

Accessibility Requirements for Buildings

The below table provides an overview of HUD's accessibility requirements. The following pages provide more detail on what those requirements entail.

Activity & Year Built	Market Rate Apartments	Affordable (not assisted, e.g. LIHTC's)	Federally Assisted ³
Projects built for residential, 1 st occupancy ² after 3/13/1991	Fair Housing Act Requirements	Fair Housing Act Requirements	Fair Housing Act Requirements & Sec 504 (UFAS or Deeming Notice ⁴)
Projects built from 7/11/1988 to 3/13/1991	None	None	Sec 504 (UFAS or Deeming Notice 4)
Sub-rehab or Refinance of projects built prior to 7/11/1988 or built prior to becoming assisted ⁵	None	None	Sec 504 (UFAS or Deeming Notice ⁴) (Load-bearing wall and financial/administrative burden exceptions)
All Public Accommodations (Designed and built for 1 st occupancy ² or altered after 1/26/1993	ADA Title III	ADA Title III	ADA Title III & Sec 504 (UFAS or Deeming Notice ⁴)
State or Local Government Programs or Assistance, e.g., LIHTCs with construction start after 1/26/1992	ADA Title II ⁶	ADA Title II ⁶	ADA Title II & Sec 504 (UFAS or Deeming Notice ⁴)

1. Unlike the Fair Housing Act where Congress assigned regulatory and enforcement authority to HUD, Section 504 of the Rehabilitation Act of 1973 obligates various Federal Agencies to develop implementing regulations.
2. "1st occupancy" means a building that was never used for any purpose. Buildings first occupied as commercial or nonresidential never have to comply with Fair Housing.
3. "Federally assisted" projects include those financed or assisted by Project Based Vouchers, 202/811, HOME, HOPWA, Rent Supplements, 236, TCAP, BMIR, etc. LIHTC alone does not constitute Federal assistance unless aforementioned funds are utilized.
4. See HUD's Alternative Accessibility Standard set forth in HUD's notice at 79 Fed. Reg. 29,671 (May 23, 2014) ("Deeming Notice"), permitting HUD recipients of Federal financial assistance to use an alternative standard for purposes of complying with Section 504 and HUD's implementing regulation at 24 CFR part 8. The Deeming Notice provides HUD recipients the option of using the 2010 ADA Standards (with certain exceptions) as an alternative to UFAS for new construction or alterations commencing on or after May 23, 2014. See Appendix 5, Section A.5.2.4.5 for a discussion on projects built before July 11, 1988, or before the date of Federal assistance.
5. State and local governments are required to describe specific measures to make programs accessible. Such measures vary especially in reference to existing properties. Appropriate state and local officials must be consulted, particularly in reference to LIHTC transactions.

6. *Adaptable Does Not Mean Deferrable. A common misinterpretation of the Fair Housing Act design and construction requirements holds that the term “adaptable” contemplates a delay or deferral of the time when “features of adaptable design” required by the statute or regulations may be completed. This is inaccurate. The “features of adaptable design” described in the Fair Housing Act design and construction standards are required at original design and construction. Adaptable for purposes of Section 504 is defined at 24 CFR 8.3 and contemplates limited future physical changes to meet specific needs of particular persons with disabilities.*
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Accessibility Requirements for **Market Rate and Affordable Housing**: Both privately owned and publicly assisted housing, regardless of whether they are rental or for sale units, must meet the accessibility requirements of the Fair Housing Act when they are located in a building of four or more units, built for first occupancy after March 13, 1991.

D. There are seven design and construction requirements under the Fair Housing Act as follows:

1. Accessible building entrance on an accessible route.
2. Accessible and usable public and common use areas.
3. Usable doors (all the doors allowing passage into and within the units are sufficiently wide to allow passage by persons in wheelchairs).
4. Accessible route into and through the covered dwelling unit.
5. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
6. Reinforced walls for grab bars in bathrooms (i.e., to allow for later installation of grab bars around the toilet, tub, shower, stall, and shower seat, where such facilities are provided).
7. Usable kitchens and bathrooms (i.e., such that an individual in a wheelchair can maneuver about the space).]

To help builders comply with these requirements, HUD issued in 1991 its Fair Housing Act Accessibility Guidelines. In 1994, the Department responded to questions on the Guidelines by issuing a Question and Answer Supplement to the Guidelines. In 1996, HUD provided further guidance on ways to design and construct housing that complies with the Fair Housing Act by issuing the Fair Housing Act Design Manual, which is filled with detailed illustrations and sample room designs. HUD has designated the Fair Housing Act Accessibility Guidelines, when used in conjunction with the Question and Answer Supplement, the Fair Housing Act Design Manual, and five other documents as safe harbors for compliance with the Fair Housing Act accessibility requirements. For more information on the requirements and the seven safe harbors for compliance, visit Fair Housing Accessibility. FIRST.

Accessibility Requirements for **Federally Assisted Multifamily Housing**: “Federally assisted” projects include those financed or assisted by Project Based Vouchers, 202/811, HOME, HOPWA, Rent Supplements, 236, TCAP, BMIR, etc.

- All Federally assisted new construction housing developments with 5 or more units must design and construct 5 percent of the dwelling units, or at least one unit, whichever is greater, to be accessible for persons with mobility disabilities.
 - An additional 2 percent of the dwelling units, or at least one unit, whichever is greater, must be accessible for persons with hearing or visual disabilities.
 - Section 504 of the Rehabilitation Act of 1973 is a law that prohibits disability discrimination in programs receiving HUD funds or financial assistance. UFAS (or equivalent/stricter code) is the standard that HUD requires properties to implement to satisfy Section 504. Please see the following link and checklist for more information on UFAS.
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Americans with Disabilities Act of 1990 (ADA): The ADA primarily deals with accessibility of public facilities such as restaurants, hotels, and parks.

- With respect to housing accessibility, Title II of the ADA covers housing provided by public entities (state and local governments), such as housing on a State university campus.
- Title III requires that public and common use areas at housing developments are accessible. Please visit the Department of Justice ADA home page for more information on the ADA.

https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/accessibilityR