US Department of Housing and Urban Development’s

Office of Residential Care Facilities (ORCF)

**Accessibility Matrix for Section 232**

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|  | **Fair Housing Amendments Act (FHAA)** | **Uniform Federal Accessibility Standards (UFAS) and Section 504** | Americans with Disabilities Act (ADA) |
| **Purchase/Refinance:**  Skilled Nursing and Intermediate Care  Assisted Living and Board & Care | Facility must comply with the Fair Housing Act’s design and construction requirements if the facility has four or more dwelling units or sleeping areas, and it was first occupied after March 13, 1991. (See Note 1)  Repairs are required if the facility is not fully compliant with standards.  If repairs are required, and they affect health and/or safety, they are considered Critical Repairs and must be completed prior to Closing. All other repairs must be completed within 12-months of Closing. (See Note 3) | UFAS is applicable for all existing HUD Section 232 New Construction projects, and existing HUD Section 232 Substantial Rehabilitation projects (but only those elements that underwent alteration), that Initially Closed with HUD after July 11, 1988. (See Note 2)  Repairs are required if the facility is not fully compliant with standards.  If repairs are required, and they affect health and/or safety, they are considered Critical Repairs and must be completed prior to Closing. All other repairs must be completed within 12-months of Closing. (See Note 3)  In addition, all alterations (required or Owner initiated) that change an existing floor plan shall also follow the “New Construction: Skilled Nursing and Intermediate Care,” or “New Construction: Assisted Living and Board & Care,” standards below.  HUD encourages all conventionally financed projects that are not required to have a certain percentage of accessible units either as a program requirement or when subject to Section 504, to make at least 5% of the units, but not less than 1 unit, accessible for persons with mobility impairments, plus an additional 2% of the units, but not less than 1 unit, accessible for persons with hearing and vision impairments.  Section 504 and HUD’s Section 504 regulations apply if there is Federal financial assistance. (See Note 4) | All places of public accommodation and commercial facilities designed and constructed for first occupancy after January 26, 1993, are covered by the new construction requirements in Title III of the ADA. Alterations to any place of public accommodation are required to comply with ADA requirements if made after January 26, 1992. Public accommodations must also remove architectural barriers in any existing facilities where such removal is readily achievable. (See Note 6)  Repairs are required if the facility is not fully compliant with standards.  If repairs are required, and they affect health and/or safety, they are considered Critical Repairs and must be completed prior to Closing. All other repairs must be completed within 12-months of Closing. (See Note 3) |

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|  | **Fair Housing Amendments Act (FHAA)** | **Uniform Federal Accessibility Standards (UFAS) and Section 504** | **Americans with Disabilities Act (ADA)** |
| **New Construction:**  Skilled Nursing and Intermediate Care | Facility must comply with the Fair Housing Act’s design and construction requirements. Note that greater accessibility may be required by UFAS or ADA. | Accessibility for persons with mobility impairments must be provided for 100% of resident bedrooms and toilet rooms, public use spaces, and common use spaces; accessibility for persons with vision and hearing impairments must be provided for 2% of the resident bedrooms but not less than 1 unit, all public use facilities, and not less than one each of common use facilities.  Section 504 and HUD’s Section 504 regulations apply if there is Federal financial assistance. (See Note 4) | Facility must comply with applicable Title III ADA requirements if designed and constructed for first occupancy after January 26, 1993. (See Note 6) |
| **New Construction:**  Assisted Living and Board & Care | Accessibility for persons with mobility impairments must be provided for 100% of the public areas, common use areas, and residential accommodations (see exceptions regarding residential accommodation kitchens); plus accessibility for persons with vision and hearing impairments must be provided for 2% of the resident bedrooms but not less than 1 unit, all public use facilities, and not less than one each of common use facilities. (See Note 5)  HUD recognizes the concept of “adaptability” as described in HUD’s Section 504 regulations at 24 CFR 8.3, and UFAS Section 4.34.3.  Section 504 and HUD’s Section 504 regulations apply if there is Federal financial assistance. (See Note 4) |

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|  | **Fair Housing Amendments Act (FHAA)** | **Uniform Federal Accessibility Standards (UFAS) and Section 504** | **Americans with Disabilities Act (ADA)** |
| **Substantial Rehabilitation:**  Skilled Nursing and Intermediate Care  Assisted Living and Board & Care | Applicable if facility was constructed for first occupancy after March 13, 1991. (See Note 1)  Note: if constructed for first occupancy before March 13, 1991 and the rehabilitation involves the addition of four or more new dwelling units or sleeping areas, those new units or sleeping areas must comply with the Act’s design and construction requirements.  If the facility is not in compliance with standards, all modifications/retrofits shall be incorporated into the Scope of Work. | All new construction shall follow the “New Construction: Skilled Nursing and Intermediate Care,” or “New Construction: Assisted Living and Board & Care,” standards above.  In addition, all alterations that change an existing floor plan shall also follow the “New Construction: Skilled Nursing and Intermediate Care,” or “New Construction: Assisted Living and Board & Care,” standards above.  If the cost of alterations is 75% or more of the replacement cost of the completed facility, then at least 5% of the existing units, but not less than 1 unit, must be made accessible for persons with mobility impairments, plus an additional 2% of the existing units, but not less than 1 unit, must be made accessible for persons with hearing and vision impairments.  Section 504 and HUD’s Section 504 regulations apply if there is Federal financial assistance. (See Note 4) | Any alteration to a place of public accommodation or a commercial facility, after January 26, 1992, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities.  (See Note 6)  If the property is not in compliance with standards, all modifications/retrofits shall be incorporated into the Scope of Work. |

**Web Links:**

Fair Housing Accessibility Guidelines <http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/fhefhag>

Uniform Federal Accessibility Standards <http://www.access-board.gov/ufas/ufas-html/ufas.htm>

Americans with Disabilities Act <http://www.ada.gov/cguide.htm#anchor62335>

**General Note**: Functional obsolescence and marketability must always be considered, even if none of the above accessibility standards are required.

**End Notes**

1. The Fair Housing Act’s design and construction requirements apply to multifamily dwellings containing four or more units or sleeping areas. 42 U.S.C. § 3604(f)(3)(C), (f)(7). In addition to Assisted Living and Board &Care facilities, Skilled Nursing and Intermediate Care facilities are dwellings required to comply with these accessibility requirements if first occupied after March 13, 1991. See 65 Fed. Reg. 15740, 15745 (Mar. 23, 2000) for further references. Also, see 24 C.F.R. § 100.205 for information on what “first occupancy” means for determining applicability of the design and construction requirements.
2. Requiring units in certain types of Section 232 projects to be accessible in accordance with UFAS is a program requirement (as described above). See, “Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work, LEAN Section 232 – New Construction, Substantial Rehabilitation, and 241(a),” Section IV.A.c.
3. Accessibility violations must be corrected as a condition of mortgage insurance. These modifications/retrofits must meet the following conditions:

* Public and Common Use Areas. Except in extraordinary circumstances, modifications/retrofits of the public and common use areas of the project must commence within thirty days after the Initial/Final Closing date.
* Residential Units. Modifications/retrofits for individual units in the project must commence within sixty days after the Initial/Final Closing date.
* In all cases, once these modifications/retrofits are begun, the work shall be completed without delay.

1. Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to recipients of Federal financial assistance. Federal financial assistance is broadly defined to include any assistance provided or otherwise made available by the Department through any grant, loan, contract or any other arrangement, in the form of funds; services of Federal personnel; or real or personal property or any interest in the use of such property. Federal financial assistance includes community development funds in the form of proceeds from loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended, but does not include assistance made available through direct Federal procurement contracts or payments made under these contracts or any other contract of insurance or guaranty. 24 CFR § 8.3. Section 504 and HUD’s Section 504 regulations at 24 CFR part 8 would be applicable to Section 232 projects if there was also Federal financial assistance in the project. Medicaid and Medicare reimbursements are not considered Federal financial assistance when determining accessibility compliance in HUD-assisted programs.
2. See, “Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work, LEAN Section 232 – New Construction, Substantial Rehabilitation, and 241(a),” Section IV.A.1.c.(3)(a), for details regarding exceptions to residential accommodation kitchens.
3. An existing facility is any facility that is in existence, regardless of when built. In addition, facilities may also be covered by Title II of the ADA, which governs public entities, including facilities built by or on behalf of public entities and facilities that are part of a public entity’s programs, services, or activities, such as a program to finance the construction of affordable housing. Title II of the ADA imposes design and construction requirements on covered facilities constructed for first occupancy after January 26, 1992; requires alterations to any covered facility to be accessible if made after January 26, 1992; and requires program access in existing facilities. Existing facilities are any facilities in existence, regardless of when built. Public entities are defined as state and local government entities. For more information, see the ADA regulations at 28 CFR part 35 (Title II) and 28 CFR part 36 (Title III), <http://www.ada.gov/regs2010/ADAregs2010.htm>, and the Department of Justice’s 2010 ADA Standards for Accessible Design applicable under Title II of the ADA, <http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm#titleII>, and 2010 ADA Standards for Accessible Design applicable under Title III of the ADA, <http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm#titleIII>. PDF and printable versions of the 2010 Standards are available at <http://www.ada.gov/2010ADAstandards_index.htm>.