

Finding Solutions for Housing Accessibility: Fair Housing Laws, Reasonable Modifications, and Local Codes

Webinar Series:
Wisconsin ADA Coordinators Association

Disclaimer

This webinar hosted by the Wisconsin ADA Coordinators Association is not meant to be legal advice. Although we may refer to the Americans with Disabilities Act (ADA) or similar state and local laws, this presentation is provided as an educational resource. Our goal is to give public entities a framework for accessibility and providing accommodations or modifications. We encourage attendees to seek guidance about their obligations from their own legal counsel.

1. Finding Solutions for Housing Accessibility: Fair Housing Laws, Reasonable Modifications, and Local Codes

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Presentation for Wisconsin ADA Coordinators – July 2024

2. Presentation Disclaimer

The material presented during this seminar is intended for general information purposes only and does not constitute legal advice.

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3. Metropolitan Milwaukee Fair Housing Council (1 of 2)

- A private, non-profit civil rights enforcement agency
- Membership-based
- Founded in 1977
- Serves statewide

4. Metropolitan Milwaukee Fair Housing Council (2 of 2)

Headquartered in Milwaukee, we operate two satellite offices:

- Fair Housing Center of Greater Madison
- Fair Housing Center of Northeast Wisconsin

5. Our Mission

To promote fair housing throughout the State of Wisconsin by combating illegal housing discrimination and by creating and maintaining racially and economically integrated housing patterns.

6. What We Do

- Enforcement Program
- Outreach and Education Program
- Fair Lending Program
- Inclusive Communities Program

7. Assistance for Victims of Discrimination

- Complaint intake
- Investigative services, including testing
- Counseling on options for legal remedy
- Assistance with filing complaints with administrative agencies
- Attorney referrals

8. Assistance for Housing Consumers, Providers, Advocates, etc.

- Free technical assistance regarding the fair housing laws.
- Information and referral services for non-fair housing inquiries.
- Fair housing presentations and seminars.
- Fair housing brochures and flyers.

9. Federal Fair Housing Act

- Disability protections added in 1988.
- Sets forth basic housing accessibility requirements.
- “Covered housing” include all multi-family buildings of 4+ units with first occupancy after March 13, 1991.
- “Covered units” include all units in covered buildings with an elevator, and ground floor units in covered buildings without an elevator.
- All public/common use areas in covered buildings.
- Seven main accessibility requirements – “easy adaptation” versus true accessibility.

10. 1.1. Accessible Building Entrance on Accessible Route

- Accessible entrances and routes can be negotiated by a person who uses a wheelchair and should also be safe and usable by people with other disabilities.
- Accessible primary entrance that provides access to all covered units.
- At least one continuous accessible route through all features, elements, and spaces in a community.
- Accessible routes should connect public transit stops, accessible parking/passenger loading zones, and public streets/sidewalks.

11. 1.2. Accessible Building Entrance on Accessible Route

- All covered housing should have at least one accessible entrance and a continuous accessible route – site impracticalities can often be addressed via proper planning.
- Route constructed of a firm, stable, slip-resistant material.
- Grates or other openings are no larger than ½" and positioned perpendicular to the predominant direction of travel.

12. 1.3. Accessible Building Entrance on Accessible Route

- Accessible route maintains a running slope of no greater than 5% (1:20) and a cross-slope of no greater than 2% (1:48).
- Changes to level along the route are no greater than ¼" if not beveled, or ½" if beveled.
- Changes to level greater than ½" must be ramped with slope no greater than 8.33% (1:12).

13. 1.4. Accessible Building Entrance on Accessible Route

- Route should have 36" minimum width, with reductions to 32" permitted in doorways or short corridors for a maximum depth of 24" – these reductions must be a minimum of 48" apart.
- Minimum requirements for width approaching 180 degree turns and clear width to make these turns.
- Minimum 60" passing space every 200 feet along accessible route.

14. 2.1. Accessible Common and Public Use Areas

Common Use Areas – interior or exterior spaces for use by residents and their guests:

- Fitness Centers
- Pools
- Laundry Rooms
- Clubhouses
- Etc.

15. 2.2. Accessible Common and Public Use Areas

Public Use Areas – spaces that are open to the public and also subject to ADA:

- Leasing offices
- Public parking spaces
- Public restrooms
- Etc.

16. 2.3. Accessible Common and Public Use Areas

- One accessible route from all covered dwellings to *at least one of each type* of common use area and *at least one of each type of feature* within that common use area.
- Accessible elements of common use areas (kitchens, bathrooms, etc.).
- Minimum requirements for vertical clearance and routes around protruding objects or obstacles.

17. 2.4. Accessible Common and Public Use Areas

Ramps along accessible routes:

- Minimum 36" wide
- Running slope no greater than 8.33% (1:12)
- Cross slope no greater than 2% (1:48)
- Level landing at top and bottom of each ramp run; minimum 60" x 60" landing if ramp changes direction
- Total rise of each ramp run no more than 30" – more than 6" requires handrails that extend at least 12" parallel with the level landing

18. 2.5. Accessible Common and Public Use Areas

Curbs along accessible routes:

- Must include curb ramp that does not project into parking spaces, access aisles, or vehicular traffic lanes.
- Curb ramps must be at least 36" wide (excluding side flares), with a running slope no greater than 8.33% (1:12) and cross slope no greater than 2% (1:48).
- Curb ramps must have a level landing at top.

19. 2.6. Accessible Common and Public Use Areas

Parking Lots for Residents & Visitors:

- At least 2% of spaces must be accessible.
- Visitor parking – at least 1 accessible space.
- Parking at amenities – at least 1 accessible space.
- At least 1 accessible space per each type of resident parking (surface lots, covered, etc.).
- Accessible spaces must be at least 96" wide with a 60" access aisle, connected to an accessible route, with a maximum 2% (1:48) slope in all directions.

20. 3.1. Usable Doors

- **Accessible doors** are part of the accessible route into and through covered buildings:
 - Main building entrances
 - Doors into and within public and common use areas
 - Primary doors into dwelling units
- **Usable doors** are located inside covered dwelling units.

21. 3.2. Usable Doors

Accessible doors:

- Minimum 32" clear opening when door is open 90 degrees, with minimum requirements for maneuvering clearance, space between doors in a series (i.e., with a vestibule), and door thresholds.
- Door hardware should be operable with one hand – no grasping, pinching, or twisting of the wrist required to operate.
- Interior hinged doors – maximum 5 lbs. pressure.
- Fire doors should have **minimum opening force allowable** by appropriate authority.

22. 3.3. Usable Doors

Usable doors – intended for user passage in covered dwelling interior

- Clear opening of at least a nominal 32" when open 90 degrees
- No more than ¼" threshold (or 1/2" if beveled)
- Doors leading to closets with a depth of 24" or more should have nominal 32" clear opening (FHA best practice)
- Nominal 32" clear opening applies to secondary exterior doors – to patio, balcony, etc.

23. 4. Accessible Route Into and Through Dwelling Unit

- Covered units should have an accessible route at least 36" wide from the main entry door into all rooms, spaces, and elements of the unit.
- For multi-story *units* in covered buildings with elevators, the main unit door should be on a floor served by the elevator and that story of the unit must meet FHA guidelines.

24. 5.1. Environmental Controls in Accessible Locations

- **Controls covered by FHA** include heating/cooling controls, light switches, controls for elements like skylights, etc.
- **Controls NOT covered by FHA** include circuit breakers, telephone jacks, appliance controls (washing machines, ranges), some exhaust fan controls, etc.

25. 5.2. Environmental Controls in Accessible Locations

- **Forward reach with no barrier** – between 15" and 48" above finished floor height, with at least 30 x 48" of clear floor space.
- **Additional requirements for controls with barriers/obstacles to forward or side reach.**

26. 6. Reinforced Walls in Bathrooms

- Reinforced walls are required in all covered dwelling units, as well as in powder rooms of multistory units where the powder room is the only toilet facility on that story.
- Reinforced areas are required behind the toilet, on the wall adjacent to the toilet (or in the floor if no adjacent wall exists), and along tub/shower walls.

27. 7.1. Usable Kitchens and Bathrooms

FHA guidelines for usable kitchens include:

- Minimum clear floor space centered on sinks, ranges, and appliances.
- Minimum maneuvering clearance and turning circles (or additional requirements if no turning circle exists).
- Minimum requirements for mounting of outlets and switches for base cabinets without knee space.
- Maximum countertop depths of 25" and heights of 36".

28. 7.2. Usable Kitchens and Bathrooms

FHA guidelines for usable bathrooms include:

- Accessible switches, outlets, and controls
- Usable door along accessible route
- Maneuvering space to allow a person to enter/exit, close/reopen the door, and use the fixtures
- Minimum clear floor space at toilets, tubs, and for shower stalls that are the only bathing fixtures
- One of two bathroom designs
 - Specification A or Specification B bathrooms

29. 7.3. Usable Kitchens and Bathrooms

Specification A bathrooms:

- Allow for less access to the tub.
- If selected, ALL bathrooms in a covered unit must comply with Specification A standards.

Image: A example of a Specification A Bathroom diagram from the Fair Housing Act Design Manual, available here:

<https://www.huduser.gov/portal/publications/destech/fairhousing.html>

30. 7.4. Usable Kitchens and Bathrooms

Specification B bathrooms:

- Allow for greater access to the tub.
- If selected, only one bathroom in a unit (and only one of each fixture in that bathroom) must comply with Specification B standards.

Image: A example of a Specification B Bathroom diagram from the Fair Housing Act Design Manual, available here:
<https://www.huduser.gov/portal/publications/destech/fairhousing.html>

31. Beyond FHA Design Standards: More Avenues to Accessibility

- Section 504 of the Rehabilitation Act (applies to any recipient of federal funds, including local subrecipients)
- ADA
- Wisconsin Open Housing Law
- Reasonable Modifications
- Reasonable Accommodations
- Local building/fire codes
- Etc.

32. What are reasonable accommodations and modifications?

Accommodations and modifications are necessary changes that enable a person with a disability equal opportunity to use and enjoy a dwelling.

33. What are reasonable modifications?

A reasonable **modification** is a change to the physical characteristics of housing.

Under the fair housing laws, housing providers must allow **reasonable** modifications to be made where such modifications are **necessary** because of a person's disability.

34. Examples of reasonable modifications

- Lowering environmental controls
- Adding grab bars to a shower stall
- Installing a ramp or handrail
- Widening a doorway
- Changing doorknobs or faucet handles
- Replacing flooring

35. What are reasonable accommodations?

A reasonable **accommodation** is an exception or change to a housing provider's policy or procedure.

Under the fair housing laws, housing providers must make **reasonable** accommodations to their programs and services where such accommodations are **necessary** because of a person's disability.

36. Examples of reasonable accommodations

- Changing rules about parking to allow for a designated parking space.
- Allowing a resident to break a lease early (or extend a lease that is ending) for disability-related reasons.
- Permitting a resident to move to a more accessible unit.

37. Requests for reasonable accommodations and modifications

- The housing consumer must have a **disability**.
- There is a **nexus** between that disability and the request.
- The requested change must be **necessary**.
- The request must be a **reasonable** one.

38. Requests for reasonable accommodations and modifications (1 of 2)

When a housing provider receives a request for a reasonable accommodation or modification, they are able to ask for limited information to **verify disability** and **need**.

39. Requests for reasonable accommodations and modifications (2 of 2)

- May be phrased in plain language.
- Can occur at any point in a housing transaction.
- May be verbal or written.
- Do not have to be made on a specific form.
- Begin an “interactive process” of negotiation between the housing provider and consumer.

40. Case Examples

Consumers who live in buildings not covered by FHA or other accessible design standards – or for whom these design standards are insufficient, based on their individual needs – **can** often achieve successful resolutions of these complaints.

41. Stay in touch and informed!

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