



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



The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Participant Workbook



The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Table of Contents

Introduction	1
Purpose.....	1
Technical Guidance.....	1
Additional Training Events	1
Learning Objectives	2
FHA Overview	4
Units Covered by the Fair Housing Act.....	4
Covered Multifamily Dwellings.....	5
Scoping Parameters of the Fair Housing Act – Covered	6
Scoping Parameters of the Fair Housing Act – Not Covered.....	6
Units Not Covered.....	6
Units Not Covered – Exceptions.....	7
Seven Design and Construction Requirements.....	9
Requirements Allow Inclusive Access.....	9
FHA Requirement 1.....	10
Accessible Building Entrance on an Accessible Route.....	10
FHA Requirement 2.....	11
Accessible and Usable Public and Common Use Areas	11
Public and Common Use Areas	12
FHA Requirement 3.....	13
Usable Doors.....	13
FHA Requirement 4.....	14
Accessible Routes Into and Through Each Unit.....	14
FHA Requirement 5.....	15
Controls Must Be In Accessible Locations	15
FHA Requirement 5 – Placement	16
FHA Requirement 6.....	17

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Reinforcements for Bathroom Walls	17
FHA Requirement 7.....	18
Kitchens and Bathrooms Must Be Usable.....	18
General Requirements for Usable Kitchens	18
Clear Floor Space in Kitchens.....	19
Clearance Between Countertops	19
Two Types of Specifications for Bathrooms	20
Bathroom Accessibility Requirements	21
Powder Rooms.....	21
Safe Harbors for Compliance	23
Before 2021 – 10 Safe Harbors for Compliance	24
After 2021 – 5 New Safe Harbors for Compliance.....	24
Safe Harbors Used in this Training	25
Safe Harbors for Compliance	25
Which Law Applies	26
Other FHA Parameters	27
Reasons to Proactively Comply	29
Advantages of Proactive Compliance	29
Filing Complaints.....	30
When Must Complaints be Filed?	30
Strategies for Compliance	32
Resources for Compliance	33
Upcoming Training	35
Next Training	35
Resources	35

The Fair Housing Act’s Accessibility Requirements Overview and Upcoming Training

Additional Training Events	36
Contacts	36

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

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 on-line 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
- Receive updates by following the DCRC on Twitter at [FHAccessibility](#) and on Facebook at [@FHAccessibility](#)
- 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.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Learning Objectives

This training will help to understand the guidance and protections provided by the Fair Housing Act.

During this training we will cover the following topics:

- Topic 1 – Fair Housing Act Overview and Scoping Parameters
- Topic 2 – The Technical Requirements of the Fair Housing Act Accessibility Guidelines
- Topic 3 – Safe Harbors for Compliance
- Topic 4 – Consequences of Non-Compliance
- Topic 5 – Strategies for Compliance
- Topic 6 – Upcoming Training

This training relies on the provisions of the Fair Housing Act and its regulations, the Accessibility Guidelines and the Supplemental Questions and Answers, ANSI A117.1 (1986), and the Design Manual for the guidance that it provides about compliance.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training



Topic 1 – FHA Overview

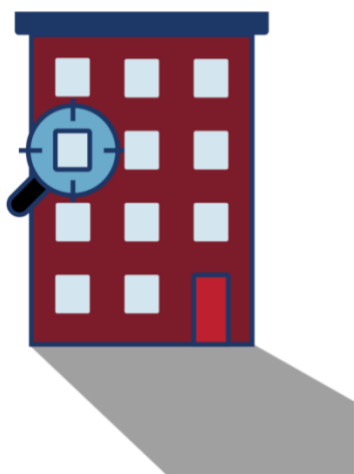
The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Overview

Before we dive deep into the training, there are several definitions that we must discuss. The Fair Housing Act's requirements apply to "covered multifamily dwellings" designed and constructed "for first occupancy" after March 13, 1991.

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

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



Units Covered by the Fair Housing Act

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

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

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

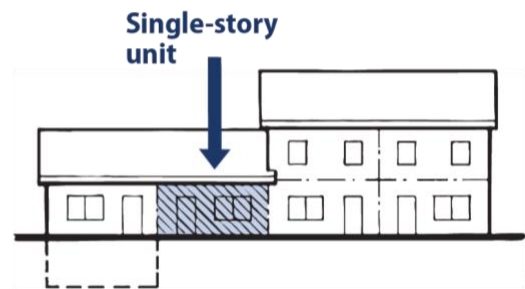
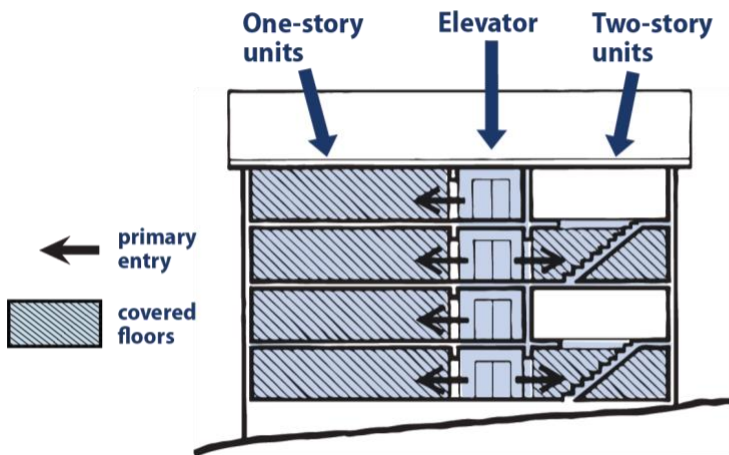
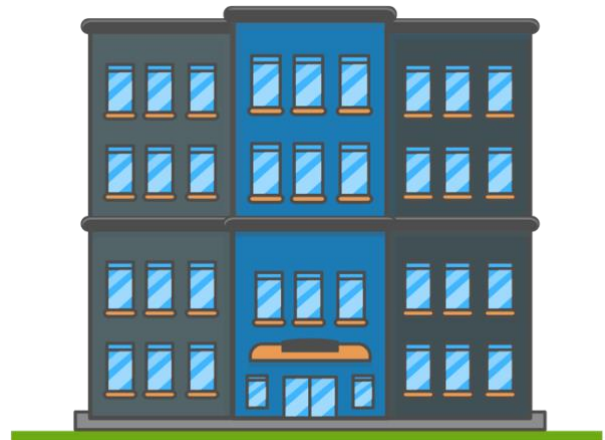
Covered Multifamily Dwellings

Covered multifamily dwellings are:

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

This includes housing that is for rent or sale and applies whether the housing is privately or publicly funded.

Condominiums and apartment buildings are covered by the design and construction requirements. So are time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and others.



Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Scoping Parameters of the Fair Housing Act – Covered

What is covered?

- Constructed for first occupancy after March 13, 1991
- Buildings with four or more units
- In elevator buildings, all units
- In buildings without an elevator, ground floor units



Scoping Parameters of the Fair Housing Act – Not Covered

What is not covered?

- Constructed and occupied before March 13, 1991
- Detached single family houses
- Duplexes or triplexes
- Multistory townhouses

Units Not Covered



There are a few specific types of housing that are not covered by the access requirements of the Fair Housing Act. The best-known exception is multistory townhouses, which is discussed in the preamble to HUD's regulations. Multistory townhouses are not covered because the entire unit is not on the ground floor.

One question that sometimes arises is whether a building with four or more units that contains some multistory townhouses and some flat units is covered by the law. The answer is that if there are four or more units in the building,

the building as a whole is covered. Even if the building includes some multistory townhouses that are not covered, any ground floor single story units in the building are covered.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Units Not Covered – Exceptions

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

- If an interior elevator provides access within an individual multistory townhouse, the townhouse is covered.
- If a multistory townhouse is located in a building that has one or more public elevators, the primary entrance level of a multistory townhouse must be the level served by the elevator, and that level must comply with other Fair Housing Act requirements for access, including providing an accessible bathroom or powder room on that level.



The Fair Housing Act covers all units in buildings with elevators, not just the units on floors served by elevators. This requirement is found in the Guidelines, Requirement 1, para. (3)(a)(1)(ii).

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training



Topic 2 – Seven Requirements of the FHA

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Seven Design and Construction Requirements

The Fair Housing Act's design and construction requirements are broken down into seven basic requirements:

- 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

These requirements provide for a minimal level of accessibility. Congress, when it passed these requirements, said that it intended that the accessibility provisions of the Fair Housing Act would facilitate the ability of persons with disabilities to enjoy full use of their homes without imposing unreasonable requirements on home builders, landlords, and residents without disabilities. Congress stated that compliance with these basic requirements would eliminate many of the barriers that discriminate against persons with disabilities in their attempts to have equal housing opportunities.

Requirements Allow Inclusive Access

The design and construction requirements were developed to provide access for people with different types of disabilities. Although some of the requirements focus on people who use wheelchairs, meeting the requirements will also meet the needs of many other people. People who can benefit from accessible features may include people with arthritis or sports injuries who have difficulty turning or gripping door hardware, people who use crutches, canes, or walkers, and people who because of age or illness have limited mobility or reach ranges, and even people who push strollers, carry groceries, or move furniture. People who have vision or hearing disabilities also benefit from a variety of provisions in the requirements.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 1

1

Accessible building entrance on an accessible route

The first requirement is that all covered multifamily dwellings must have at least one 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, passenger loading zones, or public streets and sidewalks.



Accessible Building Entrance on an Accessible Route

An accessible route may NOT include:

- Steps
- Curbs
- Protruding objects

It is important that access to the accessible route is not blocked.



When entrance paths to multifamily buildings are required to be accessible under Requirement 1, they must connect the building entrance with pedestrian arrival points—in most cases to parking areas.

When accessible paths lead to a parking area there must not be any steps. Curb ramps must be provided or a curbless design may be used to provide access.

An accessible route may require that several elements of accessibility work together to form a continuous, unobstructed path. For example, access aisles for disembarking from vehicles are required to connect to the accessible route and a curb ramp may be necessary to travel from the parking surface level to a sidewalk.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 2

2

Accessible and usable public and common use areas



The second requirement is that 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. They include, for example, building-wide fire alarms, parking lots, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas.

Accessible and Usable Public and Common Use Areas

Requirement 2 states that covered multifamily dwellings with a building entrance on an accessible route be designed in such a manner that the public and common use areas are readily accessible to and usable by people with disabilities.

Public and common use areas must be accessible, and they must be on an accessible route. Public and common use areas include:

- Rental and management offices
- Model units
- Mailbox kiosks
- Swimming pools
- Tennis courts
- Clubhouses
- Garbage dumpsters
- Playgrounds



The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Public and Common Use Areas

Requirement 2 covers many aspects of public and common use areas. It covers not only the required accessible entrance and access to areas within a public and common use area but also addresses a variety of features.

For example, Requirement 2 establishes minimal levels for accessible parking.

For residents:

- A minimum of accessible spaces equaling 2% of the spaces serving covered units and upon request by persons with disabilities.
- If provided, a minimum of one accessible space at each site facility, such as a swimming pool, mail kiosk, clubhouse, recreation facilities, etc.



For visitors (if visitor parking is provided):

- A sufficient number of accessible parking spaces to provide access to grade level entrances of covered multifamily housing.
- A minimum of one accessible parking space at the sales/rental office.

Notes:

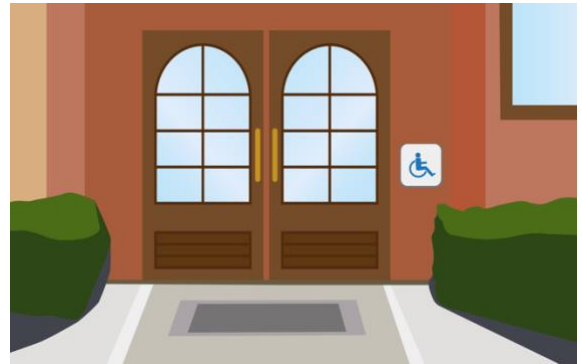
The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 3

3

Usable doors

The third requirement is that all doors that allow passage into and within all premises must be wide enough to allow passage by persons using wheelchairs. *Please note that we will have a training on Requirement 3 on March 21, 2023.*



Usable Doors

Two key standards under Requirement 3 are:

1. Doors that are part of an accessible route in public and common use areas, and that are primary entrance doors to covered dwelling units, must have a 32-inch clear opening.
2. All doors intended for user passage within individual dwelling units must have a clear opening of at least a nominal 32-inches. A nominal 32-inches is at least 31 and 5/8 inches. Most 34-inch doors, hung in a standard manner, provide a nominal 32-inch clear opening.

When a bathroom or other room in a dwelling unit has two passage doors, both must meet the nominal 32-inch requirement.

Many typical 6-foot sliding doors do not offer a nominal 32-inch clear opening.

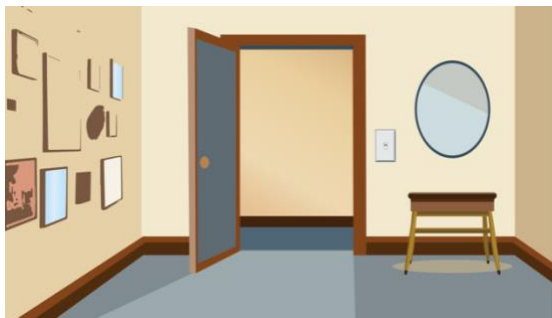


The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 4

4

Accessible routes into and through covered unit



The fourth requirement is that there must be an accessible route into and through each covered unit.

Requirement 4 requires that covered multifamily dwellings with a building entrance on an accessible route must be designed and constructed so that all premises within a covered multifamily dwelling unit have an accessible route into and through the dwelling unit.

Requirement 4 applies to accessible routes that begin at the primary entrance door to a unit and continue through the dwelling unit onto decks, balconies, and patios.

All primary and functional living spaces must be on an accessible route.

Within a covered dwelling unit, the accessible route must be 36-inches wide or wider. However, where accessible routes pass through doors, the width may be reduced to a nominal 32-inch (31 and 5/8 inches).

Accessible Routes Into and Through Each Unit

Under Requirement 4, the Guidelines specify that the primary exterior entrance landing to a ground floor dwelling must be no more than 1/2 inch below the finish floor of the unit if the landing is made of impervious material, like concrete.

At the primary entrance, if the landing is of pervious material (i.e., wood decking), the landing must be flush with the finish floor.

Requirement 4 also provides specifications for exterior door thresholds. Thresholds at primary and secondary entrance doors must:

1. Be no higher than 3/4 inch above finish floor.
2. The vertical level change must be beveled 1:2 or less.



The Guidelines specify that a dwelling may have one area within a room that is either sunken or raised. Only one sunken or raised area is allowed per unit, and it may not interrupt the accessible route through the unit. A bathroom or kitchen may not be located within a raised or sunken area. Lofts are also permitted but may only contain secondary living spaces and must meet the same specifications as raised or sunken areas.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 5

5

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

The fifth requirement is that light switches, electrical outlets, thermostats, and other environmental controls must be in accessible locations. *Please note that we will have a training on Requirement 5 on April 4, 2023.*



Controls Must Be In Accessible Locations

Electrical and environmental controls must be within the reach of people with disabilities. Covered controls include electrical outlets, light switches, and thermostats.

Not covered under this requirement are:

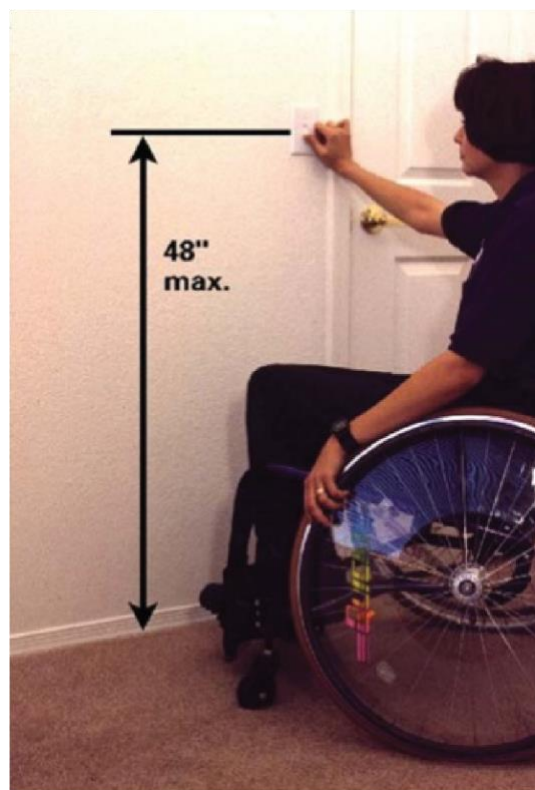
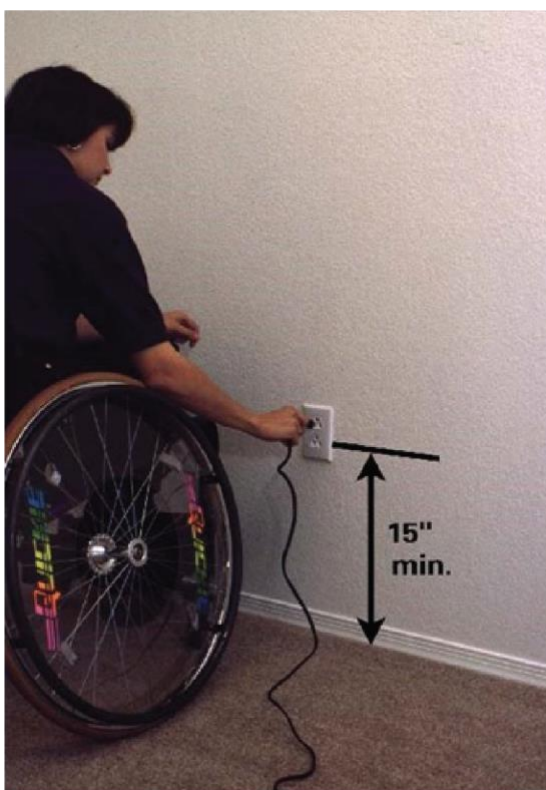
- Controls on movable appliances like stoves
- Controls on range hoods
- Controls for garbage disposals
- Special use wall outlets like those designed exclusively for refrigerators and stoves
- Circuit breaker panels
- Telephone and television jacks

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 5 – Placement

The Guidelines require that outlets be placed no lower than 15-inches above the finished floor. When a typical duplex outlet is used both receptacles must be 15-inches or higher above the floor. Switches and thermostats not located over countertops or other obstructions must be no higher than 48-inches above finish floor. This height applies regardless of if the position of a wheelchair can make a parallel or forward approach.



The Guidelines provide several allowable heights for controls depending on whether they are located over an obstruction with or without knee space. Although not required, compliance is greatly simplified by adopting a single height of maximum 44-inches for the higher limit for locations of switches, thermostats, and outlets located over obstructions.

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 6

6

Reinforced walls in bathrooms for later installation of grab bars



The sixth requirement covers reinforcements in bathroom walls so that grab bars can be added when needed. The law does not require the installation of grab bars in bathrooms. *Please note that we will have a training on Requirement 6 on March 14, 2023.*

Reinforcements for Bathroom Walls

Reinforcements are required where the grab bars will be placed around toilets, tubs, or showers. Reinforcements are not required in powder rooms unless it is the only toilet facility on the entry level of a multistory dwelling unit in an elevator building.

The Guidelines provide detailed diagrams showing the minimum areas for reinforcements at toilets, bathtubs, and showers where grab bar reinforcing must be placed.



For instance, at toilets that are located between a lavatory and a bathtub, reinforcing for grab bars must be placed in the walls behind and to the side of the toilet even if the back or side wall is only a short wall. This reinforcement is necessary for the future installation of a fold-down bar or a wall to floor bar.



Likewise, at bathtubs, the Guidelines specify locations for grab bar reinforcing along both end walls and the back wall.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

FHA Requirement 7

7

Usable kitchens and bathrooms

The seventh requirement is that kitchens and bathrooms must be usable – that is, designed and constructed so an individual in a wheelchair can maneuver in the space provided. *Please note that we will have a training on Requirement 7: Kitchens on February 28, 2023, and a training on Requirement 7: Bathrooms on August 15, 2023.*



Kitchens and Bathrooms Must Be Usable

Kitchens and bathrooms must be designed and constructed so a person in a wheelchair can maneuver about the space and use fixtures and appliances. The Guidelines provide specifications for kitchens and baths which, when applied, provide a minimum level of accessibility.

General Requirements for Usable Kitchens

There are three general requirements to create usable kitchens:

- Clear floor space of 30-inches by 48-inches at appliances and sinks
- A minimum clearance of 40-inches must be provided between all opposing countertops, appliances, or walls
- Turning and clearance requirements in U-shaped kitchens

In U-shaped kitchens where a sink, range, or cooktop is located at the base of the “U”, there must be a minimum 60-inch diameter maneuvering space to allow a person using a wheelchair or scooter to maneuver and make a parallel approach to the sink, range, or cooktop.

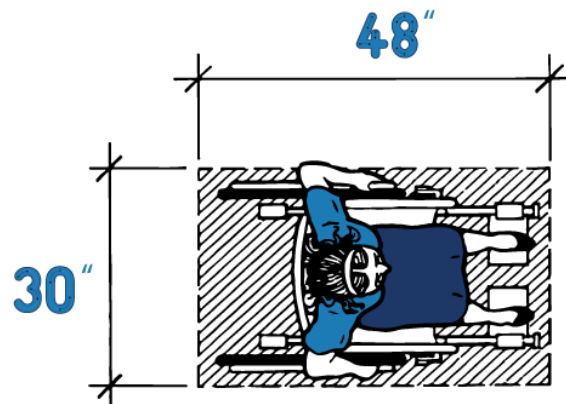
Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Clear Floor Space in Kitchens

A basic building block used in the Guidelines is a clear floor space of 30-inches by 48-inches. This is the standard in ANSI and other accessibility standards.

This 30-inch by 48-inch area is the approximate space occupied by an average sized adult in a conventional wheelchair.

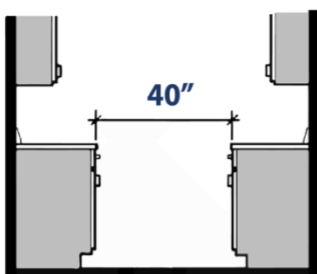


Clearance Between Countertops

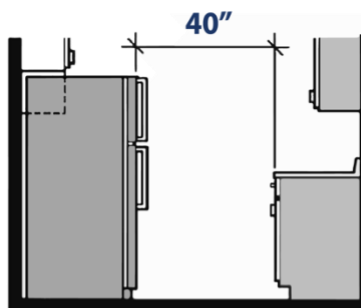
A minimum clearance of 40-inches must be provided between all opposing cabinets, countertops, appliances, or walls. Handles of appliances may overlap into the clearance area.

If there is a cabinet without a countertop, such as a full-length pantry cabinet, clearance must be provided between the face of the cabinet and the opposing countertop, appliance, or wall.

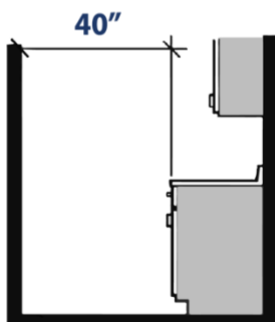
Clearance between countertops is covered in the questions and answers on the FHA First website.



Between Countertops



**Between Appliances
and Countertops**



**Between Walls and
Countertops**

40"
**Minimum Between
Countertops, Appliances
and Walls**

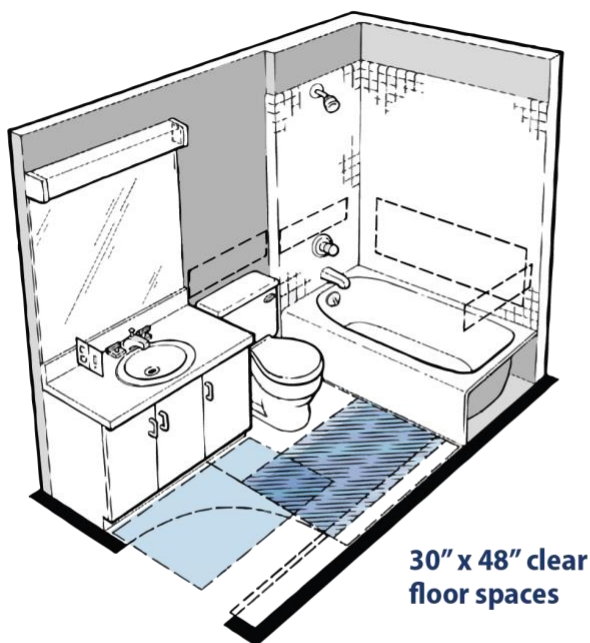
The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Two Types of Specifications for Bathrooms

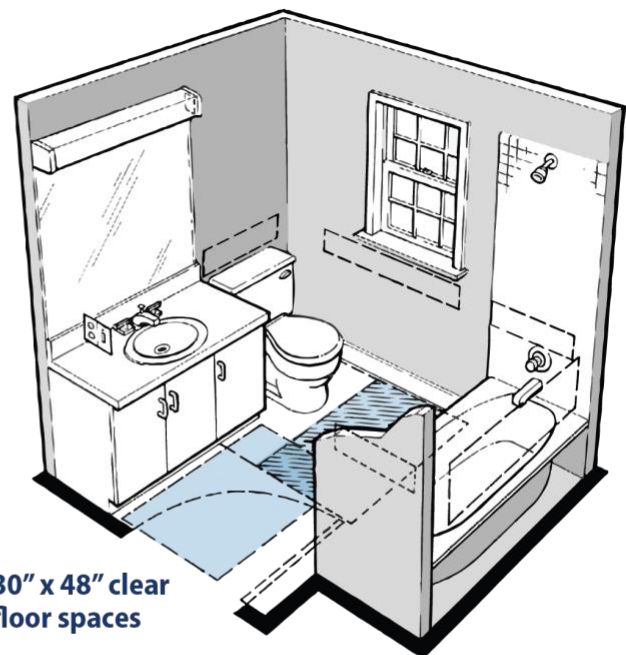
To satisfy maneuvering and clear floor space requirements, the Guidelines provide two sets of specifications for bathroom design.

Some of the key differences between the specifications:

- **“Specification A”** is slightly less accessible. In Specification A bathrooms, where multiple fixtures are provided, all must be usable and meet clearance requirements.
- **“Specification B”** provides slightly more accessibility due to greater accessibility required at the bathtub but applies to only one bathroom in a unit. In Specification B bathrooms, where multiple fixture types are provided, only one of each type is required to be usable and meet clearance requirements.



**Example
Specification A
Bathroom**



**Example
Specification B
Bathroom**

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Bathroom Accessibility Requirements

All bathrooms must:

- Be on an accessible route (Requirement 4).
- Have doors with a nominal 32-inch clear opening (Requirement 3).
- Have receptacles, switches, outlets, and environmental controls in usable locations (Requirement 5).
- Have reinforced walls around toilets, bathtubs, and shower stalls for grab bars (Requirement 6).
- Meet Requirement 7, Specification A or B.



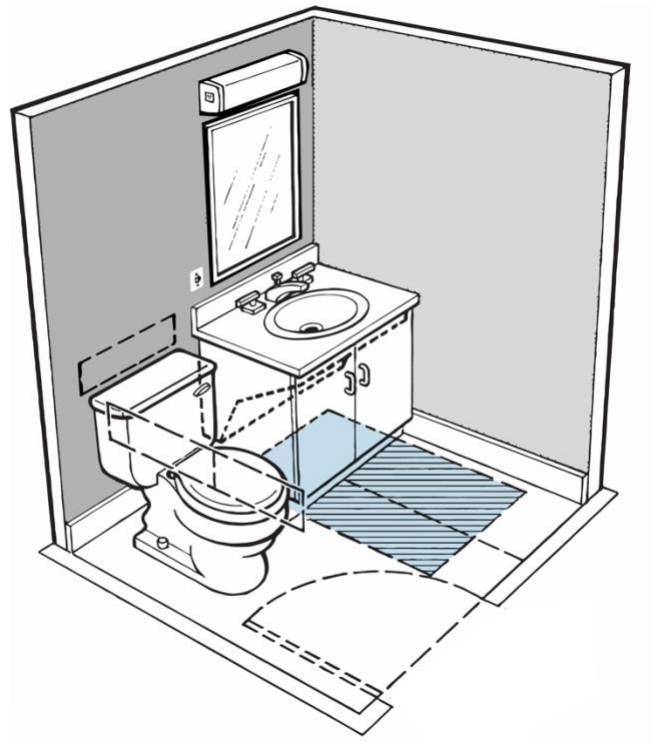
Powder Rooms

Powder rooms must:

- Be on an accessible route (Requirement 4).
- Have doors with a nominal 32" clear opening (Requirement 3).
- Have receptacles, switches, outlets, and environmental controls in usable locations (Requirement 5).

There is an exception:

When the powder room is the only toilet facility on the entry level of a multistory unit in a building with one or more elevators, it must, in addition to Requirements 3, 4, and 5, meet the reinforcing specifications of Requirement 6 and the maneuvering and clear floor specifications of Requirement 7.



The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training



Topic 3 – Safe Harbors

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

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.

There are currently 15 safe harbors, 10 were established before 2021, and 5 were added in 2021. The guidelines of these documents are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.

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



The benefit of safe harbor status may be lost if, for example, a designer or builder chooses to select provisions from more than one of the safe harbor documents, from a variety of sources, or if waivers of provisions are requested and received. If it is shown that the designers and builders departed 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:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Before 2021 – 10 Safe Harbors for Compliance

The FHA does not contain specific technical design criteria that need to be followed to comply with the design and construction requirements. On November 7, 1988, HUD published a proposed rule to implement the design and construction provisions of the FHA, as amended. HUD's Fair Housing Act final rule, published on January 23, 1989, specifically stated that compliance with the appropriate requirements of ANSI (A 117.1), –1986, the edition in effect at the time of the final rule, functions as a safe harbor and satisfies the technical requirements of the Act. HUD also stated that it would propose amending the definition of ANSI as future editions of ANSI A 117.1, are published.



Before 2021, ten HUD-approved safe harbors existed for FHA compliance. These included:

1. HUD Fair Housing Accessibility Guidelines and the Supplemental Notice
2. ANSI A 117.1, (1986), used with the FHA, HUD's regulations, and the Guidelines
3. CABO/ANSI A 117.1, (1992) used with the FHA, HUD's regulations, and the Guidelines
4. ICC/ANSI A 117.1, (1998) used with the FHA, HUD's regulations, and the Guidelines
5. ICC/ANSI A 117.1, (2003) used with 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. International Building Code 2000 with 2001 Supplement
9. International Building Code 2003, with one condition*
10. International Building Code 2006

After 2021 – 5 New Safe Harbors for Compliance

The new safe harbor rule went into effect in March 2021. These included:

1. ANSI A 117.1, -2009
2. IBC 2009
3. IBC 2012
4. IBC 2015
5. IBC 2018

HUD recognizes a variety of safe harbors to meet FHA regulations to provide a range of options that—if followed in their entirety without modification or waiver—will keep residential buildings compliant with the FHA.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

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

Please note that we are hosting safe harbor training beginning in June 2023.

Safe Harbors Used in this Training



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

Safe Harbors for Compliance



Caution: *Safe harbor standards constitute safe harbors only when adopted and implemented in accordance with the policy statement that HUD published in the Federal Register on March 23, 2000.*

If a jurisdiction adopts a model building code that HUD has determined conforms with the design and construction requirements of the Act:

- Covered residential buildings that are constructed in accordance with plans and specifications approved during the building permitting process will comply with the requirements of the Act
- unless the building code official has waived one or more of those requirements

OR

- the building code official has incorrectly interpreted or applied the building code provisions.

In addition, adoption of a HUD recognized safe harbor does not change HUD's responsibility to investigate if it receives a complaint.

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Which Law Applies

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



This principle bears repeating. Any particular property may be covered by a state or local code, a state or local fair housing law, and one or more federal laws. When this happens, all applicable federal law requirements must be followed as well as state or local codes.

Individuals involved in the design and construction of housing must evaluate which federal accessibility laws apply to the housing and make sure that the housing meets all applicable requirements. If more than one law applies, then all the laws must be applied, and the provisions which require the most accessibility will prevail.

For example, an apartment complex may be built in a state where the building code requires 10% of all units to meet state code standards for accessibility. However, 50% of the total units may be ground floor units that must comply with the FHA's requirements. In such a situation, both laws must be applied. If both access laws apply to a specific feature, the law requiring the most access will prevail.

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Other FHA Parameters

The FHA also prohibits other forms of housing discrimination based on disability:

- By failing or refusing to provide reasonable accommodations (FHADM p.5).
- By failing or refusing to permit reasonable modification to existing properties.
- By treating a person who has a disability differently or adversely because of the disability.
- By coercing, intimidating, or retaliating against a person because of the exercise of protected rights.



Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training



Topic 4 – Reasons to Proactively Comply

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Reasons to Proactively Comply

There are many reasons to proactively comply with the Fair Housing Act. Some of those reasons include:

- Liability for violations can be broad and penalties may include:
 - Compensatory damages to victims of discrimination
 - Punitive damages to victims
 - Civil penalties to the government
- The cost of correcting violations is high. Correcting violations after a property has already been constructed increases costs, delays occupancy, and costs money.
- Enforcement can require full retrofitting. In design and construction cases, remedies also may require retrofitting housing that has already been constructed to make it comply with the Act's design and construction requirements.
- Non-compliance can come up in due diligence reviews. Due diligence reviews may show non-compliance and future loans and purchases of properties can be adversely affected.
- Individuals will have their rights denied. Congress required access in new housing as a civil right and the FHA is designed to protect those rights.



Advantages of Proactive Compliance

Skillful integration of the seven requirements into the design of housing covered by the FHA can produce attractive, highly marketable units that offer functional advantages to everyone, not just people with disabilities.

The advantages of proactive compliance include:

- The aging of America means that there is an increased market for accessible housing.
- 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.
- Proactive compliance addressing FHA technical requirements leads to better housing products that will work for more potential renters and owners.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Filing Complaints

If you believe your rights may have been violated, you are encouraged to submit a complaint with the Office of Fair Housing and Equal Opportunity, or FHEO.

When submitting a complaint, you will be asked to provide your name and address; the name and address of the person(s) or organization your complaint is against; the address or other identification of the housing or program involved; a short description of the event(s) that cause you to believe your rights were violated; and the date(s) of the alleged violation.



When Must Complaints be Filed?

There are time limits on when a complaint can be filed with HUD after an alleged violation; therefore, you should submit a complaint as soon as possible.

180 Days	State or local agency complaint
1 Year	Fair Housing Act complaint with HUD
2 Years	Private Fair Housing Act lawsuit
No Limit	DOJ pattern and practice lawsuit

- A complaint concerning a state or local agency must be filed within **180 days**.
- An FHA complaint with HUD must be filed within **one year**.
- A private FHA lawsuit must be filed within **two years**.
- A Department of Justice (DOJ) pattern and practice lawsuit has no filing limitation.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training



Topic 5 – Strategies for Compliance

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Strategies for Compliance

There are some important ways to avoid design and construction pitfalls:

- Identify the obligation to comply with the Fair Housing Act's design and construction requirements early in the process and incorporate them into pre-plan activities.
- Assign responsibility for compliance and require all of the players — whether engineers, architects, builders, or designers — to be aware of and responsive to their obligations.
- Monitor each stage of the planning, development, and construction of the property for compliance. Ask the hard questions.
- Assure that training and education necessary to understand all requirements is part of all agency functions.
- Get help when help is needed.
- Don't count on state or local code compliance.
- Correct problems promptly.
- Remember the consequences.



Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Resources for Compliance

HUD provides design and construction resources to assist architects, builders, code officials, and others with successfully meeting the accessibility requirements for covered units in multifamily housing.

The Fair Housing Accessibility FIRST website includes resources related to:

Design and Construction Resource Center (DCRC)

- Call 888-341-7781
- Email fairhousingfirst@hud.gov

Fair Housing Act Design Manual

- Access <https://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>

Laws

- Get informed on the legal issues surrounding accessibility requirements and standards.

Court Cases

- Learn about key issues in design and construction cases and download PDF files of various district court cases.

Links

- Select a listing of numerous other resources addressing fair housing accessibility issues.

Subscription

- Join the Fair Housing Accessibility FIRST Updates Mailing List to be notified when there are new materials, events, and more.

Notes:

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training



Topic 6 – Upcoming Training

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Upcoming Training

Between February and August of 2023, we will be hosting a variety of training events. These include:

Title	Date	Times (Eastern)
Requirement 7: Kitchens	February 28, 2023	10 AM & 2 PM
Requirement 6: Reinforced Walls for Grab Bars	March 14, 2023	10 AM & 2 PM
Requirement 3: Usable Doors	March 21, 2023	10 AM & 2 PM
Requirement 5: Controls in Accessible Locations	April 4, 2023	10 AM & 2 PM
The Design and Construction Requirements of the FHA: Technical Overview Part 1	April 18, 2023	10 AM & 2 PM
The Design and Construction Requirements of the FHA: Technical Overview Part 2	April 25, 2023	10 AM & 2 PM
Fair Housing Act Enforcement	May 9, 2023	10 AM & 2 PM
Common Violations or Problems	May 23, 2023	10 AM & 2 PM
Requirement 7: Bathrooms	June 6, 2023	10 AM & 2 PM
Accessible Areas	June 20, 2023	10 AM & 2 PM
Modifications & Accommodations	June 27, 2023	10 AM & 2 PM
Accessible Areas – Parking	July 11, 2023	10 AM & 2 PM
Safe Harbors Overview & Fair Housing Act Design Manual	August 1, 2023	10 AM & 2 PM

Next Training

As a reminder, the next training is on February 28, 2023, we will be presenting Requirement 7: Kitchens. You can register for the event by going to the Training Calendar on the Fair Housing Accessibility FIRST website.

Resources

This presentation was created utilizing the Fair Housing Act Design Manual. We have provided a link to the manual on the screen. You can also find this in the handouts section of the GoToWebinar Platform. We will be posting this training to the Fair Housing Accessibility FIRST website within the next few months.

The Fair Housing Act's Accessibility Requirements Overview and Upcoming Training

Additional Training Events

You can register for events by going to the Training Calendar on the Fair Housing Accessibility FIRST website:

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

Contacts

Please contact us with further questions via the Design and Construction Resource Center (DCRC) by calling 888-341-7781 or by emailing us at fairhousingfirst@hud.gov.