

***FROM GUIDELINES TO CODES:
ENFORCEMENT OF FAIR HOUSING ACT
REQUIREMENTS FOR PERSONS WITH
DISABILITIES***



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Federal Fair Housing Act



42 U.S.C. § 3604

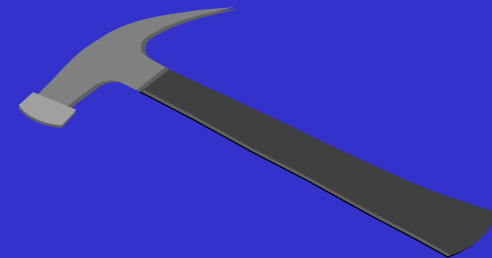
- **Outlaws discrimination in housing**
- **Enforceable by private parties and federal/state/local government**
- **1988 amendments imposed liability for “failure to design and construct” certain dwellings to be “accessible” to people with disabilities; seven specific construction requirements**

1991: HUD Adopts Guidelines,” Identifies “Safe Harbors”/Published Technical Standards



Liability imposed for failure to design and construct, but:

- **Guidelines are only advisory only**
- **Not written as building codes**
- **State and local building codes inconsistent with guidelines and safe harbors**
- **Estimate: 60 percent of multi-family construction in 1990's was non-compliant**



Move to Draft Model Accessibility Codes, 1997-2000



Groups: HUD, Department of Justice, building code organizations, Home Builders, AIA, fair housing organizations

Process:

- Assemble “best practices” from “safe harbors”
- HUD reconciliation of differences –
March 2000 final report
- Model document: “Code Requirements for Housing Accessibility” – part of International Building Code 2000 (and 2001 supplement)

2002-Present



- **State and local building code amendments/adoption of 2000 model code and 2001 supplement**
- **National education effort: HUD's "Fair Housing Accessibility FIRST" program**
- **Federal enforcement: U.S. Department of Justice lawsuits**

What Structures Are Covered By FHA Accessibility Requirements?



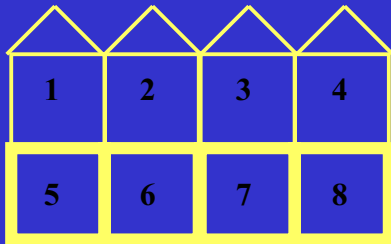
- FHA applies to
 - (1) ground floor or elevator-accessible units
 - (2) in multi-family residential buildings
 - (3) with four or more units

Multi-Family Building Types

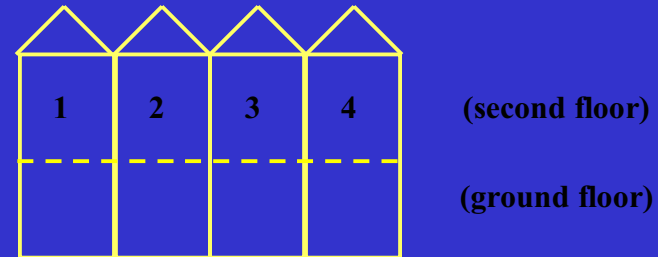
Subject to FHA Accessibility



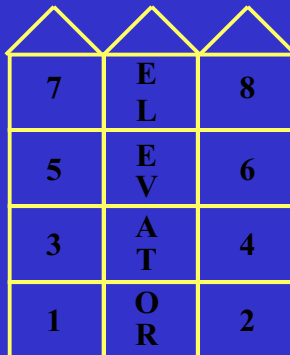
Building Without Elevator –
Only Ground Floor Units
(## 5-8) Must Be Accessible



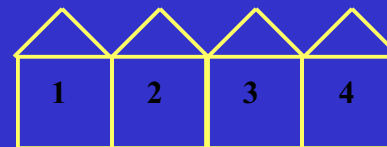
Townhouse-Style Building –
No Units Required To Be
Accessible



Multi-Story Building with
Elevator – All Units Must Be
Accessible



All Ground Floor Units –
All Units Must Be Accessible



Seven Accessibility Requirements

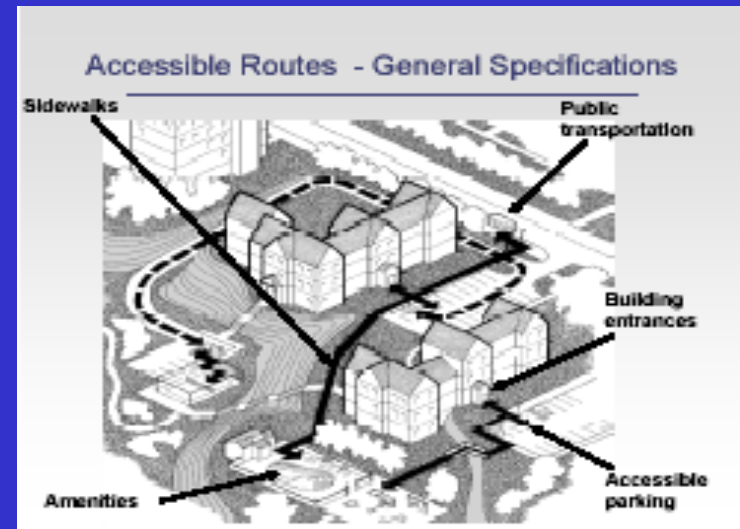


- (1) Building entrance and route**
- (2) Public and common use areas**
- (3) Usable doors by a person in wheelchair**
- (4) Route into and through the dwelling unit**
- (5) Environmental controls**
- (6) Reinforced bathroom walls**
- (7) Usable kitchens and bathrooms**

Building Entrance And Route



- At least one continuous, unobstructed route by which a person in a wheelchair can travel from dwelling to remainder of space
- Must connect dwelling entrance with parking and public streets



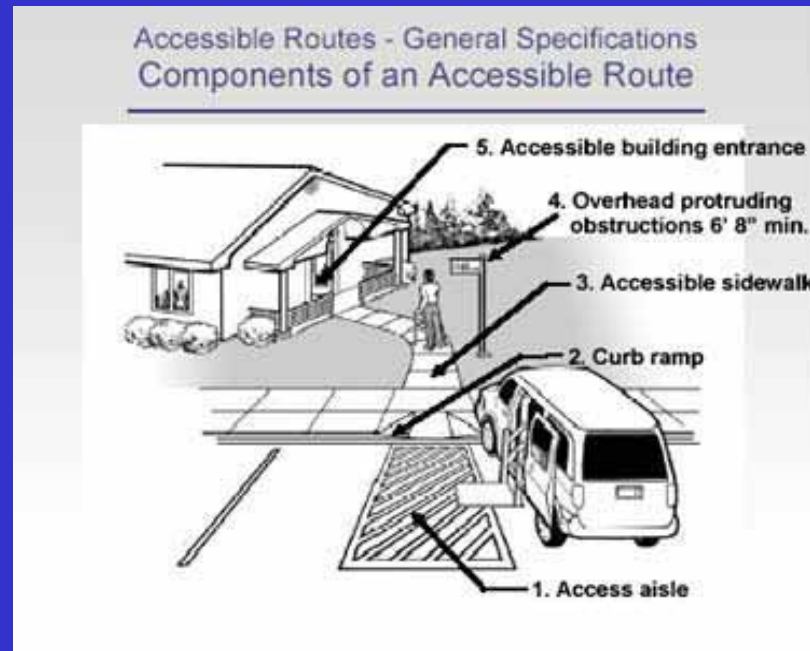
Public and Common Use Areas

Examples of Accessible Routes -
Curbless Design

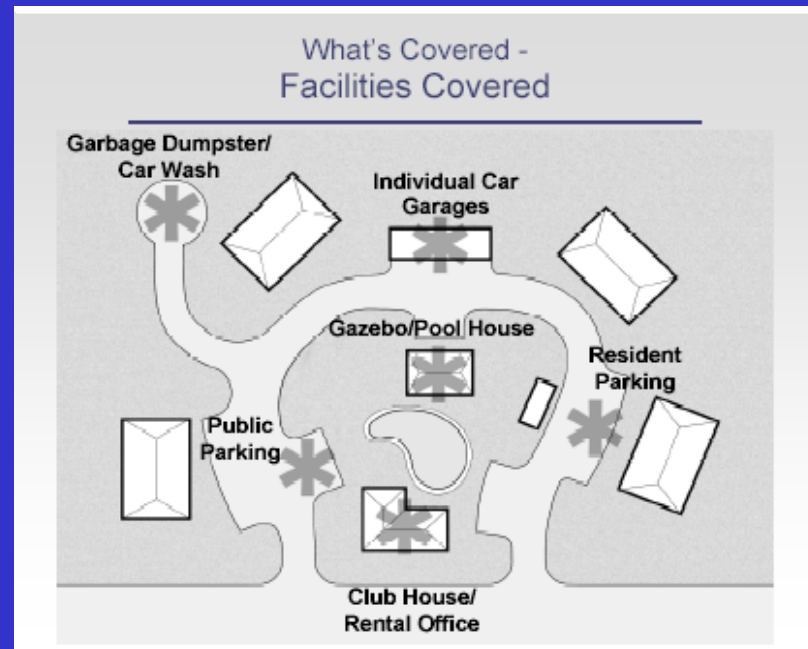


- **Facilities accessible to people in wheelchairs (water fountains, rental offices, laundry rooms, mailbox areas)**
- **Curbless design, with bumpers/bollards to keep vehicles from blocking routes**

Public and Common Use Areas: Parking to Dwelling



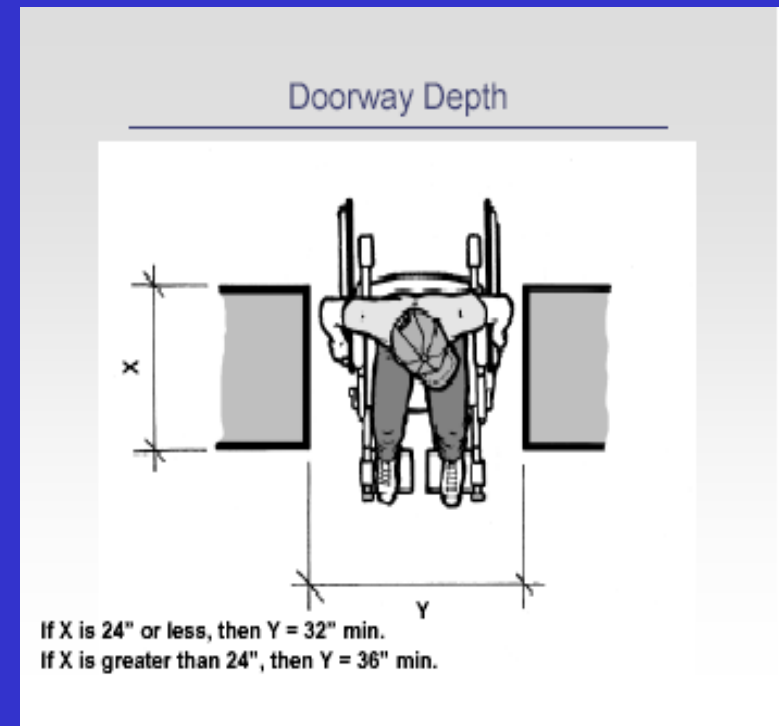
Public and Common Use Facilities



Doors Useable By A Person In Wheelchair



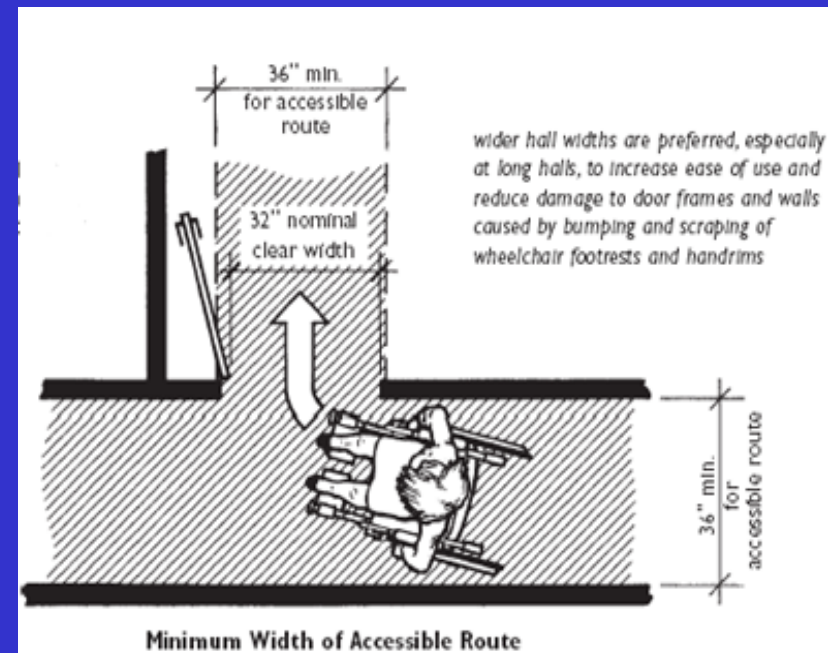
- Door openings must be at least 32 inches wide



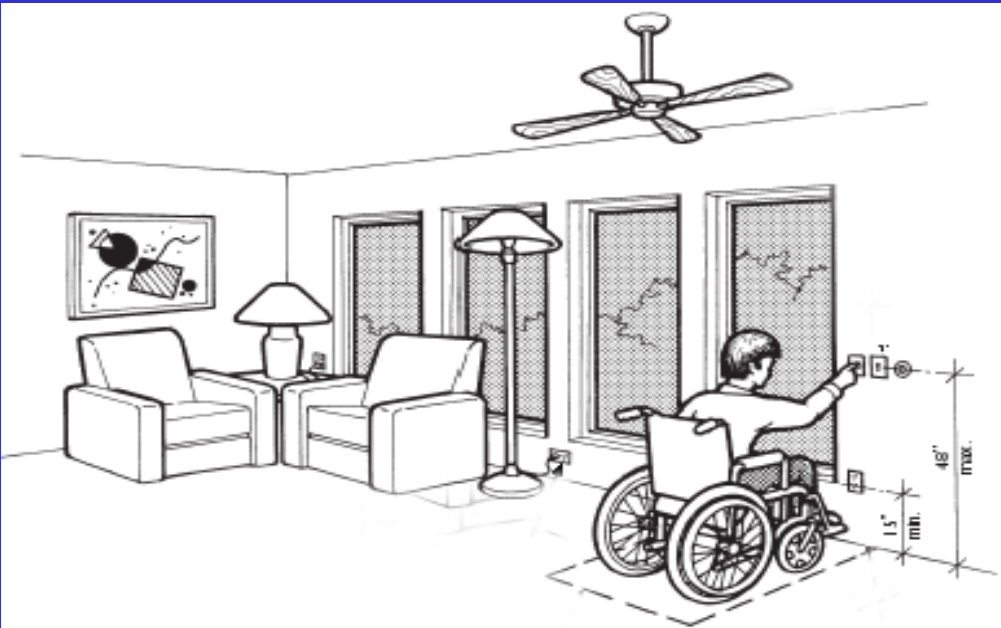
Route Into and Through Dwelling



- Minimum of 36 inches of clear space throughout living area
- No grade changes exceeding 1/2 inch without ramp

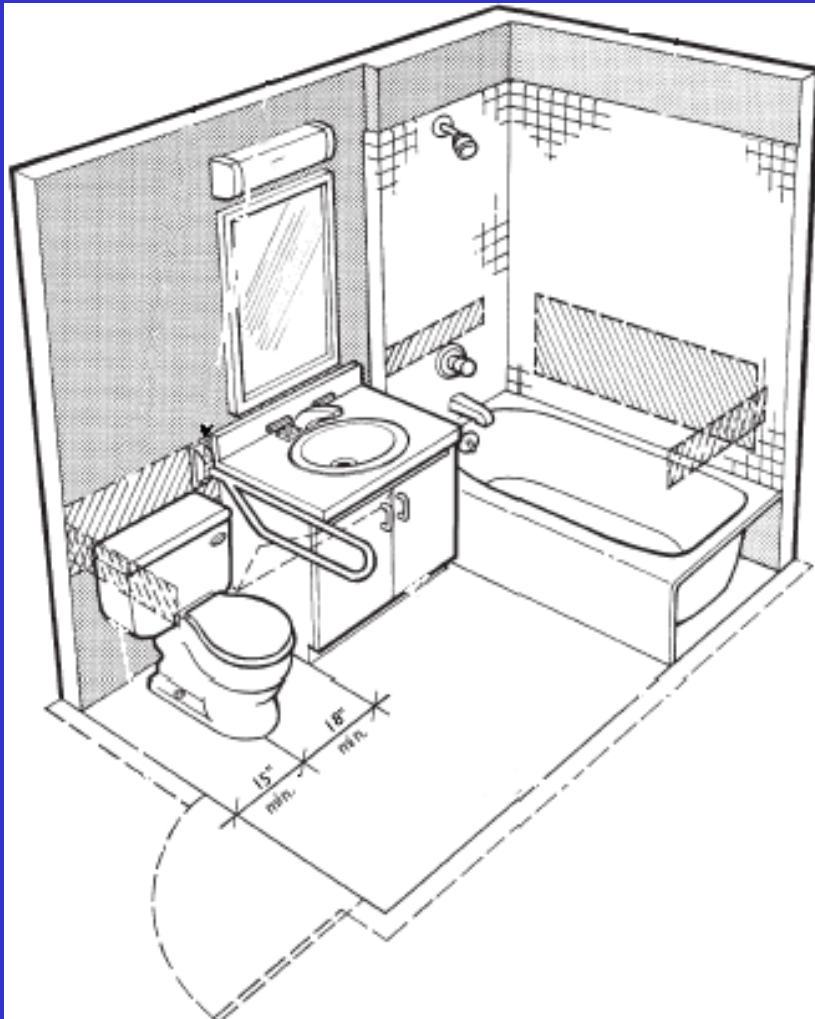


Accessible Environmental Controls



Light switches and thermostats cannot be higher than 48 inches or lower than 15 inches from floor

Reinforced Bathroom Walls

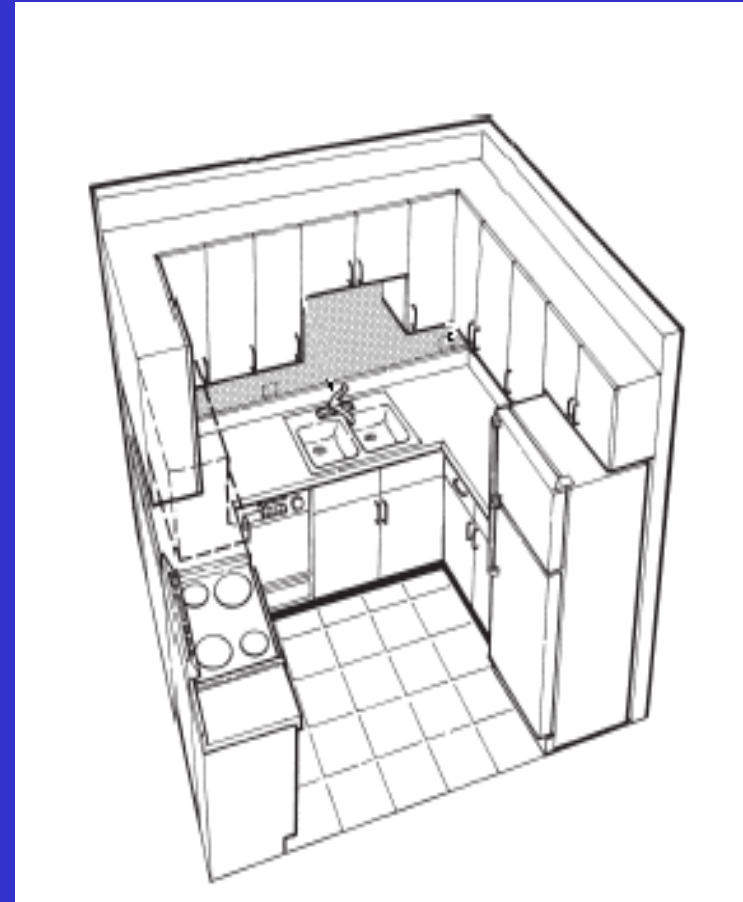


- Reinforced walls for grab bars required at location of toilet, bathtub, and shower stall

Usable Kitchens and Bathrooms



- **Clear space of 30 inches by 48 inches in area of cooktop and sink, and in bathrooms**
- **Adequate turning radius for wheelchair in both kitchen and bathroom**



Current Legal Issues



- **FHA: A civil rights overlay to state and local building codes**
- **Statutes of limitations/continuing violation theory – split of authority**

Potential Remedies in Fair



Housing/Building Code Enforcement

- **Retrofitting**
- **Contributions to enforcement organizations**
- **Providing comparable dwelling**
- **Elimination of future discriminatory practices**
- **Compensatory damages**
- **Attorneys' fees**
- **Civil penalties**

Action Plan for Municipal Attorneys



- **Become familiar with scope and requirements of FHA's accessibility provisions**
- **Review status of adoption of model accessibility code in your jurisdiction**
- **Be sure municipal building officials attend HUD training session**
- **Work with developers, architects and engineers during permitting process to ensure compliance**

