

## NC ACCESSIBILITY CODE

2012 NC Bldg Code Ch. 11  
2009 ICC/ANSI A117.1

**Mandatory:** 1 Jun 2012

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### 2010 ADA STANDARDS:

- Mandatory 3/15/12
- Copy available: [www.ada.gov](http://www.ada.gov)

### Individual Highlights

ANSI 404.2.3.2(f) Dr  
Maneuvering 2

2.5' Wheel Stop Distance 2



## USDOJ-HUD Joint Statements 2008-2013

If you design multifamily dwellings, familiarity with the **NCBC 1107** and the federal **Fair Housing Act Design Manual** may provide only basic information. Even [the previous newsletter's article](#) regarding the additional **2015 NCEBC** requirements that exceed **Fair Housing** provisions doesn't necessarily address the specifics.

The **USDOJ** and **HUD** have issued two Joint Statements addressing accessible housing:

- Joint Statement of HUD + USDOJ, dated 3/5/2008 [\[click here\]](#) – on **HUD's** website
  - titled *Reasonable Modifications under the Fair Housing Act*
- Joint Statement of HUD + USDOJ, dated 4/30/2013 [\[click here\]](#) – on **USDOJ's** website
  - Titled *Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings under the Fair Housing Act.*

To facilitate looking through the statements, an **INDEX** to each Joint Statement (assembled by **NCDOI**) is attached to this newsletter. Please remember -

1. These do not address **NCBC** or **NCEBC** requirements which may be more restrictive.
2. Both should be *required reading* for any residential designer or builder.
3. Be certain to look at Items 25 + 26 on the 4/30/2013 agreement. These concern multi-story townhomes designed with elevator options having to be **Type B** units. Even designs permitting the future installation of elevators will require the dwelling unit to be **Type B**.

## Free 2012 NC Code Downloads Avail.

*The following is a reprint from the August 2017 NCDOI Engineering Newsletter:*

### Limited time only, Free 2012 NC Code Downloads Available

The **Building Code Council** and the **NC Department of Insurance** have negotiated for and achieved funding from the **NC General Assembly** for the offering of a free (free to the user) downloads of the **2012, 2014** and **2015 NC Building Codes**. These codes are the fully downloadable and printable for a limited time courtesy of the **Department of Insurance**. The link to the codes is:

<https://codes.iccsafe.org/public/collections/nc>

The version has the following benefits:

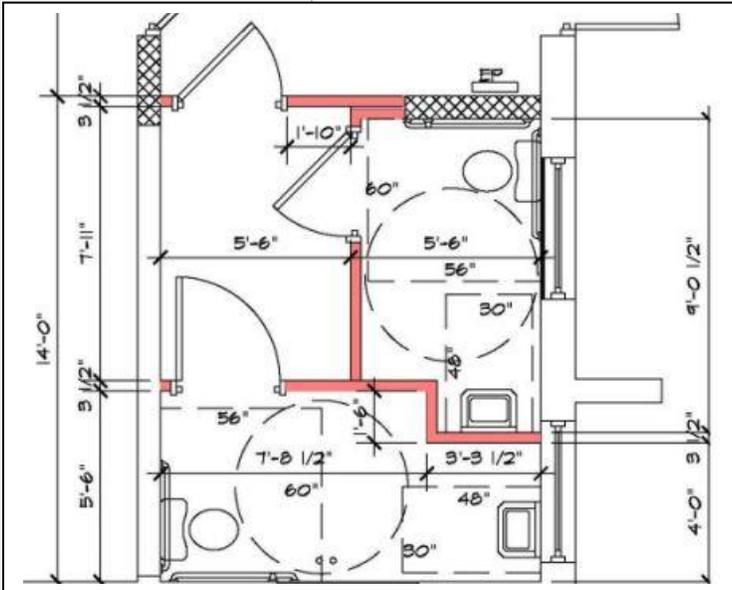
- Fully Downloadable, searchable, printable
- Contains all of the Building Code Council approved amendments from 2012 – 2017 inserted directly into document
- Capable of using electronic sticky notes and highlights when downloaded.



We encourage the reader to take advantage of this downloadable version, and provide feedback to your **Building Code Council Members, NC DOI Engineering staff**, and your local code enforcement office. This should be considered a test drive, and if the results are favorable, it may be strongly considered, depending on a funding mechanism, to provide this same service for the **2018 NC Building Code**. Your feedback is desired for this download version

## ANSI Fig. 404.2.3.2(f) – Toilet Clearance

In a previous PowerPoint put together 5 years ago regarding *Bathrooms & Toilet Facilities* [that is posted on the NCDOL website](#), the right side of slide 31 contains the sketch below. It is always the case when you give a presentation that the narration clarifies the odd little discrepancies that may exist with some example. Unfortunately, those clarifications go away when the PowerPoint is posted online. The discussion below will clarify one issue that returns on a frequent basis to this newsletter:



### Maneuvering Clearances

The issue in this example is the door location in front of the water closet. While it is slightly easier to do in the lower toilet room, when entering the toilet room on the right using a mobility device (wheelchair, walker or crutches) the user is required to make an S-curve to approach the lavatory.

Now consider that the entrance to the right-side toilet room is through a vestibule. This presents a series of left-right-left-right turns to be made while trying to avoid the room's out swinging door (and hoping – nay, praying! – that no one is exiting the lower toilet room at the same time). No wonder that **the 2010 ADA Standards** inserted an advisory beneath **Section 604.3.2** that states the following:

**604.3.2 Overlap.** When the door to the toilet room is placed directly in front of the water closet, the water closet cannot overlap the required maneuvering clearance for the door inside the room.

This makes sense, doesn't it?

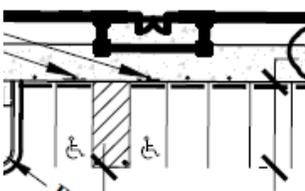
As drawn above, **ANSI 404.2.3.2(f)** requires 48" minimum between the front of the water closet and the inside face of the toilet room door. If you look at the dimensions shown, there is 60" clear from the rear wall behind the water closet to the inside face of the toilet room door. When the 48" clearance is provided at the door, *that allows for a water closet that is no more than 12" deep when measured from front to back.*

We have all become accustomed to 1) graphics not representing the actual size of real fixtures ([so we forget to check the real fixture sizes](#)) and 2) putting in all the dashed line boxes for clear floor space at fixtures ([so we forget that there are other non-plumbing-related issues to be addressed when entering and exiting rest rooms](#)).

**MORAL OF THE STORY:** Remember to check the [door maneuvering clearances](#) in toilet rooms.

## 2.5' Wheel Stop Distance @ Sidewalk

EXAMPLE:



**WHEEL STOPS BETWEEN PARKING AND THE SIDEWALK ENTRANCE**

Whenever there are wheel stops at the front end of a parking space, accessible or otherwise, the intent is to prevent the wheel overhang from protruding into the required width of the sidewalk. **NCBC 1104.1** and **1104.2** require a 48" minimum sidewalk width.

In order to maintain that 48" width, the wheel stop placement is required to be located a minimum of 2'-6" back from the edge of the sidewalk or walking surface.

When sidewalks are widened so that wheel stops are not provided, i.e., the front of a vehicle will

overhang the sidewalk, the sidewalk is then required to be a minimum 6'-5" in width to allow for the overhang to not obstruct the 48" minimum sidewalk width.

Either way, the minimum 48" sidewalk width is maintained.

**JOINT STATEMENT OF  
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND THE DEPARTMENT OF JUSTICE,  
dated March 5, 2008**

***REASONABLE MODIFICATIONS UNDER THE  
FAIR HOUSING ACT***

**Questions and Answers**

1. What types of discrimination against persons with disabilities does the Act prohibit?
2. What is a reasonable modification under the Fair Housing Act?
3. Who is responsible for the expense of making a reasonable modification?
4. Who qualifies as a person with a disability under the Act?
5. Who is entitled to a reasonable modification under the Fair Housing Act?
6. If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested reasonable modification?
7. What kinds of information, if any, may a housing provider request from a person with an obvious or known disability who is requesting a reasonable modification?
8. Who must comply with the Fair Housing Act's reasonable modification requirements?
9. What is the difference between a *reasonable accommodation* and a *reasonable modification* under the Fair Housing Act?
10. Are reasonable modifications restricted to the interior of a dwelling?
11. Is a request for a parking space because of a physical disability a *reasonable accommodation* or a *reasonable modification*?
12. What if the structural changes being requested by the tenant or applicant are in a building that is subject to the design and construction requirements of the Fair Housing Act and the requested structural changes are a feature of accessible design that should have already existed in the unit or common area, e.g., doorways wide enough to accommodate a wheelchair, or an accessible entryway to a unit.
13. Who is responsible for expenses associated with a reasonable modification, e.g., for upkeep or maintenance?
14. In addition to current residents, are prospective tenants and buyers of housing protected by the reasonable modification provisions of the Fair Housing Act?
15. When and how should an individual request permission to make a modification?
16. Does a person with a disability have to have the housing provider's approval before making a reasonable modification to the dwelling?
17. What if the housing provider fails to act promptly on a reasonable modification request?
18. What if the housing provider proposes that the tenant move to a different unit in lieu of making a proposed modification?
19. What if the housing provider wants an alternative modification or alternative design for the proposed modification that does not cost more but that the housing provider considers more aesthetically pleasing?
20. What if the housing provider wants a more costly design for the requested modification?
21. What types of documents and assurances may a housing provider require regarding the modification before granting the reasonable modification?

22. May a housing provider or homeowner's association condition approval of the requested modification on the requester obtaining special liability insurance?
  23. Once the housing provider has agreed to a reasonable modification, may she insist that a particular contractor be used to perform the work?
  24. If a person with a disability has made reasonable modifications to the interior of the dwelling, must she restore *all* of them when she moves out?
  25. Of the reasonable modifications made to the interior of a dwelling that must be restored, must the person with a disability pay to make those restorations when she moves out?
  26. If a person with a disability has made a reasonable modification to the exterior of the dwelling, or a common area, must she restore it to its original condition when she moves out?
  27. May a housing provider increase or require a person with a disability to pay a security deposit if she requests a reasonable modification?
  28. May a housing provider take other steps to ensure that money will be available to pay for restoration of the interior of the premises at the end of the tenancy?
  29. What if a person with a disability moves into a rental unit and wants the carpet taken up because her wheelchair does not move easily across carpeting? Is that a reasonable accommodation or modification?
  30. Who is responsible for paying for the costs of structural changes to a dwelling unit that has not yet been constructed if a purchaser with a disability needs different or additional features to make the unit meet her disability-related needs?
  31. Are the rules the same if a person with a disability lives in housing that receives federal financial assistance and the needed structural changes to the unit or common area are the result of the tenant having a disability?
  32. If a person believes that she has been unlawfully denied a reasonable modification, what should that person do if she wants to challenge that denial under the Act?
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**JOINT STATEMENT OF  
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND THE DEPARTMENT OF JUSTICE,  
dated April 30, 2013**

***ACCESSIBILITY (DESIGN AND CONSTRUCTION) REQUIREMENTS FOR  
COVERED MULTIFAMILY DWELLINGS UNDER THE  
FAIR HOUSING ACT***

**Questions and Answers**

**Accessibility Requirements of the Fair Housing Act**

1. What are the accessible features required by the Act?

**Types of Dwellings Covered by the Act**

2. What types of housing are covered by the Fair Housing Act's design and construction requirements?
3. What standards are used to determine whether a housing facility that includes short-term residencies is covered by the Act's design and construction requirements?
4. Do the Fair Housing Act's design and construction requirements, or any other laws mandating accessible design, apply to detached single family homes?
5. Do the Act's design and construction requirements apply to a building with four or more sleeping rooms that are each occupied by a separate household who share toilet or kitchen facilities?
6. Are carriage house units -- where a dwelling unit is constructed above a garage -- covered by the Act's design and construction requirements?

#### **Ground Floor Dwelling Units**

7. Can a non-elevator building have more than one ground floor?

#### **Single-story and Multistory Dwelling Units**

8. Does the Fair Housing Act require townhouses to be accessible?
9. May a unit include either a loft or a raised or sunken living room and still comply with the Act's design and construction requirements?
10. What constitutes finished living space that would permit a unit to be considered a multistory unit that is not covered under the Act's design and construction requirements?
11. Do the Act's design and construction requirements apply to multistory townhouses in non-elevator buildings containing four or more dwelling units?

#### **Additions**

12. Do the Act's design and construction requirements apply to additions of four 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?
13. Do additions of units or public and common use areas to buildings with four or more units that were built after March 13, 1991, have to meet the design and construction requirements of the Act?
14. If only dwelling units are added to housing that was designed and constructed for first occupancy on or before March 13, 1991, do the existing public or common use areas have to be retrofitted to comply with the Act's design and construction requirements?

#### **Alterations/Renovations**

15. Do the Fair Housing Act's design and construction requirements apply to the alteration or renovation of residential properties designed and constructed for first occupancy on or before March 13, 1991?
16. Do the Fair Housing Act's design and construction requirements apply to the alteration or renovation of nonresidential buildings into residential buildings?

**Building Separation**

17. Does the use of breezeways to separate dwelling units that would otherwise be covered by the Act's design and construction requirements make those units exempt from the Act's requirements?
18. Are dwelling units in one structure that are separated by firewalls treated as separate buildings under the Act?

**Dwelling Units Custom-Designed or Pre-Sold Prior to Completion**

19. Do the Act's design and construction requirements apply to dwelling units that are sold before construction and/or custom designed during construction for a particular purchaser?
20. May the builder, at the purchaser's request, modify a covered dwelling unit that is sold before the completion of design and construction so that the unit will no longer comply with the design and construction requirements?

**Subsequent Changes to Accessible Features**

21. May owners of covered multifamily buildings designed and constructed in compliance with the Fair Housing Act make subsequent changes to the building so that it no longer meets the Act's requirements?

**Buildings with One or More Elevators**

22. Does the Fair Housing Act require a townhouse to be accessible if it is located in a building that has an elevator and also has at least four dwelling units?
23. If a covered building has a building elevator that serves some, but not all, of the units in the building, is it covered by the design and construction requirements?
24. If the only elevator provided in a covered building is a freight elevator, are all of the units in the building covered by the design and construction requirements of the Act?
25. If one multistory townhouse, in a building with four or more units, contains an internal (*i.e.*, unit-specific) elevator for that occupant's use, and there are no elevators serving other units in the building, must the unit with an elevator meet the Act's design and construction requirements?
26. How do the Act's design and construction requirements apply if the builder of multistory townhouses in a building with four or more units offers an elevator as an option, and one or more of the buyers elects the elevator option?
27. If a building with four or more units contains multistory townhouses with internal elevators or the option for a buyer to add an elevator, must the public and common use areas of the development also comply with the design and construction requirements of the Act?

**Accessible Routes**

28. What is an accessible route?

29. Does the Act permit covered multifamily dwellings to be designed and constructed in a manner that requires persons with disabilities to use an indirect or circuitous route to enter a building or unit or to use locks or call buttons that are not required of other persons?
30. Must an accessible route between public and common use areas and dwelling units be an interior route if the general circulation path is interior?
31. Does the Act require accessible routes between buildings that contain only covered multifamily dwelling units?
32. Must there be accessible pedestrian routes from site arrival points to building entrances serving covered dwelling units?
33. May a builder use a vehicular route in lieu of an accessible pedestrian route to connect dwelling unit entrances with public and common use areas?
34. What is the site impracticality exception to the accessible route requirement of the Fair Housing Act design and construction requirements?

### **Accessible Entrances**

35. How many entrances to a covered multifamily dwelling must be accessible?
36. Which entrance to a covered dwelling unit or building containing covered dwelling units must be accessible?

### **Safe Harbors for Compliance with the Act**

37. Are there any “safe harbors” for compliance with the Fair Housing Act?
38. May an architect or builder select aspects from among the HUD recognized safe harbors when designing and constructing a single project and retain “safe harbor” status?
39. If a property is built to some recognized, comparable, and objective standard other than one of the safe harbors, can it still comply with the Act’s design and construction requirements?
40. What constitutes evidence of noncompliance with the Fair Housing Act design and construction requirements?
41. If I follow my state or local building code, am I safe from liability if a building does not comply with the Fair Housing Act’s design and construction requirements?
42. Does the Fair Housing Act require fully accessible units?
43. Can a builder meet the Fair Housing Act’s design and construction requirements by building a specific number or percentage of fully accessible dwelling units?

### **Reviews for Compliance**

44. Does HUD or DOJ review state and local building codes to determine whether they comply with the Act’s accessibility requirements?
45. Does HUD or DOJ review site or building plans for compliance with the Act’s design and construction requirements?

### **Buildings Covered by the Act and Other Accessibility Laws or Codes**

46. When would both Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act apply to the same property, and which standard would apply in this situation?
47. What if the Americans with Disabilities Act (ADA) and the Fair Housing Act requirements both apply to the same property?
48. What if a state or local building code requires greater accessibility than the Fair Housing Act?

**Accessible Public and Common Use Areas**

49. Are rental offices and other public and common use areas required to be accessible under the Fair Housing Act?
50. When covered parking is provided as an amenity to covered multifamily housing, what are the accessibility requirements under the Fair Housing Act?
51. When a swimming pool is provided on a site with covered multifamily dwellings, what are the design and construction requirements for the pool?
52. Are garbage dumpsters required to comply with the Act’s design and construction requirements?
53. When emergency warning systems are installed in the public and common use areas of covered multifamily buildings (for example, in corridors, or breezeways), do the Act’s design and construction requirements require such warning systems to include visual alarms?
54. If there is an emergency warning system installed in the public and common use areas of a covered multifamily building, must there be visual alarms in the interior of dwelling units?

**Enforcement**

55. What remedies are typically sought in Fair Housing Act design and construction cases?
56. Who can be sued for violations of the accessibility requirements of the Fair Housing Act?
57. If someone is successfully sued for violating the Act’s design and construction requirements, will a court order the building to be torn down and rebuilt?
58. What recourse is available to a person with a disability or a person associated with a person with a disability who believes that she cannot rent, purchase, or view housing at a particular multifamily property because it is in violation of the design and construction requirements of the Act?
59. At what point do the time frames for a person filing a complaint begin to run?
60. If a designer or builder has built more than one multifamily property in violation of the Act’s design and construction requirements, may he be held liable for violations at all of those properties?
61. How is a complaint alleging a failure to design and construct multifamily housing filed?

**Reasonable Accommodations and Reasonable Modifications Under the Act**

62. Is any information available concerning reasonable accommodations and reasonable modifications under the Fair Housing Act?

**Location of Documents**

63. Where can one find the documents referred to in this Joint Statement?

END OF INDEX