# ANNEX F-1

# FAIR HOUSING ACT ACCESSIBILITY CHECKLIST

The following is a checklist of design and construction requirements of the Fair Housing Act. This checklist represents many, but not all, of the requirements to the Act. This checklist is not intended to be exhaustive; rather, it is a helpful guide in determining if the major requirements of the Act have been met in designing and constructing a particular multifamily development. As a result it is advisable that project owners, designers, architects, builders, contractors and any other person involved in the design and/or construction of a LIHTC building revise the Fair Housing Act Design Manual *available at:*

* <https://www.huduser.gov/publications/pdf/fairhousing/fairfull.pdf>.

Although this checklist summarizes the Fair Housing Act’s design and construction requirements, additional and more stringent accessibility requirements may apply under other laws, such as Section 504 of the Rehabilitation Act, the Americans with Disabilities Act and the Architectural Barriers Act.

GENERAL REQUIREMENTS

* Development has buildings containing 4 or more units which were designed and constructed for first occupancy on or after March 13, 1991.
  + 100% of ground-floor units in non-elevator buildings will be Fair Housing accessible;
  + 100% of units in buildings with 1 or more elevators will be Fair Housing accessible; or
  + 100% multistory townhouses with elevators.
* As per the Qualified Allocation Plan, 12% of the total ground floor and/or elevator-serviced unit inventory will be made fully mobility-accessible either under the 2010 ADA Standards and, wherever applicable, the Uniform Federal Accessibility Standards (UFAS). HUD’s May 23, 2014 notice “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities,” Docket No. FR–5784–N–01 may also be utilized for compliance purposes, unless and until HUD formally adopts an alternate accessibility standard. These units shall, to the maximum extent feasible, be distributed in LIHTC projects consistent with 24 C.F.R. § 8.26.
* As per the Qualified Allocation Plan, 3% of the total unit inventory will be made sensory-accessible under the 2010 ADA Standards and/or, wherever applicable, the UFAS.
  + This requirement may be satisfied with portable audio-visual accessible equipment.
* These mobility and sensory accessible units shall, to the maximum extent feasible, be distributed in LIHTC projects and made available in a range of sizes and amenities consistent with 24 C.F.R. § 8.26

NOTE: There is a narrow exception, which provides that a non-elevator building in a development need not meet all of the Act’s requirements if it is impractical to have an accessible entrance to the non-elevator building because of hilly terrain or other unusual characteristics of the site. In applying the site impracticality tests, architects and builders should keep in mind that in enforcement proceedings under the Fair Housing Act, it is the person(s) who designed and constructed the building(s) who has the burden of establishing that site impracticality existed.

1. ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE

* The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all other amenities.
* The accessible route also connects the pedestrian arrival area, to passenger drop off areas, parking lots, public streets, public sidewalks, and to public transportation stops.
* The accessible route is at least 36 inches wide and of a stable and firm material.
* All slopes are no steeper than 8.33%; cross slopes are no more than 1:50.
* All slopes between 5% and 8.33% have handrails and hence meet ramp requirements.
* Covered units have at least one primary entrance on an accessible route.
* There are sufficient curb cuts for a person using a wheelchair to reach every building, parking areas, access aisles, and sidewalks in the development.

1. ACCESSIBLE AND USABLE COMMON AND PUBLIC USE AREAS

* At least two percent of all parking spaces are designated as handicapped-accessible parking for residents.
* At least, one parking space at each common and public use amenity is designated as handicapped- accessible parking and be on an accessible route, even if this number exceeds 2%.
* If visitor parking is provided, accessible parking spaces for visitors should be provided.
* A minimum of one ADA van-accessible parking space must serve the leasing-rental office.
* All handicapped parking spaces are properly identified (with appropriate signage and road markings).
* All handicapped parking spaces are at least 96” wide with a 60” wide access aisle, which can be shared between two spaces.
* The accessible aisle connects to a curb ramp and the accessible route.
* The rental or sales office is readily accessible and usable by persons with disabilities.
* All mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones, and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.

1. USABLE DOORS

* All doors into and through covered units and common use facilities provide a clear opening of at least 32” nominal width.
* All doors leading into common use facilities have lever door handles that do not require grasping, pinching and/or twisting.
* Thresholds at doors to common use facilities are no greater than ½” and are beveled.
* All primary entrance doors to covered units have lever door handles that not require grasping, pinching and/or twisting.
* Thresholds at primary entrance doors to covered units are no greater than ¾” and beveled.

1. ACCESSIBLE ROUTE INTO AND THROUGH THE COVERED UNIT

* All routes through the covered units are no less than 36” wide and are built with a stable firm material.

1. ACCESSIBLE ENVIRONMENTAL CONTROLS

* The operable parts of all light switches, electrical outlets, thermostats, and other environmental controls must be no less than 15” and no greater than 48” from the finished floor.
* The operable parts of light switches, outlets, etc. located over countertops are less than 46” above the finished floor.

1. REINFORCED BATHROOM WALLS FOR GRAB BARS

* Reinforcements are built into the bathroom walls surrounding toilets, showers, and bathtubs to allow for the future installation of grab bars.

1. USABLE KITCHEN AND BATHROOMS

* At least 30” x 48” of clear floor space parallel to and centered on the sink and cook top, and parallel or perpendicular to other kitchen appliances.
* At least 40” between opposing cabinets, counters and appliances.
* If there is a U-shaped kitchen with a sink or range at the base of the U, there must be a 60” turning radius, unless the base cabinet under the cook top or sink is easily removable for knee space.
* In bathroom, at least 30” x 48” of clear floor space outside the swing of the bathroom door.
* 30” x 48” clear floor space parallel to and centered on at least one sink and adjacent to the toilet, tub, and/or shower;
* Toilet centerline is between 16” and 18” from the side wall;
* If there is a shower stall, its interior dimensions should be 36” x 36” or larger
* Sufficient clear floor space in front of and around sink, toilet, and bathtub for use by persons using wheelchairs.
* Dwelling units containing more than one bathroom of which one meets the requirements of Specification A of the Fair Housing Act’s Design Manual must all comply with the wheelchair maneuvering and clear floor space requirements of Specification A. In dwelling units containing more than one bathroom of which one meets the requirements of Specification B, only one bathroom must meet the wheelchair maneuvering and clear floor space requirements of Specification B. However, in both instances all bathrooms within the dwelling unit must be on an accessible route, have doors with a nominal 32-inch clear opening, have switches, outlets, and controls in accessible locations, and provide reinforced walls.

**FAIR HOUSING ACT ACCESSIBILITY CHECKLIST**

This checklist represents some, but not all, of the accessible and adaptive design and construction requirements of the Fair Housing Act. This checklist is not a safe harbor for compliance with the Fair Housing Act. HUD and the Department of Justice recognize the following 10 standards as safe harbors for complying with the Fair Housing Act: 1. HUD’s March 6, 1991 Fair Housing Accessibility Guidelines and the June 28, 1994 Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines; 2. ANSI A117.1-1986 - Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD’s Regulations and the Guidelines; 3. CABO/ANSI A117.1-1992 - Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD’s Regulations, and the Guidelines; 4. ICC/ANSI A117.1-1998 - Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD’s Regulations, and the Guidelines; 5. HUD’s Fair Housing Act Design Manual published in 1996 and revised in 1998; 6. Code Requirements for Housing Accessibility 2000 (CRHA), approved and published by the International Code Council (ICC), October 2000; 7. International Building Code (IBC) 2000, as amended by the IBC 2001 Supplement to the International Codes; 8. 2003 International Building Code (IBC), with one condition established by HUD on February 28, 2005; 9. ICC/ANSI A117.1-2003 - Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD’s Regulations, and the Guidelines; and 2006 International Building Code, published by ICC, January 2006, with the 2007 erratum (to correct the text missing from Section 1107.7.5), and interpreted in accordance with relevant 2006 IBC Commentary.

**The PRHFA recommends that designers, builders and other parties employ HUD’s 1998 Fair Housing Act Design Manual** *available at:*

* <https://www.huduser.gov/publications/pdf/fairhousing/fairfull.pdf>.

Be advised that the ten standards listed above are safe harbors only when used in their entirety. The benefit of safe harbor status may be lost if, for example, a designer or builder chooses to select provisions from more than one of the above safe harbor standards.

Failure to comply with any of the accessible and adaptive design and construction requirements of the Fair Housing Act may result in loss of tax credits pursuant to 26 C.F.R. § 1.42‑9. Therefore, project owners, designers, builders, contractors and other parties should consult an attorney and/or design professional to ensure that the construction of the multi‑family developments comply with the accessible and adaptive design and construction requirements of the Fair Housing Act.

**UNITS COVERED BY THE FAIR HOUSING ACT**

The Fair Housing Act design and construction requirements apply to "covered multifamily dwellings" designed and constructed "for first occupancy" after March 13, 1991. This includes:

* Buildings designed and constructed for first occupancy after March 13, 1991
* Additions of 4 or more dwelling units or additions of new public and common use areas to existing buildings that were built for first occupancy on or before March 13, 1991
* Additions of 4 or more dwelling units or additions of new public and common use areas to existing buildings that were built after March 13, 1991

A building will not be regarded as subject to Fair Housing compliance if:

* It was occupied on or before March 13, 1991
* If the last building permit or renewal of a building permit was issued on or before June 15, 1990

For additional information in this regard, please refer to the Fair Housing Design Manual *available at*<https://www.huduser.gov/publications/pdf/fairhousing/fairfull.pdf>, and the HUD-DOJ Joint Statement of Design and Construction Requirements *available at*<https://www.ada.gov/doj_hud_statement.pdf>.

The "first occupancy" language in the statute has been defined in HUD's Fair Housing Act regulations as "a building that has never before been used for any purpose." This means buildings that are rehabilitated are not covered by the design and construction requirements even if the rehabilitation occurs after March 13, 1991. Whenever the façade on a pre-existing building is maintained, but the building is otherwise destroyed, the new units will be subject to the design and construction requirements of the Fair Housing Act.

A dwelling unit means a single unit of residence for a household of one or more persons. Examples of dwelling units covered by these Guidelines include: condominiums, an apartment unit within an apartment building, and other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

The design and construction requirements apply to "covered multifamily dwellings". Covered multifamily dwellings are:

1. All dwelling units in buildings containing four or more dwelling units if the buildings have one or more elevators AND
2. All ground floor units in other buildings containing four or more units, without an elevator.

This includes housing that is for rental or for sale and applies whether the housing is privately or publicly funded.

**FAIR HOUSING ACT CONTACT INFORMATION**

**U.S. Department of Housing and Urban Development:** [**www.hud.gov**](http://www.hud.gov)

* Fair Housing Act - General Information and Accessibility Issues

Cheryl Kent, Special Advisor for Disability Policy

Office of Fair Housing & Equal Opportunity (FHEO)

Tel: (202) 708‑2333, TTY: (202) 708-1734 Fax: (202) 708-4483

* PUERTO RICO FHEO FIELD OFFICE

Tzeitel Andino Caballero

(787) 766-5400 Fax: (787) 766-5353

**U.S. Treasury Department:** [**www.irs.gov**](http://www.irs.gov)

Internal Revenue Service

Office of Chief Counsel

Tel: (202) 317-3300 Fax: (855) 873-7040