

MAINE STATE HOUSING AUTHORITY

**ACCESSIBILITY POLICY AND PROCEDURES
FOR THE DESIGN AND CONSTRUCTION OF
MULTIFAMILY AND SUPPORTIVE HOUSING PROJECTS**

Maine State Housing Authority (MaineHousing) has adopted the following policy and procedures to make sure persons with disabilities have equal access to housing funded under MaineHousing's multifamily and supportive housing programs. The policy and procedures replace all prior policies, procedures and practices.

Policy

Housing funded under MaineHousing's multifamily and supportive housing programs must comply with all applicable local, state and federal accessibility requirements, including without limitation:

- Federal Fair Housing Act
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Title II and Title III of the Americans with Disabilities Act of 1990 (ADA)
- Maine Human Rights Act (State fair housing act and publicly-funded housing)
- Maine Uniform Building and Energy Code

A summary of each of these laws, including the applicability to housing funded under MaineHousing's multifamily and supportive housing programs and the scoping requirements, is set forth below.

Most projects are subject to more than one accessibility law, which may have different requirements and standards. A project must comply with all applicable laws. To the extent the requirements and standards differ, the most restrictive requirement or standard applies. Note that one standard may be more restrictive with respect to a particular requirement but less restrictive than another standard with respect to a different requirement. A project must comply with the most restrictive of each requirement among the different standards. If it is unclear which requirement is more restrictive or the requirements are inconsistent, MaineHousing, in consultation with its legal counsel and applicable regulatory agencies if necessary, will provide guidance on which requirement applies.

When selecting a site for and designing a project to be funded under MaineHousing's multifamily or supportive housing programs, a developer must consider whether full compliance with applicable accessibility laws and any additional accessibility required under the program can be achieved. Selecting sites and designing projects that cannot fully comply with applicable accessibility laws due to structural impracticability, technical infeasibility, or otherwise will not fully comply with applicable accessibility laws is strongly discouraged, and under some laws, may not be allowed.

Any site or project design that does not fully comply with applicable accessibility laws because of structural impracticability, technical infeasibility or otherwise must be approved by MaineHousing.

The burden to prove the proposed project is structurally impracticable, technically infeasible or is otherwise exempt from fully complying with applicable accessibility laws is on the owner. MaineHousing will reject any proposed project that cannot fully comply with applicable accessibility laws if MaineHousing determines the proposed housing could be achieved with an alternate design or at an alternative site that fully complies with applicable accessibility laws. Applicants should seek MaineHousing's approval of proposed projects that cannot fully comply with applicable accessibility laws as early in the process as possible. Most multifamily and supportive housing programs require site selection as a condition of application. Applicants should have MaineHousing's approval before submitting an application to these programs. If a multifamily or supportive housing program does not require site selection at the time of application, an applicant should have MaineHousing's approval before entering into a purchase and sale agreement or option agreement or otherwise establishing site control.

MaineHousing will resolve any dispute about compliance with applicable accessibility laws through consultation with applicable regulatory agencies.

Compliance and Monitoring

Owners of housing funded under MaineHousing's multifamily and supportive housing programs are responsible for making sure the design, construction, rehabilitation, and operation of their housing complies with all applicable accessibility laws. The policy and the procedures set forth herein are for the sole benefit of MaineHousing, the purpose of which is to ensure housing funded by MaineHousing is accessible and MaineHousing fulfills its monitoring obligations to certain regulatory agencies. MaineHousing has no responsibility or liability of any nature whatsoever to the owner or its agents, contractors, successors or assigns or any other party for noncompliance with accessibility laws. Nor is MaineHousing authorized to waive any accessibility laws.

MaineHousing is only obligated to monitor projects for compliance with Title II and Section 504 in connection with its funding. MaineHousing does not have any monitoring responsibilities with respect to other accessibility laws or the requirements associated with other funding sources. Section 504 may apply because of other funding sources for the project or the owner's receipt of federal assistance for other purposes. MaineHousing is not obligated to monitor for compliance with Section 504 unless MaineHousing is providing federal funding for a project.

Even if MaineHousing does not have an obligation to monitor for compliance with an accessibility law, it will require owners to comply with all applicable accessibility laws and require correction of any noncompliance it or others may find because of its obligation to affirmatively further fair housing, its relationships with applicable federal and state regulatory agencies, and its public purpose mission.

Notwithstanding any monitoring obligations of or efforts made by MaineHousing to enforce compliance with applicable accessibility laws, MaineHousing has no responsibility or liability to the owner of the project, any lenders or any other parties for monitoring or compliance.

Procedures

MaineHousing has adopted the following procedures to notify owners of and ensure compliance with applicable accessibility requirements.

Program Requirements

1. These policies and procedures will be included or incorporated by reference in all program guides or offerings to notify an applicant of the accessibility requirements applicable to its project prior to submitting an application to the program.
2. These policies and procedures will be included or incorporated by reference in all of MaineHousing's design and construction requirements for multifamily and supportive housing.
3. These policies and procedures will be posted on MaineHousing's web page(s) containing information about MaineHousing's multifamily and supportive housing programs.

Pre-Application or Pre-Site Control

1. All proposed sites to be funded under MaineHousing's multifamily and supportive housing programs must undergo a site review by MaineHousing. If the program requires site control at the time of application, the site review is required before an application is submitted. If site control is not required at the time of application, the site review is required before the applicant establishes site control. MaineHousing will notify applicants in writing of any accessibility concerns about a proposed site or project design.
2. Each applicant will be required to explain how the applicant's project complies with applicable accessibility laws and any additional requirements of the program as part of the pre-application.
3. If the proposed project will not fully comply, the applicant must submit a written request for review and approval by MaineHousing. The request must include (a) information about the site and proposed design of the project, (b) an explanation of the structural impracticability, technical infeasibility or other failure to fully comply with applicable accessibility laws and any supporting documentation as may be required by MaineHousing, including without limitation, an analysis from a design professional, (c) a detailed description of the applicants efforts to find an alternative site for the proposed housing and the lack of suitable alternative sites, and (d) if required by law, an explanation of how the applicant intends to construct or alter a comparable residential unit for each unit that would have been required at the proposed site. A complete request must be submitted to MaineHousing at least sixty (60) days before the applicable application deadline or establishing site control.
4. An applicant may be required to construct or alter a comparable residential unit for each unit that would have been required at the proposed site as a condition of approval of the request pursuant to applicable accessibility laws. Comparability will be determined based on

location, number of bedrooms, amenities in the unit, types of common spaces within the facility and proximity to community resources and services.

5. All requests must be reviewed by a MaineHousing construction analyst and legal counsel and approved by MaineHousing's Director. MaineHousing may consult appropriate regulatory agencies in making its determination. All determinations must be in writing, specify the basis for denying any request or any conditions of approval, and be kept in the project file.
6. The applicant will be notified in writing if MaineHousing denies a request and the basis for the denial.

Application

1. All applicants will be required to certify compliance with applicable accessibility laws in their applications to MaineHousing's multi-family and supportive housing programs.
2. If the proposed project will not fully comply with applicable accessibility laws, the project should have been reviewed and approved by MaineHousing prior to the submission of the application. If not, MaineHousing may reject the application.

Pre-Construction

1. Successful applicants will receive an award notice, which is sometimes referred to as a notice to proceed. All award notices will include these policies and procedures as a condition of any funding. MaineHousing will not fund any project that does not comply with applicable accessibility requirements.
2. Promptly after an award notice or notice to proceed is issued to a successful applicant, MaineHousing staff assigned to the project, including the loan officer, the construction analyst, the asset manager and counsel, will meet to discuss the project, including the accessibility requirements applicable to the project.
3. Following the internal meeting of MaineHousing staff, the MaineHousing construction analyst and loan officer will meet with the applicant and its design and development team to discuss the project, including the accessibility requirements applicable to the project.
4. Project plans and specifications are subject to MaineHousing's approval pursuant to the multifamily and supportive housing programs. MaineHousing's construction analyst will review plans and specifications for compliance with applicable accessibility laws and program accessibility requirements. The construction analyst will provide written notice (which can be in the form of an e-mail or other form of electronic transmission) of any findings of noncompliance to the owner. Any findings of noncompliance must be corrected before MaineHousing will approve the plans and specifications. Once the plans and specifications are finalized, the construction analyst will document in writing that the analyst has reviewed the plans and specifications, and, to the best of the construction analyst's knowledge,

concur that the plans and specifications comply with applicable accessibility laws. All communications and documentation about a project's accessibility will be kept in the project file.

Construction

1. Funding commitments and loan documents will include these policies and procedures as a condition of any funding and will specify the consequences for failure to comply with the applicable requirements, including without limitation, loss of funding or other default rights and remedies under the funding commitment and loan documents, as applicable. The loan documents will include a specific certification of compliance with applicable accessibility laws and indemnification by the owner of the project.
2. MaineHousing's construction analysts monitor the construction of projects funded under its multifamily and supportive housing projects. Construction analysts will periodically inspect the installation of accessibility features in projects during construction in an effort to identify any noncompliance prior to completion of the project in an effort to reduce costs and construction delays to correct any noncompliance. All inspections will be documented and kept in the project file. The construction analyst will provide written notice (which can be in the form of an e-mail or other electronic transmission) of any findings of noncompliance to the owner. Any noncompliance identified by the construction analyst during the construction of the project must be corrected before any MaineHousing funding is disbursed except as provided below. If MaineHousing is providing funding during construction, MaineHousing may cease disbursing funds until the noncompliance is corrected.
3. Upon completion of construction of a project, the construction analyst will perform a full inspection of the accessibility features of the project. The construction analyst will document in writing that the construction analyst (a) has conducted the inspection, and (b) to the best of the construction analyst's knowledge, either (i) concurs that the project complies with applicable accessibility laws or (ii) has determined that the project does not fully comply with applicable accessibility laws, specifically identifying the findings of noncompliance.
4. The construction analyst will provide written notice (which can be in the form of an e-mail or other electronic transmission) of any findings of noncompliance to the owner. Except as provided below, any findings of noncompliance must be corrected before MaineHousing will approve the final disbursement of funds, including any retainage, or use of contingency funds if MaineHousing is providing construction financing (including any participation in a construction loan) or, if MaineHousing is providing permanent funding only, before MaineHousing will provide any funding or approve the release of retainage or use of contingency funds.
5. If any findings of noncompliance (a) cannot be corrected due to seasonal limitations or other extraordinary circumstances pursuant to MaineHousing's incomplete work escrow policies and procedures, or (b) are minor in nature and easily correctable, as determined by

MaineHousing in its sole discretion, and are agreed upon by the developer, architect and contractor, then MaineHousing will utilize an incomplete work escrow agreement to ensure project completion in accordance with applicable accessibility laws.

6. Upon correction of any findings of noncompliance, the construction analyst will inspect the corrected features. All inspections and communications with the owner about the findings of noncompliance shall be documented and kept in the file. If the noncompliance is corrected to MaineHousing's satisfaction, the construction analyst will document in writing that the analyst has conducted a final inspection, and, to the best of the construction analyst's knowledge, concurs the corrected features comply with applicable accessibility laws.
7. MaineHousing will not issue IRS Form 8609 for any low-income housing tax credit project unless all findings of noncompliance identified in the incomplete work escrow agreement or otherwise are corrected.
8. All inspections, communications and documentation about a project's accessibility must be kept in the project file for a period of three (3) years after the end of the term of any MaineHousing funding for the project.

Disclaimer

ALL INSPECTION REPORTS AND OTHER MAINEHOUSING DOCUMENTATION CONCERNING COMPLIANCE WITH FAIR HOUSING AND ACCESSIBILITY REQUIREMENTS ARE FOR MAINEHOUSING'S PURPOSES ONLY, AND MAY NOT BE RELIED ON BY ANY OTHER PERSON OR ENTITY OR USED FOR ANY OTHER PURPOSE. WITHOUT IN ANY WAY LIMITING THE FOREGOING, THE ABSENCE OR SATISFACTION OF ANY DEFICIENCIES IDENTIFIED IN ANY REPORT OR OTHER MAINEHOUSING DOCUMENTATION IS IN NO WAY A REPRESENTATION OR GUARANTEE THAT A PROPERTY COMPLIES WITH FAIR HOUSING AND ACCESSIBILITY REQUIREMENTS. MAINEHOUSING HAS NO RESPONSIBILITY OR LIABILITY TO THE OWNER OF A PROPERTY OR ANY OTHER PERSON OR ENTITY FOR THE PROJECT'S COMPLIANCE WITH FAIR HOUSING AND ACCESSIBILITY REQUIREMENTS.

Summary of Accessibility Requirements

The following is a summary of the accessibility laws applicable to MaineHousing’s multifamily and supportive housing programs. The summary is for informational purposes only. MaineHousing is in no way representing or guaranteeing that the summary is a complete and accurate description of the owner’s obligations under applicable accessibility laws. Reference should be made to the actual laws, regulations, standards, and guidance for the full scope and context of the requirements.

Please note that the term “accessible” may have a different meaning under the various federal, state and local accessibility laws. These differences are set forth in the scoping and technical requirements in the implementing regulations and associated accessibility standards.

Federal Fair Housing Act

**Title VIII of the Civil Rights Act of 1968 (as amended by Fair Housing Amendments of 1988)
42 U.S.C. § 3601 et seq.
24 CFR Part 100**

Governing Agency: United States Department of Housing and Urban Development (HUD)

Applicability

- Applies to all newly-constructed multifamily housing constructed for first occupancy after March 13, 1991
 - Multi-family housing is defined as buildings with 4 or more units
 - MaineHousing considers a project with one or more buildings with a total of 4 or more units multi-family housing subject to these requirements
 - Multi-family housing includes both rental and homeownership units, except multi-family townhouses
 - A multi-story unit within a building with an elevator providing access to the first floor of the multi-story unit is not exempt. The first floor of multi-story unit and any other floor on an accessible route (such as an elevator or a lift) must be accessible
 - First occupancy means the building was never used for any purpose – applies if a building is occupied on March 13, 1991 or if the last building permit or renewal for the dwelling was issued by a State, county or local government on or before June 15, 1990
 - Common use areas are rooms or spaces inside or outside a building that are available for use by the residents or their guests

- Public use areas are rooms or spaces inside or outside a building that are available to the general public (regardless of whether the building is privately or publicly owned)
- Applies to the addition of 4 or more units to an existing building after March 13, 1991

Requirements

- 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
- If at least one building entrance on an accessible route, then the following requirements apply:
 - The public use areas and common use areas are readily accessible to and usable by persons with physical and mental disabilities
 - All doors designed to allow passage into and within all premises must be sufficiently wide to allow passage by persons with disabilities in wheelchairs
 - Dwelling units
 - If a building contains an elevator, then all of the units in the building must be accessible
 - If a building does not contain an elevator, then only the ground floor units must be accessible
 - All premises within the covered dwelling units must contain following features of adaptable design:
 - An accessible route for a person in a wheelchair into and through the unit
 - Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
 - Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall and shower seat, where such facilities are provided
 - Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space
- Parking

- Minimum of 2% of total parking spaces, but no less than one space, for dwelling units
- Must be on an accessible route
- If different types of parking (e.g. surface, garage, covered), at least one of each must be accessible – if covered parking, at least one and more than one is preferable, and an accessible covered space can be substituted for an accessible garage space if the garage parking is not accessible
- If a resident needs an accessible space and none are available, one must be provided – must be on same terms as other residents and the full range of choices available to other residents (e.g. surface, garage or covered) must be offered
- A resident with a disability can request an unused accessible space to be moved, but the relocated space must be on an accessible route
- Minimum of at least one accessible space for each common use or public use facility that is separate from the dwelling units (e.g. a sales/rental office, or a community service facility that is available to the public, or a community room or laundry facilities that are in a separate building from the dwelling units)
- If visitor parking is provided, then accessible visitor parking must be provided – no specific number of units are required, but it must be sufficient to provide access to the grade level entrances of housing – for larger projects, several visitor spaces should be provided and should be distributed throughout the site

Standard

- HUD recognizes 10 safe harbors, which are set forth in 24 CFR §100.205.

Although the safe harbors do not specifically include the requirements for Type B Units under the American National Standard: Accessible and Usable Buildings and Facilities, 2009 Edition (ICC/ANSI A117.1-2009), MaineHousing encourages the use of this standard because it is the standard adopted by the Maine Human Rights Commission and provides equal or greater accessibility than the safe harbors which is permitted under the regulations.

- HUD's Fair Housing Act Design Manual

Exception

- If it is impracticable to provide at least one building entrance on an accessible route because of the terrain or unusual characteristics of the site, the project is exempt from the above requirements

Section 504 of the Rehabilitation Act of 1973
29 U.S.C. §794
24 CFR Part 8

Governing Agency: United States Department of Housing and Urban Development (HUD)

Applicability

- Applies to the new construction and rehabilitation of federally-assisted multi-family housing designed, constructed or altered on or after July 11, 1988
 - Federal assistance includes capital funding, such as FedHOME, McKinney-Vento funds (such as Continuum of Care funds), National Housing Trust Fund, Rural Development Section 515 funding and funding under HUD's Section 202 and Section 818 programs
 - Federal assistance also includes federal rental and operating assistance, such as Section 8 project-based vouchers, project-based rental assistance under HUD's Section 8, Section 202 and Section 818 programs, and Rural Development project-based rental assistance
 - Applies to the whole project even if less than all of the units in the project are federally-assisted
 - Multi-family housing is defined as a project containing 5 or more dwelling units
 - A project is defined as the whole of one or more residential structures and related common areas which are covered by a single contract, or designated as a whole for processing purposes, whether or not all of the units are located in the same building or on the same site, e.g. multiple buildings on a single site or buildings on scattered sites that are owned by the same entity and operated as a single project

NOTE: If an owner is combining existing housing projects into a single project, each existing housing project may be considered a separate project for purposes of determining the accessibility requirements because each existing housing project should have met the accessibility requirements before they were combined.

- Multi-family housing includes rental and homeownership opportunities – multifamily townhouses are not exempt
- Date a project is designed, constructed or altered is the date bids for the construction or alteration of the project are solicited
- Alteration (or rehabilitation) means any change in a facility (including all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock

or other real or personal property) or its permanent fixtures or equipment, including without limitation remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs – does not include normal maintenance and repairs, interior decoration, energy improvements, or changes to mechanical systems

- “Maximum extent feasible” means to the extent it would not impose an undue financial or administrative burden on the operation of the housing; factors to be considered are limited to the project construction budget; they include the nature and cost of the improvements, the overall financial resources of the owner, the resources available to pay for the improvements (including without limitation available government funding), documented good faith efforts to explore less restrictive or expensive alternatives, the availability of the equipment and technology to comply with the requirements, whether the alteration will result in a fundamental change in the nature of the housing, efforts to minimize costs by spreading costs over time and the extent to which other costs could be cut or deferred to cover the costs of the alterations
- NOTE: Under the alteration requirements, all elements altered in a project (including all elements in all of the units, not just the units designated to become accessible) must be made accessible until the new construction requirements are met, so owners should consider complying with the new construction requirements, which avoids partially accessible units of little use and is likely more cost effective

Requirements

- Access
 - New Construction, Substantial Alteration and Completely Altered Vacant Buildings
 - At least one accessible entrance and accessible route to, into and through the project connecting all accessible elements and spaces, including units accessible to persons with physical disabilities and accessible common areas, spaces and amenities
 - Substantial alteration is alteration of a project with 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed project, replacement cost being the current cost of construction and equipment (not land, demolition, site improvements, non-dwelling facilities and administrative costs for project development activities) for a newly constructed housing facility of the size and type of building altered
 - Additions

- If addition has an entrance, comply with new construction requirements
 - If addition does not have an entrance, then at least one entrance in the existing building must be accessible and there must be an accessible route from the accessible entrance through the existing building to and connecting the accessible spaces, elements and features in the addition
 - Other Alterations
 - If existing elements, spaces, features or areas are altered, then each altered element, space, feature or area must comply with the accessibility requirements for new construction to the maximum extent feasible
 - If alterations of elements, when considered together, would constitute alteration of a space, then entire space must comply with the accessibility requirements for new construction to the maximum extent feasible
 - Elevators or other accessible means of vertical movement are not required if (a) no accessible dwelling units are located above or below the accessible grade level, and (b) at least one of each type of common area and amenity provided for use by residents and visitors is available at the accessible grade level
 - If an elevator is provided or is required, it must be accessible
 - For rehabilitation projects, a platform lift may be substituted for an elevator, provided persons with disabilities must be able to enter and exit the platform lift without assistance
- Common Areas and Amenities
 - New construction, Substantial Alteration and Completed Altered Vacant Buildings
 - At least one of each type of common area and amenity in project must be accessible and must be located on an accessible route to accessible dwelling units
 - Additions
 - Any common areas and amenities in the addition must comply with new construction requirements
 - If the addition does not have common areas or amenities, then at least one of each type of common area and amenity in the existing building must comply with the accessibility requirements for new construction to the maximum

extent feasible

- Other Alterations
 - If existing elements, spaces, features or areas are altered, then each altered element, space, feature or area must comply with the accessibility requirements for new construction to the maximum extent feasible
 - If alterations of elements, when considered together, would constitute alteration of a space, then entire space must comply with the accessibility requirements for new construction to the maximum extent feasible
- Dwelling Units
 - New Construction, Substantial Alteration and Completely Altered Vacant Buildings
 - At least 5% of the dwelling units, but not less than one unit, must be accessible to persons with mobility impairments, and an additional 2% of the dwelling units , but not less than one unit, must be accessible to persons with hearing or vision impairments
 - The number of required accessible units is based on the total number of units in the project, even if less than all of the units in a project are federally-assisted
 - Additions
 - New construction requirements apply to the residential units added until the total number of units in the whole project complies with the minimum number of units required for the whole project
 - Other Alterations
 - Altered elements, features and spaces must comply with the accessibility requirements for new construction to the maximum extent feasible
 - If alterations to elements or spaces of a dwelling unit, when considered as a whole, constitute alteration of an entire unit, then the entire unit must comply with the accessibility requirements for new construction to the maximum extent feasible; for example, alterations involving the renovation of a kitchen (or at least replacement of cabinets), the renovation of a bathroom (or at least replacement or addition of tubs or showers, toilets or flooring), and the replacement of entrance door jams would, as a whole, constitute the alteration of an entire unit

- Distribution of Accessible Units
 - To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be distributed throughout the project and sites, and shall be available in a sufficient range of sizes and amenities so that choice of living arrangements is, as a whole, comparable to and integrated with those available to other residents
 - If a project has different bedroom sizes, there should be accessible units of each size throughout the project, and the accessible units per each bedroom size should be proportionate to the total units per each bedroom size
 - If a project is only required to have one accessible unit in a project that has a mix of one- and two- or more bedroom units, a two-bedroom unit should be accessible (to accommodate the need of a caregiver or the family of a person with a disability)
 - If multi-story units, such as townhouses, are one of the types of units provided, a one-story unit may be used as a substitute for a multi-story unit if equivalent spaces, bedroom sizes and amenities are provided in the one-story unit
 - A multi-story townhouse unit may be considered accessible if the first floor is accessible and contains an accessible bathroom, kitchen and bedroom if a two unit, and two accessible bedrooms if a three-bedroom unit
- Parking
 - If at least one parking space is provided for each unit (one-for-one parking), at least one accessible space is required for each accessible unit
 - If less than one-for-one parking, then a proportionate number of accessible parking spaces based on the ratio of accessible units and total units to the total number of parking spaces
 - If parking is provided for visitors, at least 2% of the spaces, but no less than one space, must be accessible
 - Accessible parking spaces must be located on an accessible route and closest to the nearest accessible entrance
 - Accessible parking spaces must have an adjacent access aisle, which can be shared with another accessible parking space, and the access aisle must be part of an accessible route

- Van spaces are not required, but if provided, each van space must be accessible and have an accessible access aisle and be part of an accessible route
- All accessible spaces must be identified by signs that meet visual (style, contrast, size) and other accessibility requirements and contain the International Symbol of Accessibility (reserved exclusively for persons with disabilities) and the term “van accessible” if they are van accessible spaces
- Historic Preservation
 - Alterations to historic buildings eligible for listing on the National Register of Historic Places or designated historic under State or local law must comply with the accessibility requirements for new construction to the maximum extent feasible
 - Priority must be given to making facilities accessible
 - If Section 106 of the National Historic Preservation Act applies, a determination by the Advisory Council on Historic Preservation that the alterations would threaten the historic significance of the features is required
 - MaineHousing may require a determination from the State Historic Preservation Commission that the alteration would threaten the historic significance of the features
 - If compliance with the requirements for accessible routes, ramps, entrances, bathroom facilities, parking and displays and signs would substantially impair the significant historic features or integrity of the facility, then alternative access provided pursuant to Section 4.1.7(2) of UFAS may be utilized

Standards

- Uniform Federal Accessibility Standard (UFAS)
- An alternative standard can only be used if it provides substantially equivalent or greater access to and usability of the housing

NOTE: HUD has designated an alternative standard pursuant to Notice, Docket No. FR-5784-N-01, dated May 16, 2014, which is the 2010 Standards of Accessible Design (28 CFR Section 35.151 and 2004 ADAAG), modified to replace certain requirements that HUD has deemed are not equivalent alternatives with the more restrictive requirements under HUD’s regulations and UFAS as follows:

- (i) 24 CFR §§ 8.4(b)(5) instead of 28 CFR §35.151(a)(2) and (b) concerning structural impracticability;

- (ii) 24 CFR §§ 8.20 – 8.26 and UFAS 4.1.6 instead of 28 CFR §35.151(b) concerning alterations;
- (iii) 24 CFR §§ 8.20 – 8.26 and UFAS 4.1.5 instead of Section 202.2 concerning additions;
- (iv) 24 CFR §§ 8.20 – 8.26, and Section 202.4 without the exception to Section 202.4 for alterations affecting primary function areas, and Section 215 without exception 215.1 concerning visible alarms;
- (v) 2010 Standards without the following: Section 203.8 general exception for residential facilities; Sections 203.9 and 206.2.8 concerning employee work areas; exceptions to Sections 403.5 and 405.8 concerning employee work areas; exception 2 to Section 206.2.1 concerning site arrival points; exception to Section 206.2.2 concerning sites; and exception 1 to Section 206.2.3 concerning multi-story buildings and facilities; and
- (vi) 24 CFR Part 8 and UFAS 4.34.7 instead of Section 214 concerning laundry facilities.

NOTE: UFAS is required for projects funded by Rural Development, which has not adopted the above alternative standard

Exceptions

- Structural Impracticability
 - Full compliance with the accessibility requirements (that is the requirements that apply to new construction) is required except to the extent it is structurally impracticable
 - Structurally impracticable means “changes having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of 50 percent or more of the value of the element of the building or facility involved.”
 - Applies to alterations only – not new construction

Title II of the Americans with Disabilities Act
42 U.S.C. 12101 et seq.
28 CFR Part 35

Governing Agency: United States Department of Justice (DOJ)

Applicability

- Applies to all State-funded housing constructed or altered after January 26, 1992
 - Applies to all projects with 3 or more units funded under MaineHousing’s programs if physical construction or alteration begins before March 15, 2012
 - Applies to all projects (no minimum number of dwelling units) funded under MaineHousing’s multi-family and supportive housing programs if physical construction or alteration begins on or after March 15, 2012
 - Applies to projects even if the only source of funding from MaineHousing is low-income housing tax credits
 - A project is all or any portion of buildings, structures, site improvements, elements and pedestrian routes or vehicular ways located on each site, unless there are 15 or fewer units in total
 - For housing with 15 or fewer units in total, the requirements apply to the total number of units constructed under a single contract, or developed as a whole, whether or not located on a common site
 - For scattered-site housing with more than 15 units in total, each site is a project so the requirements apply to each site
 - Project includes rental housing and single-family housing – townhouses are not exempt
 - Alteration means a change to a facility (including all or any portion of buildings, structures, site improvements, elements and pedestrian routes or vehicular ways located on a site) that affects or could affect the usability of the facility or a portion thereof, and include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, resurfacing of circulation paths or vehicular ways, changes or rearrangement of structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions – do not include normal maintenance, reroofing, painting and wallpapering or changes to mechanical and electrical systems unless they affect the usability of the facility
 - Maximum extent feasible means technical infeasibility, which means something that has little likelihood of being accomplished because existing structural conditions

would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other physical or site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the requirements – unlike Section 504, there is no cost factor

- NOTE: Under the alteration requirements, all elements altered in a project (including all elements in all of the units, not just the units designated to become accessible) must be made accessible until the new construction requirements are met, so owners should consider complying with the new construction requirements, which avoids partially accessible units of little use and is likely more cost effective
- The accessibility of a facility must be maintained during the period of any repair or alteration of the facility, and the repair or alteration cannot reduce or have the effect of reducing the accessibility of a facility
- Construction sites and equipment, limited access areas (areas accessed only by ladders, catwalks, crawl spaces or very narrow passageways), machinery rooms and spaces, and spaces used only by service personnel for maintenance, repair or occasional monitoring of equipment are not required to be accessible

Requirements

- Access
 - New Construction
 - At each site, at least one accessible route must connect each site arrival point - accessible parking, passenger loading zone, public streets and sidewalks, and each public transportation stop – to all accessible building or facility entrance(s) served, unless the only means of access to the site is a vehicular way that does not provide for pedestrian access (a parking lot is not a vehicular way)
 - At each site, at least one accessible route between all accessible buildings, facilities, elements and spaces within the site, unless the only means of access to the site is a vehicular way that does not provide for pedestrian access
 - At least 60% of all public entrances must be accessible
 - Each direct access for pedestrians provided from a parking structure to a facility or building entrance must be accessible
 - At least one of any direct access from pedestrian tunnel or elevated walkway to a facility or building entrance must be accessible

- At least one of any restricted entrance to a facility or building must be accessible
- If a service entrance is the only entrance to a facility, building or tenant space, it must be accessible
- At least one accessible route between the accessible facility entrance and all accessible spaces and elements within the facility
- At least one primary entrance to a dwelling unit (not to a bedroom) and at least one entrance to each other tenant space must be accessible
- Accessible routes must be located in the same general area as a general circulation path (if a circulation path is interior, the accessible route must be interior)
- All floor and ground surfaces must be stable, firm and slip resistant – stone dust is not permitted
- At least one accessible route (which may require the installation of an elevator) shall connect each mezzanine and each story in a multi-story building, except:
 - In a building or facility that is less than 3 stories or has less than 3,000 square feet per story
 - In a building or facility where accessible dwelling units, all common areas serving accessible units, and all public areas are on an accessible route
 - To a story or mezzanine with an occupant load of 5 or fewer persons and no public space in a two-story building
 - To connect mezzanines in one-story buildings or facilities
- All passenger elevators must be accessible
- Use of platform lifts is limited – only for accessible route to performance areas, to comply with wheelchair space dispersion or line-of-site requirements, to non-public incidental spaces with no more than 5 persons, to play components or soft contained play structures, to team or player seating for areas of activity, within dwelling/sleeping units, or where existing exterior site constraints make use of ramp or elevator infeasible

- If a two-way communication system is used to access a building or facility, it must have audible and visual signals and meet other requirements
- All directional, identifying, and informational signs about interior spaces and facilities of the site must comply with certain visual (size, color, contrast) requirements, including the following signs that are required
 - Interior and exterior signs identifying permanent rooms and spaces (ex. stairways, floor levels, lobbies and hallways) must comply with visual and tactile (raised characters) requirements, and if pictograms are used they must meet certain accessibility requirements and have text descriptors that comply with the visual and tactile requirements
 - If not all entrances are accessible, each accessible entrance must have an identifying sign that has the International Symbol of Accessibility and complies with visual requirements, and each entrance that is not accessible must have a directional sign that complies with the visual requirements indicating the location of the nearest accessible entrance
 - If not all elevators are accessible, each accessible elevator must have an identifying sign that has the International Symbol of Accessibility and complies with the visual requirements
 - Doors at exit passageways, exit discharges, and exit stairways must have an identifying sign that complies with visual and tactile (raised characters) requirements
- Alterations
 - If existing elements, spaces, features or areas are altered, then each altered element, space, feature or area must comply with the accessibility requirements for new construction to the maximum extent feasible
 - If alterations of elements, when considered together, would constitute alteration of a space, then entire space must comply with the accessibility requirements for new construction to the maximum extent feasible
 - If alterations that could affect the usability of or access to a primary function area, then path of travel to the primary function area must comply with the accessibility requirements for new construction to the maximum extent feasible
 - Primary function is a major activity for which the project is intended, such as community rooms, dining rooms, resident storage areas and other common areas for resident use – does not include dwelling

units (for which there is an exception) and does not include mechanical and electrical rooms, boiler rooms or other rooms not for resident use

- Path of travel is a continuous, unobstructed pedestrian path by which the altered area can be approached, entered and exited and which connects the altered area to an exterior approach to the facility (such as sidewalks, streets and parking), the entrance of the facility and other parts of the facility – includes restrooms, telephones and drinking fountains serving the altered area
 - An accessible path of travel may consist of walks, sidewalks, curb ramps and other interior and exterior pedestrian ramps, clear floor paths through lobbies, corridors, rooms and other altered areas, parking access aisles, elevators or lifts, or a combination of these
 - If the cost of alterations necessary to make the path of travel to the altered primary function area accessible is disproportionate to the cost of the overall alteration, the path of travel must comply with the accessibility requirements for new construction to the extent that it can without incurring disproportionate costs - costs of alterations to make a path of travel accessible are disproportionate if these costs exceed 20% of the cost of the alteration to the primary function area. ADAAG establishes a priority of accessible features to make the path of travel accessible to the extent it is not disproportionate
 - Installation of an elevator may be required unless excepted under the new construction requirements – if an elevator is required, a platform lift may be substituted for an elevator if persons with disabilities are able to enter and exit the platform lift without assistance
 - If a new stairway or escalator is added where none existed and major structural modifications are necessary, an accessible route (elevator) must be provided between the levels served by the new stair or escalator unless excepted under the new construction requirements
 - If elements in an existing elevator are altered, the same element must be altered in all elevators that are programmed to respond to the same hall call control and the altered elements must be made accessible
- Additions
 - Comply with new construction requirements

- If the addition does not have an accessible entrance, then the path of travel requirements above require an accessible route from the addition through the existing facility, including its entrance and exterior approaches, subject to the above disproportionality limitation
- If addition affects usability of or access to a primary function area, the path of travel requirements apply
- Means of Egress
 - New Construction
 - Accessible means of egress is required in accordance with the International Building Code – see requirements under MUBC/MUBEC, beginning on page 45.
 - If means of egress are allowed by local building or life safety codes to share a common path of egress travel, accessible means of egress can share a common path of egress travel
 - Additional accessibility requirements for stairs and handrails that are part of an accessible means of egress
 - Alterations and Additions
 - Accessible means of egress is not required in existing buildings, but the accessibility requirements for stairs and handrails must be met for any stairs that are altered
- Common Areas
 - New Construction
 - Common areas and spaces in projects must be accessible
 - Common areas that do not serve dwelling units with accessible mobility features are not required to be accessible or located on an accessible route
 - All common and public use areas must have audible and visible alarms
 - Certain elements and features in these areas, if they are provided, must be accessible, including but not limited to the following

- All toilet rooms and bathing rooms must be accessible (even if not on an accessible floor) with at least one on an accessible floor, and fixture and accessories provided in accessible toilet rooms and bathing rooms must be accessible
 - If cluster of multiple single-user toilet or bathing rooms, no more than 50% of each use in each cluster must be accessible
 - At least one toilet compartment must be wheelchair accessible plus one more must be ambulatory accessible if 6 or more toilet compartments
 - At least one lavatory must be accessible and cannot be located in a stall
 - If more than one urinal in a room, at least one must be accessible
 - Any unisex (family or assisted) toilet rooms must contain no more than one lavatory and two water closets without urinals or one water closet and one urinal, and shall be locked for privacy
 - Any unisex bathing room must contain one shower or one shower and one bathtub, one lavatory, and one water closet, and must be locked for privacy
- At least 2 drinking fountains are required, one that is wheelchair accessible and one for standing persons (or can be substituted with one drinking fountain that has a separate spout for each), and if more than 2 drinking fountains are provided, at least 50% must be wheelchair accessible and 50% must be for standing persons
- If 3 or less washing machines, at least one must be accessible, and if more than 3 washing machines, at least 2 must be accessible
- If 3 or less dryers, at least one must be accessible, and if more than 3 dryers, at least 2 must be accessible
- At least one accessible mailbox for each accessible dwelling unit in residential facilities (at least 5% of each type of mailbox in an interior location in other facilities must be accessible)
- All kitchens and kitchenettes must be accessible
- At least 5% of all sinks in each space must be accessible

- All dining areas must be accessible and at least 5% of all seating and standing spaces at dining surfaces must be accessible
- All operating controls and hardware used by tenants in accessible spaces, along accessible routes, and as part of an accessible element must be accessible, except only one electrical outlet in a kitchen/kitchenette and only one of redundant controls (other than for lighting) must be accessible
- At least 5% of all fixed or built-in tables, counters or work surfaces in each accessible room must be accessible
- At least one of each type of storage element in accessible spaces must be accessible, accessible storage having the same features as inaccessible storage
- In rooms or spaces for assembly with fixed seating, at least one wheelchair space for each 25 seats or fraction thereof, 4 wheelchair spaces if 51 to 100 seats, and more spaces if seating capacity exceeds 100 (See Table 1108.2.2.1 of IBC) plus at least one companion seat for each wheelchair space required
 - Line of sight requirements – must have choice of seating locations and viewing angles substantially equivalent to or better than others
 - Vertical and horizontal dispersion requirements if more than 300 seats
 - At least 5% of aisle seats must be designated for persons with mobility impairments (but not in a wheelchair) and located closest to accessible route
 - If there's a speaker system in the assembly area, an assistive listening system (induction loop, AM/FM or infrared) is required with at least 2 receivers that are hearing aid compatible for each 50 seats or fraction thereof plus one more for each 25 seats or fraction thereof in excess of 50 seats, and more receivers if seating capacity exceeds 200 (See Table 1108.2.7.1 of IBC)
 - Accessible route from the assembly area to the performance area and ancillary areas used by performers
- Recreational facilities available for tenants must be accessible

- At least one accessible route within each play area, connecting entry and exit points to at least one of each type of ground level play components (and more of each type if 2 or more elevated play components are provided – see Table 240.2.1.2 of ADAAG) and at least 50% of elevated play components, and ground level and elevated play components must have clear floor or ground space and at least one turning space
 - At least one accessible entry point if 3 or less soft contained play structures and at least two accessible entry points if 4 or more
 - An area of sport activity is not required to be accessible, but there must be an accessible route to the edge of the activity and at least one wheelchair space must be provided in the team and player seating areas
- At least one of each type of exercise equipment must have clear floor width and be on an accessible route
- All directional, identifying, and informational signs about interior spaces and facilities of the site must comply with certain visual (size, color, contrast) requirements, including the following signs that are required
 - Interior and exterior signs identifying permanent rooms and spaces must comply with visual and tactile (raised characters) requirements, and if pictograms are used they must meet certain accessibility requirements and have text descriptors that comply with the visual and tactile requirements
 - If not all toilet or bathing rooms are accessible, each accessible room must have an identifying sign that has the International Symbol of Accessibility and complies with the visual requirements, and each room that is not accessible must have a directional sign that complies with visual requirements indicating the location of the nearest accessible room
 - If not all toilet or bathing rooms in clustered single user toilet or bathing rooms are accessible, each accessible room must have an identifying sign that has the International Symbol of Accessibility and complies with the visual requirements
 - Each assembly area with an assistive listening system must have a sign indicating the availability of the system that has the International System of Access for Hearing Loss and complies with the visual requirements

- Alterations
 - If existing elements, spaces, features or areas are altered, then each altered element, space, feature or area must comply with the accessibility requirements for new construction to the maximum extent feasible
 - If technically infeasible to make a toilet or bathing room accessible, an accessible unisex toilet or bathing room located on the same floor and in the same area is an acceptable alternative
 - If alterations of elements, when considered together, would constitute alteration of a space, then entire space must comply with the accessibility requirements for new construction to the maximum extent feasible
- Additions
 - Any common areas, elements and amenities in the addition must comply with new construction requirements
 - If addition does not have common areas or amenities, then at least one of each type of common area, element and amenity in the existing building must comply with the accessibility requirements for new construction to the maximum extent feasible and path of travel requirements above apply
- Dwelling Units
 - Projects subject to Section 504 shall provide the number of units required by Section 504
 - Projects not subject to Section 504 shall provide the following number of accessible dwelling units
 - New Construction and Alteration of Vacant Buildings with 15 or more Units
 - At least 5% of the dwelling units, but not less than one unit, must have accessible mobility features, and an additional 2% of the dwelling units , but not less than one unit, must have accessible communication features
 - Additions
 - New construction requirements apply only to the dwelling units that are added until the total number of dwelling units in the project complies with the minimum number of units required for the whole project

- Other Alterations
 - Comply with the accessibility requirements for new construction to the maximum extent feasible
 - If compliance is technically infeasible, the owner of the project must alter or construct a comparable residential unit for each unit required to comply with the new construction requirements – comparability is in terms of location, number of bedrooms, amenities in the unit, types of common spaces within the facility and proximity to community resources and services
 - Regardless of technical infeasibility, at least 2% of the units, and not less than one unit, must include accessible communication features
- Distribution of Accessible Units
 - Accessible units must be dispersed among the various types of dwelling units in the project and must provide choices of dwelling units comparable to, and integrated with, those available to other residents
 - If a project has different bedroom sizes, there should be accessible units of each size throughout the project, and the accessible units per each bedroom size should be proportionate to the total units per each bedroom size
 - If a project is only required to have one accessible unit in a project that has a mix of one- and two- or more bedroom units, a two-bedroom unit should be accessible (to accommodate the need of a caregiver or the family of a person with a disability)
 - If multi-story units, such as townhouses, are one type of unit provided, a one-story unit may be used as a substitute for a multi-story unit if equivalent spaces, bedroom sizes and amenities are provided in the one-story unit
 - A multi-story townhouse unit may be considered accessible if the first floor is accessible and contains an accessible bathroom, kitchen and bedroom if a two unit, and two accessible bedrooms if a three-bedroom unit
- Historic Preservation
 - Alterations to historic buildings eligible for listing on the National Register of Historic Places or designated historic under State or local law must comply with the

accessibility requirements for new construction to the maximum extent feasible

- Priority must be given to making the project accessible
- A determination by the State Historic Preservation Commission or the Advisory Council on Historic Preservation that the alterations would threaten or destroy the historic significance of the features is required
- If compliance with the requirements for accessible routes, ramps, entrances, bathroom facilities, parking and displays and signs would substantially impair the significant historic features or integrity of the facility, then the following alternative methods may be utilized
 - No more than one accessible route from a site arrival point to an accessible entrance
 - No more than one accessible public entrance (or if no public entrance can comply, then an unlocked entrance or locked entrance with a notification system or remote monitoring must be accessible)
 - Accessible route not required to stories above or below accessible story
 - At least one toilet room for each sex or one unisex toilet must be accessible
- Transitional Housing, Group Homes and Shelters
 - Comply with the requirements for residential facilities described herein, and in addition:
 - In sleeping rooms with more than 25 beds, at least 5% of the beds shall have clear floor space
 - Facilities with more than 50 beds that provide common bathing facilities shall provide at least one roll-in shower with a seat (transfer –type showers are not permitted in lieu of roll-in showers and exceptions for residential facilities do not apply), and if separate shower facilities are provided for men and women, at least one roll-in shower with seat for each group
- Parking
 - If one space is provided for each unit (one-for-one parking), then one accessible space is required for each accessible unit

- If there is more than one-for-one parking, then 2% of total parking spaces, with a minimum of one space, not covered by the one-for-one requirement
- If less than one-for-one parking, then a proportionate number of accessible parking spaces based on the ratio of accessible units and total units to the total number of parking spaces
- One van accessible space is required for every 6 (or fraction of 6) accessible spaces, but no less than one space
- If parking provided for visitors, then one accessible space is required for every 25 (or fraction of 25) units, but not less than one
- Accessible spaces must be located on the shortest accessible route from the space to the dwelling unit served by the space
- If there is more than one accessible route, then the parking spaces should be distributed among the accessible routes
- If different types of parking (e.g. surface, garage, covered), accessible parking spaces should be distributed among the different types unless substantially equivalent or greater accessibility is provided in terms of distance from an accessible route, parking fee or user convenience – user convenience takes into consideration protection from the weather, security, lighting and comparative maintenance of the alternative parking site - covered parking is preferable
- Any passenger loading zones must be accessible
- All accessible spaces and passenger loading zones must be identified by signs that meet visual (style, contrast, size) and other accessibility requirements and contain the International Symbol of Accessibility (reserved exclusively for persons with disabilities) and the term “van accessible” if they are van accessible spaces, except:
 - If 4 or fewer total parking spaces on a site, the accessible space are not required to have the sign
 - If an accessible space is assigned to a specific dwelling unit, the accessible space should not have the sign – it should be identified as reserved for the dwelling unit (i.e. “Reserved for Unit #___”)

Standards

- Projects constructed or altered before March 15, 2012, UFAS

- For projects constructed or altered on or after March 15, 2012, the applicable standard is the 2010 Standards for Accessible Design applicable to Title II (2004 ADAAG and 28 CFR Section 35.151)
- NOTE: Compliance with the alternative standard to UFAS designated by HUD on May 16, 2014 will satisfy the owner’s obligations under Section 504 and Title II. If an owner elects to comply with UFAS, the owner must satisfy the more restrictive of each requirement under UFAS and the 2010 Standards for Accessible Design.

Exceptions

- Structural Impracticability
 - Full compliance is not required if the owner can demonstrate that it is structurally impracticable to meet the requirements.
 - Structurally impracticable means only those “rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.”
 - Any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable
 - If compliance is technically infeasible, the owner of the project must alter or construct a comparable residential unit for each unit required to comply with the new construction requirements – comparability is in terms of location, number of bedrooms, amenities in the unit, types of common spaces within the facility and proximity to community resources and services
 - Regardless of structural impracticability, a project must include accessible communication features in at least 2% of the units, and not less than one unit

Title III of the Americans with Disabilities Act
42 U.S.C. 12101 et seq.
28 CFR Part 36

Governing Agency: United States Department of Justice (DOJ)

Applicability

- Applies to places of public accommodation designed and constructed for first occupancy after January 26, 1993 or altered after January 26, 1992
 - Places of public accommodation are facilities operated by a private entity whose operations affect commerce and fall into one of 12 categories
 - For purposes of MaineHousing’s multifamily and supportive housing programs, places of public accommodation include facilities such as on-site rental offices and other common areas available to the public, social service establishments, group homes, transitional housing and shelters
 - Social service center establishments may include, without limitation, supportive housing depending on the level and type of services of provided, whether the services are voluntary or mandatory and whether the services are made available throughout the facility or only in limited spaces within the facility
 - A facility was designed and constructed for first occupancy after January 26, 1993 if the last date the application for a building permit for the facility was certified, or if not certified then received, by the municipality issuing the permit was after January 26, 1992 and the facility received a certificate of occupancy after January 26, 1993
 - Definitions of alterations, maximum extent feasible and structural impracticability are the same as those used in Title II of the ADA

Requirements

- Places of public accommodation must be accessible, must have an accessible entrance and must be on an accessible route - similar requirements to those in Title II for new construction and alterations
- Social Service Center Establishments, Transitional Housing, Group Homes and Shelters
 - Comply with the requirements for residential facilities in Title II, and in addition:
 - In sleeping rooms with more than 25 beds, at least 5% of the beds shall have clear floor space

- Facilities with more than 50 beds that provide common bathing facilities shall provide at least one roll-in shower with a seat (transfer –type showers are not permitted in lieu of roll-in showers and exceptions for residential facilities do not apply), and if separate shower facilities are provided for men and women, at least one roll-in shower with seat for each group

Standards

- Projects constructed or altered before September 15, 2010, 1991 ADAAG
- For projects constructed or altered on or after September 15, 2010 but before March 15, 2012, either 1991 ADAAG or the 2010 Standards for Accessible Design applicable to Title III (2004 ADAAG and 28 CFR Section 36.104 and Section 36, Part D)
- For projects constructed or altered on or after March 15, 2012, the applicable standard is the 2010 Standards for Accessible Design applicable to Title III (2004 ADAAG and 28 CFR Section 36.104 and Section 36, Part D)

Exceptions

- Structural Impracticability
 - Full compliance is not required if the owner can demonstrate that it is structurally impracticable to meet the requirements
 - Structurally impracticable means only those “rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features”
 - Any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable

Maine Human Rights Act
State Fair Housing Requirements
5 MRSA §4582-B (for construction before September 1, 2012)
5 MRSA §4582-C (for construction on or after September 1, 2012)
Chapter 8 – Housing Regulations of the Maine Human Rights Commission

Governing Agency: Maine Human Rights Commission (MHRC)

Applicability

- Applies to new construction of multifamily housing constructed for first occupancy after March 13, 1991 or substantially altered on or after September 1, 2012
 - Multi-family housing is defined as buildings with 4 or more units
 - A project that has more than one building with less than 4 units in each building but has a total of 4 or more units in all of the buildings is multi-family housing subject to these requirements
 - Includes both rental and homeownership units, except multifamily townhouses
 - A multi-story unit within a building with an elevator providing access to the first floor of the multi-story unit is not exempt. The first floor of multi-story unit and any other floor on an accessible route (such as an elevator or a lift) must be accessible
 - First occupancy means the building has never been used for any purpose – applies if a building is occupied on March 13, 1991 or if the last building permit or renewal for the dwelling is issued on or before June 15, 1990
 - Applies to the addition of 4 or more units to an existing building or project after March 13, 1991
 - New construction includes the substantial alteration of multifamily housing on or after September 1, 2012
 - An alteration is considered new construction if the cost of the alteration is 75% or more of the replacement cost of the completed project
 - Alteration means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement

in the plan configuration of walls and full-height partitions. Alteration does not include normal maintenance, decoration and upgrades, including but not limited to re-roofing, re-siding, painting, wallpapering, replacement of doors and windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility

- Housing is considered to be constructed or altered on or after September 1, 2012 if:
 - the date when the last application for a building permit or permit extension is certified to be complete by the municipality is on or after September 1, 2012
 - if a municipality does not certify completion of applications, the date the last application for a building permit or permit extension was received by the municipality is on or after September 1, 2012
 - if no building permit is required, the date the construction or alteration starts is on or after September 1, 2012
- Common use areas are rooms or spaces inside or outside a building that are available for use by the residents or their guests
- Public use areas are rooms or spaces inside or outside a building that are available to the general public (regardless of whether the building is privately or publicly owned)

Requirements

- 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
- If at least one building entrance on an accessible route, then the following requirements apply:
 - The public use areas and common use areas are readily accessible to and usable by persons with physical and mental disabilities
 - All doors designed to allow passage into and within all premises must be sufficiently wide to allow passage by persons with disabilities in wheelchairs
 - Dwelling units

- If a building contains an elevator, then all of the units in the building must be accessible
 - If a building does not contain an elevator, then only the ground floor units must be accessible
 - All premises within the covered dwelling units must contain following features of adaptable design:
 - An accessible route for a person in a wheelchair into and through the unit
 - Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
 - Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall and shower seat, where such facilities are provided
 - Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space
- Parking
 - Minimum of 2% of total parking spaces, but no less than one space, for dwelling units
 - Must be on an accessible route
 - If different types of parking (e.g. surface, garage, covered), at least one of each must be accessible – if covered parking, at least one and more than one is preferable, and an accessible covered space can be substituted for an accessible garage space if the garage parking is not accessible
 - If a resident needs an accessible space and none are available, one must be provided – must be on same terms as other residents and the full range of choices available to other residents (e.g. surface, garage or covered) must be offered
 - A resident with a disability can request an unused accessible space to be moved, but the relocated space must be on an accessible route
 - Minimum of at least one accessible space for each common use or public use facility that is separate from the dwelling units (e.g. a sales/rental office, or a community service facility that is available to the public, or a community room or laundry facilities that are in a separate building from the dwelling units)

- If visitor parking is provided, then accessible visitor parking must be provided – no specific number of units are required, but it must be sufficient to provide access to the grade level entrances of housing – for larger projects, several visitor spaces should be provided and should be distributed throughout the site

Standard

- American National Standard: Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1)
- If constructed before September 1, 2012, ANSI A117.1-1986
- If new construction (or substantial rehabilitation) on or after September 1, 2012, the requirements for “Type B” units of the “most recent” ANSI A117.1 standard (currently ICC/ANSI A117.1 - 2009)
- HUD’s Fair Housing Act Design Manual

Maine Human Rights Act

Publicly-funded Housing

5 MRSA §4582 (for construction or alteration before September 1, 2012)

5 MRSA §4582-C (for construction or alteration on or after September 1, 2012)

Chapter 8 – Housing Regulations of the Maine Human Rights Commission

Governing Agency: Maine Human Rights Commission (MHRC)

Applicability

- Applies to the construction and alteration of housing containing 20 or more units that is financed in whole or part with public funds
 - All MaineHousing funding is considered public funds
 - Applies to projects even if the only source of funding from MaineHousing is low-income housing tax credits
 - A project (public housing) is defined as one or more buildings or structures on a single parcel of land – a scattered site project with 10 units on one parcel of land and 10 units on another parcel of land is not subject to the requirements
 - For housing constructed or altered on or after September 1, 2012, new construction means the construction of housing for first occupancy or alteration if the cost of the alteration is 75% or more of the replacement cost of the completed project
 - Alteration means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. Alteration does not include normal maintenance, decoration and upgrades, including but not limited to re-roofing, re-siding, painting, wallpapering, replacement of doors and windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility
 - Ground floor means the first floor of a building with units and a building entrance on an accessible route – the first floor of a building with parking at ground level below the building is the first floor with units and an accessible entrance (which can be by elevator from the ground level)
 - Housing is considered to be constructed or altered on or after September 1, 2012 if:
 - the date when the last application for a building permit or permit extension is certified to be complete by the municipality is on or after September 1, 2012

- if a municipality does not certify completion of applications, the date the last application for a building permit or permit extension was received by the municipality is on or after September 1, 2012
 - if no building permit is required, the date the construction or alteration starts is on or after September 1, 2012
- Does not apply to multifamily townhouses
 - A multi-story unit within a building with an elevator providing access to the first floor of the multi-story unit is not exempt. The first floor of multi-story unit and any other floor on an accessible route (such as an elevator or a lift) must be accessible

Requirements and Standards

- New construction
 - If constructed after January 1, 1984 but before October 1, 1988, at least one unit for each multiple of 20 units must be accessible to persons with physical disabilities in accordance with ANSI A117.1-1980 (Section 4.34)
 - If constructed on or after October 1, 1988, at least 10% of the ground level units in the project and at least 10% of the upper story units connected by an elevator in the project must be accessible to persons with physical disabilities in accordance with ANSI A117.1-1986
 - If constructed on or after September 1, 2012, at least 10% of the ground level units in the project and at least 10% of the upper story units connected by an elevator in the project must be accessible to persons with physical disabilities and at least 2% of the units in the project, but not less than one, must include accessible communication features, all in accordance with the requirements for “Type A” units in the “most current” version of ANSI A117.1 (currently ICC/ANSI A117.1 - 2009)
- Alterations and Additions
 - If constructed before October 1, 1988 and altered or enlarged on or after January 1, 1984 and the cost of the alterations exceeds \$100,000, at least one unit for each multiple of 20 units must meet the following 4 parts of ANSI A117.1-1980: Section 4.3 - accessible route; Section 4.13 – doors; Section 4.34.5 – adaptable bathroom and Section 4.29.3 – tactile warnings on doors to hazardous areas.
 - If constructed after October 1, 1988 and altered or enlarged before September 1, 2012, at least 10% of the ground level units in the project and at least 10% of the upper story units connected by an elevator in the project must meet the following 4

parts of ANSI A117.1-1986: Section 4.3 - accessible route; Section 4.13 – doors; Section 4.34.5 – adaptable bathroom and Section 4.29.3 – tactile warnings on doors to hazardous areas.

- If altered on or after September 1, 2012, at least 10% of the ground level units in the project and at least 10% of the upper story units connected by an elevator in the project must meet the parts of the “most current” version of ANSI A117.1 (currently ICC/ANSI A117.1 - 2009) for “Type A” units regarding accessible routes, accessible doors and adaptable bathrooms. **Note:** If the cost of alterations is 75% or more of the replacement cost of the project, then the new construction requirements apply.
- Parking
 - If at least one parking space is provided for each unit (one-for-one parking), then at least one accessible space is required for each unit accessible for persons with mobility impairments
 - If less than one-for-one parking, then a proportionate number of accessible parking spaces based on the ratio of accessible units and total units to the total number of parking spaces

Maine Uniform Building and Energy Code (MUBEC)
Maine Uniform Building Code (MUBC)
10 MRSA Chapter 1103
Department of Public Safety – Bureau of Building Codes and Standards Chapters 3 and 4
2015 International Building Code (IBC)
2015 International Existing Building Code (IEBC)

Governing Agency: Maine Bureau of Building Codes and Standards

Applicability

- Applies to the new construction of buildings and structures and the repair, alteration, change of occupancy, addition and relocation of existing buildings or structures subject to MUBEC or MUBC after the date of adoption of the code.
 - All municipalities with more than 4,000 residents are subject to MUBEC.
 - The accessibility requirements became part of MUBEC and MUBC through the State’s adoption of 2015 IBC and 2015 IEBC effective January 23, 2018.
 - The requirements only apply to other municipalities if they adopt MUBEC or MUBC.
 - The date of adoption by the municipality may be later than January 23, 2018.
- Fundamental principles of accessibility requirements under MUBEC/MUBC are (1) everything is required to be accessible unless there is a specific exception, (2) mainstreaming (the concept that persons with disabilities should not be singled out and everyone can benefit from accessibility features, particularly aging populations), and (3) existing buildings will become fully accessible over time as they are upgraded.
- The 2015 International Building Code (IBC) contains the requirements for new construction and the 2015 International Existing Building Code (IEBC) contains the requirements for the repair, alteration, change of occupancy, addition and relocation of existing buildings or structures.
- Existing building or structure is one that prior to adoption of the code was (1) occupied, or (2) issued a legal building permit and is completed and occupied before the permit expires. A building or structure that was issued a permit before adoption of the code but is not completed or occupied before the permit expires must comply with the requirements for new construction.
 - Addition is the extension or increase in floor area, number of stories, or height of an existing building or structure.

- Repair is the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage – does not include the complete or substantial replacement thereof or other new work.
- Alteration is any construction or renovation to an existing building or structure other than a repair or addition – three levels of alteration with different requirements.
 - Level 1 – removal and replacement or covering of existing materials, elements, equipment or fixtures
 - Level 2 – reconfiguration of space, addition or elimination of any door or window, reconfiguration or extension of any system, or installation of any additional equipment
 - Level 3 – work area exceeds 50% of the aggregate building area
- Change of Occupancy is any change in the use of a building or any portion of a building, including a change of occupancy classification (see table below) or from one group to another within an occupancy classification.
- Primary Function Area is an area in a building or structure that contains a major activity for which the facility is intended – does not include support (such as mechanical rooms) or circulation spaces (such as entrances or corridors).
- Certain single-family housing, duplexes, and townhouses are exempt.
 - One- and two-person dwellings, whether owned or rented, that are (i) detached, (ii) not more than 3 stories, and (iii) have a separate means of egress are exempt
 - For townhouses (group of 3 or more attached single-family dwellings), whether owned or rented, to be exempt, (i) each unit must extend from the foundation to the roof with no vertical overlap of any parts of adjoining units, (ii) each unit must have open space on at least 2 sides, (iii) each unit must have a separate means of egress, and (iv) the building may not be more than 3 stories.
- Construction sites and equipment, limited access areas (areas accessed only by ladders, catwalks, crawl spaces, freight elevators or very narrow passageways), equipment rooms (used by staff only for maintenance, repair or monitoring), and mechanical rooms are exempt from the requirements

- Scoping requirements depend on the use and occupancy classification of the building or structure, including without limitation the following residential classifications:

Occupancy Classification	Description
<i>Residential Group R-1</i>	Housing with <i>sleeping units</i> or <i>dwelling units</i> without cooking facilities (such as <i>boarding houses and congregate living facilities</i>) for more than 10 occupants who are primarily transient in nature.
<i>Residential Group R-2</i> Note: Most MaineHousing-funded housing will fall in this group.	Housing with more than 2 <i>dwelling units</i> , such as apartments and condominiums. Housing with <i>sleeping units</i> or <i>dwelling units</i> without cooking facilities (such as <i>boarding houses and congregate living facilities</i>) for more than 16 occupants who are primarily permanent in nature.
<i>Residential Group R-3</i> Note exemptions for certain single-family housing, duplexes and townhouses above	Housing where the occupants are primarily permanent in nature and is not classified as Residential Group R-1, R-2, R-4 or I, including: <ul style="list-style-type: none"> ▪ Apartment or condominium with no more than 2 <i>dwelling units</i> ▪ <i>Boarding house</i> or <i>congregate care facility</i> (nontransient) for 16 or fewer occupants ▪ <i>Boarding house</i> or <i>congregate care facility</i> (transient) for 10 or fewer occupants ▪ Care facilities for 5 or less persons receiving care
<i>Residential Group R-4 and Institutional Group I-1</i> NOTE: R-4 and I-1 Classifications have the following subsets: <i>Condition 1 – occupants can evacuate without assistance</i> <i>Condition 2 - occupants need verbal or physical assistance evacuating in an emergency</i>	Both are facilities (buildings, structures or portions thereof) for persons (excluding staff) who reside on a 24-hour basis in a supervised residential environment and receive custodial care but are capable of self-preservation, such as: <ul style="list-style-type: none"> ▪ Alcohol and drug center ▪ Assisted living facility ▪ <i>Congregate care facility</i> ▪ <i>Group home</i> ▪ Halfway house ▪ Residential board and care facility ▪ Social rehabilitation facility <p>The only difference is the number of occupants. <i>Residential Group R-4</i> facilities have more than 5 but not more than 16 occupants. <i>Institutional Group I</i> facilities have more than 16 occupants.</p>

- Definitions of certain terms used in the above classifications and the scoping requirements
 - *Dwelling unit* is a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
 - *Sleeping unit* is a room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen, but not both. A studio apartment with a kitchenette (such as a countertop microwave, sink and refrigerator) is considered a sleeping unit because it does not have traditional permanent cooking appliances.
 - *Multistory unit* is a dwelling unit or sleeping unit with habitable space (living, sleeping, eating, cooking or bathroom space) on more than one floor level within a unit. A garage, storage or unfinished basement are not habitable space.
 - *Congregate care facility* is a building or part thereof that contains *sleeping units* where residents share bathroom or kitchen facilities, or both.
 - *Group home* is a facility for persons with social rehabilitation, substance abuse or mental health issues that contains a group housing arrangement that provides *custodial care*, but not medical care.
 - *Site* is a parcel of land bounded by a lot line or designated portion of a public right-of-way

Requirements

- **New Construction**

- Access
 - At each site, at least one accessible route must connect each site arrival point - accessible parking, passenger loading zone, public streets and sidewalks, and each public transportation stop - to the accessible building or facility entrance(s) served
 - An accessible pedestrian route is required for all buildings required to have Type B units
 - For all other buildings, an accessible pedestrian route is not required if the only means of access to the building entrance is a vehicular way not providing for pedestrian access (a parking lot is not considered a vehicular way)
 - At each site, at least one accessible route between all accessible buildings, facilities, elements and spaces within the site

- Accessible routes must be located in the same general area as a general circulation path
 - If a circulation path is interior, the accessible route must be interior
 - If only one accessible path provided, the route should not pass through kitchens, storage rooms, restrooms, closets or similar spaces (other than within units)
- At least 60% of all public entrances must be accessible - doors that are only for egress are excluded from the calculation, but may need to be accessible for means of egress purposes
- At least one accessible route from each parking structure, tunnel or elevated walkway to building or facility entrances if direct pedestrian access is provided
- If restricted entrances (available for common use, not public or service use, on a controlled basis – such as an entrance for visitors to use tenant intercom system) are provided to a building or facility, at least one must be accessible
- A service entrance must be accessible if it's the only entrance to a building or space
- At least one story of a building containing dwelling or sleeping units must have an accessible entrance and an accessible route throughout
 - An elevator is required to this story if there is no other accessible route to the story
 - If an elevator is not required to other stories in the building, then all required accessible units and all common and public areas must be on this story
- A story must be accessible if it has a building entrance and the slope between the entrance and any vehicular and pedestrian site arrival point within 50 feet of the entrance (or closest site arrival point) is 10% or less, both before and after grading
- At least one accessible route from accessible building entrances to the primary entrance of each accessible dwelling or sleeping unit within the building and all other exterior and interior spaces and facilities that are required to be accessible
- At least one accessible route (which may require the installation of an elevator) shall connect each accessible story and mezzanine in a multi-story building, except:
 - to stories and mezzanines that are located above and below accessible levels and have an aggregate area of 3,000 square feet or less (excluding the accessible level)

- to a story or mezzanine that is not required to have accessible elements or spaces
 - In Group R-2 Occupancies, if all required Accessible Units, Type A Units, common areas and public areas are on an accessible level on an accessible route
 - In Group R-1 Occupancies, if accessible level has all required Accessible Units, sleeping accommodations for a minimum of 2 persons, and toilet facilities
 - In Group R-3 and R-4 Occupancies, all required Accessible Units, Type B Units, common areas and public areas are on an accessible level on an accessible route
 - Stories not required to have Type B units
 - to a story or mezzanine with an occupant load of 5 or fewer persons and no public space in a two-story building
 - If a multistory unit (dwelling or sleeping) has elevator access at one floor level, then that level must be accessible and contain a living area, kitchen and toilet
 - All passenger elevators must be accessible
 - Use of platform lifts is limited – only to provide an accessible route to performing areas, to wheelchair spaces in upper levels (to meet dispersion requirements), to non-public spaces with an occupant load less than 5, to play components or soft contained play structures, to team or player seating for areas of sport activity, within dwelling/sleeping units, or where existing exterior site constraints make use of a ramp or elevator infeasible
 - The following identifying and directional signs are required which must contain the International Symbol of Accessibility and comply with visual (style, contrast, size) and other accessibility requirements
 - If not all entrances are accessible, each accessible entrance must have an identifying sign and each entrance that is not accessible must have a directional sign indicating the route to the nearest accessible entrance
 - Each elevator not serving an accessible route must have a directional sign indicating the route to the nearest accessible elevator on an accessible route
- Means of Egress
- Accessible means of egress is a continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way, consisting of the exit access

(path to the exit), the exit, and the exit discharge (path between the exit and the public way).

- The accessible means of egress should be separate from the accessible route used for ingress
- Contemplates that evacuating people with mobility impairments may require the assistance of the fire department or other trained personnel
- At least two accessible means of egress are required from each accessible space and building, except as follows.
 - Only one accessible means of egress is required for the following spaces (Note: Group R-1, R-2, R-3 and I-1 Occupancies required to have NFPA 13 or 13R sprinkler system throughout):
 - any space in R-3 and R-4 unless in mixed-used building
 - dwelling unit in R-3 (in mixed use building) and R-2 if the maximum occupant load is 20 and the common path of egress travel 125 feet or less
 - any other space in R-2 (with dwelling units) if no more than 3 stories, no more than 4 dwelling units on each story, and the common path of egress travel is 125 feet or less
 - any other space in R-2 (with sleeping units), and any space in R-1, R-4 and I-1 on first story above or below grade plane if the maximum occupant load per story is 10 and the common path of egress travel is 75 feet or less
 - the following stories and spaces if exit directly to outside at level of exit discharge:
 - story or other space in R-3 (mixed use building) or R-2 if the maximum occupant load is 10 and the common path of egress travel is 125 feet or less
 - story or other space in R-4 (mixed use building) if the maximum occupant load is 10 and the common path of egress travel is 125 feet or less in building with NFPA 13 or 13R sprinkler system or 75 feet or less in other buildings
 - any space in an I-1 if the maximum occupant load is 10 and the common path of egress travel is 75 feet
 - Common path of egress travel – part of the exit access, being the distance between the most remote point in a space where the occupants have access to two required

exits in different directions – does not apply to stories or buildings with one exit

- Only one accessible means of egress is required from an accessible mezzanine
- More accessible means of egress required for spaces with occupant loads exceeding 500 - 3 if occupant load is 501 or more and 4 if occupant load is more than 1,000
- Components of the accessible means of egress include one or more of the following – accessible routes, interior exit stairways, exit access stairways, exterior exit stairways, elevators, platform lifts, horizontal exits, ramps, areas of refuge, and exterior areas for assisted rescue at level of exit discharge
 - On floors above or below the level of exit discharge, accessible means of egress must have exit access stairways, horizontal exits, or elevators – where persons unable to use stairs can safely wait for assisted rescue
 - Elevators must have a standby source of power, comply with certain emergency operation and signaling device requirements, and have an area of refuge if required
 - At least one means of egress must include an elevator in buildings where an accessible floor is 4 or more stories above or below a level of exit discharge
 - In buildings with a NFPA 13 or 13R automatic sprinkler system, elevator service is not required (1) for any floor level at or above the level of exist discharge that has a horizontal exit, or (2) any floor with an accessible ramp to exit discharge
 - Stairways must meet certain requirements for fire-resistance, smoke protection, and stairway width (**Note:** ADA has additional requirements for handrails)
 - Internal and external stairways must have minimum clear width of 48 inches between handrails unless in buildings with a NFPA 13 or 13R automatic sprinkler system or accessed from a refuge area in conjunction with a horizontal exit (Note: Group R-1, R-2, R-3 and I-1 Occupancies must have NFPA 13 or 13R automatic sprinkler systems)
 - Internal stairways must also be in a fire-rated enclosure and include or be accessed directly by an area of refuge, if required
 - Areas of Refuge are fire and smoke protected areas where persons unable to use stairways can wait for instructions or assistance during emergency evacuations
 - Must be on accessible route not more than 200 feet (250 feet if have NFPA 13 or 13R automatic sprinkler system) from accessible spaces it serves, have direct access to stairway or elevator that is part of the accessible means of egress, accommodate one wheelchair for each 200 or fraction thereof served by the area

of refuge and use by others, and be separated by a fire-rated (one hour) barrier (unless within a fire and smoke protected stairway or open to the outside)

- Not required for elevators and stairways (1) in buildings with NFPA 13 or 13R automatic sprinkler system, (2) in open parking garages, or (3) accessed from a refuge area that is part of a horizontal exit
- Not required for stairways (1) in Group R-2 occupancies (because of dwelling unit separation and fire-resistance rated corridors) or (2) where two-way communication is provided at the elevator landing
- Horizontal Exit is a fire-resistance-rated wall that subdivides a structure to create compartments where occupants are protected from fire and smoke
- Platform lifts can only be used where allowed as part of an accessible route (except exterior use) and must have standby power sufficient to run the lift for at least 5 round trips
- Exterior Areas for Assisted Rescue are required if the exit discharge (route from the exit on level of exit discharge to public way) is not accessible
 - Must be on an accessible route from area in exit access served, accommodate one wheelchair for each 200 or fraction thereof using the exit and use by others, be separated from interior by a fire-rated (one hour) exterior wall, and must be at least 50% open to minimize accumulation of smoke and toxins
- Two-way communication system with fire command center or other central control point approved by the fire department that is constantly attended or has automatic dial-out capability to 9-1-1 which allows a person to communicate his/her location to emergency personnel and receive instructions or assistance
 - Required in each area of refuge
 - If no area of refuge, then required at the elevator landing on each accessible floor above or below the level of exit discharge, except floors with an accessible ramp or landings that serve only service elevators that are not part of the accessible means of egress, freight elevators, or private residence elevators
 - Must include both audible and visual signals
- Signage
 - An identifying sign is required at the door to each area of refuge and exterior area of assisted rescue that meets visual (style, size, contrast) and tactile (raised characters and braille) requirements, include the International Symbol of

Accessibility, and is illuminated if exit signs are required to be illuminated (can be combined with exit sign)

- For occupancies with two or more required exits or exit accesses, the means of egress travel must have illuminated exit signs that identify the location of and indicate the path of travel to the exits and are visible from all directions along the exit access route
 - An exit sign that meets visual and tactile (raised characters and braille) requirements is required at each door to an area of refuge, exterior area of assisted rescue, egress stairway, exit passageway, and exit discharge
 - A sign that meets certain requirements in IBC is required at each floor landing in an interior exit stairway and ramp connecting more than three stories that identifies the stairway, designates the floor level and the terminus of the top and bottom level of the interior exit stairway, designates the story of and direction to the exit discharge, and indicates the availability of roof access from the interior exit stairway or ramp for the fire department
 - A sign identifying the floor level at each floor level landing on the interior of stairway enclosures that meet visual and tactile (raised characters and braille) requirements
 - Directional sign indicating the location of all other means of egress and which of them are accessible at each exit serving an accessible space if not part of an accessible means of egress, at each elevator landing, and within each area of refuge that meets visual requirements
 - Instructions in each area of refuge and exterior area of assisted rescue for use of the area in emergency (including people should use stairs if can, available assistance for using stairs or operating elevators, and how to use two-way communication system) that meet visual accessibility criteria
 - Doors must meet minimum clear width and height requirements which vary depending on occupancy, the space, and the accessibility of the space served
- Common and Public Use Areas
 - All interior and exterior rooms and spaces available to the general public and residents must be accessible except
 - Stories and mezzanines not required to be accessible
 - Certain recreational facilities (below)

- Exterior decks, patios or balconies for Type B units that have impervious surfaces can be up to 4 inches below the finished floor level of the adjacent interior space of the unit to avoid water infiltration
- At least one accessible route from accessible building entrances to these spaces
- All services provided must be accessible – if a service is provided in a space that is not accessible, then the same service must also be provided in an accessible space
- Certain elements and features in these areas, if they are provided, must be accessible, including but not limited to the following
 - All toilet rooms and bathing rooms must be accessible (even if not on an accessible floor) with at least one on an accessible floor, and at least one of each fixture, element, control or dispenser in each room must be accessible
 - If cluster of multiple single-user toilet or bathing rooms, at least 50% of each use in each cluster must be accessible
 - At least 5% of stalls must be wheelchair accessible
 - At least 5% of lavatories must be accessible plus one more accessible lavatory if any are in a stall, and if there are 6 or more lavatories in the room, then at least one accessible lavatory must have enhanced reach ranges
 - If more than one urinal provided, at least one must be accessible
 - A family or assisted-use (unisex) toilet room must include only one toilet and one lavatory, may include one urinal, and must be locked for privacy
 - A family or assisted-use (unisex) bathing room must include only one shower or bathtub, one toilet, and one lavatory; must be locked for privacy; and must include storage if storage is provided in single-sex bathing rooms
 - At least 2 drinking fountains are required, one that is wheelchair accessible and one for standing persons (or can be substituted with one drinking fountain that has a separate spout for each), and if more than 2 drinking fountains are provided, at least 50% must be wheelchair accessible and 50% must be for standing persons
 - All kitchens and kitchenettes must be accessible
 - At least 5% of all sinks in each space must be accessible

- All dining areas must be accessible and at least 5% of all seating and standing spaces at dining surfaces must be accessible
- All operating controls and hardware used by tenants in accessible spaces, along accessible routes, and as part of an accessible element must be accessible, except only one electrical outlet in a kitchen/kitchenette and only one of redundant controls (other than for lighting) must be accessible
- At least 5% of all fixed or built-in tables, counters or work surfaces in each accessible room must be accessible
- At least 5% of each type of storage element in accessible spaces must be accessible, accessible storage having the same features as inaccessible storage
- In rooms or spaces for assembly with fixed seating, at least one wheelchair space for each 25 seats or fraction thereof, 4 wheelchair spaces if 51 to 100 seats, and more spaces if seating capacity exceeds 100 (See Table 1108.2.2.1 of IBC), plus one companion seat for each wheelchair space
 - Must be disbursed if the assembly area is on multiple levels unless the upper level has 25% or less of total seating capacity and not more than 300 seats
 - At least 5% of aisle seats must be designated for persons with mobility impairments (but not in a wheelchair) and located closest to accessible route
 - If there's a speaker system in the assembly area, an assistive listening system (induction loop, AM/FM or infrared) is required with at least 2 receivers that are hearing aid compatible for each 50 seats or fraction thereof plus one more for each 25 seats or fraction thereof in excess of 50 seats, and more receivers if seating capacity exceeds 200 (See Table 1108.2.7.1 of IBC)
 - Accessible route from the assembly area to the performance area and ancillary areas used by performers
- Every recreational facility available for tenants must be accessible, except
 - For a single building in Group R-2, R-3 and R-4 Occupancies with Type A and Type B Units, at least 25% of each type of recreational facility must be accessible
 - For multiple buildings in Group R-2, R-3 and R-4 Occupancies where certain recreational facilities serve a certain building, at least 25% of each type of recreational facility serving each building must be accessible

- At least one accessible route within each play area, connecting entry and exit points to at least one of each type of ground level play components (and more of each type if 2 or more elevated play components are provided – see Table 240.2.1.2 of ADAAG) and at least 50% of elevated play components, and ground level and elevated play components must have clear floor or ground space and at least one turning space
- At least one accessible entry point if 3 or less soft contained play structures and at least two accessible entry points if 4 or more
- An area of sport activity is not required to be accessible, but there must be an accessible route to the edge of the activity and at least one wheelchair space must be provided in the team and player seating areas
- At least one of each type of exercise equipment must have clear floor width and be on an accessible route
- The following identifying, directional, and informational signs are required which must contain the International Symbol of Accessibility and comply with visual (style, contrast, size) and other accessibility requirements
 - If not all toilet rooms or bathing rooms are accessible, each accessible room must have an identifying sign and each room that is not accessible must have a directional sign indicating the route to the nearest accessible like room
 - Each family or assisted-use (unisex) toilet or bathing room must have an identifying sign
 - Each separate single-sex toilet and bathing room must have a directional sign indicating the route to the nearest family or assisted-unit (unisex) toilet or bathing room
 - If drinking fountains for persons in wheelchairs are not adjacent to those for standing persons, then each fountain must have a directional sign indicating the route to the other fountain
 - Each assembly area must have sign indicating the availability of assistive listening systems that has the International Symbol of Access for Hearing Loss (instead of the International Symbol of Accessibility)
 - In emergency shelters, variable message signs conveying emergency-related information must be accessible unless the same information is provided audibly

○ Accessible Units

The type and number of units that must be accessible for persons with mobility impairments depends on the occupancy classification as below. The different types of accessible units are:

- *Accessible Unit* has same meaning as in Section 1002 of ANSI ICC A117.1 – 2009
- *Type A Unit* has same meaning as in Section 1003 of ANSI ICC A117.1 – 2009
- *Type B Unit* has same meaning as in Section 1004 of ANSI ICC A117.1 – 2009.

Classification	Accessible Units	Type A Units	Type B Units
<i>Residential Group R-1</i> Note: If more than 50 units in a building, the number of units is calculated by building	One for each 25 units, or fraction thereof* One roll-in shower for each 50 units, or fraction thereof, if more than 50 units*	None	All units located on floors connected by an accessible route in buildings with 4 or more units.
<i>Residential Group R-2</i> Apartments and Condominiums	None	At least 2% of units if more than 20 units on a site – must be dispersed among different unit types	
<i>Residential Group R-2</i> Occupancies other than Apartments and Condominiums	One for each 25 units, or fraction thereof* One roll-in shower for each 50 units, or fraction thereof, if more than 50 units*	None	
<i>Residential Group R-3</i>	None	None	
<i>Residential Group R-4, Condition 1</i>	At least one unit	None	
<i>Residential Group R-4, Condition 2</i>	At least two units	None	
<i>Institutional Group I-1, Condition 1</i>	At least 4% of units	None	
<i>Institutional Group I-1, Condition 2</i>	At least 10% of units	None	

* See Table 1107.6.1.1 in IBC if more than 500 units

- Accessible Parking

The type and number of accessible parking spaces depends on the occupancy classification if there is less than one parking space for each dwelling/sleeping unit in a facility as set forth below.

Classification	Accessible Parking Spaces		
<i>Residential Group R-1</i>	If at least one parking space for each dwelling or sleeping unit, then one accessible parking space for each unit	One accessible parking space for each 25 parking spaces or fraction thereof	One van accessible space for each 6 accessible parking spaces or fraction thereof
<i>Institutional Group I-1 Conditions 1 & 2</i>			
<i>Residential Group R-2</i>		At least 2% of each type of parking space must be accessible	
<i>Residential Group R-3</i>			
<i>Residential Group R-4 Conditions 1 & 2</i>			

- If more than one parking facility, such as multiple lots or combination of garage(s) and lot(s), is provided on a site
 - the number of parking spaces required is calculated separately for each facility
 - accessible spaces should be provided in each type of facility, provided if one or more of the facilities provides greater accessibility or are more attractive (such as covered parking), it is acceptable to locate the required accessible parking based on perceived user convenience and preferences, such as distance to the accessible entrance, parking fees, or amenities
- Accessible parking spaces must be located on the shortest accessible route of travel from the parking to an accessible entrance
- For buildings with multiple accessible entrances with adjacent parking, accessible parking spaces must be dispersed and located on the closest accessible route to the entrances
- In multilevel parking structures, van accessible spaces can be located on one level and the vertical clearance (height) of the space can be 7 feet (84 inches, rather than 98 inches required under 2009 ANSI)
- If provided, passenger loading zones must be accessible
- Mechanical access parking garages must have at least one accessible passenger loading zone at vehicle drop-off and pick-up areas

- All accessible spaces and passenger loading zones must be identified by signs that meet visual (style, contrast, size) and other accessibility requirements and contain the International Symbol of Accessibility (reserved exclusively for persons with disabilities) and the term “van accessible” if they are van accessible spaces, except:
 - If 4 or fewer total parking spaces on a site, the accessible space are not required to have the sign
 - If an accessible space is assigned to a specific dwelling or sleeping unit, the accessible space should not have the sign – it should be identified as reserved for the dwelling unit (i.e. “Reserved for Unit #___”)

○ Hearing/Visual Accessibility

- Audible alarm notification appliances are required in all sleeping/dwelling units, common areas and public areas
- Visible alarm notification appliances required in all areas open to the public and all shared or common use areas other than exits and elevator cars
- Visible alarm notification appliances, activated by in-room smoke alarm and building fire alarm system, required in all dwelling units and the following sleeping units in Group I-1 and R-1 Occupancies

# Sleeping Units	# Units with Visible Alarms
6 to 25	2
26 to 50	4
51 to 75	7
> 75	See Table 907.5.2.3.2 of IBC

- All dwelling/sleeping units in Group R-2 Occupancies must have the capability to support visible alarm notification appliances – either potential for future interconnection of the building fire alarm system with the unit smoke alarms, replacement of audible appliance with combination audible/visible appliances, or future extension of wiring from the unit smoke alarm to required locations of visible alarm appliances
- Visible alarm notification appliances must be located and oriented so they display alarm signals throughout the space

● **Repairs**

- Any repair cannot reduce or have the effect of reducing the level of accessibility that currently exists in the building

- **Alterations**

- Each altered, element, feature or space must comply with new construction requirements to the maximum extent technically feasible until the whole project meets the new construction requirements
 - NOTE: Because all elements altered in a project (including all elements in all of the units, not just the units designated to become accessible) must be made accessible until the new construction requirements are met, owners should consider complying with the new construction requirements which avoids partially accessible units of little use and is likely more cost effective
- New construction requirements for visible alarm notification appliances or visible alarm capability in units, common use areas and public use areas do not apply to any alterations unless the existing fire alarm system is upgraded or replaced or a new systems is installed
- A facility that is constructed or altered to be accessible must be maintained as accessible during the occupancy of the facility
- Alterations cannot reduce or have the effect of reducing the accessibility of a facility
- Level 1 Alterations
 - If an entrance is altered, the entrance must be made accessible unless the new construction requirements are met (60% of all entrances must be accessible), and any entrance that is not accessible must have a sign directing persons to the nearest accessible entrance that complies with the new construction requirements
 - Primary Function Areas
 - If an alteration affects the accessibility to or contains a primary function area, an accessible route must be provided to the primary function area and any restrooms and drinking fountains that serve the primary function area must be made accessible
 - These improvements are only required to the extent they do not exceed 20% of the cost of the planned alterations or additions
 - Does not apply to alterations limited to solely windows, hardware, operating controls, electrical outlets, signs, mechanical systems, electrical systems, installation or alteration of fire protection systems, or abatement of hazardous materials, or to alterations undertaken for the primary purpose of increasing the accessibility of the facility; or to altered areas limited to Type B Units
 - Not required to provide accessible means of egress

- Altered elements in elevators must be made accessible, and if the altered elevator is part of a bank of elevators, the same element must be made accessible in every elevator that is part of the bank
- Platform lifts (but not chair lifts) are allowed as part of an accessible route
- If ramps cannot meet the 1:12 slope requirement under the new construction requirements because of existing site or configuration restraints, then ramps that rise 3 inches or less can have slope no steeper than 1:8 and ramps that rise 6 inches or less can have a slope no steeper than 1:10
- An accessible route to raised or sunken dining areas or to outdoor seating areas is not required if the same services and décor are provided in an accessible space available to all occupants, not just persons with disabilities
- If technically infeasible to make a toilet or bathing room accessible, an accessible family or assisted-use (unisex) toilet or bathing room located on the same floor and in the same area is an acceptable alternative
- Dwelling and Sleeping Units
 - If dwelling or sleeping units in Group R-1, R-2, R-4 or I-1 Occupancies are being altered, then the number of units that must be Accessible Units is based on the number of dwelling or sleeping units that are altered
 - If more than 20 dwelling or sleeping units in Group R-2 Occupancies are being altered, then the number of units that must be Type A Units is based on the number of dwelling or sleeping units being altered and the new construction requirements for audible and visible alarms apply to the altered units
- Level 2 Alterations
 - Same requirements as those for Level 1 Alterations
 - If a new stairway (or escalator) is added as part of an alteration, there must be an accessible route between the levels served by the new stairway (or escalator)
- Level 3 Alterations
 - Same requirements as those for Level 1 and Level 2 Alterations
 - If 4 or more dwelling units or sleeping units are being altered in Group R-1, R-2, R-3, R-4 or I-1 Occupancies that were first issued a certificate of occupancy on or after March 15, 1991, then all of the dwelling or sleeping units in the work area must be made Type B

Units to the extent required under the new construction requirements and the new construction requirements for audible and visible alarms apply to the work area

- **Additions**

- Additions must comply with the new construction requirements
- If the addition affects the accessibility to or contains a primary function area, then the requirements with respect to primary function areas under alterations set forth above apply
- If a new stairway (or escalator) is included in the addition, there must be an accessible route between the levels served by the new stairway (or escalator)
- Dwelling and Sleeping Units
 - In Group R-1, R-2, R-4, or I-1 Occupancies, the requirements for accessible units under the new construction requirements apply to any dwelling and sleeping units that are added
 - If more than 20 dwelling or sleeping units are being added to Group R-2 Occupancies, the new construction requirements for Type A units, audible alarms, and visible alarms apply to the new units that are added
 - If 4 or more dwelling or sleeping units are added to Group R-1, R-2, R-3, R-4, or I-1 Occupancies, the new construction requirements for Type B units, audible alarms, and visible alarms apply to the new units that are added

- **Change of Occupancy**

- Partial Change of Occupancy
 - Altered elements and spaces must meet the applicable requirements for alterations
- Complete Change of Occupancy
 - Altered elements and spaces must meet the applicable requirements for alterations
 - In addition, the following accessible features must be provided (except not required for an accessible route to Type B units)
 - At least one accessible building entrance

- At least one accessible route from an accessible building entrance to a primary function area
 - Accessible parking
 - At least one accessible passenger loading zone if loading zones are provided
 - At least one accessible route connecting accessible parking and loading zones to accessible entrance
 - Required signage
- **Historic Buildings**
 - Alterations to existing buildings that are designated as historic must comply with the requirements for alterations or change of occupancy, as applicable
 - Type B dwelling units are not required
 - If the municipality's code enforcement officer determines that requirements for accessible routes, entrances or toilet rooms would threaten or destroy the historic significance of the building, then alternative requirements for the element apply
 - Appendix B of IEBC has guidance for determining if accessibility requirement would threaten or destroy historic significance
 - If cannot provide accessible route from all site arrival points, then at least one accessible route from a site arrival point to an accessible entrance
 - If cannot make 60% of public entrances accessible, then at least one entrance must be accessible (or if main entrance cannot be made accessible, an accessible nonpublic entrance that is unlocked or a locked entrance with a notification/remote monitoring systems)
 - If cannot provide accessible route to levels above or below the entrance or throughout entrance level, then at least accessible route from the entrance to all public and common use areas on the entrance level
 - If cannot make toilet rooms accessible, at least one accessible family or assisted-use (unisex) toilet room

Standards

ANSI ICC A117.1 – 2009

Exceptions

- New Construction
 - Site Impracticality
 - On sloping sites with multiple buildings where it's difficult to provide an accessible route, the number of required Type B Units (all units on at least one floor in each building without an elevator) can be reduced to the percentage equal to the percentage of the entire site with grades less than 10%, provided (1) no less than 20% of units on the floor are Type B units, (2) the slope between the building entrance serving the units on that floor and the site arrival point is 8.33% or less, or if an elevated walkway is provided between these points, 10% or less, and (3) all units on any additional floors served by an elevator are Type B Units.
 - An accessible pedestrian route between an accessible entrance to a building or unit and exterior public/common use facilities can be replaced with vehicular route between accessible parking space for unit and accessible parking space at public/common use facilities if the finished grade is more than 8.33% because of extreme terrain or impractical site conditions, physical barriers or legal restriction beyond the control of the owner
 - Design Flood Elevation – Type A and Type B Units are not required in structures that must be elevated because they are located in a flood hazard area if (1) the elevation between the building entrance and site arrival point within 50 feet is more than 30 inches and the slope between these two points within 50 feet is more than 10%.
- Alterations are not required if technically infeasible – an *alteration* of a facility that has little likelihood of being accomplished because existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features that fully comply with the new construction requirements.