



(888) 341-7781 (V/TTY) - Technical Guidance
www.FairHousingFIRST.org



Safe Harbors Overview and the Fair Housing Act Design Manual

Participant Workbook



Safe Harbors Overview and the Fair Housing Act Design Manual

Table of Contents

Introduction 5

 Purpose..... 5

 Technical Guidance..... 5

 Additional Training Events 5

Learning Objectives 6

Topic 1: Overview of the Fair Housing Act 7

 History 7

 Protected Class..... 8

 Provisions..... 8

 First Occupancy..... 9

 Covered Dwellings..... 9

 Seven Technical Requirements 10

 Topic 1: Key Takeaways 11

Topic 2: Understanding Safe Harbors 12

 Understanding Safe Harbors..... 12

 Scoping Requirements..... 13

 Technical Specifications..... 13

 Benefits of a Safe Harbor..... 14

 Topic 2: Key Takeaways 15

Topic 3: Safe Harbor Sources 16

 Safe Harbor Sources 16

 U.S. Department of Housing and Urban Development (HUD) 17

 HUD Fair Housing Accessibility Guidelines 18

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Supplemental Notice to the HUD FHA Accessibility Guidelines.....	18
The Fair Housing Act Design Manual.....	19
American National Standards Institute	21
Council of American Building Officials.....	22
International Code Council (ICC)	23
Topic 3: Key Takeaways	24
Topic 3: Key Takeaways (continued)	25
Topic 4: Safe Harbors for Compliance	26
Safe Harbors for Compliance	26
Compliance goes beyond the Fair Housing Act and includes complying with the safe harbors. If a company, architect, developer, designer, or others do not comply with the safe harbors, there is a risk of non-compliance with the FHA.....	26
It is vital to note that there are currently 15 HUD approved safe harbors. Ten safe harbors were established before 2021, and five have been added since March 2021. The provisions of these documents are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.	26
The 10 safe harbors approved before 2021 are:	27
Topic 4: Key Takeaways	29
Topic 5: ICC A117.1 – 2009	30
ICC A117.1–2009	30
ICC A117.1-2009: Types of Dwelling Units	32
ICC A117.1-2009: Accessible Units	33
ICC A117.1-2009: Accessible Units - Technical Differences	34
ICC A117.1-2009: Type A Units	34
ICC A117.1-2009: Type A Units - Technical Differences	35
ICC A117.1-2009: Type B Units	35
ICC A117.1-2009: Type B Units – Technical Differences	36
ICC A117.1-2009: Type C Units	36

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

ICC A117.1-2009: Type C Units – Technical Requirements	37
Accessibility and Technical Requirements	37
Topic 5: Key Takeaways	39
Topic 5: Key Takeaways (continued)	40
Topic 6: Beyond the Fair Housing Act Design Manual.....	41
Beyond the Fair Housing Act Design Manual	41
Topic 6: Key Takeaways	42
Contacts	42

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Introduction

The Fair Housing Accessibility FIRST program is an initiative designed to promote compliance with the Fair Housing Act design and construction requirements. The program offers comprehensive and detailed instruction programs, useful online web resources, and a toll-free information line for technical guidance and support. This training is part of that program.

Purpose

The purpose of the Fair Housing Accessibility FIRST program is to offer training and technical guidance on accessibility requirements of the Fair Housing Act and to increase the supply of accessible multifamily housing units nationwide. The program provides training and guidance to architects, builders, code officials, and others in the housing industry with the accessibility requirements for designing and constructing dwelling units covered by the Fair Housing Act.

Technical Guidance

The Fair Housing Accessibility FIRST program provides a Design and Construction Resource Center, also known as the DCRC, which is staffed Monday through Friday from 8:00 AM to 5:30 PM Eastern. You can reach the DCRC:

- Toll-free at 888-341-7781
- By emailing FairHousingFirst@hud.gov
- Subscribe via the website for updates from the Fair Housing Accessibility FIRST program.

Additional Training Events

You can register for events on the website by going to:

https://www.hud.gov/program_offices/fair_housing_equal_opp/accessibility_first_training_calendar

Please note that both a morning and an afternoon session are offered to accommodate scheduling. Trainings will be posted as they become available.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Learning Objectives

This training includes an introduction, topics, and learning objectives to help you understand the technical guidance and protections provided by HUD approved Safe Harbors and the Fair Housing Act Design Manual. The topics and learning objectives are as follows:

The **terminal learning objective** (TLO) is to identify general information about HUD approved Safe Harbors and the Fair Housing Act Design Manual. The topics and **enabling learning objectives** (ELOs) are:

- **Topic 1 - FHA Overview**
ELO: Identify elements of the FHA that prohibit discrimination and aim to promote accessible design.
- **Topic 2 - Understanding Safe Harbors**
ELO: Identify the definition of a safe harbor and the terminology used to describe the information contained within a safe harbor.
- **Topic 3 - Safe Harbor Sources**
ELO: Identify the sources of HUD approved safe harbors used to promote accessible design.
- **Topic 4 - Safe Harbors for Compliance**
ELO: Identify the total number of HUD approved safe harbors.
- **Topic 5 - ICC A117.1-2009**
ELO: Identify the scope and technical specifications covered by ICC A117.1 version 2009.
- **Topic 6 – Beyond the Fair Housing Act Design Manual**
ELO: Identify the FHADM's impact on future safe harbors.

This training relies on the provisions of the Fair Housing Act and its regulations, the Accessibility Guidelines and the Supplemental Questions and Answers, American National Standards Institute (ANSI) A117.1 (1986), and the Design Manual for the guidance that it provides about compliance with the technical design and construction requirements in the Act.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 1: Overview of the Fair Housing Act



History

Title VIII of the Civil Rights Act of 1968, also 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.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Protected Class

In 1988, Congress amended the coverage of the Fair Housing Act to prohibit discriminatory housing practices based on familial status and disability. The amended coverage made it unlawful to deny the rental or sale of a dwelling unit to a person with a disability.

As a protected class, people with disabilities must have accessible and safe housing choices.

In fact, the increased scope of the FHA provides for this by also making it unlawful to fail to design and construct certain multifamily dwellings to include specific accessibility features.



Provisions

To ensure that persons with disabilities can use and enjoy their dwellings, the Fair Housing Act includes two important provisions:

1. 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.
2. A provision making it unlawful to refuse to permit residents with disabilities to make reasonable modifications to their dwelling unit or the public and common use areas at the residents' cost.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

First Occupancy

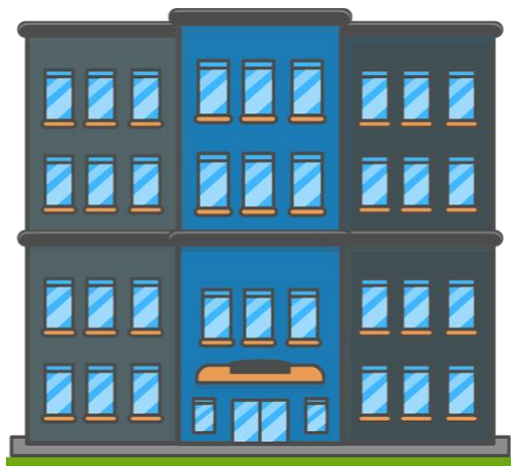
The Fair Housing Act remedies discrimination in part by establishing design and construction requirements for covered multifamily dwellings built for first occupancy after March 13, 1991.

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



Covered Dwellings

The FHA provides accessible design and legal protections for covered multifamily dwellings. To fully understand the scope of FHA coverage, it is essential to recognize the definition of a covered multifamily dwelling unit.



Covered multifamily dwelling units are:

- All dwelling units in buildings containing four or more dwelling units if the buildings have one or more elevators.
- All ground floor units in other buildings containing four or more units without an elevator.

This includes housing for rent or sale and applies whether the housing is privately or publicly funded. Apartments, condominiums, cooperatives, student dormitories, assisted living, nursing homes, and other housing types are covered.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Seven Technical Requirements

It is critical to note that because the Fair Housing Act has less distinct requirements, the design and construction guidance in the Act was developed into seven technical requirements for the Guidelines. The Guidelines establish the minimum levels of accessibility and clarify which areas of a multifamily development would have accessibility obligations. The seven requirements are:

- 1. Accessible Building Entrance on an Accessible Route
- 2. Accessible and Usable Public and Common Use Areas
- 3. Usable Doors
- 4. Accessible Route Into and Through the Covered Dwelling Unit
- 5. Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations
- 6. Reinforced Walls for Grab Bars
- 7. Usable Kitchen and Bathrooms

- 1 Accessible building entrance on an accessible route
- 2 Accessible and usable public and common use areas
- 3 Usable doors
- 4 Accessible routes into and through covered unit
- 5 Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
- 6 Reinforced walls in bathrooms for later installation of grab bars
- 7 Usable kitchens and bathrooms

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 1: Key Takeaways

- Enacted as law in 1968, the FHA prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, and national origin.
- In 1988, Congress amended the coverage of the FHA to also prohibit discriminatory housing practices based on familial status and disability.
- Per the FHA, it is unlawful to deny the rental or sale of a dwelling unit to a person with a disability.
- It is unlawful to fail to design and construct certain multifamily dwellings to include specific accessibility features.
- It is 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.
- It is unlawful to refuse to permit residents with disabilities to make reasonable modifications to their dwelling unit or the public and common use areas at the residents' cost.
- The FHA remedies discrimination in part by establishing design and construction requirements for covered multifamily dwellings built for first occupancy after March 13, 1991.
- The Fair Housing Act's design and construction requirements are broken down into seven basic categories.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 2: Understanding Safe Harbors



Understanding Safe Harbors

A safe harbor is an objective and recognized standard, guideline, or code that, if followed without deviation, ensures compliance with the FHA’s seven design and construction requirements.

A safe harbor aims to create an acceptable standard or set of standards that guide design and construction plans and can be used to ensure that elements of accessible design required by law for multifamily covered dwelling units are met.

If followed without deviation, HUD safe harbors ensure compliance with the FHA’s seven design and construction requirements.

The FHA does not establish a single accessibility standard; therefore, it is necessary to understand how compliance can be achieved using the appropriate scoping requirements and technical specifications.

Notes:

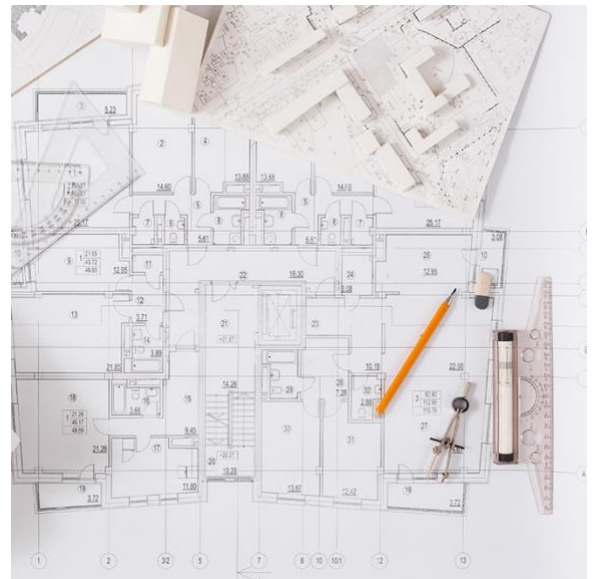
Safe Harbors Overview and the Fair Housing Act Design Manual

Scoping Requirements

The scoping requirements of a safe harbor explain where, when, and to what extent criteria will apply to the built environment of a covered multifamily dwelling unit or site.

The scope indicates the areas where builders and designers must apply the FHA design and construction Guidelines to specific features of covered multifamily dwelling units or sites.

Scoping requirements address the application of a standard to each building and occupancy type; new construction, alterations, temporary facilities, and existing buildings; specific site and building elements; and multiple elements or spaces provided within a site or building.



Technical Specifications

It is important to know that the technical specifications of a safe harbor provide measurements, diagrams, illustrations, examples, and other specialized information that designers and builders must use to plan accessible design elements.

Once builders and designers are provided with the technical specifications, those specifications must be correctly used according to and with the applicable scoping requirements.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Benefits of a Safe Harbor

The safe harbors are safe harbors only when used in their entirety. Once a specific safe harbor document is selected, the building in question must comply with all provisions in the document that address the FHA's design and construction requirements to ensure the full benefit of the safe harbor.

Caution: The benefit of safe harbor status can be lost if a designer or builder selects provisions from more than one of the safe harbor documents, from various sources, or if waivers of provisions are requested and received.



If designers or builders depart from the provisions of a safe harbor document, they bear the burden of demonstrating that the dwelling units nonetheless comply with the Act's design and construction requirements.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 2: Key Takeaways

- A safe harbor is an objective and recognized standard, guideline, or code that, if followed without deviation, ensures compliance with the FHA's seven design and construction requirements.
- The FHA does not establish a single accessibility standard; therefore, it is necessary to understand how compliance can be achieved using the appropriate scoping requirements and technical specifications.
- The scoping requirements of a safe harbor explain where, when, and to what extent criteria will apply to the built environment of a covered multifamily dwelling unit or site.
- The technical specifications of a safe harbor provide measurements, diagrams, illustrations, examples, and other specialized information.
- The benefit of safe harbor status may be lost if a designer or builder selects provisions from more than one of the safe harbor documents, from various sources or if waivers of provisions are requested and received.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 3: Safe Harbor Sources



Safe Harbor Sources

Approved safe harbors are produced by established sources — departments, organizations, and other accessible housing stakeholders involved in the research of model building codes to achieve uniformity in the technical design criteria of building codes and other regulations.

Recognized sources that have produced approved safe harbors include but are not limited to:

- U.S. Department of Housing and Urban Development - HUD
- Fair Housing Act Design Manual - FHADM



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

- HUD Fair Housing Accessibility Guidelines - The Guidelines
- Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines
- American National Standards Institute - ANSI
- Council of American Building Officials - CABO
- International Code Council – ICC

Each of these sources is discussed in this training.

U.S. Department of Housing and Urban Development (HUD)

HUD is one of the primary Federal agencies with the responsibility for enforcing 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 Fair Housing Accessibility Guidelines.

It is essential to remember that the preamble stated that until these Guidelines were published, designers and builders would be guided by the requirements of the American National Standards Institute, or ANSI A117.1, the 1986 version.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

HUD Fair Housing Accessibility Guidelines

On March 6, 1991, HUD published the final version of the Fair Housing Accessibility Guidelines, also referred to as the Guidelines.

It is important to understand that the Guidelines provide both scoping and 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 FHA.
- The scope of the Guidelines apply only to the design and construction requirements of 24 CFR (Code of Federal Regulation) 100.25.
- The Guidelines are included in the Fair Housing Design Manual as Appendix B.

Supplemental Notice to the HUD FHA Accessibility Guidelines



After the publication of the Guidelines, HUD received many questions from members of the public.

On June 28, 1994, HUD published a supplement to the Guidelines, referred to as the Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines.

The Supplemental Notice reproduced the most frequently asked questions and HUD's answers to those questions.

The Supplemental Notice provides ways to apply the technical specifications outlined in the Guidelines.

Notes:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Urban Development



Fair Housing Accessibility Guidelines

Design Guidelines for Accessible/Adaptable Dwellings

Safe Harbors Overview and the Fair Housing Act Design Manual

The question-and-answer format of the Supplemental Notice is divided into two sections.

- **Section One**, Dwellings Subject to the New Construction Requirements of the Fair Housing Act, addresses issues raised in connection with types of covered multifamily dwellings.
- **Section Two**, Accessibility Guidelines, address issues raised in connection with the design and construction requirements of the Guidelines.

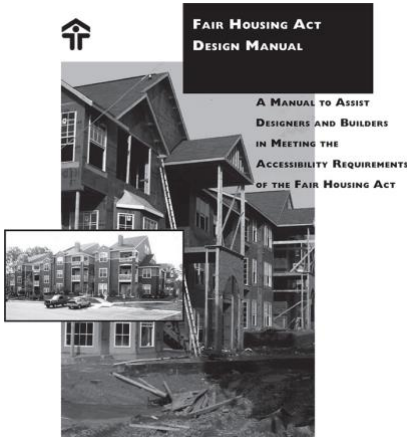
The Supplement is included as Appendix C in the FHADM.



The Fair Housing Act Design Manual

The Fair Housing Act Design Manual (FHADM) was published by HUD, the Office of Fair Housing and Equal Opportunity, and the Office of Housing.

The manual was first published in August 1996 and was updated in 1998.



The republication of the 1998 manual was intended to provide clear and helpful guidance to assist designers, builders, and developers in understanding how to design and construct housing that complies with the Fair Housing Act.

The manual provides comprehensive technical specifications with accompanying diagrams and illustrations that depict information about accessibility requirements that must be incorporated into the design and construction of multifamily housing covered by the Act. The manual carries out two statutory responsibilities:

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

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

The design manual consists of the following 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 and dwellings covered by the FHA, and gives a brief discussion of different types of disabilities.
- **Part Two:** The main content containing 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, which includes 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.



A valuable safe harbor, the FHADM is based on the 1986 ANSI A117.1 Standard and the Guidelines. However, as building codes, safety standards, and accessibility designs change, building professionals have more knowledge to choose the best safe harbor for their projects.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

American National Standards Institute

The American National Standards Institute (ANSI) is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system.

Founded in 1918, the Institute works in close collaboration with stakeholders from industry and government to identify and develop standards and conformance-based solutions to national and global priorities.

ANSI is not itself a standards-developing organization. Instead, the Institute provides a framework for fair standards development and quality conformity assessment systems and continually works to safeguard their integrity.

As a neutral venue for coordinating standards-based solutions, the Institute brings together private and public sector experts and stakeholders to initiate collaborative standardization activities that respond to national priorities.



The level of accessibility required by the Fair Housing Act is relatively high on covered dwelling sites 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.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

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 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.

It is also important to note that the ANSI A117.1 (1986) 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 A117.1 Standards, it is necessary also to consult the Act, HUD's regulations, and the Guidelines for the scoping requirements.



Council of American Building Officials



The Council of American Building Officials (CABO) *Speaker's note - [pronounced Kay-bo] was formed in 1972 as a forum to coordinate the efforts of the three model code organizations at the national level.

The Building Officials and Code Administrators, BOCA, National Codes, published by BOCA.

The Uniform Codes, published by the International Conference of Building Officials, or ICBO.

The Standard Codes, published by Southern Building Code Congress International, or SBCCI.

CABO became the secretariat in 1987.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

International Code Council (ICC)

The International Code Council, or ICC, publishes the International Building Code or IBC. The IBC is a model building code and not a law. It provides minimum standards for public safety, health, and welfare as they are affected by building construction and was formed to bring national uniformity to building codes.

The International Codes (I-Codes), developed by the ICC, is a family of 15 coordinated, modern building safety codes that help ensure the engineering of safe, sustainable, affordable, and resilient structures.

The I-Codes are the most widely accepted, comprehensive set of model codes used in the United States. All 50 states, the District of Columbia, and many other countries have adopted the I-Codes at the state or jurisdictional level.

It is important to note that with the merging of the various code bodies in 1999, the ICC A117.1 Standard is now overseen by the ICC. The IBC has become the predominant code for designing accessible covered multifamily units.

The most recent safe harbors are generally aligned with the current codes (minus any local amendments to the IBC), which may make compliance less complicated by limiting the layers of the requirements.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 3: Key Takeaways

- Approved safe harbors are produced by established sources and stakeholders involved in the research of model building codes and other regulations.
- HUD is one of the primary Federal agencies with the responsibility for enforcing compliance with the Fair Housing Act.
- While HUD developed the Fair Housing Accessibility Guidelines, builders were advised to use the 1986 version of ANSI A117.1.
- The Fair Housing Act Design Manual (FHADM) was published by HUD, the Office of Fair Housing and Equal Opportunity, and the Office of Housing.
- The FHADM provides HUD's technical assistance and interpretation of the FHA's accessibility requirements.
- The Guidelines provide technical guidance on designing dwelling units as required by FHA.
- The Guidelines are not mandatory but are intended to provide a safe harbor for compliance with the accessibility requirements of the FHA.
- The Supplemental Notice reproduced the most frequently asked questions and HUD's answers and provided ways to apply the technical specifications outlined in the Guidelines.
- ANSI is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system.
- ANSI is not a standards-developing organization, but it provides a framework for fair standards development and works to safeguard the standards.
- When using any of the ANSI Standards, it is necessary also to consult the Act, HUD's regulations, and the Guidelines for the scoping requirements.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 3: Key Takeaways (continued)

- The Council of American Building Officials (CABO) was formed in 1972 as a forum to coordinate the efforts of the three model code organizations at the national level.
- CABO became the secretariat for A117.1 in 1987.
- The International Code Council (ICC) publishes the International Building Code (IBC).
- The IBC is a model building code and not a law.
 - It provides minimum standards for public safety, health, and welfare as they are affected by building construction and was formed to bring national uniformity to building codes.
- The International Codes (I-Codes) is a family of 15 coordinated, modern building safety codes that help ensure the engineering of safe, sustainable, affordable, and resilient structures.
- The ICC now oversees the development of the ICC A117.1 Standard.
- The IBC has become the predominant code for designing accessible covered multifamily units.
- The most recent safe harbors are generally aligned with the current codes (minus any local amendments to the IBC), which may make compliance less complicated by limiting the layers of the requirements.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 4: Safe Harbors for Compliance



Safe Harbors for Compliance

Compliance goes beyond the Fair Housing Act and includes complying with the safe harbors. If a company, architect, developer, designer, or others do not comply with the safe harbors, there is a risk of non-compliance with the FHA.

It is vital to note that there are currently 15 HUD approved safe harbors. Ten safe harbors were established before 2021, and five have been added since March 2021. The provisions of these documents are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

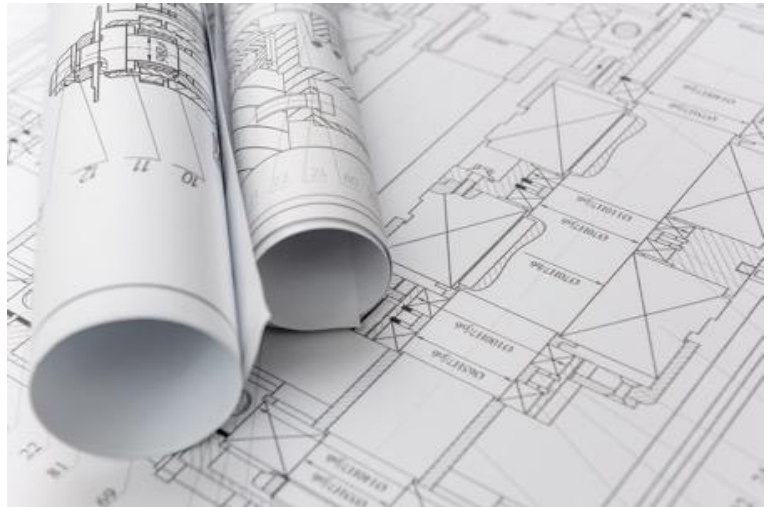


The 10 safe harbors approved before 2021 are:

1. HUD Fair Housing Accessibility Guidelines and the Supplemental Notice
2. ANSI A117.1 (1986), used with the Fair Housing Act, HUD's regulations, and the Guidelines
3. CABO/ANSI A117.1 (1992) used with the Fair Housing Act, HUD's regulations, and the Guidelines
4. ICC/ANSI A117.1 (1998) used with the Fair Housing Act, HUD's regulations, and the Guidelines
5. ICC/ANSI A117.1 (2003) used with the Fair Housing Act, HUD's regulations, and the Guidelines

The following safe harbors provide scope and application specifications and do not require the use of the FHA, HUD's regulations, and the Guidelines.

6. The Fair Housing Act Design Manual (1998)
7. Code Requirements for Housing Accessibility 2000 (ICC/CRHA)
8. IBC 2000 with 2001 Supplement
9. IBC 2003, with one condition*
10. IBC 2006



In response to public comments, the five most recent safe harbor standards went into effect in March 2021.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual



The five most recently approved HUD safe harbors are:

- 1. ICC A117.1-2009 used with the Fair Housing Act, HUD’s regulations, and the Guidelines
- 2. IBC 2009
- 3. IBC 2012
- 4. IBC 2015
- 5. IBC 2018

The four IBCs listed can be used independently since the design specifications of ICC A117.1 – 2009 are referenced in these codes.

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 4: Key Takeaways

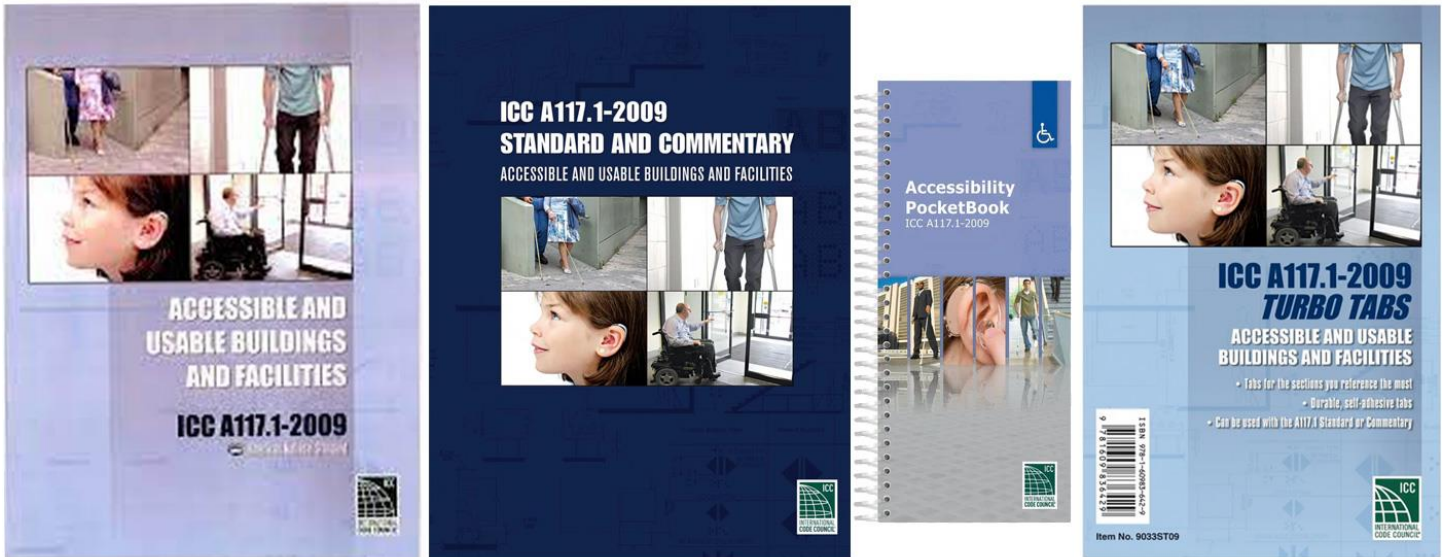
- If a company, architect, developer, designer, or others do not comply with the safe harbors, there is a risk of non-compliance with the FHA.
- There are currently 15 HUD approved safe harbors.
- HUD is responsive to the ideas and concerns of individuals and organizations committed to housing equality.
- The five most recently approved safe harbor standards were enacted in March 2021. These included ICC A117.1-2009 (used with the FHA, HUD's regulations, and the Guidelines), IBC 2009, IBC 2012, IBC 2015, and IBC 2018.
- IBC 2009, IBC 2012, IBC 2015, and IBC 2018 can be used independently since the design specifications of ICC A117.1 – 2009 is referenced in those codes.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 5: ICC A117.1 – 2009



ICC A117.1-2009

Now, let's take a deep dive into ICC A117.1 – 2009, the first of the five most recently approved safe harbors for compliance.

The specifications in the ICC A117.1 – 2009, *Accessible and Usable Buildings and Facilities Standard*, aim to make sites, facilities, buildings, and elements accessible to and usable by persons who may experience:

- Difficulty or inability to walk or reliance on walking and mobility aids
- Blindness and visual impairment



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

- Deafness and hearing impairment
- Challenges in coordination
- Reaching and manipulation disabilities
- Lack of stamina
- Difficulty interpreting and reacting to sensory information
- Extremes of physical size

The intent of the standard is to allow a person with a physical disability to independently get to, enter, and use a site, facility, building, or element.

ICC A117.1 – 2009 includes:



- Coordination of requirements for the three levels of accessibility for types of dwelling and sleeping units required by the building codes as part of their coordination between ADA and FHA requirements.
- Additional technical requirements for Type C (Visitable) units. This is intended for single family dwellings not addressed by federal accessibility requirements and is a choice for designers.
- New chapter for a variety of types of recreational facilities. Special requirements are included for facilities commonly associated with housing such as court sports, swimming pools, exercise rooms and playgrounds.
- The new recreational criteria provide a level of coordination between the accessible provisions of the standard and the revised Americans with Disabilities Act (ADA).

Notes:

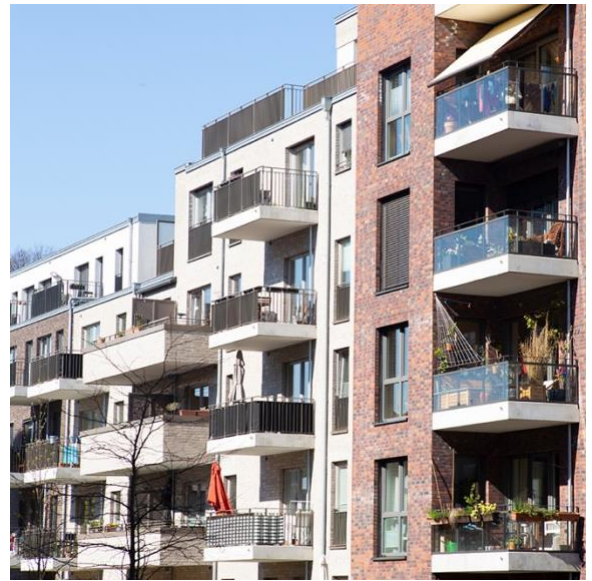
Safe Harbors Overview and the Fair Housing Act Design Manual

ICC A117.1-2009: Types of Dwelling Units

The Code Council representative for the development of ICC A117.1, Kimberly Paarlberg, in her 2018 article, “Alphabet Soup for Dwelling and Sleeping Units,” details the types of dwelling units referenced in ICC A117.1-2009.

She explains that there are four levels of accessibility for dwelling and sleeping units in the technical standard referenced by the IBC. The IBC sets the scope for where these units apply.

While IBC section 1107 contains minimum scoping requirements for the number of Accessible units, Type A units and Type B units as outlined in ICC A117.1-2009, it is important to note that Type B units comply with the minimum requirements of the Fair Housing Act.



The types of units having the most to the least requirements are as follows:

- Accessible units
- Type A units
- Type B units
- Type C units

The FHA typically deals with multifamily housing, such as apartments, condominiums, and townhouses with four or more units.

The 2010 ADA covers residential facilities such as housing at places of education, group homes, halfway houses, shelters, or similar social service centers that provide temporary

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

sleeping accommodations and transient lodging, such as hotels. These federal standards overlap in residential facilities such as student dormitories and nursing homes.

For instance, in a nursing home, 50% of the residents' rooms are required to be Accessible units per the 2010 ADA, and 100% of the residents' rooms are required to be Type B units per the FHA.

ICC A117.1-2009: Accessible Units

Paarlberg further explains that the percentages of Accessible units are based on the 'anticipated need' within different types of facilities. The number of units required depends upon the type of facility where the Accessible unit is located. For transient lodging or hotels, approximately 2% of Accessible units are required. Institutional facilities, e.g., rehabilitation hospitals, may have 100% Accessible units. The percentage for nursing homes is 50%, and hospitals are 10%.

IBC Section 302 lists multiple occupancies that are covered by the IBC, including but not limited to Educational, Residential, Institutional, and Mercantile; for the purpose of this training, our primary focus is institutional and residential occupancy groups outlined in section 1107.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

ICC A117.1-2009: Accessible Units - Technical Differences



Accessible units are constructed for a person using a mobility device to have full access to all living spaces, with a focus on bathrooms and kitchens. The intent is to coordinate with the 2010 ADA Standard for Accessible Design.

Accessible units are constructed fully accessible. An example of the level of accessibility is the doors within the units must be wide enough for a person using a wheelchair to move through the door, as well as have maneuvering space to open the door, easy-to-use lever handles, a smooth surface on the bottom of the push side of the door, and a 5-pound maximum opening force.

ICC A117.1-2009: Type A Units

Type A units are required in apartment buildings with more than 20 units, and at least 2% of those units must have the appropriate level of accessibility. The IBC requirements for Type A units exceed FHA requirements. The 2% is based on the 'anticipated needs' for a higher level of accessibility for some units in these occupancies.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual



ICC A117.1-2009: Type A Units - Technical Differences

The Type A unit provides a level of accessibility between the Accessible and Type B units for wheelchair access.

While many elements, such as doors, are constructed the same as the Accessible units, the intent was to allow some features to be readily adapted and or added based on a resident's needs—such as adding grab bars in the bathroom or being able to remove cabinets from underneath sinks to provide for a front approach.

ICC A117.1-2009: Type B Units

Type B units are required in dwelling units covered by the FHA.

In her article, Paarlberg states that since the IBC interprets a dwelling unit to include independent facilities for cooking, sleeping, living, and sanitation, their interpretation is more along the lines of a dwelling unit being an apartment, townhouse, or single-family home.

To be consistent with the FHA, the scoping provisions in the IBC are applicable for both dwelling and sleeping units. Also, the FHA does not align with the IBC's separation of transient and non-transient being based on a length of stay of 30 days—HUD thought someone might live someplace for a shorter duration than that.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual



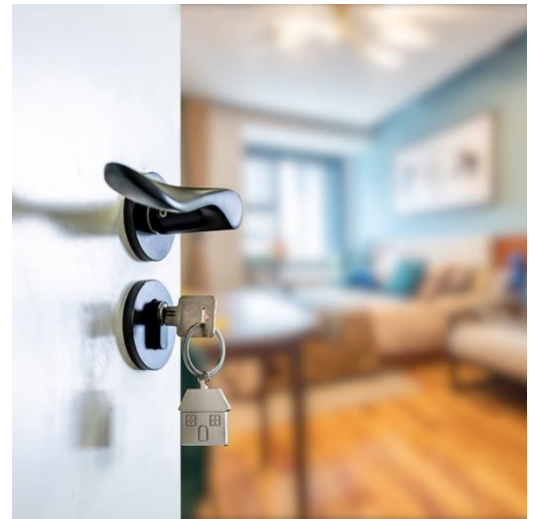
To address this issue, Type B units are required when a unit is intended to be occupied as a residence. HUD also does not recognize firewalls or property lines when determining the number of units, which is why the criteria in IBC refer to Type B units in a “structure” rather than a “building.”

Thus, while Accessible units are always required in a hotel, Type B units are not always required.

ICC A117.1-2009: Type B Units – Technical Differences

It is crucial to note that the Type B dwelling unit is intended to meet or exceed the Guidelines. Type B units are also suitable for aging in place. Type B units increase usability for many people using wheelchairs but are not entirely wheelchair friendly.

For example, the doors within the units are wide enough for a person using a walker or wheelchair to get through the door, but there are no requirements for maneuvering clearances, lever hardware, etc. Only the front door is required to meet the higher accessibility requirements.



ICC A117.1-2009: Type C Units

Type C units are not required by the IBC and are not mandatory for multifamily dwellings. The Type C unit criteria in the ICC A117.1 were established for adoption by individual jurisdictions for a minimum level of accessibility for new single-family homes. How the jurisdiction may choose to do this is based on the building sites in the area and the ‘anticipated need.’

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual



ICC A117.1-2009: Type C Units – Technical Requirements

The “Alphabet Soup for Dwelling and Sleeping Units” article chronicles the fact that Type C units were added to the A117.1 as there was more interest in criteria allowing people to stay in their homes longer. Single family homes and duplexes typically fell below any accessibility requirements scoped in the codes or the Fair Housing Act’s design and construction requirements. The intent of the Type C unit was planning for persons to be able to age-in-place, similar to Type B units. There are some additional allowances, such as the zero-step entry to any door in the unit, not just the front door.

Accessibility and Technical Requirements

Paarlberg’s article, “Alphabet Soup for Dwelling and Sleeping Units,” explains that the Accessible, Type A, and Type B dwelling unit elements are in the same numeric order for ease in comparison. The language is written so that anything permitted in a unit with a higher level of accessibility would be allowed in a unit with a lower level of accessibility.

An example is a Type B unit that could use a lavatory with knee and toe clearance (Accessible unit), a lavatory with a removable cabinet (Type A unit), or a side approach (Type B unit).

ICC A117.1 – 2009, Chapter 10, Accessible unit criteria are listed in Section 1002, Type A criteria in Section 1003, and



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Type B criteria in Section 1004. The technical criteria for Accessible, Type A, and Type B units are in the same numeric order for ease in comparison.

The order of the requirements is as follows:

- 100*.1 Type of unit
- 100*.2 Primary entrance
- 100*.3 Accessible route
- 100*.4 Walking surfaces
- 100*.5 Doors and doorways
- 100*.6 Ramps
- 100*.7 Elevators
- 100*.8 Platform lifts
- 100*.9 Operable parts
- 100*.10 Laundry equipment
- 100*.11 Bathing rooms
- 100*.12 Kitchens
- 100*.13 Windows
- 100*.14 Storage facilities

Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 5: Key Takeaways

- ICC A117.1-2009, Accessible and Usable Buildings and Facilities, specifications allow persons with a physical disability to independently get to, enter, and use a site, facility, building, or element.
- The ICC A117.1-2009 references four levels of accessibility for dwelling and sleeping units: Accessible units, Type A units, Type B units, and Type C units.
- The FHA typically deals with multifamily housing with four or more units.
- The FHA and ADA may overlap in residential facilities such as student dormitories and nursing homes.
- IBC Section 1107 determines the number and type of units required depending upon the facility where units are located.
- The ICC A117.1-2009 is referenced for the 'how to' or technical criteria for the units.
- Accessible units are constructed for a person using a wheelchair to have full access to all living spaces, with a special focus on bathrooms and kitchens.
- Type A units allow some features to be readily adapted and or added based on a resident's needs.
- Type B units are required in dwelling units covered by the FHA and increase usability for many people using wheelchairs.
- Type B units are required when a unit is intended to be 'occupied as a residence'.
- Type B units are intended to meet or exceed the Guidelines.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 5: Key Takeaways (continued)

- Type B units are also suitable for aging in place.
- Type C units are not mandatory for multifamily dwellings.
- When used with the Fair Housing Act, HUD's regulations, and the Guidelines, ICC A117.1-2009 provides a safe harbor for compliance.



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 6: Beyond the Fair Housing Act Design Manual



Beyond the Fair Housing Act Design Manual

Multifamily housing built to comply with the Guidelines is a dramatic improvement over units built in the past. Units currently constructed according to the FHADM provide people with disabilities greater freedom to choose where they will live and greater freedom to visit friends and relatives.

As new safe harbor standards are approved, the impact and influence of HUD's groundbreaking FHADM is more evident. **It is essential to note that the FHADM's format and detailed technical requirements will continue to inform international building standards and new safe harbors for years to come.**



Notes:

Safe Harbors Overview and the Fair Housing Act Design Manual

Topic 6: Key Takeaways

- Units constructed according to the FHADM provide people with disabilities greater freedom to choose where they will live and to visit friends and relatives.
- The FHADM's format and detailed technical requirements will continue to inform international building standards and new safe harbors.



Contacts

The Fair Housing Accessibility FIRST program provides a Design and Construction Resource Center, also known as the DCRC, which is staffed Monday through Friday from 8 AM to 5:30 PM Eastern. You can reach the DCRC toll-free at 888-341-7781.

Or you can reach the DCRC at FairHousingFirst@hud.gov.

You can also subscribe via the website for updates from the Fair Housing Accessibility FIRST program.

Notes:
