with Disabilities Act (ADA) applies to places in a housing development that are open to the general public (for example, a publicly available rental office and the parking lot serving that office).

Additionally, if a housing development receives federal financial assistance from U.S. Department of Housing and Urban Development (HUD) in addition to Housing Tax Credits (e.g. HOME or CDBG funds), that development must also comply with HUD's Section 504 accessibility requirements. Specifically, a project receiving Housing Tax Credits and HOME funds must comply with the CBC, FHA, CAA, ADA, and Section 504.

Accessibility technical standards and compliance

When two or more laws or technical standards apply, the developer is required to follow and apply both standards to ensure that the project is usable by persons with disabilities to the maximum extent of either or both laws/technical standards. Please note that the CAA is identical to the FHA.

Compliance with these accessibility laws is required and is not discretionary, and the laws are minimum requirements. Developers are not precluded from including additional accessibility features. The accessibility features must be included in the design and as-built construction of covered developments. If any one of the required accessibility features is not included in the as-built construction, the development will not meet requirements and will constitute a violation of these laws. Noncompliance with any of these laws could result in loss or recapture of Housing Tax Credits.¹

Affordable multifamily housing sponsors and developers should work with construction and design teams (e.g. an architect, contractor, site superintendent, etc.) to identify the accessibility laws and standards that apply to the project. Each law is general in its terms and adopts a technical standard(s) to use to determine how to meet the general accessibility requirements of the law.

¹ See <https://www.justice.gov/crt/memorandum-understanding-among-department-treasury-department-housing-and-urban-development-an-0>

ACCESSIBILITY AND THE COLORADO BUILDING CODE²

1. Which residential buildings and units are covered?

Under the Colorado Building Code (CBC), in residential developments consisting of buildings of three or more units with more than 20 total dwelling or sleeping units, at least two percent of the total number of units (but not less than one) must be Type A units that are dispersed among the various classes of units.

In residential developments with four or more dwelling or sleeping units in a single building: (1) all units in elevator buildings must be Type B; and (2) ground floor units in non-elevator buildings must be Type B.

Multistory units are not covered unless there is an elevator in the building. If there is an elevator provided to one floor of the multistory unit, the floor provided with the elevator service shall be the primary entry to the unit and shall comply with Type B requirements and, where provided in the unit, a living area, a kitchen and a toilet facility shall be provided on that floor.

2. What level of accessibility is required: Type A and Type B Units?

Type A unit is a dwelling unit that is designed and constructed for accessibility in accordance with the provisions for Type A units in the International Code Council (ICC)/American National Standards Institute (ANSI) A117.1. Type A units have greater accessibility requirements than Type B units.

Basic Type A Unit Accessibility Features

- Accessible turning radiuses in kitchen and bathrooms
- Lower shelving within accessible reach ranges
- Lever type hardware throughout covered units
- Lower kitchen work surfaces
- Lower kitchen and bathroom sinks
- Open knee space beneath kitchen and bathroom sinks
- Lower kitchen and bathroom cabinets
- Grab bars installed around toilet and shower

Type B unit is a dwelling unit that is designed and constructed for accessibility in accordance with the provisions of Type B units in ICC/ANSI A117.1. Type B units are consistent with the Fair Housing Act design and construction requirements.

Basic Type B Accessibility Features

- Parallel approaches to kitchen and bathroom sink(s) rather than open knee space
- Blocking around toilets and grab bars for future installation of grab bars
- Lever type hardware in common areas but not in covered units

² The Colorado Building Code (“CBC”) applies unless a municipality has adopted its own building code with accessibility requirements. This report does not include an analysis of the building codes of municipalities in the State of Colorado. While some municipal codes are identical to CBC, others may have accessibility requirements that differ from the CBC. Designers and builders are advised to review the building code in the municipality in which their development is being constructed to determine if there are accessibility requirements imposed by the municipality that differ from the CBC.

ACCESSIBILITY AND THE FAIR HOUSING ACT

1. Which multifamily buildings and units are covered?³

The Fair Housing Act (FHA) requires all covered multifamily dwelling units designed and constructed for first occupancy after March 13, 1991, to be designed and constructed in a manner that the covered dwelling units have certain accessible elements and the public and common use portions serving those units are readily accessible to and usable by persons with a disability.⁴

Projects that are covered by the FHA accessibility requirement are residential developments that have buildings containing four or more units that are designed and constructed for first occupancy after March 13, 1991. In buildings with four or more units **with elevators**, all units in the building are covered and must include accessible features. In buildings with four or more units **without elevators**, only the ground floor units are covered and must include the accessible features. Generally, if the answer to the following two questions is yes, the project must meet the FHA design and construction requirements:

- Does the project involve newly constructed buildings after March 13, 1991?
- Does the project have buildings containing four or more residential units?

If so, the covered units and the public and common use areas must meet FHA requirements.

One important note is that the Fair Housing Act requirements do not apply to multistory townhome or townhouse units that have living space on more than one story within the individual unit unless the building or individual units have an elevator. For a project that is comprised only of multistory townhome or townhouse units without elevators, the project is not covered even if it includes buildings with four or more units.

The FHA accessibility checklist in section four illustrates the design and construction requirements of the Fair Housing Act.

2. What level of accessibility is required?

If the residential project is covered, the FHA requires that the following seven design and construction elements be incorporated into the plans and as-built construction:

i. An accessible building entrance on an accessible route

- All covered multifamily dwellings must have at least one accessible building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site
- An accessible route means a continuous, unobstructed path connecting accessible elements and spaces within a building or site that can be negotiated by a person with a disability who uses a wheelchair, and that is also safe for and usable by people with other disabilities
- An accessible entrance is a building entrance connected by an accessible route to public transit stops, accessible parking and passenger loading zones, or public streets and sidewalks

³ Important note: "Covered" as used in this report refers to the FHA accessibility requirements. The other prohibitions on discrimination contained in the FHA (e.g. discriminatory treatment, reasonable accommodation, and reasonable modification) apply to all residential real estate transactions with very few exceptions. While "covered" in the report refers to newly constructed residential projects with buildings containing four or more units, the other discrimination prohibitions apply to this type of project as well as other projects that have buildings with fewer than four units.

⁴ The Colorado Antidiscrimination Act is identical to the federal Fair Housing Act for purposes of accessibility in residential construction. See Colorado Code § 24-34-502.2. Therefore, if the project complies with the federal Fair Housing Act it will also comply with the Colorado state fair housing law.

ii. Accessible public and common use areas

- Covered housing must have accessible and usable public and common-use areas
- Public and common-use areas cover all parts of the housing outside individual units
- Public and common-use areas include—for example—building-wide fire alarms, parking lots, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas

iii. Usable doors (usable by a person using a wheelchair or other mobility assistive device)

- All doors that allow passage into and within all premises must be wide enough to allow passage by persons using wheelchairs

iv. Accessible route into and through the dwelling unit

- There must be an accessible route into and through each covered unit

v. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations

- Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations

vi. Reinforced walls in bathrooms for later installation of grab bar

- Reinforcements in bathroom walls must be installed, so that grab bars can be added when needed
- Note: Installation of grab bars is not required, just installation of reinforcements in the bathroom walls

vii. Usable kitchens and bathrooms

- Kitchens and bathrooms must be usable - that is, designed and constructed so a person using a wheelchair or other mobility assistive device can maneuver in the kitchen and bathroom space provided

It is important to note that the FHA accessibility requirements are as-built requirements. All of the FHA accessibility elements must be included in the design plans and the as-built construction. A recipient may not exclude the accessible element and later offer it as a reasonable accommodation or modification.



3. What is the Fair Housing Act technical accessibility standard?

The FHA sets forth the seven design and construction requirements generally reviewed above. However, recipients must use the applicable technical standard for how to meet each of the general requirements. For example, the FHA requires an accessible building entrance on an accessible route, and the technical standard will provide the actual dimensions of an accessible route, including such standards as the width of the route, the slope of the route, etc.

The U.S. Department of Housing and Urban Development (HUD) has adopted 15 safe harbor standards. A multifamily development may follow any of one of these safe harbors to comply with the FHA accessibility requirements:

1. [HUD Fair Housing Accessibility Guidelines](#) published on March 6, 1991 and the [Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines](#), published on June 28, 1994
2. [HUD Fair Housing Act Design Manual](#)
3. [ANSI A117.1 \(1986\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#)
4. [CABO/ANSI A117.1 \(1992\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#)
5. [ICC/ANSI A117.1 \(1998\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#)
6. [Code Requirements for Housing Accessibility 2000 \(CRHA\)](#)
7. [International Building Code 2000](#) as amended by the 2001 Supplement to the International Codes
8. [International Building Code 2003](#), with one condition
9. [ICC/ANSI A117.1 - 2003 \(Accessible and Usable Buildings and Facilities\)](#)
10. [2006 International Building Code®](#) (loose leaf)
11. [A117.1-2009 used with the Fair Housing Act, HUD's regulations, and the Guidelines](#)
12. [International Building Code 2009](#)
13. [International Building Code 2012](#)
14. [International Building Code 2015](#)
15. [International Building Code 2018](#)

If a multifamily development follows one of these safe harbors in its entirety without modification or waiver, the project is presumed to meet the FHA accessibility requirements. It is important to note, however, that a multifamily development may not mix and match safe harbors but must choose one safe harbor and follow it without modification or waiver.



4. Fair Housing Act Accessibility Checklist

The following is a Fair Housing Act accessibility checklist that represents some, but not all of the design and construction requirements of the Fair Housing Act that has been jointly prepared by HUD, the Internal Revenue Service (IRS), and the Department of Justice (DOJ).⁵

Requirement 1: Accessible Building Entrance on an Accessible Route

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all public and common use facilities
- The accessible route also connects to parking lots and to at least one public street, public sidewalk, and to a public transportation stop, when provided
- All slopes on the accessible route are no steeper than 8.33 percent
- All slopes on the accessible route between 5 percent and 8.33 percent have handrails
- Covered units have at least one entrance on an accessible route
- There are sufficient numbers of curb-cut ramps for a person using a wheelchair to reach every building in the development
- Ramp slope and cross slope specifications
- Note: An automatic door system is **not** required

Requirement 2: Accessible Public and Common Use Areas

- At least 2 percent of all parking spaces serving covered units are designated as accessible handicapped parking spaces
- At least one parking space at each common and public use amenity is designated as handicapped accessible parking
- All accessible parking spaces have adequate signage
- All handicapped accessible parking spaces are at least 96” wide with a 60” wide access aisle that can be shared between two spaces
- The accessible aisle is adjacent to the accessible route
- The rental or sales office is readily accessible and usable by persons with disabilities as required by both the Fair Housing Act and the Americans with Disabilities Act
- A sufficient number of mailboxes, restrooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones, swimming pools, tennis courts, clubhouses, and other common and public use amenities offered by the development that are readily accessible and usable by persons with disabilities

Requirement 3: Usable Doors

- All doors inside the covered units provide a clear opening of at least 32” of “nominal clear width”
- All doors in the public and common use areas and the primary entrance to a covered unit provide a clear opening of at least 32”
- All doors leading into common use facilities have lever door handles or other operating hardware that does not require grasping and twisting
- Thresholds at doors to common use facilities are no greater than 1/2”
- All primary entrance doors to covered units have lever door handles or other operating hardware that does not require grasping and twisting
- Thresholds at exterior primary entrance doors to covered units are beveled and no greater than 3/4”

⁵ Including these elements in the design and as-built construction of a “covered multifamily development” does not guarantee the project will fully comply with the Fair Housing Act accessibility requirements. Recipients should consult with an attorney and/or design professional with knowledge and experience with the Fair Housing Act accessibility requirements to ensure that the design and construction of the project complies.

Requirement 4: Accessible Route Into and Through the Covered Unit

- All routes through all rooms in the covered units are no less than 36" wide

Requirement 5: Accessible Environmental Controls

- All light switches, electrical outlets, thermostats, and other environmental controls are no less than 15" and no greater than 48" from the floor
- All light switches, electrical outlets, and other environmental controls mounted over an obstruction like a countertop are no greater than 46" from the floor

Requirement 6: Reinforcement Installed in Bathroom Walls for Later Installation of Grab Bars

- Reinforcements are built into the bathroom walls surrounding toilets, showers, and bathtubs for the later installation of grab bars

Requirement 7: Usable Kitchens and Bathrooms

Usable Kitchens

- 30" x 48" clear floor space at sink and at range/cooktop is parallel and centered on element
- 30" x 48" clear floor space centered at all other fixtures and appliances is perpendicular or parallel to element
- 40" of clear floor space between opposing elements (i.e. cabinets, appliances, etc.)
- 60" turning diameter in U-shaped kitchens with sink or cooktop at the base of the "U"

Usable Bathrooms

- Type A Bathroom
 - » 30" x 48" clear floor space outside the swing of the door
 - » 30" x 48" clear floor space at lavatory (if centered for parallel approach cabinet may be fixed)
 - » Toilet next to the tub allowing a perpendicular approach
 - » Centerline of toilet is 18" from bathtub and 15" from lavatory
- Type B Bathroom
 - » 30" x 48" of clear floor space outside swing of door
 - » 30" x 48" of clear floor space centered in front of sink
 - » 30" x 48" of clear floor space adjacent to the bathtub
 - » If at least one Type B bathroom is included the other bathroom(s) is exempt from only the maneuvering space requirements



SECTION 504 OF THE REHABILITATION ACT

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination against qualified persons with disabilities in the operation of programs receiving federal financial assistance. Section 504's accessibility requirements apply to the design and construction of housing projects receiving federal financial assistance and requires the portion of the housing developed with those funds to be accessible and usable to persons with mobility, visual, and hearing impairments.

The federal Low Income Housing Tax Credit (LIHTC) program is not considered federal financial assistance for purposes of applying Section 504.

I. Which Multifamily Buildings and Units are covered?

Some examples of housing programs that are considered federal financial assistance include the following:

- HOME Investments Partnerships Program (HOME) Funds
- Community Development Block Grants (CDBG) Funds
- Project-based Housing Choice Voucher
- Veterans Affairs Supportive Housing Project-based vouchers
- Housing Trust Fund
- Public Housing
- Housing designed, constructed, and/or operated by a Public Housing Authority or its affiliates
- HUD Section 202 Supportive Housing for the Elderly
- HUD Section 811 Supportive Housing for Persons with Disabilities

HUD has adopted regulations implementing Section 504 for federal financial assistance it distributes to recipients.⁶ HUD's Section 504 accessibility requirements apply to both new construction and alterations of multifamily housing projects receiving federal financial assistance. A "multifamily housing project" means a project containing five or more dwelling units financed under the same project number. Both individual units and the common areas of residential buildings must be accessible under Section 504. Section 504 applies to a broader range of housing developments than the Fair Housing Act's limitation that a covered dwelling must have buildings with four or more units. Section 504 applies to single family detached, duplex, triplex, or other multifamily housing developments as long as the development receives federal financial assistance and has 5 or more units under the same project number.

It is important to note that, unlike the Fair Housing Act, Section 504 applies to townhome or townhouse developments that are composed of all multilevel units regardless of whether the buildings or units have elevators.⁷ Whether or not the rehabilitation of a development of multistory townhouses would need to meet the 504 requirements would depend on the extent of the rehabilitation and whether the applicant could present documentation that the modifications would not be feasible.

⁶ Each federal agency adopts its own Section 504 regulations. For example, the Office of Rural Development of the Department of Agriculture has adopted its own Section 504 regulations for housing receiving federal financial assistance from Rural Development. See 7 C.F.R. 15b.

⁷ HUD Notices CPD 00-09 and PIH 99-52 (HA) states that, "a development consisting entirely of multistory townhouses constructed with federal financial assistance is not a covered multifamily dwelling for purposes of the design and construction requirements [of the Fair Housing Act], but would still have to meet the Section 504 5% + 2% accessibility requirements [of] Section 504."

2. What level of accessibility is required?

a. New Construction

For all newly constructed projects receiving federal financial assistance, a minimum of five percent or at least one unit (whichever is greater) of the total units in the project must be accessible to individuals with mobility impairments. In addition to the five percent of units made accessible to individuals with mobility impairments, a minimum of two percent or at least one unit (whichever is greater) of the total units in the project must be accessible to individuals with sensory impairments (hearing or vision).

The five percent mobility accessible and two percent sensory accessible units must, to the maximum extent feasible, [be distributed throughout projects and sites and available in a sufficient range of sizes and amenities so that a person with a disability](#) has a choice of living arrangements that is comparable to other persons without disabilities. However, there is no requirement that a recipient install an elevator to meet this requirement.

b. Substantial Rehabilitation

If alterations are undertaken to a project that has 15 or more units and the cost of the alteration is 75 percent or more of the replacement cost of the completed facility, then the accessibility requirements for the projects are the same as for newly constructed projects.

c. Other Alterations

When other alterations are undertaken, including but not limited to modernization and rehabilitation which does not meet the threshold of Substantial Rehabilitation, such alterations are required to be accessible to the maximum extent feasible up to the point where at least five percent of the units in a project are accessible. If alterations of single elements or spaces of a dwelling unit when considered together amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible.

3. What is the Section 504 technical accessibility standard?

HUD's regulations have designated the Uniform Federal Accessibility Standards (UFAS) as the technical accessibility standard for compliance with Section 504.⁸ However, HUD issued a Deeming Notice that allows recipients to use the 2010 ADA Standards for Accessible Design as an alternative to UFAS. Recipients may choose between these two standards, but like the Fair Housing Act safe harbors, a recipient may not mix and match standards, but must choose one standard and follow it without modification or waiver.⁹

4. Section 504 Accessibility Checklist

The following is a Section 504 Checklist that represents some, but not all of the Section 504 design and construction requirements for projects receiving federal financial assistance over and above what is required by the Fair Housing Act. Most of the public and common use area requirements are the same as the Fair Housing Act, so this checklist highlights some of the additional requirements for the interior of units required to be accessible under Section 504. Recipients should consult with an attorney and/or design professional with knowledge and experience with the Section 504 accessibility requirements to ensure that the design and construction of the project complies.

⁸ Appendix B provides the key difference between HUD's Section 504 requirements and the requirements for CBC Type A units.

⁹ Appendix C provides the key differences between UFAS and the 2010 ADA standards.

Requirements for five percent units that must be accessible to persons with mobility impairments

Usable Door within unit

- All doors within the unit must be a minimum of 32” of clear width
- All doors within the unit must have 18” of clear maneuvering space on pull side of door

Kitchens within unit

- Controls on appliances must be accessible (e.g. up front controls on ranges, microwave controls must be in accessible reach ranges, etc.)
- There must be at least one 30” section of the control that is an accessible workspace mounted no higher than 34” above the floor with knee space
- The kitchen sink must be mounted no higher than 34” above the floor measured to the higher of the counter or sink rim
- Faucets must be lever operated
- There must be open knee space below the sink or removable cabinets (with finished floor and pipes covered)
- Ovens must be self-cleaning if not mounted immediately next to accessible workspace
- At least 50 percent of the freezer space in a refrigerator/freezer must be below 54”

Bathrooms within unit

- The height of the water closet must be 15”-19” measured from top of seat
- The toilet paper dispenser must be installed within accessible reach ranges
- Grab bars must be installed around toilet and bathroom/shower or backing must be included and management must install grab bars upon request
- If a mirror is installed, the bottom of reflecting surface must be no more than 40” above the floor
- Bathtubs/showers must have wand showers with the controls offset to the open side of the bathtub/shower
- Sinks must have knee space below or removal cabinets (within finished floor and pipes covered)
- Sinks must be mounted no higher than 34” above the floor measured to the higher of the counter or sink rim

Storage within unit

- All controls and door handles shall be lever type not requiring tight grasping and twisting
- All storage within unit (closet, cabinet, etc.) mounted in accessible locations

Multifamily sponsors and developers can find a helpful Section 504/UFAS Accessibility Checklist for mobility impairment requirements at:

<https://www.hud.gov/sites/documents/UFASAccessibilityChecklistforPHAs-5-7-08.pdf>

Requirements for two percent units that must be accessible to persons with sensory impairments

- Dwelling units should be designed and constructed so that a visual alarm is provided or the unit is wired so that a visual alarm may be installed

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) requires equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunication. The ADA consists of five titles, only two of which may be applicable to residential construction.

1. What Multifamily Developments and Units are covered?

Title II of the ADA applies to public entities, which include state and local governments and instrumentalities. A multifamily sponsor or developer that is not a governmental entity is not a public entity covered by Title II even though it receives Housing Tax Credits or funding from CHFA or another governmental entity.

Title III applies to privately owned places of public accommodation that are open to the general public. In the housing context, the areas of a residential development that are only open to residents and their guests are not public accommodations and, therefore, the ADA does not apply.

However, those areas of a residential development that are open to the general public are covered by the ADA. The most common example is the rental office of a residential development. The rental office and the parking lot serving that office are open to the general public, so it is covered by Title III of the ADA as a place of public accommodation.

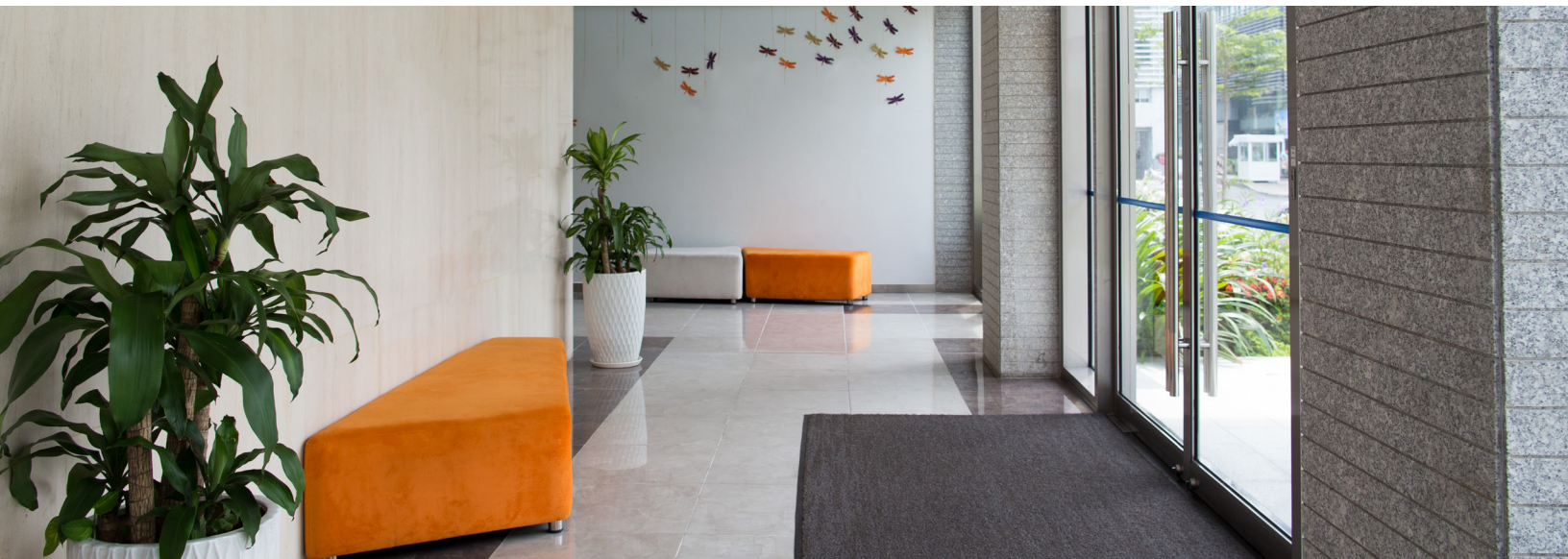
2. What level of accessibility is required?

Title III of the ADA applies to new construction and alterations of existing facilities. The level of accessibility varies for alterations depending on many factors.

Title III also requires barrier removal, which means if the rental office of a residential development existed before January 1992, a recipient must assess if there are any architectural barriers in the existing construction (e.g. a step into the office, no accessible parking in the parking lot, etc.) and remove those barriers where it is readily achievable to do so. Readily achievable means easily accomplished and able to be carried out without much difficult or expense taking into a variety of factors. Recipients can find a helpful barrier removal checklist at <https://archive.ada.gov/racheck.pdf>.

3. What is the ADA Title III technical accessibility standard?

The 2010 ADA Standards for Accessible Design is the technical standard used for the accessibility requirements imposed by Title III of the ADA.



APPENDIX A

Fair Housing Act Accessibility Common Errors

This list is not a comprehensive list of the FHA accessibility requirements, but rather provides a few examples of items commonly found out of compliance with the Fair Housing Act accessibility requirements as discovered by accessibility compliance experts.

Exterior common errors:

- Mailboxes are inaccessible to persons with mobility impairments because they are mounted outside of the reach ranges
- Community gardens, barbeque grills, picnic tables, and other common use elements are not on an accessible route
- Accessible routes exceed the five percent running slope and/or two percent cross slope requirement
- Trash dumpsters not on an accessible route or do not provide a disposal opening that meets requirements for ease of operation to open are in within accessible reach ranges
- Project lacks accessible route extended to the property line or public sidewalk

Interior common errors:

- Kitchen cabinets and appliances do not have sufficient clear floor space between opposing elements
- Kitchen sink lacks 30" x 48" clear floor space parallel and centered on the sink
- Highest control on thermostat is too high
- Walk-in closet (more than 24" of usable space beyond the door) in a covered unit does not provide the minimum 32" of nominal clear width
- Wall outlets over kitchen counter has top receptacle mounted higher than maximum allowed
- Bathroom sink lacks 30" x 48" clear floor space parallel and centered on the sink
- Insufficient clear floor space at toilet and between sink and bathtub or wall adjacent to toilet
- Threshold height at primary entrance door exceeds 1/2"
- Accessible maneuvering space is not provided on the pull-side of doors in common areas

APPENDIX B

Key Differences Between HUD Section 504 Units and CBC Type A Units

There are some elements required in HUD's Section 504 units for mobility and visual impairment units that are not required in ICC/ANSI Type A units under the CBC. Multifamily sponsors and developers should consult with an attorney and/or design professional with knowledge and experience with the ICC/ANSI and UFAS accessibility requirements to ensure that the design and construction of the project complies.

The following are some key elements required by UFAS that are not required for ICC/ANSI Type A units.

UFAS Mobility Impairment Units

Kitchen

- Ovens must be self-cleaning or adjacent to the work surface
- Upper cabinets in the kitchen must be hung with the top of the bottom shelf at 48" maximum above the finished floor

Bath

- Toilet paper dispensers must be installed 36" maximum from the back wall
- Toilets must be installed exactly 18" from the side wall, not 16" to 18" as allowed in Type A units
- The bathroom door cannot swing into the clear floor space for any fixtures (for example, the toilet or lavatory)
- If a roll in shower is provided in unit, the controls must be installed on an end wall, not the rear wall as required in Type A units
- The top of the bottom shelf of the medicine cabinet must be installed at 44" maximum above the finished floor

UFAS Sensory Impairment Units

- A hardwired doorbell is required at the front door
- Visible fire alarms are required in the unit

APPENDIX C

The 2010 ADA Accessibility Standards and UFAS

As stated above, HUD’s regulations have designated UFAS as the technical accessibility standard for compliance with Section 504. However, multifamily sponsor and developers may use the 2010 ADA Standards for Accessible Design (2010 ADA Standards) as an alternative to UFAS.

Multifamily sponsors and developers may choose between these two standards, but like the Fair Housing Act safe harbors, developers may not mix and match standards but must choose one standard and follow it without modification or waiver.

It is also important to note that HUD has stated that some portions of the 2010 ADA Standards may not be used if a sponsor or builder chooses to use the standards rather than UFAS.

Portions of the 2010 ADA Standards that may not be used according to the HUD Deeming Notice

The following are the portions of the 2010 ADA Standards that HUD states are not applicable and HUD’s regulations control as stated in HUD’s Deeming Notice. In each instance the cited provision(s) in the 2010 ADA Standards is inapplicable and should **not** be applied.

ELEMENT	2010 ADA	UFAS
Scoping	Does not provide number of residential units that must be accessible	Provides specific percentages of units that must be made accessible in new construction and alteration
Alterations	Contains criteria that must be met in determining if standards apply to alterations of buildings	Provides specific percentages of units that must be made accessible when residential development is altered
Structural Impracticality	Contains structural impracticality exemption	All new construction is covered and there is no structural impracticality exemption
Additions	Section 202.2 of the 2010 ADA Standards may, in certain situations, require less accessibility for additions	Any addition that falls under the definition of alterations under Section 504 must fully comply and there is no exemption
Alterations Affecting Primary Function Areas	Section 202.4 of the 2010 ADA Standards includes a “path of travel” obligation that may limit when an accessible route is required in alterations	There is no “path of travel” exemption in HUD’s requirements and HUD requires that all covered units must be on an accessible route
Common Use Areas	Section 203.8 of the 2010 ADA Standards exempts certain common use areas in residential developments if they do not serve covered residential units	This section may not be used because under HUD’s requirements all common areas must be made accessible unless it is a common element on an upper floor of a non-elevator building and the exact same common element exists on the ground floor

Employee Work Areas	Have more limited level of accessibility to employee work areas	No accessibility limitations simply because area is an employee work area
Vehicular Route Exemption	Vehicular exemption for routes between site arrival points and buildings and facilities if the only means of access between the two is a vehicular way without a pedestrian route	No vehicular route exemption
Elevator Exemption	Section 206.2.3 of the 2010 ADA Standards provides an elevator exemption from the requirement that at least one accessible route must connect each story and mezzanine in multi-story buildings	No elevator exemption
Washing Machine/Dryer	Permits top loading or front-loading washing machines	Requires front loading washing machines and clothes dryers in common use laundry rooms
Visible Alarms	Section 215.1 of the 2010 ADA Standards requires the installation of visual alarms in building alterations only when an existing fire alarm system is upgraded	Whether visual alarms are required if alteration to building or unit is covered

Key Differences Between the 2010 ADA Standards and UFAS

It is also important to note that there are some key differences between the 2010 ADA Standards and UFAS. The following highlights those differences.

ELEMENT	2010 ADA	UFAS
Van Parking Stalls	One of every 8 spaces must be van accessible	No requirements
Signage Designating Rooms & Spaces	Such signs must comply with finish and contrast standards	Must use raised lettering and be mounted at certain heights and locations
Directional Signage	<p>Need not comply with requirements for raised and brail letters, but they must comply with requirements for character proportion, finish, and contrast</p> <p>If suspended or projected overhead, they must also comply with character height requirement</p>	Must comply with requirements for letter proportion and color contrast, but not with requirements for raised letters or mounting height
Entrances	<p>At least one principal entrance at each grade floor level must be accessible</p> <p>In addition, there must be an accessible entrance to transportation facilities, passenger loading zones, accessible parking, taxis, streets, sidewalks, and interior accessible areas, if the building has entrances that normally serve those functions</p>	<p>At least 50 percent of all public entrances must be accessible with certain qualifications</p> <p>In addition, there must be accessible entrances to enclosed parking, pedestrian tunnels, and elevated walkways</p>
Place of Refuge	<p>Specific requirements provided for location, size, stairway width, and two-way communication</p> <p>Also, not required for buildings with supervised automatic sprinklers systems or in alterations</p>	No specific requirement for places of refuge, but refers to local administrative authority's requirement
Water Fountains	Where one fountain on a floor, it must be accessible to wheelchair users and persons who have difficulty bending or stooping. Where more than one fountain on a floor, 50 percent must be accessible to wheelchair users	50 percent or at least one fountain per floor must be accessible to wheelchair users

Storage Shelves	One of each type of fixed storage must be accessible Self-service shelves do not have to comply with reach range requirements	One of each type of fixed storage must be accessible, including self-service shelves
Telecommunication Devices for the Deaf (TDDs)	One TDD must be provided if there is a pay phone	No requirement
Bathrooms	One stall accessible and where there are six or more stalls, one must be accessible, and one must be three feet wide	One stall must be accessible, but no three feet width requirement
Detectable Warnings	Required on curb ramps, hazardous vehicle areas, and reflecting pools, but no on doors to hazardous areas	Required only on doors to hazardous areas Textured surface on the door hardware
Visual alarms	Requirements for type of lamp, intensity, and location	No specific details
Bathroom Mirrors	In addition to 40" requirement, mirrors not located above lavatories or countertops shall be installed with the bottom edge of the reflecting surface 35 inches maximum above the finish floor or ground	Reflecting surface of mirrors shall be mounted no higher than 40" from floor
Coat Hooks	Located within 15" and 48" from floor	No requirement
Bathroom Water Closet	16"-18" from centerline to adjacent wall	Exactly 18" from centerline to adjacent wall
Dishwasher	Clear floor or ground space shall be positioned adjacent to the dishwasher door The dishwasher door, in the open position, shall not obstruct the clear floor or ground space for the dishwasher or the sink	Clear floor space requirement, but no adjacent or obstruction requirement
Water Closet Seat Height	17"-19" measured from top of the seat. Seat shall not be sprung to return to a lifted position	15"-19" measured from top of the seat
Flush Controls	Flush controls must be mounted on the open side of the water closet	No requirement for placement

Technical consultant

This Accessibility Comparison Report was developed with the assistance of Scott P. Moore of Baird Holm LLP. Scott represents and advises the affordable housing industry, including State Housing Finance Agencies throughout the country on the accessibility compliance issues arising under the Fair Housing Act, Section 504, and the ADA.

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