

# Fair Housing/ADA/Building Codes/ANSI/etc. . . How They Connect – or Not!

## Supplemental Information Packet

*Webinar presented by the Community Development Law Center in  
conjunction with the Fair Housing Council of Oregon*

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# Fair Housing/ADA/Building Codes/ANSI/etc. . . How They Connect – or Not!

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### Table of Contents:

Complexity Hinders Compliance with Federal and Oregon Accessibility Laws. . . . .	1
Appendix A – Table of Housing Accessibility Law Comparison. . . . .	10
Appendix B – Logic Chart. . . . .	15
Accessibility Regulations at a Glance (chart). . . . .	23
Building-Specific Chart of Accessibility Laws for New Construction (chart). . . . .	24
Accessibility Stories – “John Comes Home” . . . . .	26
Accessibility Stories – “Bill Catches His Bus” . . . . .	28
Accessibility Stories – “Alice’s Garden” . . . . .	30

# Complexity Hinders Compliance with Federal and Oregon Accessibility Laws

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## 1. Introduction.

Many recently-constructed multi-unit residential buildings in Oregon do not comply with all federal and Oregon laws regarding accessibility for people with disabilities, despite legal mandates that date back, in one form or another, to the 1960s.

Federal and Oregon accessibility laws are related but distinct from each other. They occasionally overlap to impose different requirements on a building or site. Thus, a building or site satisfying Oregon's building code may not comply with federal accessibility laws.

Designers and builders, particularly those involved in multi-unit and publicly-funded housing, should be aware of and understand the scope of all laws potentially governing their building's accessibility for people with disabilities. In addition, they should know how these laws apply to their building (i.e., the specific accessibility guides and standards).

Building officials, too, have opportunities to review building design and construction for compliance with accessibility laws. First, they review the designer's plans prior to construction. Second, they review the builder's work in constructing the building. Like designers and builders, building officials should be aware of and understand not just the specific building code requirements but the scope of various accessibility laws.

As long as designers, builders, and building officials lack this knowledge, they will continue to design, construct, and approve noncompliant buildings.

## 2. Brief summary.

The complexity of accessibility laws arises in two general ways, which we identify as "multiplicity issues" and "code issues."

Multiplicity issues. Multiple laws, both state and federal, govern accessibility:

- (a) Four separate federal laws mandate accessibility. These differ from each other in the types of buildings to which they apply based on funding, use, or date of construction.
- (b) Multiple guidelines identify methods of providing accessible elements in sites and buildings. These differ from each other in dimensions and details.
- (c) Multiple standards, promulgated at different times, implement the various laws.
- (d) Oregon laws contain specific mandates. These include accessible parking and site accessibility, as well as accessibility requirements for any new housing funded, even in part, by public funds or tax credits.

Code issues. Oregon’s building code governing multi-unit residential buildings (the Oregon Structural Specialty Code, or OSSC) includes a comprehensive set of accessibility requirements. Thus, designers, builders, and building officials may believe that compliance with the OSSC brings a project in compliance with all accessibility requirements. However, compliance with the OSSC does not assure compliance with all accessibility laws because:

- (a) While the OSSC draws on many of the same standards, the OSSC differs in organization and language from other laws, and is not a “safe harbor” for compliance with any federal law.
- (b) The OSSC includes only those accessibility criteria and standards required to be included in the OSSC by Oregon law. It does not incorporate all federal accessibility laws or Oregon accessibility laws.

The complexity arising from these issues, in combination with the lack of a single source of comprehensive information on all the laws, leads to misunderstanding on the part of project planners, constructors, and building officials. This misunderstanding, in turn, leads to noncompliant new, altered, or expanded multi-unit housing.

### **3. The regulation of accessibility.**

A brief history. Modern accessibility standards grew largely out of the efforts of the Easter Seals Society, based on a belief that people with disabilities are entitled to “the right to live a normal life,” which includes being able to get to buildings, and once there, to get into and through buildings.<sup>1</sup>

The Easter Seals Society funded the first barrier-free design research, and the resulting data led to the first design specifications for accessibility to be approved by the American National Standards Institute (“ANSI”) in 1961, ANSI’s Standard A117.1.<sup>2</sup>

Later, various organizations and agencies joined ANSI’s effort to develop the A117.1, which was revised, expanded, or re-published in 1971, 1980, 1986, 1992, 1998, and 2003.

ANSI proposed the A117.1 not as a model law, but as a standard. ANSI said its A117.1 standard is “basically a resource for design specifications and leaves to the adopting enforcing agency the application criteria such as where, when, and to what extent such specifications will apply.”<sup>3</sup>

Most legislatures, including the Oregon legislature, that passed accessibility laws in the years following the first A117.1 included in their laws not only unique “application criteria” (scoping requirements), but they also revised the A117.1 standards in different ways and relied on different versions of the A117.1.

Present trends. In the early 1990s, ANSI’s goal for the A117.1 changed. Around the time that the Americans with Disabilities Act (“ADA”) became law, ANSI promulgated the A117.1 as a model law instead of a passive resource for legislators to draw on when writing laws.

At the same time, ANSI transferred responsibility for further development of the A117.1 to the Council of American Building Officials (“CABO”). CABO continued development of A117.1 to meet the guidelines developed for the ADA so that the A117.1 would become a standard adoptable and enforceable as part of building codes throughout the United States.

In 1998 CABO became the International Code Council (“ICC”), and the ICC issued the 1998 and 2003 editions of A117.1 along with its model International Building Code (“IBC”), which incorporates the A117.1 by reference.<sup>4</sup>

Future prospects. It appears likely that the current momentum toward creation of a uniform accessibility standard will continue. Eventually, this trend may result in a broadly-accepted and fairly uniform accessibility code based on the enhanced ICC/ANSI A117.1 standard.

However, since there are so many different scopes and standards already written into accessibility laws, we may be many years away from such a uniform accessibility standard. Until then, full compliance with accessibility laws within the State of Oregon will require understanding and the independent application of both Oregon and federal accessibility laws.

#### **4. Federal Accessibility Laws.**

There are four federal accessibility laws, each with a particular scope of application:

1. The Architectural Barriers Act (“ABA”).<sup>5</sup> In 1968, the ABA mandated that federal buildings become accessible to people with disabilities. The ABA covers buildings and facilities designed, constructed, or altered with federal funds or leased by a federal agency.

The ABA required these buildings and facilities be made readily accessible to, and usable by, the “physically handicapped.” The criteria for compliance with the ABA, the ABA Accessibility Guidelines, were developed by the Architectural and Transportation Barriers Compliance Board (the “Access Board”).

2. Section 504 of the Rehabilitation Act of 1973 (“Section 504”).<sup>6</sup> This 1973 law expanded the opportunities for people with disabilities to participate in the workplace and society. Within it, Section 504 mandated accessibility to most buildings or programs which receive federal financial assistance.

The 1973 law also reinforced the ABA. First, Section 504 created the Access Board to develop accessibility criteria compliant with the ABA. Second, the Act also provided for the creation of Uniform Federal Accessibility Standards (“UFAS”) to provide a uniform standard of application for the ABA guidelines and Section 504 requirements to all federal or federally-funded facilities.

3. The Fair Housing Amendments Act (“FHA”).<sup>7</sup> The 1988 FHA amended existing civil rights law to make discrimination against people with disabilities illegal. The FHA also defined non-discriminatory housing. The FHA covers: housing that receives federal financial assistance, state and local government housing, and new private multifamily housing with four or more units. HUD created and maintains the standards which regulate compliance with this law, the Fair Housing Guidelines.

4. Americans with Disabilities Act (“ADA”).<sup>8</sup> Two years after the FHA, the ADA broadened the definition of disability to include those with “a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”

While the ADA broadly covers employment and many other areas, Title III of the ADA covers public accommodations and many other types of privately-owned buildings which are open to the public and affect interstate commerce (e.g., stores, services, and places of public gathering).

ABA/ADAAG. Responsibility for creation of ADA-compliant guidelines was given to the Access Board. The Access Board developed the ADA Accessibility Guidelines (“ADAAG”) from the ABA guidelines (which were in turn based on the earlier ANSI A117.1 standard). The Access Board continues to maintain them as the ABA/ADAAG. While ABA/ADAAG contains different application, scoping, and administration provisions for compliance with the ABA and ADA requirements, the technical criteria for accessibility are common to both.

## **5. Oregon Accessibility Laws.**

Specific laws. The State of Oregon has its own laws addressing certain aspects of accessibility:

ORS 447.210 et seq., as originally enacted in 1971, applied only to government buildings, and incorporated only some of the then-current ANSI A117.1 criteria. In subsequent years, the legislature extended the reach and breadth of the law. Current Oregon law is very broad, and even extends the reach of the ADA accessibility standards beyond those covered by the federal law to include certain private educational facilities, “private membership clubs, and churches” when located in buildings of two stories or more which are either: a) over 4,000 square feet in ground floor area; or b) over 20 feet in height).<sup>9, 10</sup>

ORS 447.233 contains explicit numerical requirements for accessible parking spaces and related signage, dimensional requirements, and access spaces.<sup>11, 12</sup>

ORS 456.506 et seq., passed in 2003, adopted most of the accessibility criteria of the FHA and mandated they be included in all new non-owner-occupied housing, even single units, if those units were financed or subsidized in any way by state or federal funds, guarantees, or tax credits.<sup>13</sup>

ORS 701.525 et seq., passed in 2005, requires the Oregon Construction Contractors Board (“CCB”) to adopt by rule a model list of accessibility features that developers of residential housing may provide to customers purchasing new residential housing from the developer.

Accessibility criteria within the OSSC. ORS 447.231 mandates that the OSSC include the requirements of the ADA and FHA. Oregon’s Building Codes Division (“BCD”) has done a yeoman’s job of incorporating the: 1) current ADAAG standards; 2) Fair Housing Accessibility Guidelines; and 3) other Oregon laws, into the OSSC.

The current OSSC is based on the IBC, but it does not incorporate the most recent version of ICC/ANSI A117.1. Although that most recent version is part of the current IBC model code, the OSSC instead relies on the previous A117.1 standard. The OSSC has hesitated because the new A117.1 contains revisions proposed to federal accessibility guidelines that have not yet been approved and adopted by the Access Board.<sup>14</sup>

Rather, in order to comply with Oregon law, and to incorporate these three distinct standards into OSSC, BCD wrote a custom accessibility code unique to the OSSC. Chapter 11 of the OSSC is devoted completely to accessibility.

As a merger of three separate standards, Chapter 11 necessarily differs in significant ways from the IBC/ANSI standard in its organization, its numbering system, and its inclusion of sometimes conflicting standards from each of the mandated codes.

Limitations of approval under Chapter 11. It is important to remember that most of the laws mandating accessibility are federal laws. While Chapter 11 incorporates the literal provisions of some of these laws, the ultimate authority for interpreting the meaning and consequence of federal laws remains with those federal agencies charged with their enforcement.

Consequently, approval of project plans or inspection of actual construction by Oregon building officials is limited to compliance with the OSSC, including Chapter 11. Building designers and construction contractors (and building owners) must independently consider federal accessibility law and federal agencies' interpretations of accessibility standards based on federal accessibility laws.

## **6. HUD's Role in Promoting Accessibility.**

Among federal agencies, the Department of Housing and Urban Development ("HUD") has a special role in development, interpretation, and enforcement of accessibility standards in housing. In particular, in carrying out its assigned role under the FHA, HUD establishes scoping and standards for the accessibility required by the FHA, interprets their application, and enforces compliance.

Fair Housing Accessibility Guidelines. In 1991, HUD published its Fair Housing Accessibility Guidelines. HUD's Guidelines are standards for implementing the FHA and contain both scoping language and application criteria.<sup>15</sup> The criteria incorporate by reference the specific technical requirements in the then-current 1986 A117.1 standard.

In the years since, HUD has built up a body of interpretation based on its own independent understanding of the FHA, of its own FHA Guidelines, and of ANSI A117.1-1986. HUD's interpretation alone of these requirements determines compliance with the FHA, and HUD's interpretation can differ from that of other authorities.

"Safe harbors". HUD has granted "safe harbor" status to each edition of the A117.1 since 1986, in each case for the "technical criteria" only. To fully meet the requirements of the HUD "safe harbor," the standard must then be used "in conjunction with the Fair Housing Act, HUD's regulations, and the [FHA] Guidelines for the scoping requirements."<sup>16</sup>

However, Oregon designers, general contractors, and building owners must remember that since the OSSC is not identical to any version of the A117.1, the OSSC is not a safe harbor.

The original standard reference by the Fair Housing Guidelines, the 1986 edition of A117.1, is still a HUD-approved standard – even though it is considerably different from accessibility criteria required by other laws that are based on more recently-published standards.

Thus, minimum technical criteria for meeting the FHA requirements may differ from current ANSI A117.1 standards; for example, the FHA Guidelines require reinforcing for only 30 inch long grab bars beside toilets, while modern standards call for 42 inch side grab bars.

HUD interpretations. In the 18 years since HUD published its Guidelines, HUD has developed a body of interpretations of the meaning of the Guidelines based on past decisions regarding specific accessibility questions. These interpretations can vary from interpretations of similar requirements in other accessibility codes.

For example, under HUD's interpretation, a step from an accessible unit down to its patio may in some cases be up to 4 inches instead of the 3/4 inch maximum in A117.1-based standards (where HUD has determined the height is necessary to assure exterior weathertightness of the unit). Conversely, HUD's requirements for exemptions from site accessibility requirements based on site conditions are extremely rigorous compared to other jurisdictions' requirements for exemptions.

HUD resources. HUD provides a number of useful, free resources for understanding housing accessibility requirements through the Fair Housing First organization including the *Fair Housing Act Design Manual*, a thorough guide to planning projects for compliance with the FHA.<sup>16</sup>

## **7. Conclusions.**

A broad and diverse range of building types, whether new, existing, or altered, must comply with at least some of the federal or Oregon laws mandating accessibility for people with disabilities.

Furthermore, if the building is either used as housing or in conjunction with housing, the probability is very high that it must comply with more than one of these laws.

Consequently, those who design, build, and own housing, especially multiple-unit housing, should have a good understanding of both the scope of these laws and their application.

Unfortunately, not all professionals clearly understand accessibility requirements. The different laws and standards that contain accessibility requirements apply to different types of buildings, different building uses, different building ownerships or possession, different building funding, and different points in a building's life.

Beyond that, the relationship between building codes and accessibility laws, guidelines, and standards is ambiguous as well. Most accessibility laws, guidelines like the ABA/ADAAG, and application standards such as the UFAS, are distinct from the OSSC that Oregon building officials enforce.

Under these circumstances, it is easy to see how misunderstanding occurs. Misunderstanding leads to mistakes, and these mistakes are built into housing intended to be accessible. Until developers, designers, builders, and owners understand both the OSSC and accessibility laws, they will continue to develop, design, build, and own noncompliant buildings.

If those developers, designers, and builders are to create new housing that is fully accessible to people with disabilities, they must understand which standards apply and develop strategies to meet them.

## **8. Recommendations.**

Oregon developers, designers, and builders cannot rely upon the building permit approval and inspection process alone. Improving compliance will require both improved awareness and understanding of the laws and standards that govern accessibility.

The first step is awareness. Oregon developers, designers, and builders should be aware of the accessibility laws and standards and how careful planning and execution are essential to ensuring compliant buildings.

The second step is education. The appendices, along with other information regarding the laws and their application, will facilitate understanding.

Additionally, increased awareness of the large number of resources available through the Internet can be a critical part of the educational process as well. In particular, the *Fair Housing Design Manual*, available from FHF's website, will help anyone involved in developing housing of any scale. Additionally, the Access Board's website contains a number of links to other online resources.

Organizations that provide housing as well as those that provide housing support services should take initial steps to publicize accessibility requirements.

Design and construction professional associations as well as associations of building owners should publicize them as well and provide training and education for their members.

Additionally, building officials must take responsibility to enforce the OSSC both at the plan review and field inspection stages since they alone have the legal authority to issue building permits and permit the public to occupy buildings.

There are also a number of agencies and independent organizations directly connected with key players involved in the creation and operation of housing.

Among these are the State's licensing boards for architects, engineers, and contractors: the Board of Architect Examiners, Board of Examiners for Engineering and Land Surveyors, and Construction Contractors Board. Other public agencies with important roles in accessibility are the Building Codes Division of the Department of Consumer and Business Affairs, and city and county building departments.

Private professional and industry organizations include the Oregon Building Officials Organization, Professional Engineers of Oregon, and the local chapters of the American Institute of Architects, the Construction Specifications Institute, and Associated General Contractors of America. Many of these groups also promote educational meetings and seminars that could easily incorporate education on accessibility.

Through direct distribution of informational materials and cooperation with targeted agencies and organizations, the Fair Housing Council of Oregon can have a significant impact on the level of knowledge and understanding of issues, laws, and standards for providing accessibility for people with disabilities.

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## Appendices.

Appendix A: Matrix of laws

Appendix B: Application worksheet

## Footnotes.

<sup>1</sup> American National Standards Institute (1986), *American National Standard for Buildings and Facilities – Providing Accessibility and Usability for Physically Handicapped People (ANSI A117.1-1986)*. New York: American National Standards Institute. *Foreword*.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> International Code Council (2008), *American National Standard, Accessible and Usable Buildings and Facilities (IBC/ANSI A117.1-2003)*. New York: American National Standards Institute.

<sup>5</sup> 42 U.S.C. § 4151 et seq.

<sup>6</sup> 29 U.S.C. § 792 et seq.

<sup>7</sup> 42 U.S.C. § 3602 et seq.

<sup>8</sup> 42 U.S.C. § 12181 et seq.

<sup>9</sup> This statute referenced in OAR 839-006-0290, OAR 123-057-0210(5).

<sup>10</sup> This statute referenced in OAR 165-018-0015(c).

<sup>11</sup> This statute referenced in OAR 574-085-0070(11).

<sup>12</sup> Bills passed by the Oregon legislature and signed into law are codified in the Oregon Revised Statutes (ORS). Many of these laws contain language assigning responsibility and authority for the creation of rules, which govern how the law is to be applied, generally in much greater detail than is contained in the actual bill passed by the legislature. These rules are codified into the Oregon Administrative Rules (OAR). An understanding of

both the ORS and the OAR requirements is necessary for compliance with the law. Where this report refers to the ORS by number, the related OAR are noted for reference.

<sup>13</sup> Rules pertaining to these laws constitute OAR Chapter 813, Division 310, Subsidized Development Visitability (OAR 813-310-0005 to -0110)

<sup>14</sup> International Code Council (2008), *American National Standard, Accessible and Usable Buildings and Facilities (IBC/ANSI A117.1-2003)*. New York: American National Standards Institute.

<sup>15</sup> *Federal Register*, Vol. 56, No. 44, Wednesday, March 6, 1991, Pages 9499 to 9515.

<sup>16</sup> *Federal Register*, Vol. 72, No. 137, Wednesday, July 18, 2007, Page 39437.

<sup>17</sup> Barrier Free Environments, Inc. (1998), *Fair Housing Act Design Manual*. Washington, U.S. Department of Housing and Urban Development.

# **APPENDIX A to *Complexity Hinders Compliance with Federal and Oregon Accessibility Laws***

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## **TABLE OF HOUSING ACCESSIBILITY LAW COMPARISON FOR PROJECTS IN OREGON**

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### **Introduction:**

This Table is intended as a general introductory guide to understanding the relationship between, and requirements of, federal and Oregon laws requiring provision of accessibility in new buildings, building additions, and alterations. Consultation with design professionals, governing agencies, and an attorney is strongly recommended to ensure required compliance with the law.

### **Laws included:**

Three federal and two state accessibility laws applicable to housing are included in this worksheet:

1. The Rehabilitation Act of 1973 (Section 504)
2. The Fair Housing Amendments Act of 1988, commonly referred to as the Fair Housing Act (FHA)
3. The Americans with Disabilities Act of 1991 (ADA)
4. ORS 447.210 to 447.280, "Standards and Specifications for Access by Persons with Disabilities"
5. ORS 456.506 to 456.514, "Subsidized Development Visitability"

### **General notes:**

1. This table addresses the laws for housing only, and not for non-housing structures whether related to housing or not.
2. Includes only Oregon and Federal laws, in summary form only.
3. Generally, additions to projects and buildings must comply with each law if they would be required to comply as a new project.
4. Remember that a single facility may be subject to more than one law, and therefore more than one set of rules of compliance may apply.
5. Included with each section are notes regarding scope, exemptions, and application, and cautions regarding the particular law. These are not to be considered definitive, but as a guideline or reminder to carefully examine the requirements of the laws, standards, and guidelines.
6. Remember that public agencies' funding requirements often attach heightened requirements for accessibility and accessible units.
7. Abbreviations and standards:
  - a. UFAS. Uniform Federal Accessibility Standards (36 C.F.R. Part 1190).
  - b. Fair Housing Guidelines (Federal Register, Vol. 56, No. 44, Wednesday, March 6, 1991, pp. 9499-9515).
  - c. Visitability standards (OAR Ch. 813, Div. 310).
  - d. OSSC. Oregon Structural Specialty Code.
  - e. ABA/ADAAG. Architectural Barriers Act and Americans with Disabilities Act Accessibility Guidelines (36 C.F.R. Parts 1190 and 1191)
  - f. DOJ Department of Justice Title III Regulations (28 C.F.R. Part 36). Note that these standards, while based on the original ADAAG criteria, differ from the current ADAAG in some ways

Federal					Oregon	
Housing Description	Law	Rehabilitation Act of 1973	Fair Housing Amendments Act	Americans with Disabilities Act	Accessibility laws	Visitability law
	Abbrev.	Sec. 504	FHA	ADA	--	--
	Citation	29 U.S.C. §792 et seq.	42 U.S.C. §3602 et seq.	42 U.S.C. §12181 et seq.	ORS 447.210 to 447.233	ORS 456.506 to 456.514
	Standard	UFAS	Fair Housing Guidelines	ABA/ADAAG, DOJ	OSSC	OAR 813-310-005 to -0080

New, Privately-owned, privately-funded	1 to 3 units	N/A	N/A	Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	N/A
New, Privately-owned, privately-funded	4 or more units (in one building)	N/A	All ground floor units and all units on floors served by elevators must comply with the FHA's accessibility guidelines: 1. Accessible entrance on accessible route 2. Accessible and usable public and common spaces 3. Usable doors 4. Accessible route in to and through the unit 5. Accessible switches, outlets, and controls 6. Restroom walls reinforced for grab bars 7. Usable kitchens and baths	Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	N/A

Federal					Oregon	
Housing Description	Law	Rehabilitation Act of 1973	Fair Housing Amendments Act	Americans with Disabilities Act	Accessibility laws	Visitability law
	Abbrev.	Sec. 504	FHA	ADA	--	--
	Citation	29 U.S.C. §792 et seq.	42 U.S.C. §3602 et seq.	42 U.S.C. §12181 et seq.	ORS 447.210 to 447.233	ORS 456.506 to 456.514
	Standard	UFAS	Fair Housing Guidelines	ABA/ADAAG, DOJ	OSSC	OAR 813-310-005 to -0080

New, Publicly-owned, publicly-funded	1 to 3 units	N/A	N/A	Title II of ADA covers residential housing. No residential standard within ADAAG for compliance. Consult UFAS. Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	If the project receives certain public funds, loans, or tax credits, then all ground floor units and all units on floors served by elevators must have: <ol style="list-style-type: none"> <li>1. A visitable entrance on a visitable route</li> <li>2. Visitable routes between covered units and a visitable common living space</li> <li>3. At least one visitable common living space</li> <li>4. A visitable routes between the dwelling unit and a restroom</li> <li>5. A restroom doorway without steps and a 32" minimum width</li> <li>6. Restroom walls reinforced for grab bars</li> <li>7. Reachable switches, outlets and controls</li> </ol>
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Federal					Oregon	
Housing Description	Law	Rehabilitation Act of 1973	Fair Housing Amendments Act	Americans with Disabilities Act	Accessibility laws	Visitability law
	Abbrev.	Sec. 504	FHA	ADA	--	--
	Citation	29 U.S.C. §792 et seq.	42 U.S.C. §3602 et seq.	42 U.S.C. §12181 et seq.	ORS 447.210 to 447.233	ORS 456.506 to 456.514
	Standard	UFAS	Fair Housing Guidelines	ABA/ADAAG, DOJ	OSSC	OAR 813-310-005 to -0080

<p>New, Publicly-owned, publicly-funded</p> <p>AND</p> <p>New, Privately-owned, publicly-funded</p>	4 or more units (in one building)	N/A	<p>All ground floor units and all units on floors served by elevators must comply with the FHA's accessibility guidelines:</p> <ol style="list-style-type: none"> <li>1. Accessible entrance on accessible route</li> <li>2. Accessible and usable public and common spaces</li> <li>3. Usable doors</li> <li>4. Accessible route in to and through the unit</li> <li>5. Accessible switches, outlets, and controls</li> <li>6. Restroom walls reinforced for grab bars</li> <li>7. Usable kitchens and baths</li> </ol>	Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	<p>If the project receives certain public funds, loans, or tax credits, then all ground floor units and all units on floors served by elevators must have:</p> <ol style="list-style-type: none"> <li>1. A visitable entrance on a visitable route</li> <li>2. Visitable routes between covered units and a visitable common living space</li> <li>3. At least one visitable common living space</li> <li>4. A visitable routes between the dwelling unit and a restroom</li> <li>5. A restroom doorway without steps and a 32" minimum width</li> <li>6. Restroom walls reinforced for grab bars</li> <li>7. Reachable switches, outlets and controls</li> </ol>
<p>New, Publicly-owned, publicly-funded</p> <p>AND</p> <p>New, Privately-owned, publicly-funded</p>	5 or more units in project or on same site	<p>5% of total units must be for mobility impaired, 2% for sensorily impaired. Must provide accessible:</p> <ol style="list-style-type: none"> <li>1. Parking (if parking provided)</li> <li>2. Building entrance</li> <li>3. Common spaces</li> <li>4. Interior spaces</li> <li>5. Controls</li> <li>6. Route, to and within living, dining, bedrooms, kitchen, 1 bathroom, laundry, patio, garage.</li> <li>7. Kitchen, including accessible counters, sinks, work areas, cabinets, shelves, and</li> </ol>	Must comply with FHA, according to criteria above <u>only</u> if 4 or more units are in the same building.	Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	

Federal					Oregon	
Housing Description	Law	Rehabilitation Act of 1973	Fair Housing Amendments Act	Americans with Disabilities Act	Accessibility laws	Visitability law
	Abbrev.	Sec. 504	FHA	ADA	--	--
	Citation	29 U.S.C. §792 et seq.	42 U.S.C. §3602 et seq.	42 U.S.C. §12181 et seq.	ORS 447.210 to 447.233	ORS 456.506 to 456.514
	Standard	UFAS	Fair Housing Guidelines	ABA/ADAAG, DOJ	OSSC	OAR 813-310-005 to -0080
Alterations, Privately-owned, privately-funded	ALL	N/A	N/A - FHA applies to new construction only	Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	N/A
Alterations, Publicly-owned, publicly-funded	15 or more, at a cost 75% or more of replacement cost units	5% of total units must be for mobility impaired, 2% for sensorily impaired. Must provide accessible: 1. Parking (if parking provided) 2. Building entrance 3. Common spaces 4. Interior spaces 5. Controls 6. Route, to and within living, dining, bedrooms, kitchen, 1 bathroom, laundry, patio, garage. 7. Kitchen, including accessible counters, sinks, work areas, cabinets, shelves, and	N/A	Title II of ADA covers residential housing. No residential standard within ADAAG for compliance. Consult UFAS. Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	N/A
	15 or more units, at a cost less than 75% of replacement cost	N/A	N/A	Public accommodations located in residential housing (e.g. sales offices, rental offices, etc.) must comply with ADAAG.	Must comply with OSSC	N/A

## **APPENDIX B to *Complexity Hinders Compliance with Federal and Oregon Accessibility Laws***

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### **ACCESSIBILITY LAW APPLICATION WORKSHEET FOR EXISTING BUILDINGS, ALTERATIONS, AND ADDITIONS FOR PROJECTS IN OREGON**

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Materials in this report are not to be considered as the rendering of legal advice. Users are advised to obtain legal advice from their own legal counsel. These materials are intended for educational and informational purposes only.

#### **Introduction:**

This worksheet is intended as a general introductory guide to determining the requirements for compliance with federal and Oregon laws requiring provision of accessibility in new buildings, building additions, and alterations. Consultation with design professionals, governing agencies, and an attorney is strongly recommended to ensure required compliance with the law.

#### **Laws included:**

Four federal and two state accessibility laws are included in this worksheet:

1. The Architectural Barriers Act of 1968 (ABA)
2. The Rehabilitation Act of 1973 (Section 504)
3. The Fair Housing Amendments Act of 1988, commonly referred to as the Fair Housing Act (FHA)
4. The Americans with Disabilities Act of 1991 (ADA)
5. ORS 447.210 to 447.280, "Standards and Specifications for Access by Persons with Disabilities"
6. ORS 456.506 to 456.514, "Subsidized Development Visitability"

#### **Instructions:**

Answer each question for each of the six numbered laws below to determine which law(s) apply to a particular new or existing building, including alterations and additions.

» Remember that a single facility may be subject to more than one law, and therefore more than one set of rules of compliance may apply.

» Included with each section are notes on exemptions, application, and cautions regarding the particular law. These are not to be considered definitive, but as a guideline or reminder to carefully examine the requirements of the laws, standards, and guidelines that must be complied with.

## 1. Architectural Barriers Act (ABA) criteria

1a Federal funding: Is/was the facility designed, built, altered, or is it being leased (e.g. rented by a federal agency) using federal funds? [42 USC §4151]

If the answer to question 1a is **no**, then the facility is not subject to the ABA.

If the answer to question 1a is **yes**, go on to question 1b.

1b When built: Was the facility built or altered after August 12, 1968? [42 USC §4151]

If the answer to question 1b is **no**, then the facility is not subject to ABA.

If answers to questions 1a and 1b are **both yes**, then building is probably subject to the ABA, and must comply with UFAS and ABA/ADAAG. Verify the requirements of these standards compared to building codes.

### Waivers and exemptions under the ABA:


i. Waivers of requirements. Authorized agencies may grant an exemption to a requirement of the ABA, but only when "clearly necessary."


### Notes and cautions under the ABA:

- i. In some cases, conditions of funding may require a higher degree of compliance than the ABA.
- ii. Facilities may be subject to the ABA and the FHA (and other standards and laws, both state and federal), and must comply with the most restrictive requirements). In the case of conflicts between federal and state requirements, the federal requirements must be followed.


## 2. Rehabilitation Act of 1973 (Section 504) criteria


2a Federal funding: Is/was the facility funded in whole or in part by federal funds (in this case, either HUD-funded public housing, HUD-assisted housing, funded by states or cities or counties using HUD funds, USDA-funded rural housing, or HHS funded transitional housing)? [24 CFR Part 8]

 If the answer to question 2a is **no**, then the facility is not subject to Section 504.


 If the answer to question 2a is **yes**, go on to question 2b.


2b When built: Is/was the facility built new after 1973?

 If the answer to questions 2a and 2b are **yes**, then the facility is subject to Section 504.


 If the answer to question 2b is **no**, go on to question 2c.


2c Substantial alterations: If the facility was *not* built new before 1973, were at least 15 units altered after that date at a total cost of at least 75% of the replacement cost of those units?

 If the answer to questions 2a and 2c are **yes**, then the facility is subject to Section 504.

 If the answer to question 2c is **no**, go on to question 2d.

2d Minor alterations: If the facility was not built or substantially altered, was it altered at all after 1973?

 If the answer to questions 2a and 2d are **yes**, then the elements that were altered are subject to compliance with Section 504.

 If the answer to questions 2a-d are **no**, then the facility should not be subject to Section 504.

### Waivers and exemptions:

i. In non-substantial alterations, non-compliant elements that are not altered need not be brought into compliance.

### Notes and cautions:

i. Section 504 covers all housing built with federal assistance, including single-family homes and

ii. Housing covered by Section 504 must include a proportion of the units accessible to the

» 5% of the units must be accessible to the mobility impaired.

» 2% of the units must be accessible to the sensory impaired.

» Note that it is required that, when calculating these percentages, fractional proportions must be rounded up.

» Note that, in multi-phase projects within the scope of Section 504, each individual phase of the project is subject to proportional requirements for accessible units.

iii. In some cases, conditions of funding may require a higher proportion of units to be accessible.

iv. Facilities may be subject to both Section 504 and the FHA (and other standards and laws, both state and federal), and must comply with the most restrictive requirements.E76

### 3. Fair Housing Act (FHA)

3a Housing use: Does any single building in the facility contain 4 or more units of housing within it?

If the answer to question 3a is **no** (that is, there are *no* buildings with more than 3 units), the facility is not subject to the FHA.

If the answer to question 3a is **yes**, go on to question 3b.

3b When built: Are/were all parts of the 4+ unit building(s) built new for first occupancy after March 13, 1991?

If the answers to questions 3a and 3b are both **yes**, then the building is subject to the FHA.

Portions of other buildings used as common areas for covered units may also be required to be accessible, as well as the site itself.

If the answer to question 3a is **no**, go on to question 3b.

3c Addition(s): If a building was not a new building constructed after 1991, were there new additions to it of 4 or more units of housing built onto it for first occupancy after March 13, 1991?

If the answers to questions 3a and 3c are both **yes**, then the portion of the building added on after March 13, 1991 is subject to the FHA. Portions of the existing building may also be accessible if used as common areas for the added units, as well as the site itself.

If the answer to questions 3b and 3c are **no**, that building is not subject to the FHA, unless it contains common areas which must be accessible to those in other buildings that *are* covered by the FHA.

#### Waivers and exemptions:

i. Alterations (including changes of use) of existing buildings first occupied prior to March 13, 1991, regardless of the extent of the alterations, are not covered by the FHA.

ii. Generally, in buildings without elevators, accessibility need not be provided to:

» Housing units located above the ground floor.

» Upper levels of multi-story (townhouse-type) units with entrance levels on the ground floor.

iii. Multiple-unit facilities where four or more units are not contained in a single building are not covered by the FHA.

#### Notes and cautions:

i. The criteria for accessibility under the FHA differ in significant ways, in terms of application, standards, and interpretation, from other accessibility standards, and should be considered separately.

ii. For the purpose of compliance with the FHA, in multi-use buildings the "ground" floor is considered to be the lowest floor of housing, regardless of whether it is at the actual ground level, on the second floor, or higher. Townhouse units on the second floor, with parking below,

iii. Facilities may be subject to both the FHA and other standards and laws, both state and federal, and must comply with the most restrictive requirements.C94

#### 4. Americans with Disabilities Act (ADA)

4a Public use, funding, or ownership: Is/was the facility owned, funded, or leased by a federal, state, or local unit of government, regardless of use?

If the answer to question 4a is **no**, go on to question 4b.

If the answer to question 4a is **yes**, go on to question 4c.

4b Public accommodation: Does the facility serve as a public accommodation (that is, owned, leased from, leased to, or operated by a private or public entity operating the facility as a restaurant, retail store, hotel, performance center (theater, movie house), private school, medical office, homeless shelter, funeral home, day care center, sports center, or gymnasium)?

If the answers to both questions 4a and 4b are **no**, the facility is not subject to the ADA.

If the answer to question 4a is **yes**, go on to question 4c.

4c When built or altered. Is/was the facility built, altered, or added to after January 26, 1992?

If the answers to either question 4a or 4b is **yes**, and if the answer to question 4c is also **yes**, the facility, or the portion of the facility altered or added after January 26, 1992, is subject to the ADA.

If the answer to question 4c is **no**, the facility is not subject to the ADA.

#### Exemptions:

- i. Some requirements of the ADA may be waived if shown by the applicant to be "technically infeasible," especially in existing and historic buildings.
- ii. Some requirements of the ADA may be waived for government facilities if alternate methods of accommodation can be made by the agency.
- iii. The requirement to retrofit an existing facility for compliance in an alteration project is limited to accessibility measures which do not, taken together, exceed 20% of the total cost of the alterations.

#### Notes and cautions:

- i. Actual alterations or additions made after January 26, 1992, must comply with the ADA regardless of the extent of the alteration.
- ii. Note that Oregon law expands the scope of application of the ADA requirements in terms of both the buildings to which the requirements apply, and the proportional cost limitation in
- iii. A facility in Oregon that is subject to the ADA and will also be subject to ORS 447.210-280, and may also be subject to the FHA (and other standards and laws, both state and federal, and must comply with the most restrictive requirements. In the case of conflicts between state and federal requirements, the federal requirements must be followed.

**5. ORS 447.210 to 447.280 (OREGON DISABILITY LAW)**

5a ADA compliance: Is the facility subject to the ADA?

**Green** If the answer to question 5a is **yes**, the facility, or the portion of the facility altered or added after January 26, 1992, is also subject to ORS 447.210-280.

**Yellow** If the answer to question 5a is **no**, go on to question 5b.

5b Multifamily housing: Does the facility contain buildings consisting of 4 or more dwelling units?

**Green** If the answers to questions 5b is **yes**, all units are subject to ORS 447.210-280 if the building has an elevator, and ground floor dwelling units are subject to ORS 447.210-280 in buildings without an elevator, in buildings constructed after January 26, 1992. [ORS 447.210(5)]

**Yellow** If the answer to question 5b is **no**, go on to question 5c.

5c Government facility: Is the facility a building, structure, or related facility constructed in whole or in part, by the use of state, county, or other government funds, or constructed for the use and occupancy of a state, county, or public agency? [OSSC Sec. 1102, P. 241-2]

**Green** If the answer to question 5c is **yes**, the facility, or the portion of the facility altered or added after January 26, 1992, is also subject to ORS 447.210-280.

**Yellow** If the answer to question 5c is **no**, go on to question 5d.

5d Commercial or public accommodation use: Is the facility a non-residential building whose operations affect commerce, such as an office, factory, or warehouse; or is the facility a public accommodation such as lodgings, or a place for service of food and drink, exercise, recreation, social services, public display, public transportation, sales or rentals, public displays, exhibitions, or entertainment? [ORS 447.210(4) and 447.210(11)]

**Green** If the answer to question 5d is **yes**, the facility, or the portion of the facility altered or added after January 26, 1992, is also subject to ORS 447.210-280.

**Yellow** If the answer to question 5d is **no**, go on to question 5e.

5e Covered private entity: Is the facility owned or operated by a private entity offering examinations or courses related to applications, licensing, certification or credentials for secondary or post-secondary education, professional or trade purposes, or by a private membership club or church? [ORS 447.210(1)]

**Red** If the answers to questions 5a, 5b, 5c, 5d, *and* 5e are all **no**, the facility is not subject to ORS 447.210-280.

**Yellow** If the answer to question 5e is **yes**, go on to question 5f.

5f Size of facility: Does the facility in 5d have more than one floor level and more than 4,000 square feet in ground area, or is the facility more than 20 feet in height from lowest floor to ceiling of highest floor? [ORS 447.210(1)]

**Red** If the answers to questions 5a, 5b, 5c, 5d, *and* 5f are **no**, the facility is not subject to ORS 447.210-280.

**Green** If the answer to questions 5e and 5f are both **yes**, the facility, or the portion of the facility altered or added after January 26, 1992, is also subject to ORS 447.210-280.

Waivers and exemptions:

i. The requirement to retrofit an existing facility for compliance in an alteration project is limited to accessibility measures which do not, taken together, exceed 25% of the total cost of the alterations. [ORS 447.241]

**THIS SECTION CONTINUED ON NEXT PAGE**

**5. ORS 447.210 to 447.280 (CONTINUED FROM PREVIOUS PAGE)**

Waivers and exemptions (CONTINUED FROM PREVIOUS PAGE):

ii. Where full compliance is not required by the 25% limitation, improvements to accessibility must be made in accordance with an established list of priorities. [ORS 447.241]

Notes and cautions:

i. Facilities may be subject to ORS 447.210, the ADA, and the FHA (and other standards and laws, both state and federal, and must comply with the most restrictive requirements. In the case of conflicts between state and federal requirements, the federal requirements must be followed.

ii. The OSSC grants authority to the building official to modify or waive provisions of the Oregon code if practical difficulties make compliance with the letter of the code infeasible [OSSC Sec. 104.10]. However, this authority does not extend to the modification of parallel provisions in other standards required by federal law.

**6. ORS 456.506 to 456.514 (OREGON VISITABILITY LAW)**

6a Housing use. Is the building or facility designed to be used for single or multiple rental housing? [ORS 456.508(6)]

If the answer to question 6a is **no**, the facility is not subject to the ORS 456.506-514 visitability law.

If the answer to question 6a is **yes**, go on to question 6b.

6b When built. Was the building or facility newly constructed after January 1, 2004?

If the answer to question 6b is **no**, the facility is not subject to the ORS 456.506-514 visitability law.

If the answer to question 6b is **yes**, go on to question 6b.

6c Funding. Was funding, or any portion thereof, provided through any of the following:

(a) the federal low-income housing tax credit under 26 U.S.C. 42(a),

(b) a farmworker housing tax credit described in ORS 315.164,

(c) a loan where the lender qualifies for a tax credit under ORS 317.097,

(d) funding under the federal HOME Investment Partnerships Act, 42 U.S.C. 12721 to 12839,

(e) money from the Oregon Housing Fund created under ORS 458.620, or

(f) money from another grant or tax incentive program administered by the H&CSD under ORS 456.559?

[ORS 456.508(7)]

If the answer to questions 6a, 6b, *and* 6c are all **yes**, the facility is subject to the ORS 456.506-514 visitability law.

If the answer to questions 6c is **no**, the facility is not subject to the ORS 456.506-514 visitability law.

Waivers and exemptions:

- i. Alterations, regardless of the extent, are not subject to this law.
- ii. Owner-occupied single family homes are not subject to this law.
- iii. Dwelling units above the ground floor are exempted.
- iv. Farmworker housing located on a farm is not subject to this law.

Notes and cautions:

i. ORS 456.506-514 establishes an independent set of criteria for accessibility, which are subject to the rules of application in OAR Chapter 813, Division 310. A brief summary of the basic criteria of visitability includes:

(a) a visitable exterior route leading to a dwelling unit entrance that is stepless and has a minimum clearance,

(b) visitable routes between a dwelling unit and at least one visitable common living space,

(c) visitable routes between a dwelling unit and a lavatory,

(d) a visitable lavatory with a minimum 32 inch door opening, walls reinforced for handrails,

(e) reachable switches, outlets, and controls, and

(f) where a development has a shared community room, or more than 20 units, there is at least one shared accessible lavatory.

ii. Facilities may be subject to the Visitability law, and the FHA (and other standards and laws, both state and federal, and must comply with the most restrictive requirements.

# Accessibility Regulations at a Glance

## FEDERAL LAWS

- Americans with Disabilities Act of 1991 (ADA): Prohibits discrimination on the basis of disability, including requiring buildings to be accessible and usable.
- Architectural Barriers Act of 1968 (ABA): Requires buildings constructed with federal funds, or leased by a federal agency, to meet accessibility standards.
- Fair Housing Amendments Act of 1988 (FHA): Prohibits discrimination on the basis of disability in public and private housing, and requires reasonable accommodations to be made for residents with disabilities.
- Section 504 of the Rehabilitation Act of 1973 (Section 504): Mandates that recipients of federal funds accommodate employees with disabilities.

## FEDERAL GUIDELINES AND STANDARDS

- ABA Guidelines/ADA Accessibility Guidelines (ADAAG): The Access Board, a federal agency, establishes minimum design specifications for compliance with the ADA and ABA. Federal agencies such as the Department of Justice use these guidelines as a minimum baseline to set their own enforceable standards.
- Fair Housing Accessibility Guidelines (FHAG): The Department of Housing and Urban Development (HUD) establishes guidelines for housing developers to comply with the accessibility requirements of the Fair Housing Act. HUD also recognizes several “safe harbors”—design and construction specifications comparable to FHAG, such as the A117.1—that ensure compliance with the Fair Housing Act.
- Uniform Federal Accessibility Standards (UFAS): The Access Board provides uniform accessibility standards for all federal or federally-funded facilities.

## OREGON LAWS

- ORS 447.210 – 447.280: Establishes accessible design standards and specifications.
- ORS 456.506 – 456.514: Requires state funded housing developments to meet design specifications for visitability by people with disabilities.
- ORS 701.525 – 701.530: Authorizes adoption of a model list of accessibility features which developers may voluntarily include in new housing.

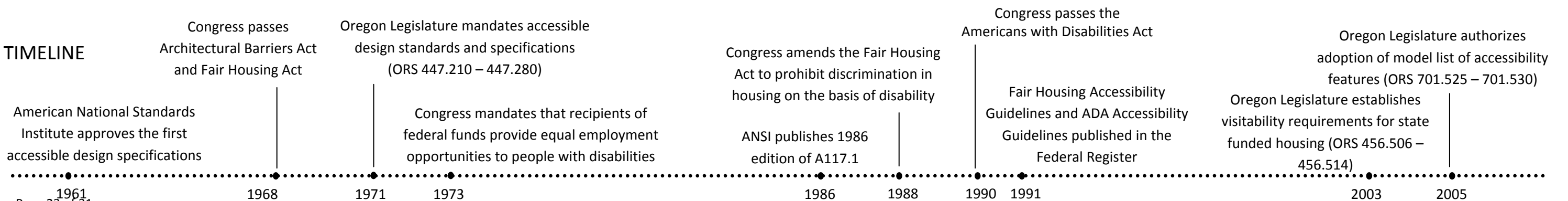
## OREGON BUILDING CODES

The Oregon Structural Specialty Code (OSSC): Chapter 11 of the OSSC includes most state and federal accessibility requirements. However, a building or site in compliance with the OSSC may nevertheless fail to comply with some federal or state accessibility requirements.

## OTHER

ICC/ANSI A117.1: The American National Standards Institute (ANSI) publishes accessible design specifications known as the A117.1. The International Code Council (ICC) publishes a model building code, the International Building Code (IBC), which also includes the A117.1 by reference. The A117.1 and IBC are voluntary standards; neither is legally enforceable unless enacted as law by a governmental body. Most versions of the A117.1 and IBC are also recognized as “safe harbors” for compliance with the accessible design requirements of the Fair Housing Act.

## TIMELINE



# Building-Specific Chart of Accessibility Laws for New Construction

## Federal and State Laws

**Instructions:**

This chart identifies, in a general way, the state and federal laws mandating accessibility for the disabled as they apply to various types of new buildings, and is intended to raise awareness of the broad and numerous laws which may apply to any particular building or configuration. Laws which are very likely to apply to a particular type or element of a building are marked with a shaded **X**; other laws, which may apply depending on funding, etc., are indicated with a **✓**.

To use the chart, select the basic building type, A, B, or C, and then identify the specific elements within the building to see which laws may apply.

- A. Residential buildings or complexes without separate levels of parking or non-residential uses
  - 1. Houses, duplexes, and triplexes
  - 2. "Quad"-type units with shared kitchens or baths (same criteria as A.3. below)
  - 3. Apartments and condominiums with 4 or more units, whether owner-occupied or not:
    - a. Buildings without elevators:
      - Single-level units at ground level
      - Multiple-level units without elevators in individual units
      - Multiple-level units with elevators within individual units
      - Upper level units without ground-level access
      - Accessory facilities
      - Site
    - b. Buildings with elevators:
      - Single-level units
      - Multiple-level units
      - Accessory facilities
      - Site
- B. Residential buildings or complexes with one or more levels of parking or other non-residential uses (see "C" below for other requirements applying to non-residential uses)
  - 1. Houses, duplexes, and triplexes
  - 2. "Quad"-type units with shared kitchens or baths (same criteria as B.3. below)
  - 3. Apartments and condominiums, whether owner-occupied or not
    - a. Buildings with elevators serving just to first floor containing residence units:
      - Single-level units at first floor level with residence units
      - Multiple-level units
      - Upper level units
      - Accessory facilities
      - Site
    - b. Buildings with elevators serving all floors of residence units:
      - Single-level units at ground level
      - Multiple-level units
      - Upper level units without ground-level access
      - Accessory facilities
      - Site
- C. Non-residential buildings or non-residential portions of mixed-use buildings
  - 1. Public accommodation (generally, a place offering goods or services to the public):
    - a. Transient lodging, such as motels, hotels, rooming houses
    - b. Food or drink service, such as bars, restaurants, coffee shops
    - c. Exhibition, such as theater, sports arena, stadium, concert hall
    - d. Assembly, such as convention center, lecture concert hall
    - e. Commercial, such as bakery, store, shopping center, rental center
    - f. Service, such as dry cleaner, barber, insurance, doctor, hospital
    - g. Transportation, such as terminal or depot
    - h. Public display, such as museum, library, art gallery
    - i. Recreation, such as zoo, amusement park
    - j. Education, such as nursery, school, college
    - k. Social service, such as day care, senior center, adoption agency
    - l. Sports and fitness, such as gymnasium, bowling alley, golf course
    - m. Private clubs and churches
  - 2. Office
  - 3. Factory, industrial, commercial storage, utility

Fair Housing Act (federal)	Americans with Disabilities Act (federal)	Oregon Disability Law (ORS Ch. 447)	Oregon Visitability Law (ORS Ch. 456)	Architectural Barriers Act (federal)	Section 504 of Rehabilitation Act (federal)
FHA	ADA	447	456	ABA	504
(2)	(3)	(4)	(5)	(6)	(7)
-	-	-	✓	✓	✓
X	-	-	✓	✓	✓
X	-	-	✓	✓	✓
-	-	-	✓	✓	✓
X	-	-	✓	✓	✓
-	-	-	✓	✓	✓
X	✓	-	✓	✓	✓
X	✓	✓	✓	✓	✓
X	-	-	✓	✓	✓
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-	X	✓	-	✓	✓
-	-	X	-	✓	✓
-	✓	-	-	✓	✓
-	✓	-	-	✓	✓

**Notes:**

- (1) The Fair Housing Act (FHA) covers only new buildings constructed and first occupied after March 31, 1991. Many of the other federal and state laws apply to remodeling and additions as well as new construction.
- (2) **The Fair Housing Act (FHA)** covers private multifamily housing with 4 or more units in a single building, plus all housing that receives federal assistance, and to state and local government housing.
- (3) **The Americans with Disabilities Act (ADA)** covers to all public accommodations, both privately-owned and public, plus all federal, state, and local buildings. Private business uses which are open to the public and affect interstate commerce in any way are considered public accommodations.
- (4) **Chapter 447 of the Oregon Revised Statutes** extends the reach of the ADA standards to certain private clubs and churches, and also establishes higher standards for certain accessible parking and access than federal laws.
- (5) **Chapter 456 of the Oregon Revised Statutes** covers publicly-funded or -subsidized housing which receives federal or state assistance through the Housing and Community Services Department.
- (6) **The Architectural Barriers Act (ABA)** covers all buildings or facilities designed, constructed, owned, leased, or occupied by a federal agency, regardless of the type of use.
- (7) **Section 504 of the Rehabilitation Act (Section 504)** covers federally-funded buildings, and buildings containing programs that receive federal funding.

**42 U.S.C. § 12181**

(7) Public accommodation

The following private entities are considered public accommodations for purposes of this subchapter, if the operations of such entities affect commerce—

- (A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
- (B) a restaurant, bar, or other establishment serving food or drink;
- (C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- (D) an auditorium, convention center, lecture hall, or other place of public gathering;
- (E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- (F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
- (G) a terminal, depot, or other station used for specified public transportation;
- (H) a museum, library, gallery, or other place of public display or collection;
- (I) a park, zoo, amusement park, or other place of recreation;
- (J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- (K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- (L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

## Accessibility Stories: “John Comes Home”



John is a sports coach at a local gym. John has used a wheelchair as his primary means of locomotion for most of his adult life. Tonight is Friday, and John leaves the gym after a long week at work.

John swings by the grocery store on the way to his apartment. By the time he has left the store, the sun has set and a cold February rain is pelting the parking lot. Whistling to the radio, John makes the short drive from the store to his apartment complex, and pulls up near his building entrance to find parking.

Seeing that his usual spot is taken –by someone without a parking pass, no less – John drives on to the other accessible spot outside his building. As John pulls in, he notices that the car next to him is partially parked in the access aisle to the curb cut. §



With the door open and his chair braked next to him, John remarks to himself that the striping paint on the pavement seems to have faded since the paint job last summer. John hoists himself out of the driver’s seat and into his wheelchair.



Halfway in, John realizes the aisle space is too tight for him to turn once he’s in the chair. So, John hoists himself back into the car, adjusts the chair so he can roll forward once he’s in it, and then climbs back out.

It sure would be nice, John thinks as he navigates between his car and the next, if the aisles here could be wider or marked better. As a matter of fact, it’s never that easy to turn his chair in this access aisle. That’s why he likes the other parking spot. Who took his spot, anyway?

**John isn’t thinking about the law, but the law is clear: All access aisles serving accessible pull-up spaces must be at least 60 inches wide. OSSC 1105.2.3.1; A117.1-1986 4.6.2.**

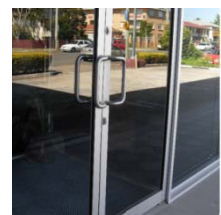
With his paper sack of groceries in his lap, John is in a bit of a hurry to get out of the rain. As he squeaks between cars, he remembers the other reason he doesn’t like this spot: the curb ramp is too steep. Starting to feel a little put out, John bears down and pushes his chair up the ramp and onto the level pavement.



**Again, the law is clear: the slope of Oregon curb ramps must not exceed one unit vertical in 12 units horizontal. OSSC 1103.2.2.1; A117.1-1986 4.7.2.**

John locks his car doors with his remote, and rolls to the closest building entrance. Even though it’s cold, listening to the rain and the wind is pleasant. By the time John gets to the door he’s thinking about chicken curry and what’s on television.

John soon remembers, however, what a pain the series of doors at this entrance are. Instead of swinging in the same direction or both swinging away from the vestibule, the doors both swing into the vestibule. John has to push open the first door, wheel through, and then wheel out of its way while it shuts. Then John has to wheel to the



second door, pull it open, maneuver around and through it, and then he's inside. Adding keys and locks to this game isn't any fun, either.

Oh well, John thinks, at least he doesn't always have to use this door. Still, that has to break the fire code or something.

**Doors in a series at accessible entrances must swing in the same direction or swing away from the space between the doors. OSSC 1109.9.4; A117.1-1986 4.13.7.**

John sees Alice, an elderly neighbor, in the lobby. She has her mail in her hand, and waves it around a little bit while she says hello. She also remarks that some men came today and installed an attractive planter underneath the mailboxes – no plants yet, just a low wall with a board on it so people don't fall in.

Waving goodnight, John wheels across the lobby and around the corner to the mailboxes. He wheels up to the mailboxes for the usual reach that is most comfortable to him – a side reach above his head that he guesses is about four and a half feet. But John can't reach his mailbox now because of the planter.



The new planter looks to be just over two feet deep, and that's just too far for John to be able to reach the knob on the box, much less open it. Miffed, John looks at the planter, then looks at the mailbox, then looks back at the planter, and then sighs. Oh well, that's what Saturdays are for.

**Obstructions to the user's side reach may not exceed 24 inches deep, and the maximum height for a reach above the obstruction is 46 inches. OSSC 1109.2.3.6; A117.1-1986 4.2.6.**

John rides the elevator up to the second floor, stomach growling slightly and thinking again about how fast he can get curry delivered. The doors open at his floor, and John rolls out, around the corner, and starts to hustle down his hallway.

The hurry isn't all about the curry. John's hallway is kind of long, at least half a football field, and is only about four feet wide. John has a neighbor that lives in the apartment right next to his, and the neighbor also uses a wheelchair. At least three or four times John has found himself almost halfway down the hallway, looking at his mail or something, only to look up to the whizz of another set of wheels getting close.



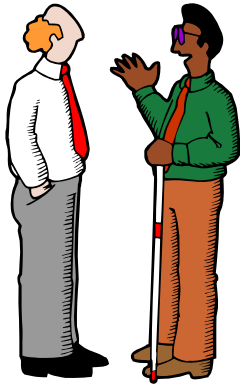
John's neighbor is usually texting with one hand, with the tell-tale white wires of ear buds snaking up his neck. John has to shout to get his attention, and one of them has to back up to a place where the hallway is wide enough for them to pass one another.

**If an accessible hallway is less than 60 inches wide, there must be passing spaces at least 60 by 60 inches wide every 200 feet or less. OSSC 1109.4.2; A117.1-1986 4.3.4.**

Tonight, John makes it into his apartment without that encounter. Relieved, he puts his groceries on the counter, takes off his coat, and fishes out his cell phone to order Thai.



## Accessibility Stories: “Bill Catches His Bus”



Bill is a family therapist at a new counseling center downtown. Bill has been blind from birth. Today is Monday, and this morning Bill is ready to get going on a solid week of appointments and lectures.

Bill has already had his coffee, he has tied his tie, and he’s now hurriedly stuffing workday things into a leather satchel. Bill has some snacks to keep him going until he can break for lunch after he gives a talk at noon, and he’s also got some mail to drop off at the mailboxes on his way to the office.

Humming the jingle for some annoying ad he heard on the radio, Bill locks the front door to his apartment. He turns around, extends his cane with practiced caution, and begins tapping his way rapidly down the hallway. He wonders if it’s raining today, and wishes he would have stuck his hand out the window or something.

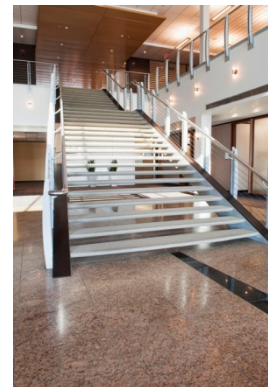
A few hundred feet later, Bill reaches the main stairs up to the lobby. Bill got a steal on this basement apartment, but there are some good reasons for that, including these stairs with their open risers. As he begins to climb, Bill changes the position of his cane so that it is completely vertical.

Bill taps his cane lightly against the edge of each step, being careful not to slip the end of the cane or his foot too far into the open riser. The first week he moved in, Bill wasn’t quite so careful and he had a bad fall on the stairs. He often runs late and is in a rush, and accidents happen to everyone, but boy was he sore about that one.

**Bill knows a few things about accessibility laws, and he knows that open risers are not allowed. OSSC 1109.8.2; A117.1-1986 4.9.2.**

Once in the lobby Bill taps his way straight to the main door. There’s a slot for outgoing mail somewhere, but Bill has never taken the time to ask. He always uses the post office downtown, or just sends bills out with the office mail.

Within a few seconds Bill’s cane makes a dull sound as it strikes the metal at the base of the front door. Shifting his bag, Bill lifts his cane and pushes the door open. He passes through quickly, pushes through the next door, then steps out into the rain.



Bill sighs. No umbrella today. He turns to the right so that he can walk under the shelter of balconies from the upper level on his way to the bus stop. Bill is careful to stay all the way to the right, because the building manager explained to him that the upper level apartments all have exterior stairs along this route. Hitting his head is not the way Bill wants this day to go.



**Open areas less than 80 inches high, such as those under stairs, must be protected by a guard rail or other barrier that is at least 27 inches high. OSSC 1109.5; A117.1-1986 4.4.2.**

On the way to the bus stop, Bill has to walk across a portion of the parking lot. This is no big deal, except that the route he's on now is on the exact same plane as the parking lot and its vehicular traffic. There is a detectable warning strip, but it's only six inches wide or so, and sometimes Bill skips right over it with his cane.

The first time he crossed here, Bill felt a little unsafe suddenly realizing that he had come to the sidewalk without having known he had crossed the lot. But he was never too careful about the whole thing. One day, however, he was trucking along only to come to an abrupt stop at the sound of tires screeching and a short angry honk from one of his neighbors.



That really shook Bill up, and he keeps meaning to ask the building manager if there is any way to get a wider strip laid down.

**Where no building elements mark the transition into a vehicular area, continuous detectable warnings at least 36 inches wide must be installed. OSSC 1103.2.3.2; A117.1-1986 4.27.5.**

For the time being, Bill just tries to listen for traffic and walk a little more slowly. The other precarious part of his morning walk to the bus stop is yet to come: the sidewalk that leads from the parking lot down to the public pavement is set into a hill.



Bill manages the sidewalk's grade easily, and the sidewalk switches back on itself predictably. However, the soil around the edges of the sidewalk has started to erode, in some places more dramatically than others.

Last weekend, Bill was climbing back up to the apartment complex, and his cane tapped right off the edge of the pavement. The tip passed through several inches of thin air before hitting the crumbling earth a good six inches below the edge of the pavement.

**Distance to grade can change over time. Edges more than six inches above the adjacent grade must have edge protection. OSSC 1109.7.7; A117.1-1986 4.8.7.**

Bill thinks to himself that people probably don't understand how disorienting it is to lose a reference point like that. He also thinks to himself that if he keeps daydreaming he'll never make it to work on time. Fortunately, he can hear the bus climbing the hill now.



## Accessibility Stories: “Alice’s Garden”



Alice is 96 and uses a walker. Alice is just returning from a summer brunch with neighbors that live on the ground floor of her apartment building.

After the elevator door opens, Alice walks out into the second floor hallway and starts toward her apartment door. She is thinking of how well her neighbor Maria cooks, and how Maria reminds her of her daughter-in-law Susan. Speaking of Susan, isn't it Joan's birthday next week? 36 years old? Alice had better send a card today.

By now, Alice has arrived at her door. Her keys are on a lanyard tied to her walker so they can't fall out of reach. She selects the right key, unlocks the door, and opens it. That's the easy part. Then she stares down at the threshold with both chagrin and determination.

Alice moves forward until her walker bumps against the threshold. Lifting her walker over the threshold is never very fun for her. After a complicated procedure of carefully shifting her weight off the walker and then moving the walker and then repeating both steps, she makes it over the threshold into her apartment.



**Thresholds at all doors, except exterior sliding doors, may not exceed 1/2-inch in height. OSSC 1109.9.5; A117.1-1986 4.13.8.**

Alice walks down the hallway to her kitchen. She crosses to the refrigerator and writes a note to send Joan that card. She also reads a note she left for herself that morning: water the tomatoes.

Grumbling and a little tired, Alice walks out of the kitchen, crosses the living room, and stands for a moment at her sliding doors. Alice has a large wooden deck that she loves. She slides the door open, eases the walker out as gracefully as she can, and steps down into the sunshine.



Alice feels better in the fresh air, and happily putters around the garden for about a half hour. Suddenly, she remembers that her niece is meant to call her in the early afternoon. Alice puts the watering can on its shelf, looks carefully at the supports for her tomatoes, and then makes her way back over to the door.

At the threshold, Alice goes through a process similar to the one at the front door. Here, however, there is a difference in height between the deck surface and the floor of her living room of almost two or three inches, instead of just a narrow threshold.

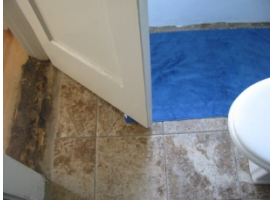
Those few inches mean Alice actually has to push her walker up into the room and then pull herself in after it. This maneuver always makes her nervous, because Alice has a lot of friends who have suffered bad falls.

**Thresholds at exterior sliding doors may not exceed 3/4 of an inch; any changes in level at all accessible doorways must be beveled with a slope no greater than one unit vertical in two units horizontal. OSSC 1109.9.5; A117.1-1986 4.13.8.**

Inside, Alice looks at her hands and realizes they are a bit dirty. She makes her way down the hallway away from the kitchen and toward her bathroom. Halfway there, Alice notices that she's been tracking dirt in on her walker and her shoes. Looks like it's time to vacuum.



At the door to the bathroom, Alice pauses because the door swings into the bathroom and gets in her way. It takes Alice a little effort to negotiate getting her walker into the room and in front of the sink without knocking her elbow on the door. It's also a bit complicated to get her shoes off and to clean the bottom of her walker.



Alice manages just fine, but it takes her some time. If the bathroom were a little more spacious, if the door didn't swing into the clear floor space, or if there were some grab bars, things would be easier for her. She should think to ask her building manager about installing grab bars. She overheard Maria saying that John, that neighbor from Alice's own floor that uses a wheelchair, has grab bars in his bathroom.

**Clear floor space requirements for bathrooms in adaptable dwelling units are defined based on the fixtures in question. Generally, bathroom doors may not swing into these clear floor spaces. OSSC 1110.6.2; A117.1-1986 4.32.4. Adaptable bathrooms must also have reinforced walls onto which grab bars may be installed. OSSC 1110.6.3; A117.1-1986 4.32.2, 4.32.4-5.**

Another half an hour passes by the time Alice cleans her walker, changes into slippers, and washes her hands. The vacuuming has slipped her mind, until she steps back out of the bathroom and sees the trail of soil and duff from the trees that leads toward the patio doors.

Alice checks her watch, figures she has a little more time before her niece calls, and heads back to the living room. She has a vacuum that she keeps inside a small closet. The vacuum is light enough and quiet enough that she doesn't mind the time it takes her to vacuum all the floors.

Even better, the closet where Alice keeps the vacuum is right next to an outlet, so the vacuum can just stay plugged in. Alice actually can't reach most of the outlets in her apartment. The only ones she has a fighting chance at are the ones on the countertops in her kitchen and bathroom, and any that happen to be next to chairs. Generally, the outlets are too low for her to reach from her walker.



**The reach for elements in accessible and adaptable units must be no lower than nine inches from the floor for side reaches, and no lower than 15 inches from the floor for forward reaches. OSSC 1109.2.3.5-6; A117.1-1986 4.2.5-6.**

Fortunately, Alice's vacuum stays plugged in while she makes her way up and down the hall, back through the living room to the patio door, and finally to the closet. She even has enough time to go to the kitchen and make a cup of tea before the phone rings and she settles into her chat with her niece.