
1. What are the Fair Housing Act's requirements for housing to be accessible?

The Fair Housing Act requires all "covered multifamily dwellings" designed and constructed for first occupancy after March 13, 1991 to be accessible to and usable by people with disabilities. Covered multifamily dwellings are all dwelling units in buildings containing four or more units with one or more elevators, and all ground floor units in buildings containing four or more units, without an elevator. Federal regulations adopted by the Department of Housing and Urban Development at [24 CFR 100.201](#) define covered multi-family dwellings.

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2. Where can I find the accessibility standards for dwelling units required to be accessible under the Fair Housing Act's design and construction requirements?

The Fair Housing Act requires seven basic requirements that must be met to comply with the access requirements of the Act. Those Requirements are:

- Requirement 1. An accessible building entrance on an accessible route.
- Requirement 2. Accessible common and public use areas.
- Requirement 3. Usable doors (usable by a person in a wheelchair).
- Requirement 4. Accessible route into and through the dwelling unit.
- Requirement 5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
- Requirement 6. Reinforced walls in bathrooms for later installation of grab bars.
- Requirement 7. Usable kitchens and bathrooms.

These requirements are stated in the [Fair Housing Act, as amended, 42 U.S.C. 3604\(f\)\(3\)\(C\)](#). To describe these requirements in more detail, HUD published [Fair Housing Accessibility Guidelines \(the Guidelines\)](#) on March 6, 1991, and supplemented those [Guidelines with a Supplemental Notice: Questions and Answers About the Guidelines](#) published on June 28, 1994. The Guidelines are one of seven safe harbors for compliance that HUD has identified.

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3. What are the seven "safe harbors" for compliance with the Fair Housing Act and where I can I find them?

HUD recognizes seven safe harbors for compliance with the Fair Housing Act's design and construction requirements. They are:

1. [HUD Fair Housing Accessibility Guidelines](#) published on March 6, 1991 and the [Supplemental Notice to Fair Housing Accessibility Guidelines Questions and Answers about the Guidelines](#), published on June 28, 1994.
2. [HUD Fair Housing Act Design Manual](#)
3. [ANSI A117.1 \(1986\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#).
4. [CABO/ANSI A117.1 \(1992\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#).
5. [ICC/ANSI A117.1 \(1998\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#).
6. [Code Requirements for Housing Accessibility 2000 \(CRHA\)](#).
7. [International Building Code 2000](#) as amended by the 2001 Supplement to the International Codes.

HUD's adoption of these standards is found in the [Preamble to the Fair Housing Act Design Manual \(1998\)](#). Information about how to get copies of the above standards is found elsewhere on this website.

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4. Why are there so many new townhouse developments that have more than one level and that

aren't accessible? Doesn't the Fair Housing Act's design and construction requirements prohibit them?

The Fair Housing Act's design and construction requirements do not cover multistory townhouses--units that have two, three, or even four stories--unless the building has an elevator. There is a discussion of townhouses in the preamble to the Guidelines under "Section 2-Definitions [Covered Multifamily Dwellings]" at 56 FR 9472, 9481, March 6, 1991. A copy of the preamble to the Guidelines is contained in the [Fair Housing Act Design Manual in Appendix B](#).

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5. Does the Fair Housing Act require any minimum number of accessible dwelling units?

No, the Fair Housing Act's design and construction requirements do not require a minimum number of accessible dwelling units. If a building with four or more units that does not have an elevator is covered, all (100%) of the ground floor units must be accessible, and if the building has an elevator, all (100%) of the units in the building must be accessible. Other federal, state or local codes sometimes require a specified number of units to be accessible.

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6. Do the Fair Housing Act's design and construction requirements require fully accessible units?

No, the Fair Housing Act does not require fully accessible units. Although the requirements apply to a broad number of dwelling units, the Act's design and construction requirements are modest and result in units that do not look different from traditional units but can be easily adapted by people with disabilities who require features of accessibility not required by the [Fair Housing Act](#).

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7. Under the Fair Housing Act's design and construction requirements, how many resident parking spaces must be made accessible at the time of construction?

A minimum of two percent of the number of parking spaces serving covered dwelling units must be made accessible and they must be located on an accessible route; if different types of parking are offered, such as surface parking, garage, or covered spaces, a sufficient number of each type must be made accessible. [Fair Housing Act Design Manual, page 2.23](#).

If buyers or renters request an accessible space at the time of the first sale or rental, it may be necessary to provide additional accessible parking spaces if the two percent are already reserved. These spaces must be offered on the same terms and with the full range of choices offered to others.

If additional spaces are needed as a reasonable accommodation to a person with a disability after the buildings are constructed, additional accessible parking spaces may be required.

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8. Do the Fair Housing Act's design and construction requirements apply to alteration or renovation of properties?

No, alterations, rehabilitation or repair of covered multifamily dwellings are not covered because the Act's design and construction requirements only apply to new construction of buildings built for first occupancy after March 13, 1991. However, a covered multifamily dwelling that has been constructed to comply with the law cannot later be altered to make it non-compliant with the law. Additions of four or more units are covered by the design and construction requirements. [Fair Housing Act Design Manual, page 11, Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, questions 4 and 9](#).

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9. Do the Fair Housing Act's design and construction requirements apply to detached single-family homes?

No, the Fair Housing Act's design and construction requirements only apply to covered multifamily dwellings-buildings that have four or more units. In buildings that have an elevator, all of the units are covered. If the building does not have an elevator, all of the ground floor units are covered. This includes single-family homes when there are four or more in the building (for example, condominiums). However, detached single-family houses are not covered by the Fair Housing Act's design and construction requirements. Although the Fair Housing Act's design and construction requirements may not apply to detached single-family homes, the Fair Housing Act's other provisions, such as nondiscrimination in sales, rental, or financing practices, do apply.

Other laws may require accessibility in detached single-family houses.

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10. Do any accessibility requirements apply to detached single-family homes?

Detached single family homes that are funded in any way by federal, state, or local funds may be required to be accessible under laws other than the Fair Housing Act. These laws, particularly Section 504 of the 1973 Rehabilitation Act and Title II of the Americans with Disabilities Act, have requirements for accessibility. For example, detached single family houses funded through the HOPE VI program operated by the Department of Housing and Urban Development (HUD), whether for sale or rental, must comply with HUD's requirements for Section 504. This includes making at least 5% of the units accessible to persons with mobility impairments and at least 2% of the units accessible to persons with vision and hearing impairments. The applicable standard for compliance is the [Uniform Federal Accessibility Standard or UFAS](#).

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11. Do the Fair Housing Act's design and construction requirements cover condominiums?

Yes. The Fair Housing Act's design and construction requirements cover condominiums in covered multifamily dwellings; the design and construction requirements make no distinctions based on ownership.

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12. How do the Fair Housing Act's design and construction requirements affect existing State and local building codes?

Existing state and local codes remain in effect. The Fair Housing Act has no effect on existing state or local codes that require greater accessibility than the Fair Housing Act requires. However, if a state or local code requires less accessibility than the Fair Housing Act, the Fair Housing Act requirements will prevail and must be followed.

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13. If builders, architects, developers or others believe that a property with which they were involved is covered by the Fair Housing Act's design and construction requirements but does not comply with them, what can they do?

They should seek technical assistance from a consultant with expertise in the Fair Housing Act's design and construction requirements about a plan to correct the violations. They may also consult with a private lawyer for assistance. The FIRST website provides more information about the accessible standards for

compliance.

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14. If someone thinks s/he have been discriminated against because housing built since March 13, 1991 does not meet the Fair Housing Act's accessibility requirements, what should they do?

They may contact the [United States Department of Housing and Urban Development \(HUD\)](#) to discuss the possibility of filing an administrative complaint that will be investigated by HUD or by a state or local agency that enforces a law that is equivalent to the Fair Housing Act. They may also consult with a private fair housing group or with a private lawyer for assistance.

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15. The Fair Housing Act was amended to cover people with disabilities in 1988, but its accessibility requirements only apply to housing built after 1991. Why?

Before Congress passed the law in 1988, no federal law required private housing to be accessible unless it was funded with federal dollars. That meant that the Fair Housing Act represented a major change in housing law. Congress delayed the effective date for the access provisions to give developers, builders, and architects more time to incorporate the new access standards into their building plans.

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16. What is the effective date of the Fair Housing Act's design and construction requirements and why is it a different date from the date the rest of the changes adopted by Congress in 1988 went into effect?

The Fair Housing Act's design and construction requirements apply to housing that was designed and constructed for first occupancy after March 13, 1991. They apply to properties that were occupied after that date and those where the last building permit or renewal of a building permit was issued after June 15, 1990.

Other requirements in the Fair Housing Act, such as those generally forbidding discrimination based on disability and requiring that reasonable accommodations and reasonable structural modifications be made if they are necessary for a person with a disability to use housing, went into effect on March 12, 1989, six months after the amendments were passed by Congress.

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17. The Fair Housing Act applies to covered multifamily dwellings built for first occupancy after March 13, 1991. What is acceptable evidence of "first occupancy"?

The determination of first occupancy is made on a building-by-building basis. The Fair Housing Act regulations provide that "covered multifamily dwellings shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991 (and therefore not covered by the Act's accessibility requirements) if they are occupied by that date or if the last building permit or renewal thereof for the covered multifamily dwellings is issued by a State, county or local government on or before June 15, 1990." See [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 8.](#)

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18. Does HUD review plans for compliance with the design and construction requirements of the Fair Housing Act?

No. Under the Fair Housing Act, HUD is not required to review or approve builder's plans or issue certifications of compliance with the Fair Housing Act's design and construction requirements. [42 U.S.C.](#)

[3604\(f\)\(5\)\(D\)](#). The burden of compliance rests with the person or persons who design and construct covered multifamily dwellings. See the [Fair Housing Act Design Manual, page 2](#). HUD does provide training and technical assistance about interpretations of the law, regulations, the Guidelines and so forth, including through the Fair Housing Accessibility FIRST project.

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19. If someone is successfully sued under the Fair Housing Act, will a court order the building to be torn down and rebuilt?

No judge has ever ordered a non-compliant building to be torn down, nor has any federal law enforcement agency requested that kind of remedy. Typical remedies sought in Fair Housing Act access cases include requiring full retrofitting where that is possible, building additional accessible units in other locations, funding accessibility changes to individual units when the units become vacant, or with the agreement of occupants, and other creative options. However, maximizing accessibility and providing at least as many accessible units as should have been provided in the property are likely to be key relief that will be sought in such cases.

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20. Who can be sued for violations of the design and construction requirements of the Fair Housing Act?

The following persons and entities may be sued:

1. Any person or entity involved in the design and construction of the building may be held liable for violations of the Act.
2. A later owner of a building may be held liable if the later owner makes structural changes so that the building does not meet the access requirements.
3. A person or entity that has bought a building or property after it was designed and constructed may be sued when that person or entity is necessary to provide authority to remedy violations.

Individual owners or occupants of inaccessible units who were not involved in building, developing, or managing them, and who own only individual units will not be named in HUD complaints.

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21. Are there other accessibility issues that are not addressed by the design and construction requirements that can still be challenged as violating other provisions of the Fair Housing Act?

Yes. In some situations, design and construction-related issues may be challenged as violating other provisions of the Fair Housing Act. In some instances, design or construction of some features are not required by the design and construction requirements, but they may be requested by applicants or residents as reasonable accommodations or reasonable structural modifications. Depending on which law or laws apply, builders, developers, owners, managers and others may be required to provide reasonable accommodations in existing properties, or to permit reasonable structural modifications to existing properties which provide greater or different levels of accessibility than the design and construction requirements.

For example, an applicant or resident may need grab bars installed. Although installation of grab bars is not required under the Fair Housing Act's design and construction requirements, permitting the installation of grab bars at the expense of the applicant or resident may be required as a reasonable structural modification. In federally funded properties, grab bar installation may be required in order to comply with applicable federal laws, or as a reasonable accommodation to the disability-related needs of the applicant or resident.

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22. What kind of housing is covered by the Fair Housing Act's access requirements?

Almost all types of housing with four or more units in one building that have been designed and constructed since March 13, 1991 are covered. This includes condominiums, apartment buildings, vacation or other time share units, assisted living projects, public housing authorities, HOPE VI projects, projects funded with HOME or other federal funds, transitional housing, and SROs (single room occupancy units) designed for more than overnight stays, dormitory rooms, homeless shelters used as a residence, cooperatives, hospices, and more.

If there is at least one elevator in the building, all units must comply. If there is no elevator, all of the ground floor units must comply.

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23. How do the Fair Housing Act's accessibility requirements apply when historic preservation codes are involved?

Existing buildings that are converted to dwelling units are not subject to the Act's access requirements because they are not newly constructed for first occupancy after March 13, 1991. New construction in historic areas must comply with the Fair Housing Act, and building code requirements for historic preservation should not conflict with access requirements. If there is a conflict involving new construction in areas of historic preservation, the federal requirements must still be met. Further discussion is found in the [Preamble to the Guidelines, 56 FR 9472, 9477 \(March 6, 1991\)](#).

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24. Does a condominium unit that is pre-sold and custom designed during construction for a particular purchaser have to comply with the access requirements in the Fair Housing Act?

Yes. The fact that a condominium unit is sold before the completion of construction does not exempt a developer from compliance with the access requirements. The access requirements are mandatory regardless of the ownership status of the individual unit. [Preamble to the Guidelines, 56 FR 9472, 9481 \(March 6, 1991\)](#), [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 3\(b\)](#).

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25. Are buildings with covered dwellings that are separated by firewalls treated as separate buildings under the Fair Housing Act?

No. Dwellings built within a single structure but separated by a firewall are treated under the Fair Housing Act as a single building. [Preamble to the Guidelines, 56 FR 9472, 9480, March 6, 1991](#), [Fair Housing Act Design Manual, page 10](#), [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 1\(c\)](#).

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26. Does the separation of units with breezeways affect whether or not a building has four or more dwelling units under the Act's design and construction requirements?

No. In situations where the dwelling units are connected by a covered walkway (a breezeway) or stairs that are structurally tied to the main body of the building, the dwelling units are considered to be in a single building. Ground floor units in these buildings, if there is no elevator, are covered by the Fair Housing Act's design and construction requirements. [Fair Housing Act Design Manual, Page 10](#).

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27. Are the public and common use areas of a newly constructed development that consists entirely of buildings that have no covered dwelling units required to be accessible under the Fair Housing Act?

If there are no covered multifamily dwellings on a site, then the public and common use areas of the site are not required to be accessible under the Fair Housing Act. [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 13.](#)

However, the Americans with Disabilities Act (Title III) may apply to certain areas that serve the public. The Americans with Disabilities Act (Title II) may apply to housing that is operated by public entities such as state or local governments. Section 504 of the 1973 Rehabilitation Act may apply to public and common use areas of properties that are operated by entities that receive federal financial assistance. An independent determination should be made regarding whether or not the ADA or Section 504 may apply and require accessibility when the Fair Housing Act does not apply.

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28. Are multistory townhouses required to comply with the Fair Housing Act's design and construction requirements? What if a multistory townhouse is located in an elevator building?

The Fair Housing Act applies only to new construction of covered multifamily dwellings. Multistory townhouses, provided that they meet the definition of "multistory" in [the Guidelines](#), are not covered multifamily dwellings if the building does not have an elevator. There is a discussion of townhouses in the [Preamble to the Fair Housing Act Regulations, 54 FR 3243-44, January 23, 1989](#), and in the [Preamble to the Guidelines at 56 FR 9472, 9481, March 6, 1991](#).

If an elevator building has multistory townhouses, the story of the unit that is served by the elevator must be the primary entrance level, and that level must comply with design and construction Requirements 3-7 and must include an accessible bathroom or powder room. If both a bathroom and a powder room are on the accessible level, the bathroom must comply. Further discussion of this issue is found in the [Fair Housing Act Design Manual, page 4.9](#).

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29. Are multistory townhouses that contain individual elevators considered to be covered multifamily dwelling units subject to the Fair Housing Act's design and construction requirements?

Yes. The Fair Housing Act defines "covered multifamily dwellings" as buildings consisting of four or more units, if such buildings have one or more elevators and ground floor dwelling units in other buildings consisting of four or more dwelling units. Covered multifamily dwellings must comply with the design and construction requirements of the Fair Housing Act.

A multistory dwelling unit (defined as a dwelling unit with finished living space located on one floor and the floor or floors immediately above or below it, [Guidelines, Section 2, Definition of Multistory Dwelling Unit](#)) that is located in a building with four or more units is not covered by the design and construction requirements of the Fair Housing Act if the building does not have an elevator. A multistory townhouse is covered by the requirements if there are four or more units in the building and the building contains one or more elevators. [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, 59 FR 33362-33368, June 28, 1994, question 13](#) and see [Preamble to the Fair Housing Act regulations, 54 Fed. Reg. 3244 \(1989\)](#), "the Department continues to believe that townhouses consisting of more than one story are covered only if they have elevators and if there are four or more such townhouses."

In addition, the Preamble to the proposed Guidelines, at 55 FR 24370, 24377, June 15, 1990, states:

"In the proposed and final rulemaking, the Department stated that a dwelling unit with two or more floors in a non-elevator building is not a "covered dwelling unit" even if it has a ground floor entrance, because the entire dwelling unit is not on the ground floor. (Of course, if the unit had an internal elevator, it would be

subject to the Fair Housing Act requirements.)"

Therefore, multistory townhouses with private elevators are covered by the design and construction requirements, assuming that there are four or more units in the building.

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30. If a freight elevator in a building with covered dwellings is the only elevator provided, is the building covered by the design and construction requirements?

Yes, the presence of a freight elevator, even where there is no passenger elevator, makes the building an elevator building and requires all units to comply with the Fair Housing Act's access requirements.

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31. Can an elevator in a building serve just some units?

An elevator that is installed in a building and that serves one or more units makes the building an elevator building. All units in an elevator building must comply with Fair Housing Act access requirements. The [Fair Housing Act Design Manual, page 1.21-1.22](#) discusses access requirements in elevator buildings in more detail.

An exception to this general rule occurs when an elevator is provided only as a means of creating an accessible route to dwelling units on a ground floor. In that case, the elevator is not required to serve dwelling units on floors that are not ground floors, and the building is not considered to be an elevator building. Only the ground floor units served by this elevator are required to meet the requirements of the Guidelines. The [Fair Housing Act Design Manual, page 1.31](#), illustrates this situation.

If an elevator building has multistory townhouses, the story of the unit that is served by the elevator must be the primary entrance level, and that level must comply with design and construction Requirements 3-7 and must include an accessible bathroom or powder room. If both a bathroom and a powder room are on the accessible level, the bathroom must comply. Further discussion of this issue is found in the [Fair Housing Act Design Manual, page 4.9](#).

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32. Are carriage house type units--where a dwelling unit is constructed over a garage--covered by the Fair Housing Act design and construction requirements?

If an individual stacked flat unit incorporates parking that serves only that unit, and the dwelling footprint is located over the footprint of the garage below, the unit is treated like a multistory unit and is not covered. However, if the stacked flat unit is not in the footprint of the garage below, i.e., where several flat units are located over a common garage, the units are covered, and must be accessible.

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33. What properties does Section 504 of the 1973 Rehabilitation Act cover?

Section 504 covers properties if they are constructed, renovated, operated or purchased by a recipient of federal financial assistance. If the federal financial assistance comes from HUD and the project contains five or more units, HUD's regulations require that at least one unit, or a minimum of 5% of the dwelling units (whichever is the greater number) constructed or renovated, must be accessible to people with physical disabilities and at least one unit or a minimum of 2% of the units (whichever is the greater number) must be accessible to people with hearing and vision disabilities. The 5% and 2% requirements are floors, not ceilings. [24 CFR 8.22 and 8.23](#).

The 5% and 2% requirements apply to each "project" that receives federal financial assistance. The term "project" includes units that are covered by a single contract or application for federal assistance. A housing

development located on a single site may consist of several "projects" as defined in HUD's regulations; when this happens the 5% and 2% requirements applied to each "project" may require more units to be made accessible than if the 5% and 2% were applied to the development as a whole. On the other hand, a "project" might consist of dwelling units located on several scattered sites but funded by one contract or application for federal assistance. When this happens, the 5% and the 2% requirements apply to the total number of dwelling units covered by the contract or application.

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34. If Section 504 and the Fair Housing Act apply to the same property, which standard applies?

If housing was built for first occupancy after March 13, 1991 and federal financial assistance is involved, both laws apply and the accessibility standards under both laws must be used. [Preamble to the Guidelines, 56 FR 9472, 9477 and 9479, March 6, 1991.](#)

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35. If the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the Fair Housing Act requirements both apply to the same property, which standard should be used?

Title III of the ADA, in relevant part, applies to commercial facilities and public accommodations. Inns, hotels, motels, and other places of lodging are public accommodations under Title III of the ADA, as are dormitories, homeless shelters, nursing homes, and some timeshares. See [28 CFR 36.104](#). In addition, the common areas that are for public use at "covered multifamily dwellings" under the Act must meet the ADA Standards for Accessible Design (ADA Standards). For example, a rental office in a multifamily residential development or a convenience store located in that development would be covered under Title III of the ADA. [28 CFR 36.104](#). Common use areas that are for use only by the residents and their guests would not be covered by the ADA.

The Fair Housing Act's design and construction requirements do not preempt the ADA and in those cases where a development is subject to more than one accessibility standard, the laws and the standards must be read together and followed together.

There are certain properties, or portions thereof, that are covered by both the Act and Title II and/or Title III of the ADA. These may include certain timeshares, dormitories, residential hotels, boarding houses, nursing homes, homeless shelters, congregate care facilities, public use portions of private multifamily dwellings, and public housing. These properties must be designed and built in accordance with the accessibility requirements of both the Act and the ADA. In addition, to the extent that the requirements of these various laws overlap, the more stringent requirements of each law must be met, in terms of both scoping and technical requirements.

In the preamble to its rule implementing Title III, DOJ discussed the relationship between the requirements of the Fair Housing Act and the ADA. The preamble noted that many facilities are mixed use facilities. For example, a hotel may allow both residential and short term stays. In that case, both the ADA and the Fair Housing Act may apply to the facility. The preamble to the Title III rule also stated that residential hotels, commonly known as "single room occupancies," may fall under the Fair Housing Act when operated or used as long term residences, but they are also considered "places of lodging" under the ADA when guests are free to use them on a short term basis. The preamble also discussed a similar analysis with respect to homeless shelters, nursing homes, residential care facilities, and other facilities where persons may reside for varying lengths of time. The preamble concluded that such facilities should be analyzed separately under both the Fair Housing Act and the ADA. [56 FR at 3551-52.](#)

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36. Has HUD issued any guidance about Section 504 compliance generally?

Yes, HUD has issued several notices about the general requirements of Section 504 to various types of HUD-funded housing. For public housing, it is Notice 2002-01, Accessibility Notice; for Housing, it's Notice H 01-02, extended by Notice H 02-03; for housing funded through the CDBG program, like HOME, it's Notice

00-09, extended by Notice 02-03. These notices are available on www.hudclips.org. HUD also has a website that deals with disability rights in HUD programs at www.hud.gov/offices/ftheo/disabilities/sect504.cfm.

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38. What are the federal access requirements for rental offices?

(a) Are rental offices required to be accessible under the Fair Housing Act?

Rental offices serving buildings that are covered by the design and construction requirements of the Fair Housing Act must comply because they are public and common use areas.

(b) What requirements apply to rental offices that are not covered by the Fair Housing Act's design and construction requirements?

If the buildings are not covered by the Fair Housing Act's design and construction requirements (for example, because they were built for first occupancy before March 13, 1991), the Fair Housing Act's general requirements of non-discriminatory treatment and reasonable accommodations apply. If a rental office is not accessible, a person with a disability must still be accommodated.

In addition, rental offices that serve the public must comply with the access requirements of the ADA, Title III (that is, if they are constructed for first occupancy after January 26, 1993), they must be constructed to comply with ADAAG; if constructed before that date, architectural barriers must be removed if doing so is "readily achievable." [36 U.S.C. 36.401](#).

A housing provider is covered by Section 504 of the 1973 Rehabilitation Act if the provider is a recipient of federal financial assistance. Section 504 requires that "programs and activities" such as a rental office be accessible. When physical accessibility cannot be provided, access to rental office services must be made available in some other way.

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39. Is a single family home which is being designed and constructed to be a group home covered by the design and construction requirements if it contains four or more sleeping rooms and shared kitchens or baths?

A single family house that will be occupied by four or more unrelated persons that functions as one distinct household, such as what is commonly referred to as a "group home", is not considered to be a "covered multifamily dwelling" for purposes of the application of the design and construction requirements of the Act, even if it contains four or more sleeping areas. This interpretation is consistent with case precedent and the position of the Department of Housing and Urban Development and the Department of Justice with respect to the application of zoning and land use restrictions to single family group homes.

On the other hand, each sleeping room occupied by a separate household in a building with shared toileting or kitchen facilities is a separate dwelling unit, and buildings with four or more of these sleeping rooms are covered multifamily dwellings for purposes of the Fair Housing Act's design and construction requirements.

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40. Under Section 504, what is the accessibility standard?

The access standard for units covered by Section 504 is the [Uniform Federal Accessibility Standards or UFAS](#). Changes to this standard and issuance of a new standard are currently under consideration.

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41. Why isn't there one uniform accessibility standard for compliance with the Fair Housing Act's design and construction requirements?

Congress did not provide statutory authority for one national uniform set of accessibility standards. Although one uniform accessibility standard is desirable, there are many ways for buildings to be built to be accessible. HUD has noted that the ANSI (American National Standards Institute) standard was the design basis for the Fair Housing Accessibility Guidelines, and that it is also the underlying standard for the Uniform Federal Accessibility Standards (UFAS) and many state and local codes. [Preamble to the Guidelines, 56 FR 9472, 9478-79, March 6, 1991.](#)

HUD recognizes seven safe harbors for compliance with the design and construction requirements of the Fair Housing Act. They are:

1. [HUD Fair Housing Accessibility Guidelines](#) published on March 6, 1991 and the [Supplemental Notice to Fair Housing Accessibility Guidelines Questions and Answers about the Guidelines](#), published on June 28, 1994.
2. [HUD Fair Housing Act Design Manual](#)
3. [ANSI A117.1 \(1986\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#).
4. [CABO/ANSI A117.1 \(1992\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#).
5. [ICC/ANSI A117.1 \(1998\)](#), used with the [Fair Housing Act](#), HUD's regulations, and [the Guidelines](#).
6. [Code Requirements for Housing Accessibility 2000 \(CRHA\)](#).
7. [International Building Code 2000](#) as amended by the 2001 Supplement to the International Codes.

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42. If a property is built to some standard other than one of the safe harbors, can it still comply with the Fair Housing Act's access requirements?

Yes. HUD said in the Introduction to the Accessibility Guidelines, "builders and developers may choose to depart from these guidelines and seek alternate ways to demonstrate that they have met the requirements of the Fair Housing Act." The standard employed must meet all of the design and construction requirements specified in the Fair Housing Act and HUD's Fair Housing Act regulations, and provide the same or a stricter degree of accessibility than the recognized safe harbors. [Fair Housing Act Design Manual, page 13.](#) [Preamble to the Guidelines, 56 FR 9478-79, March 6, 1991.](#) The purpose of the Fair Housing Act Guidelines is "to describe the minimum standards of compliance with the specific accessibility requirements of the Act." [Preamble to the Guidelines, 56 FR 9472, 9476, March 6, 1991.](#)

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43. The local code office has refused to review plans to see if they comply with the Fair Housing Act. If my building doesn't comply with fair housing requirements, can I sue my local code office?

We cannot provide any indication about whether or not someone can be sued in this situation. The Fair Housing Act provides that the Secretary of HUD may encourage, but may not require, state and local government permitting agencies to review building plans for compliance with the Act.

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44. Can an accessible route be an indirect route? Can it have locks or a call button for its use?

HUD requires that an accessible route not be hidden, remote, circuitous or require people with disabilities to travel long distances. It also requires that use of an accessible route not place requirements, like a special key, an attendant, or additional waiting periods, on people with disabilities. Providing an accessible route that has different and less favorable conditions for people with disabilities than for people without disabilities may violate the Fair Housing Act because it amounts to a difference in terms and conditions of housing based on disability. However, imposing key requirements or other special access provisions, or providing an indirect route does not violate the law if those requirements apply to all people and not just people with disabilities.

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45. Which entrance or entrances to a covered unit must be accessible? Can the accessible entrance be a patio door or a back door?

An entrance is an exterior access point used by residents for the purpose of entering the building. Using a patio door or a secondary door like a back door as the only accessible entrance establishes different terms and conditions for people with disabilities. This practice may also require a person with disabilities to use long or circuitous routes, which violates the Act. This principle was recently affirmed in *United States v. Edward Rose Construction Co.*, Civil Action No. 02-73518, (W.D. MI, 2003) where the court said, "HUD interprets the Act such that a primary entrance is part of the public or common use areas, regardless of whether it opens from the interior or exterior. If this is true, then, it must comply with the FHA accessibility requirements, even if there is a secondary entrance that is adequately accessible. A 'primary entrance,' it seems, is one that is on an accessible route and is most likely to be used as such, particularly when it is most convenient to parking."

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46. Under the Fair Housing Act's design and construction requirements, may an accessible entrance be through a loading dock or service door?

No. See Guidelines, Definition of "Entrance," which states, "For purposes of these guidelines, an "entrance" does not include a door to a loading dock or a door used primarily as a service entrance, even if non-handicapped residents occasionally use that door to enter." [Fair Housing Accessibility Guidelines, 56 FR 9472, 9482, March 6, 1991.](#)

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47. If a required accessible route has a slope of more than 5%, is this portion of the route a walkway or a ramp?

It is a ramp and must meet the requirements for ramps, including slopes not to exceed 8.33%, handrails on both sides, edge protection, and comply with all other applicable specifications of [ANSI A117.1.](#)

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48. Why must the routes between public and common use areas and dwelling units be accessible?

Requirement 1 requires that at least one building entrance be located on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site. Requirement 2 requires an accessible route that connects accessible elements and spaces in a building or within a site, such as between common and public use areas and dwelling units.

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49. Do the Fair Housing Act's design and construction requirements require accessible routes between buildings that contain only covered multifamily dwellings?

No, accessible routes, walks, or paths between buildings containing only covered dwelling units are not required. [Fair Housing Act Design Manual, page 2.16.](#) However, accessible routes between buildings with covered dwellings are encouraged on sites with slopes that do not exceed 8.33% between buildings. Such voluntary accessible routes should meet the same specifications as required accessible routes except that handrails are not required. [Fair Housing Act Design Manual, page 1.8.](#)

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50. Must an accessible route between public and common use areas and dwelling units be an interior route if the general circulation path is interior?

An accessible route between public and common use areas and dwellings may be interior or exterior. However, if the general circulation path is interior, it would not be appropriate to provide only an exterior accessible route for persons with disabilities. The Guidelines require equitable use of covered multifamily dwellings for persons with disabilities and require public and common use areas to be "readily accessible to and usable by" persons with disabilities. Requiring persons with disabilities to go outside of a building to access a public and common use area when persons without disabilities are not required to do so is not consistent with these provisions. Further, the Fair Housing Act prohibits providing housing to persons with disabilities on different terms and conditions. Requiring persons with disabilities to travel outside while persons without disabilities travel inside would be a different term or condition of housing.

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51. When swimming pools are provided as a public and common use amenity, what are the accessibility requirements under the Fair Housing Act?

Requirement 2 covers recreational facilities such as swimming pools. [Fair Housing Act Design Manual, Chart, 2.4, Diagram 2.8](#). A swimming pool must be located on an accessible route, but there is no requirement that an accessible route be provided into the pool. In addition, a door or gate accessing the pool must meet Requirement 3 and the route must provide access to the deck around the pool.

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52. Do the Fair Housing Act design and construction requirements contain a height requirement for vertical clearance in a garage?

No, Fair Housing Act standards do not require a particular vertical clearance for garages for van access. [Preamble, Guidelines for Requirement 2, Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 14\(d\)](#). However, if a parking garage provides a passenger-loading zone, such as near the lobby or an elevator, the passenger-loading zone would have to meet applicable ANSI provisions 4.6, "Parking in Passenger Loading Zones," including the requirement for a minimum vertical clearance of 108 inches.

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53. If new covered multifamily dwellings are added to housing that was constructed before March 13, 1991 do the public or common use areas have to be retrofitted to be accessible?

No. Although new covered multifamily dwellings constructed after March 13, 1991 have to comply with the Act's access requirements, public and common use areas constructed before that date do not have to be modified to comply with the Act's requirements. On the other hand, where a new covered multifamily dwelling shares a non-accessible entrance with an existing building, an accessible entrance must be provided for the new building. [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 4\(c\)](#).

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54. May an accessible route that complies with the Fair Housing Act's design and construction requirements that goes through a public and common use area be blocked by later installation of equipment or furnishings?

No, accessible routes in public and common use areas may not be blocked by later installation of equipment or furniture provided by the property.

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55. Are garbage dumpsters required to be accessible under the design and construction requirements?

The garbage dumpster itself is not covered by the design and construction requirements. However, a sufficient number of garbage dumpsters must be located on an accessible route. If an enclosure is built around the dumpster, the opening must have a 32 inch clear width and an accessible route must be provided to the dumpster door. If parking is provided at the dumpster, accessible parking must also be provided.

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56. Where must the required clear opening at doors be measured?

With the door open 90 degrees, the clearance is measured between the face of the door and the opposing doorstop. The primary entrance door to dwellings and public and common use doors must have a 32-inch minimum clear opening. Passage doors within a dwelling must have a nominal 32-inch clear opening. [Preamble to the Guidelines, 56 FR 9472, 9487, Guidelines for Requirement 3, March 6, 1991.](#)

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57. If a bathroom has more than one entrance door, must all doors comply with access requirements?

Yes, all doors that are for user passage must meet access requirements and provide a nominal 32-inch clear opening.

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58. What is a nominal 32-inch clear opening?

A nominal 32-inch clear opening measures at least 31 and 5/8 inches from the face of the door to the opposing doorstop when the door is open 90 degrees.

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60. Can a unit have a loft or a sunken living room, and still be compliant with the Act's requirements?

Yes, as long as the loft, or sunken living room, does not interrupt the required accessible route throughout the rest of the unit. A loft (defined as an intermediate level between the floor and the ceiling of a story, located within a room) may be provided without providing an accessible route to the loft. A unit with a loft is treated as a single-story unit; therefore inclusion of a loft does not make a unit a multistory townhouse that is not covered by the Fair Housing Act's requirements because a loft is not the same as a second story. The Guidelines specify that kitchens and all bathrooms, including powder rooms, must be on an accessible route; therefore a kitchen, bathroom, or powder room may not be located in a loft, or in a raised or sunken area, unless an accessible route is provided to the loft.

Because a unit with a loft is a single-story unit, all primary or functional living spaces must be on an accessible route. Secondary living spaces, such as a den, play area, or an additional bedroom, are the only spaces that may be in a loft unless an accessible route is provided to the loft. See [Fair Housing Act Design Manual, page 4.7.](#)

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61. May a unit have both a sunken area and a loft?

No, only one non-accessible design feature is allowed per unit. Other changes in level are allowed only if they are served by an accessible route. [Fair Housing Act Design Manual, page 4.9.](#)

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62. From where is the 3/4" maximum height of thresholds measured?

The maximum height of a threshold is measured from the finished floor of the dwelling unit. If carpet is installed and the pad is included, the measurement should be calculated with a fully compressed carpet and pad. [Fair Housing Act Design Manual, page 4.11, 4.12.](#)

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63. Are entrances to showers required to have a flat or beveled entrance?

No. A shower stall may have a curb. However, a flat or beveled entrance makes the shower stall more accessible to people with disabilities. One recommended way of making an entrance to a shower stall more accessible is to provide a 1/2 inch maximum threshold beveled at 1:2. [Fair Housing Act Design Manual, page 7.59.](#)

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64. Do special electrical outlets for refrigerators, ovens, washers and dryers have to be in accessible locations?

No. Electrical outlets installed to serve individual appliances, such as refrigerators or built-in microwave ovens, may be mounted in non-accessible locations. These are not the type of electrical outlets which a disabled resident or tenant would need access to on a regular or frequent basis. [Preamble, Fair Housing Act Accessibility Guidelines, 56 FR 9472, 9491 \(March 6, 1991\).](#)

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65. Are light and fan switches that are located on stoves required to be accessible?

No. Switches that are located on stoves are appliance controls that are not covered by the Act. Range hood fan switches located on the range hood are not required to be located in accessible locations. [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, 59 FR 33362-33368, question 22.](#)

However, if a range hood fan or light is wired to a separate switch on a wall or somewhere other than on the hood, range or cook top, then the control must be in an accessible location. The [Fair Housing Act Design Manual](#) contains additional discussion about switch locations at pages 5.3-5.4. [Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 22.](#)

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66. What kinds of switches are NOT covered by Requirement 5?

Switches or controls that are not covered by Requirement 5 include appliance mounted controls, telephone jacks, circuit breakers, and garbage disposal switches. Controls for security and intercom switches within the unit are not covered, but such controls in public and common use areas are covered.

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67. What parts of outlets and switches must be within the reach ranges specified in the Guidelines?

For accessible controls and outlets, all operable parts must be within the required reach ranges. The height is measured from the finished floor to the highest or lowest operable part of the outlet or switch. When electrical outlets are installed horizontally or vertically, duplex outlets must have both receptacles within the required reach range. [Fair Housing Act Design Manual, 5.8.](#)

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68. Are controls for ceiling fans covered by Requirement 5?

Yes, environmental controls, including wall switches for ceiling fans, are covered and must be located in accessible locations. [Fair Housing Act Design Manual, page 5.3.](#)

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70. If grab bars are installed in a bathroom during or after the design and construction of a covered dwelling unit, must reinforcements still be provided in walls at the minimum areas specified in the Guidelines?

Regardless of whether grab bars are provided as part of a fixture or added during construction, the reinforcing must be located in the appropriate places to support grab bars in a range of positions that comply with the minimum specifications in the Guidelines. [Fair Housing Accessibility Guidelines, 56 FR 9472, 9509, Requirement 6, Note, March 6, 1991.](#)

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71. When a molded fiberglass conventional tub/shower unit is installed in bathrooms, molded portions of the sidewalls, even if reinforcing is provided, can interfere with the later installation of grab bars. Do these types of fixtures comply with the Fair Housing Act requirements?

No, the fixtures will not comply unless the reinforcements are placed so as to permit the later installation of grab bars. A bathroom that contains fixtures that are shaped in ways that that would not permit grab bar installations to reach the reinforcing will not comply even if the reinforcing is provided. [Fair Housing Accessibility Guidelines, 56 FR 9472, 9509, Requirement 6, Note, March 6, 1991.](#)

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72. Do walls and floor areas behind or under removable or adaptable cabinets have to be finished?

Yes. This issue is addressed in the [Supplement to the Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, question 30.](#)

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73. Must the clear floor space at sinks, lavatories, and appliances be centered on these fixtures and appliances?

(a) In kitchens, the Guidelines require a parallel approach to the cook top or range and sinks and a parallel or forward approach to other appliances. These approaches are illustrated in the Guidelines, Figure 6 (a) and (b). The [Fair Housing Act Design Manual](#) requires both parallel and forward approaches be centered on appliances and the kitchen sink. [Fair Housing Act Design Manual, page 7.3-7.6.](#)

(b) In bathrooms, both forward and parallel approaches to sinks and lavatories are allowed and must be centered on the fixture as shown in the [Guidelines, Figure 7 \(c\).](#) [Fair Housing Act Design Manual, page 7.47.](#)

If a forward approach is provided, knee space must be provided below the sink, lavatory or appliance.

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74. In specification "A" bathrooms where a 48-inch by 60-inch clear floor space is provided for a forward approach to the bathtub, must the 60-inch minimum clear floor space between the bathtub and walls measure exactly 60 inches?

No. A standard building industry tolerance in a conventional bathtub installation may result in clearances slightly less than 60 inches. In a typical 60-inch bathtub installation, after wall finishes are installed on both end walls of the bathtub, the 60-inch clearance may measure slightly less, or no more than 1/2 inch less, at each end of the bathtub.

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75. Where should the 40-inch clearance between countertops and opposing countertops, appliances and walls in kitchens be measured?

The required 40-inch clearance must be measured from the edge of the countertop to the edge of the opposing countertop, face of appliance or wall, excluding handles or controls. [The Fair Housing Act Design Manual, page 7.7.](#)

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76. Must the 40-inch clearance be provided between full-length cabinets and opposing countertops, appliances or walls? The Guidelines do not mention full-length cabinets.

Yes. The Guidelines specify that clearance between counters and all opposing base cabinets, countertops, appliances or walls must be at least 40 inches. A full-length pantry cabinet is treated the same as a base cabinet and therefore there must be a 40-inch or greater clearance between the face of the cabinet pantry and any opposing countertop, appliance or wall.

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77. What are the accessibility standards for pantries?

Shallow closet pantries that have an interior depth of 24 inches or less may have doors of any width. Deeper walk-in pantries must have doors that comply with Requirement 3, and an accessible route into the pantry that complies with Requirement 4.

Shelving is not addressed in the Guidelines, but it is recommended that some shelves be provided at accessible levels, or that the shelves be adjustable.

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78. Are washers and dryers provided in individual units subject to the Guidelines?

No. The Guidelines do not require washers and dryers in individual covered multifamily dwelling units to be accessible. However, if such laundry equipment is located in a separate utility room where users enter the room to access the machines, there must be an accessible route into the room, the door must provide a nominal 32-inch clear opening, and switches and outlets, except those outlets that are for the machines, must be accessible. Front loading washers and dryers are recommended, as are parallel 30- by 48-inch clear floor spaces positioned in front of the machines. [Fair Housing Act Design Manual 7.19.](#) Where laundry equipment is located in a common use area, it must conform to the requirements for accessible public and common use facilities. [Fair Housing Act Design Manual, page 2.26,](#) and see [ANSI 4.32.6 \(1986\).](#)

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79. Is the 4-inch allowable level change at a secondary door to a patio that is constructed of impervious material measured from the top of the exterior edge of the threshold or from the finished floor of the dwellings?

Level changes allowed at exterior decks, patios, and balconies are measured from the floor level of the interior of the dwelling unit. The Fair Housing Act Design Manual, page 4.11, states that when a secondary exterior door exits onto decks, patios, or balcony surfaces constructed of impervious materials “the outside landing surface may be dropped a maximum of 4 inches below the floor level of the interior of the dwelling unit...to prevent water infiltration.” The 4-inch measurement is from the impervious surface of the patio to the finished floor of the interior of the dwelling. If carpet is installed and the pad is included, the measurement should be calculated with a fully compressed carpet and pad. Fair Housing Act Design Manual, page 4.11, 4.12. Specifications for the allowable height of thresholds and required beveled edges are treated as a separate design element, independent from the allowable level changes between exterior and interior floor levels. This difference is illustrated in the Fair Housing Act Design Manual, page 4.13, the bottom illustration.

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80. When emergency warning systems are installed in the public and common use areas of covered multifamily buildings (for example, in corridors or breezeways), do the design and construction requirements require visual alarms on the interior of dwelling units?

No. However, alarms and other emergency warning systems that are installed in public and common use areas must be accessible. Alarms placed in these areas must have audible and visual features compliant with ANSI A117.1, Section 4.26. The Fair Housing Act’s design and construction requirements do not require installation of visual alarms on the interior of dwelling units; however, if there is a building alarm system provided in a public and common use area, then the system must have the capability of supporting an audible and visual alarm system in individual units. The International Building Code requires that certain multifamily residential buildings that must have a fire alarm provide the capability of supporting visible alarm notification appliances which meet the requirements of ICC/ANSI A117.1. See, for example, 2000 IBC Section 907.9.1.3 and Section 907.2.9. The Fair Housing Act’s obligation on housing providers to make reasonable accommodations so people with disabilities may use and enjoy the property may require a housing provider to make adjustments in emergency alarm systems—whether located in public and common use areas or in individual units—so that they are accessible to and usable by people with disabilities.

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81. What constitutes finished living space that would permit a unit to be considered a multi-story unit that is not covered under the Act’s design and construction requirements?

A multistory dwelling unit is one in which there is finished living space located on one floor and on the floor or floors immediately above or below it. Fair Housing Act Design Manual, page 17, Fair Housing Accessibility Guidelines, 56 FR 9472, 9501, March 6, 1991. An area is considered to have finished living space if it has interior partitions, wall finishes, electrical, heating and cooling systems and other building systems installed and if it complies with local building code requirements for habitable spaces. Habitable space is a space for living, sleeping, eating, or cooking. Habitable space does not include bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas. To qualify as a habitable space, a space may be required to meet all code criteria for a habitable space including the provisions for height, means of egress, light and ventilation, and interior finishes.

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82. What constitutes a structural connection between buildings making them a single building for purposes of applying the design and construction requirements?

A stair, overhead walk, or roof that is structurally connected to each portion of a building makes the building

a single building for purposes of the Fair Housing Act's design and construction requirements. Fair Housing Act Design Manual, page 10. Two structures that are connected by one or more of these elements are considered to be a single building, see generally Final Report of HUD Review of Model Building Codes, 65 FR 15740, 14749, 15762, March 23, 2000.

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83. Are multifamily housing developments that utilize a valet parking service still required to provide 2% accessible parking spaces serving covered dwelling units?

Yes. A minimum of 2% of the parking spaces that serve covered dwelling units must be accessible. Fair Housing Act Design Manual, pages 2.23-2.24, Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines, 59 FR 33362-33368, June 28, 1994, question 14. Provision of valet parking does not change this requirement.

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84. Are front-loading washing machines required in public and common use laundry facilities that serve covered multifamily dwelling units?

No. Front-loading washing machines are not required in common use laundry rooms if management, upon request, provides assistive devices to enable a resident to use a top-loading washer. Fair Housing Act Design Manual, page 2.26-2.27. This is consistent with the chart under Requirement 2 of the Guidelines, which states that front-loading machines are not required. Fair Housing Accessibility Guidelines, 56 FR 9472, 9505, March 6, 1991. However, people who use wheelchairs generally find it easier to reach front-loading washers and dryers with side hinged doors.

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85. May an interior passage door open into and overlap a 36-inch wide accessible route?

Yes, as long as there is at least a 36-inch wide accessible route on both sides of the door if the door is shut. The Guidelines do not require maneuvering space at interior doors in covered dwelling units. See the Fair Housing Act Design Manual, page 3.3. Maneuvering space at the door is required for doors in public and common use areas, which includes primary entrance doors of dwelling units on the exterior side of the door.

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86. What is the allowable height for door opening hardware on exterior doors to a dwelling unit?

The exterior of dwelling unit doors are public and common use areas and must meet the minimum standards for door hardware set in ANSI A117.1. The answer to how high the door hardware can be placed depends on which edition of ANSI is being applied: ICC/ANSI-1998, Section 404.2.7 48 inches maximum, 34 inches minimum above the floor or ground CABO/ANSI A117.1-1992, Section 4.13.9 48 inches maximum, 15 inches minimum above the floor or ground for a front approach, 54 inches maximum, 15 inches minimum above the floor or ground for a side approach ANSI A1171-1986, Section 4.13.9 48 inches maximum, 15 inches minimum above the floor or ground for a front approach, 54 inches maximum, 15 inches minimum above the floor or ground for a side approach