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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

*Participant Workbook*



# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Table of Contents

<b>Introduction</b> .....	<b>5</b>
Purpose.....	5
Technical Guidance.....	5
Additional Training Events .....	5
<b>Learning Objectives</b> .....	<b>6</b>
<b>About Reasonable Modifications and Reasonable Accommodations</b> .....	<b>6</b>
<b>Topic 1: Overview of the Fair Housing Act</b> .....	<b>7</b>
Fair Housing Act Overview.....	7
Units Covered by the Fair Housing Act .....	8
Covered Dwelling Definition.....	9
Reasonable Accommodations .....	10
Reasonable Modifications .....	10
Overview of Seven Requirements .....	11
Introduction to Safe Harbors for Compliance .....	12
Application of Law.....	13
Topic 1: Key Takeaways .....	13
<b>Topic 2: Reasonable Accommodation and Modification Requirements</b> .....	<b>14</b>
Reasonable Accommodation Requirements.....	14
Exceptions to Accommodations and Modifications .....	16
Differences between Accommodations and Modifications.....	16
Examples of Reasonable Accommodations .....	16
Examples of Reasonable Modifications.....	17

## Notes:

---

---

---

---

# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

- Topic 2: Key Takeaways ..... 18
- Topic 3: Principles of Reasonable Accommodations and Modifications ..... 19**
  - What is Protected? ..... 19
  - Who Has a Disability? ..... 20
  - Questions About a Disability..... 21
  - Verifying a Disability ..... 22
  - Topic 3: Key Takeaways ..... 23
- Topic 4: Joint Statement of HUD and the Department of Justice ..... 24**
  - HUD DOJ Statement ..... 24
  - Accommodation Denials..... 25
  - Topic 4: Key Takeaways ..... 26
- Topic 5: Meeting the Needs of People with Disabilities Through Reasonable Accommodations ..... 27**
  - Requesting Reasonable Accommodations ..... 27
  - Reasonable Accommodations: Approvals, Questions, and Denials ..... 28
  - Parking Accommodations ..... 28
  - Parking Striping ..... 29
  - Accessible Parking Spaces ..... 29
  - Accessible Parking ..... 30
  - Topic 5: Key Takeaways ..... 31
- Topic 6: Meeting the Needs of People with Disabilities Through Reasonable Modifications ..... 32**
  - Requesting Reasonable Modifications ..... 32
  - Additional Requirements for Reasonable Modifications ..... 33
  - Reasonable Accommodation Examples ..... 35
  - Resources about Modifications ..... 35

Notes:

---

---

---

---

# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

Modifications in Exterior Common Use Areas .....	36
Modifications in Interior Common Use Areas .....	38
Topic 6: Key Takeaways .....	40
<b>Contacts .....</b>	<b>41</b>

Notes:

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---

---

---

# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Introduction

The Fair Housing Accessibility FIRST program is an initiative designed to promote compliance with the Fair Housing Act design and construction requirements. The program offers comprehensive and detailed instruction programs, useful online web resources, and a toll-free information line for technical guidance and support. This training is part of that program.

## Purpose

The purpose of the Fair Housing Accessibility FIRST program is to offer training and technical guidance on accessibility requirements of the Fair Housing Act and to increase the supply of accessible multifamily housing units nationwide. The program provides training and guidance to architects, builders, code officials, and others in the housing industry with the accessibility requirements for designing and constructing dwelling units covered by the Fair Housing Act.

## Technical Guidance

The Fair Housing Accessibility FIRST program provides a Design and Construction Resource Center, also known as the DCRC, which is staffed Monday through Friday from 8:00 AM to 5:30 PM Eastern. You can reach the DCRC:

- Toll-free at 888-341-7781
- By emailing [FairHousingFirst@hud.gov](mailto:FairHousingFirst@hud.gov)
- Subscribe via the website for updates from the Fair Housing Accessibility FIRST program.

## Additional Training Events

You can register for events on the website by going to:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/accessibility\\_first\\_training\\_calendar](https://www.hud.gov/program_offices/fair_housing_equal_opp/accessibility_first_training_calendar)

Please note that both a morning and an afternoon session are offered to accommodate scheduling. Trainings will be posted as they become available.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Learning Objectives

This training includes an introduction and content to help you understand the technical guidance and protections provided by the Fair Housing Act regarding reasonable accommodations and reasonable modifications.

During this training, we will cover the following topics:

- Topic 1: Overview of the Fair Housing Act
- Topic 2: Reasonable Accommodation and Modification Requirements
- Topic 3: Principles of Reasonable Accommodations and Modifications
- Topic 4: Joint Statement of HUD and the Department of Justice
- Topic 5: Meeting the Needs of People with Disabilities Through Reasonable Accommodations
- Topic 6: Meeting the Needs of People with Disabilities Through Reasonable Modification

*This training relies on the provisions of the Fair Housing Act and its regulations, the Accessibility Guidelines and the Supplemental Questions and Answers, American National Standards Institute (ANSI) A117.1 (1986), and the Design Manual for the guidance that it provides about compliance with the technical design and construction requirements in the Act.*

## About Reasonable Modifications and Reasonable Accommodations

There are other federal laws that include requirements for housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities, such as the Americans with Disabilities Act and Section 504. This training focuses specifically on the requirements for reasonable accommodations and reasonable modifications in the Fair Housing Act. For more information on Section 504 and the Americans with Disabilities Act, visit:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/reasonable\\_accommodations\\_and\\_modifications](https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications)

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 1: Overview of the Fair Housing Act



### Fair Housing Act Overview

Over fifty years ago, Congress enacted the landmark Fair Housing Act of 1968, which outlawed private and public discrimination in housing for the first time. The Fair Housing Act, or FHA, protects people from discrimination when renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

The broad objective of the Fair Housing Act is to prohibit discrimination in housing because of a person’s race, color, national origin, religion, sex, familial status, or disability.

In 1988, Congress amended the coverage of the Fair Housing Act also to prohibit discriminatory housing practices based on disability.

- It is unlawful to deny the rental or sale of a dwelling unit to a person because that person has a disability.
- It is unlawful to fail to design and construct certain multifamily dwellings to include certain features of accessible design.

## Units Covered by the Fair Housing Act

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

A building was not designed or constructed for the first occupancy if:

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



Covered multifamily dwellings are all dwelling units in buildings containing four or more units with one or more elevators and all ground floor units in buildings containing four or more units without an elevator. Federal regulations adopted by the Department of Housing and Urban Development at 24 CFR 100.201 define covered multi-family dwellings.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Covered Dwelling Definition

A dwelling unit includes:

- A single-family unit in buildings with four or more units
- An apartment
- A room where people sleep even if they share kitchens or bathrooms, like transitional housing

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

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

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

The design and construction requirements cover condominiums and apartment buildings. So are time-shares, dormitories, transitional housing, homeless shelters used as a residence, student housing, assisted living housing, and others.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Reasonable Accommodations

Under the Fair Housing Act, it is unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy the dwelling. For example, in buildings with a “no pets” rule, that rule must be waived for a person with a visual impairment who uses a service dog or others who use service animals. In buildings that provide parking spaces for residents on a “first come, first served” basis, reserved parking spaces must be provided if requested by a resident with a disability who may need them. The sales material for apartments may need to be provided in a format so an individual with a visual disability may access the information.



## Reasonable Modifications

When a resident wishes to modify a dwelling unit under the reasonable modification provisions of the Fair Housing Act, the resident may do so. The landlord/manager may require that the modification be completed professionally under the applicable building codes. The landlord/manager may also require that the resident agree to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tears excepted. However, landlords may not require that modifications be restored that would be unreasonable, i.e., modifications that do not affect the next resident’s “enjoyment of the premises.” For example, in

existing construction, a resident needs grab bars and passes to have the original wall reinforced with blocking between studs so grab bars can be securely mounted. It would be reasonable to require that the resident remove the grab bars at the end of the tenancy; however, it would be unreasonable to require that the blocking

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

be removed since the reinforced wall would not interfere with the next resident's use and enjoyment of the dwelling unit and may be needed by some future resident.

## Overview of Seven Requirements

The Fair Housing Act's design and construction requirements are broken down into seven basic requirements:

1. Accessible building entrance on an accessible route
2. Accessible and usable public and common use areas
3. Usable doors
4. Accessible routes into and through the covered unit
5. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
6. Reinforced walls in bathrooms for later installation of grab bars
7. Usable kitchens and bathrooms

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Introduction to Safe Harbors for Compliance

Compliance goes beyond the Fair Housing Act, FHA, and includes complying with the safe harbors. Therefore, if a company, architect, developer, designer, or others do not abide by the safe harbors, there is a risk of non-compliance with the FHA.

There are currently 15 safe harbors, ten before 2021, and 5 have been added after 2021. The guidelines of these documents are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.

The safe harbors are safe harbors only when used in their entirety; that is, once a specific safe harbor document has been selected, the building in question must comply with all of the provisions in that document that address the Fair Housing Act design and construction requirements to ensure the full benefit of the safe harbor. The benefit of safe harbor status may be lost if, for example, a designer or builder chooses to select provisions from more than one of the safe harbor documents from various sources or if waivers of provisions are requested and received. Suppose it is shown that the designers and builders departed from the provisions of a safe harbor document. In that case, they bear the burden of demonstrating that the dwelling units nonetheless comply with the Act's design and construction requirements."

You can find more information about the safe harbors on the Information page of the Fair Housing Accessibility First website:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/accessibility\\_first\\_information](https://www.hud.gov/program_offices/fair_housing_equal_opp/accessibility_first_information)



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations



## Application of Law

To get permits, buildings must meet state or local building codes in many jurisdictions. However, builders, architects, and others should not assume that compliance with state or local codes means compliance with federal accessibility standards. For example, in cases under the Fair Housing Act, courts have rejected the argument that a local code official's approval said there was no violation of the Fair Housing Act's design and construction requirements.

## Topic 1: Key Takeaways

- The Fair Housing Act of 1968 was enacted to combat discrimination in housing based on race, color, national origin, religion, sex, familial status, or disability. In 1988, disability was included as a protected category as well.
- The Fair Housing Act applies to "covered multifamily dwellings" designed and constructed for first occupancy after March 13, 1991. This includes buildings with four or more units and one or more elevators, as well as ground floor units in buildings with four or more units without an elevator.
- Reasonable accommodations must be made for individuals with disabilities to provide equal housing opportunities. This may include waiving specific rules, providing reserved parking spaces, or making sales material accessible to individuals with visual disabilities.
- The Fair Housing Act's design and construction requirements include seven basic requirements, such as accessible building entrances, usable doors, reinforced walls in bathrooms for grab bar installation, and usable kitchens and bathrooms.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 2: Reasonable Accommodation and Modification Requirements



### Reasonable Accommodation Requirements

Reasonable accommodations apply to rules, policies, practices, and services provided by any person in a housing-related setting. Builders, developers, property managers, owners, architects, and others must make reasonable accommodations. The obligation to make reasonable accommodations applies at any point in a housing transaction; its application does not depend on whether the design and construction requirements apply to the housing. Reasonable accommodation principles apply regardless of the type of housing, and they also apply to all types of housing-related activities, not just the built environment.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

Reasonable accommodations under the Fair Housing Act are made and paid for by the housing provider or other entity providing the services or housing, not by the person with a disability.



Under the Fair Housing Act, reasonable modifications are made at the expense of the person requesting the modification. Modifications may be requested for individual units or common use areas.

Builders, developers, property managers, architects, and others must permit reasonable modifications for a person with a disability to benefit from housing.

Reasonable modification requirements are independent of the Fair Housing Act's design and construction requirements.

Reasonable modifications may be requested in older properties built before 1991, in single-family and multifamily housing, manufactured housing, and properties covered by design and construction requirements.

If federal funding is involved, other laws may require that modifications be made and paid for by the housing provider, not the person with the disability.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Exceptions to Accommodations and Modifications

The obligation to make reasonable accommodations and permit reasonable modifications does not apply in two situations. The first is for owners of single-family housing who own three or fewer single-family houses at one time, sell or rent without the services of a real estate agent or broker, and discriminatory advertising or statements.

The second exemption is for housing that contains living quarters for four or fewer households where the property owner occupies one of the units.



## Differences between Accommodations and Modifications

Accommodations and modifications are different in two fundamental ways:

- First, accommodations address adjustments in rules, policies, procedures, and services, while modifications are structural changes.
- Second, for accommodations, the entity providing housing or housing-related services must provide and pay for accommodations. Modifications, however, are the responsibility of the person with a disability or associated with them rather than the housing provider.

## Examples of Reasonable Accommodations

As a reminder, a reasonable accommodation is a change to usual policies, procedures, or services that a person needs with a disability because they need that change to benefit from the housing. Reasonable accommodations under the Fair Housing Act are made and paid for by the housing provider or other entity providing the services or housing, not by the person with a disability.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations



An example of a reasonable accommodation can include, but is not limited to, the following:

- Verbally describing a plan to a person with a visual or sight disability
- Meeting an applicant who has a disability at an accessible location.
- Changing your standard policies permits a service animal to inspect a house.
- Communicating in writing during construction with a purchaser with a hearing disability.

## Examples of Reasonable Modifications

A reasonable modification is a change to existing premises that a person needs with a disability who is, or who is going to, occupy the housing. Under the Fair Housing Act, reasonable modifications are made at the expense of the person requesting the modification. Modifications may be requested for individual units or common use areas. It is unlawful to refuse to permit residents with disabilities to make reasonable modifications to their dwelling unit or the public and common use areas at the residents' cost. However, if federal funding is involved, other laws may require that modifications be made and paid for by the housing provider, not the person with the disability.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

An example of a reasonable modification can include, but is not limited to, the following:

- Resident requests to modify the kitchen countertop to a height suitable for use
- Widening a bathroom door in the dwelling unit allows a wheelchair to pass.
- Providing grab bars in a newly constructed condominium

However, the landlord may permit the resident to restore the modification to its original condition when the resident vacates in some situations.

## Topic 2: Key Takeaways

- Reasonable accommodations under the Fair Housing Act require housing providers and other entities to adjust rules, policies, practices, and services to ensure equal opportunity for people with disabilities. These accommodations must be provided and paid for by the housing provider.
- Reasonable modifications involve structural changes to existing premises and are requested by individuals with disabilities. The responsibility for the cost and implementation of reasonable modifications lies with the person requesting the modification.
- The obligation to provide reasonable accommodations and permit reasonable modifications applies across various types of housing and housing-related activities, regardless of whether the design and construction requirements of the Fair Housing Act apply.
- There are exceptions to the obligations of reasonable accommodations and modifications for owners of single-family housing with a limited number of properties and for certain properties with four or fewer households where the owner resides in one of the units.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 3: Principles of Reasonable Accommodations and Modifications



### What is Protected?

First, the right to seek a reasonable accommodation or modification belongs to a variety of people, including people who are not themselves disabled. The Fair Housing Act protects not only buyers or renters who are disabled themselves but also households with a person with a disability as a member of the household, such as a child, and people who are not disabled but are associated with people who are disabled.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Who Has a Disability?

Another important question is how to identify whether someone has a disability within the meaning of the Act.

The legal definitions in the Act address three different types of situations.

First, a person with a physical or mental impairment substantially limiting one or more major life activities is considered to have a disability. A “major life activity” includes caring for oneself, walking, seeing, breathing, speaking, and other activities. Limiting life’s major activities cannot be insubstantial; it must be significant.

A person with a history of a disability or disabilities is covered even if they do not currently have a disability.

Finally, a person regarded as having a disability is covered, even if they do not have a disability. This category includes people treated as if they have a disability and people who have a disability only because of other people’s attitudes.

How a person looks does not necessarily determine whether someone has a disability.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations



## Questions About a Disability

It is not permitted to ask about a person’s disability except in limited circumstances. Questions may not be asked about the type of disability, the diagnosis, medical history or records, or whether someone does or does not take medications. There are three situations where questions can be asked:

Applicants for housing designed for people with disabilities may be asked if they meet the qualifications. For example, if special units are designed for persons with disabilities, applicants may be asked if they have a disability that causes them to need an accessible unit.

Applicants for housing set up under a federal statute that sets disability-based qualifications for admission may be asked if they qualify for that housing. For example, some HUD housing requires persons with a particular type of disability to live there—the HOPWA program is limited to people with AIDS.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Verifying a Disability

HUD and the Department of Justice have said that if a person's disability is apparent or otherwise known to the provider, the provider may not request additional information about the requester's disability. However, if the disability is not apparent, a housing provider may request information to verify that the person meets the Act's definition of disability.



Supporting documents when a disability is not apparent may include:

- A housing provider may accept a statement by the person with a disability but is not required to do so if the disability is not apparent.
- A statement by a doctor or other medical professional
- A statement from a peer support group
- A statement from a social service agency or counselor
- A statement from a case manager
- Documents showing receipt of SSI disability or SSDI disability.
- Any information from a reliable third party that is in a position to know about the person's disability.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 3: Key Takeaways

- The right to seek a reasonable accommodation or modification extends to various individuals, including those not personally disabled.
- The Fair Housing Act protects not only individuals with disabilities but also households with disabled members, such as a child, and individuals associated with people with disabilities.
- Determining whether someone has a disability under the Fair Housing Act involves three types of situations: individuals with a physical or mental impairment substantially limiting major life activities, individuals with a history of disabilities, and individuals regarded as having a disability.
- How a person looks does not necessarily determine their disability status.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 4: Joint Statement of HUD and the Department of Justice



### HUD DOJ Statement

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the federal Fair Housing Act (the "Act"), which prohibits discrimination in housing based on race, color, religion, sex, national origin, familial status, and disability. One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. Accordingly, HUD and DOJ frequently respond to complaints alleging that housing providers have violated the Act by refusing reasonable accommodations to persons with disabilities.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Accommodation Denials

A housing provider can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation.

In addition, a request for reasonable accommodation may be denied if it is not reasonable, i.e., if it would impose an undue financial and administrative burden on the housing provider or fundamentally alter the nature of the provider's operations.



The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

When a housing provider refuses a requested accommodation because it is unreasonable, the provider should discuss with the requester whether an alternative accommodation would effectively address the requester's disability-related needs without fundamentally altering the provider's operations without imposing an undue financial and administrative burden.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 4: Key Takeaways

- The DOJ and HUD enforce the federal Fair Housing Act, which prohibits discrimination in housing based on various protected characteristics, including disability.
- One form of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodations to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.
- A housing provider can deny a request for a reasonable accommodation if it is not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation.
- Denial may also be justified if granting the accommodation would impose an undue financial and administrative burden or fundamentally alter the nature of the provider's operations.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 5: Meeting the Needs of People with Disabilities Through Reasonable Accommodations



### Requesting Reasonable Accommodations

A request for reasonable accommodation cannot be required to be put on a particular form or in a specific format. However, to be treated as a request for a reasonable accommodation, the person to whom the request is made must understand that the accommodation is sought by or on behalf of someone with a disability and that there is a disability-related need for the accommodation.

**Accommodations are reasonable if they are practical and feasible.** Not every requested accommodation has to be approved. An accommodation does not have to be approved if it is unreasonable, i.e., if it would:

- Impose an undue financial and administrative burden OR
- Constitute a fundamental alteration of the program.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Reasonable Accommodations: Approvals, Questions, and Denials

If an accommodation is approved promptly, the process is completed.

But if the accommodation is questioned or denied, there are more steps:

If the accommodation is QUESTIONED, an interactive discussion process between the housing provider and the person with a disability occurs to explore whatever is at issue. Sometimes the discussion is about whether the accommodation is related to the disability; sometimes, it is about the burdens of making a particular accommodation and the possibility of other less burdensome alternatives.

If an accommodation is DENIED, it must be because the accommodation would be an undue financial and administrative hardship or a fundamental alteration of the program. Even if the accommodation is denied, there must be an interactive process to identify whether there are alternative ways to meet the needs of the disabled person with less burden on the housing provider.



## Parking Accommodations

Reasonable accommodations in parking include:

- Providing reserved or designated parking spaces
- Waiving first come, first served parking policy.
- Waiving fee charged for parking near the building.
- Providing accessible parking spaces
- Providing van-accessible parking spaces
- Providing striping, signage, curb cuts, or ramps to access accessible parking spaces.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Parking Striping

Ancillary costs borne by the housing provider in providing parking may include:

The cost of re-striping the parking lot to indicate an accessible parking space or an access aisle that provides access to the parking space.

The cost of signage for an accessible or designated parking space

The provision of a ramp or curb cut to provide access to the sidewalk, where the ramp or curb cut is necessary to give the person with a disability the same opportunity to access the property's amenities as is provided for non-disabled people.



## Accessible Parking Spaces

Two common questions in making reasonable accommodations by providing reserved or accessible parking spaces for people with disabilities are (1) how many? and (2) What should the dimensions be?

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Accessible Parking

There is no single mandated standard for a voluntarily supplied accessible parking space. Each request may include different features or encompass different requirements.

There are some suggestions to consider in providing accessible parking. These standards are based on commonly applied accessibility requirements in the American National Standards Institute (ANSI) standards and the ADA Accessibility Guidelines (ADAAG).



Accessible parking spaces should be located on level locations near building entrances. Accessible parking space should be at least 8 feet wide. The access aisle beside it should be at least 5 feet wide. Two accessible parking spaces may share the same access aisle. A permanent sign should contain the universal accessibility symbol in each space. The sign should be placed so a parked car does not obscure it. The universal symbol of access should be painted on the pavement in the parking space.



A space designed for van parking should be at least 8 feet wide and have an access aisle at least 8 feet wide.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 5: Key Takeaways

- A request for reasonable accommodation does not need to follow a specific format or be submitted on a particular form but must be communicated so that the recipient understands that it is a request for accommodation on behalf of someone with a disability and that there is a disability-related need for the accommodation.
- Accommodations are considered reasonable if they are practical and feasible.
- An accommodation may be denied if it would impose an undue financial and administrative burden or fundamentally alter the program.
- When an accommodation is questioned, an interactive discussion process between the housing provider and the person with a disability takes place to explore the issue.
- If an accommodation is denied, there must still be an interactive process to identify alternative ways to meet the disabled person's needs.
- Reasonable accommodations in parking may include providing reserved or designated parking spaces, waiving first come, first served parking policies, providing accessible parking spaces, and making necessary modifications such as striping, signage, curb cuts, or ramps.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 6: Meeting the Needs of People with Disabilities Through Reasonable Modifications



### Requesting Reasonable Modifications

As with accommodations, courts will assess modification requests to determine whether they are “reasonable.” However, reasonable accommodations may not be rejected because they are an undue financial and administrative hardship or a fundamental program alteration since the person with a disability pays the costs for the modification.

Instead, a requested modification may be required to be performed in a “workmanlike” fashion, and all applicable permits may be required. If these standards are met, modification must be allowed. It is permissible to request a description of the requested modification, which may be either oral or written. A landlord may require the description before approving the modification and making changes.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations



Permission for a modification may not be conditioned on the following:

- Payment for liability insurance
- Compliance with aesthetic standards
- A requirement that a particular contractor is used.
- A requirement that a particular construction style is used for the modification.
- A requirement that a particular accessibility standard is followed.

## Additional Requirements for Reasonable Modifications

There are additional requirements for modifications to rental housing.

Suppose a tenant is modifying the inside of a unit that the landlord approves. In that case, the landlord may condition approval on an agreement to restore the unit to its original condition by removing the modifications when the tenant leaves.

Restoration may only be required when it is reasonable to do so. The request to restore the unit to its original condition only affects those modifications that could interfere with another tenant's ability to use the unit.

Suppose a particular modification on the inside of a rental housing unit is to be restored. In that case, the housing provider may, but need not, condition approval for the modification on an agreement to restore the unit when it is vacated and may require a deposit of money to cover the restoration cost.

The restoration requirement does not cover ordinary wear and tear. In one case, the landlord sought to impose a charge on a wheelchair user for wear and tear, claiming that the wear and tear on a unit occupied by a

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

wheelchair user were higher because of damage to walls and rugs by the wheelchair. The charge was not permitted; usual wear and tear are related to the wear and tear that is predictable based on who is living in the apartment; charging a higher fee to a person in a wheelchair because of the wear and tear that is predictable because a person in a wheelchair is living in the unit is unlawful.

Setting up an escrow account to cover restoration is only sometimes required. HUD's reasonable modification regulations call for housing providers to make a case-by-case assessment about whether the escrow account should be set up in advance, considering issues like the tenant's credit history, ability to repay upon departure, the length of the lease, and other similar factors. For example, a landlord may not require that all restoration costs be paid upfront. Instead, a tenant may make deposits to cover the restoration costs over time.



If the money is assessed, it goes into an escrow account separate from a security deposit account. Any interest in this account goes to the tenant. If the landlord decides not to restore the unit, the funds in the account must immediately be returned to the tenant.

Restoration of the property to its original condition is not required when modifications have been made to public or common use areas. A fee may not be charged, and an escrow account may not be established for restoring these modifications.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Reasonable Accommodation Examples

Congress provided some examples of reasonable modifications:

- A flashing light attached to the doorbell
- Replacement of doorknobs with lever hardware
- Installation of fold-back hinges on a door
- Install reinforcements in a bathroom wall if the design and construction provisions did not require them.
- Construction of a ramp
- Installing a lower “peephole” in a door



## Resources about Modifications

There is no one resource for use in determining the design of modifications.

Modifications cover many different construction areas, from a variety of adjustments on the interior of individual units to modifications in playgrounds, golf courses, boating areas, and—in fact—to all of the kinds of things any resident of a property might use in the course of occupancy.

It's worth remembering that reasonable modifications are those adjustments that may be necessary for individuals to use and enjoy their homes.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

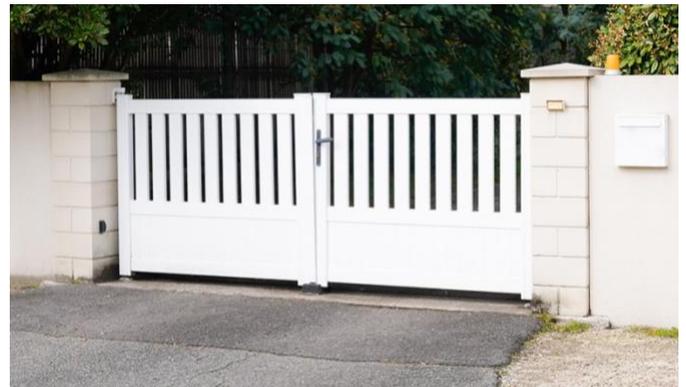
Modifications need not meet any particular code or standard; as we have already discussed, they must be constructed professionally, with all necessary building permits acquired. In addition, modifications that meet the needs of individuals may vary widely. For this reason, no single standard can be recommended for any modification because the priority must be to meet the individual’s disability-based needs. Therefore, the technical requirements suggested in this training help builders and others understand some reasonable technical standards that may be considered in making changes.

Using these standards is not mandated.

## Modifications in Exterior Common Use Areas

Often gates to common-use areas are inaccessible by people with disabilities, so they can’t get to swimming pools, tennis courts, enclosed dumpsters, playgrounds, and other gated areas.

Common standards for gate latches include placing them so that their operable parts are no higher than 48 inches above the ground level. However, some standards allow a higher height of 54 inches above the ground level at gates to swimming pools.



Latches should be operable with one hand and not require grasping, pinching, or twisting.

Clear floor space should adjoin the gate area to allow the gate to be opened so the person with a disability can get to the gate, open it, enter it, and pull it closed.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations



Access to swimming pools includes the ability to enter and use the pool deck area and the ability to enter and use the pool. Access to the pool deck should be via an accessible path and an accessible gate. Modifications to pool entrance equipment may include ramps, permanent and portable lifts, and platforms. Guidance in the new ADAAG Standards for swimming pool access is found at ADA Accessibility Standards at [Access-board.gov](http://Access-board.gov).

Beach and boating areas, parks, and other recreational areas may require modifications to provide access.

New ADAAG standards address accessible routes in challenging settings, such as beach and dock access, at boat slips and boarding piers. They are found at [www.access-board.gov](http://www.access-board.gov)

Proposed and miniature golf course standards have also been published at [www.access-board.gov](http://www.access-board.gov). In addition, the new ABA/ADA Accessibility Guidelines also include specifications for these facilities. The Guidelines can be found on the access board's website.

The Access Board has published final standards for accessible playgrounds, and a guide and regulations establish standards for play areas.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Modifications in Interior Common Use Areas

Rental and sales offices, as we discussed earlier, are areas that serve the public. Changes at offices where sales or rental operations and the public is served will be covered not by the Fair Housing Act's reasonable modification requirements but by the Americans with Disabilities Act, Title III. If changes that affect public access need to be made under Title III, they must be made by the housing provider if they are readily achievable.

The Department of Justice technical assistance manual for Title III states that measures taken to remove barriers in existing properties should follow the standards found in the Americans with Disabilities Act Accessibility Guidelines.



The most often cited example of a reasonable modification is the installation of grab bars at the toilet, tub, or shower. Because the Act's design and construction requirements only address the installation of reinforcements in walls for later installation of grab bars, the addition of grab bars is a modification that may be requested both in recently constructed and older housing.

In older housing, a starting point for adding reinforcements inside the wall for grab bar installation is Chapter 6 of the Fair Housing Act Design Manual.

This contains dimensions for the installation of the reinforcements as well as recommendations for other strategies relating to grab bar installation. These dimensions are minimums, and larger reinforcements would also be appropriate.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

Reinforcements should be designed to bear a minimum weight of 250 pounds. In addition, there are standards in ANSI and the ADAAG that address grab bar specifics.

In many cases, especially when grab bars are added as a modification, adding wall reinforcements may not be necessary because floor-mounted commercially-available grab bars may be installed.

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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Topic 6: Key Takeaways

- Courts will assess requests for modifications to determine their reasonableness.
- Unlike accommodations, modifications cannot be rejected based on undue financial and administrative burden or fundamental program alteration since the person with a disability bears the costs.
- Landlords may not condition approval of a modification on payment for liability insurance, compliance with aesthetic standards, the use of a particular contractor, the use of a specific construction style, or adherence to a particular accessibility standard.
- Additional requirements for modifications in rental housing include the possibility of requiring restoration of the unit to its original condition when approved modifications are made inside the unit.
- Restoration should be reasonable and limited to modifications that could interfere with another tenant's use. An escrow account for restoration may be required on a case-by-case basis, considering factors such as the tenant's credit history and lease length.
- Reasonable modifications can cover various areas, from interior unit adjustments to modifications in exterior common use areas.



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# Fair Housing Act: Reasonable Modifications and Reasonable Accommodations

## Contacts

The Fair Housing Accessibility FIRST program provides a Design and Construction Resource Center, also known as the DCRC, which is staffed Monday through Friday from 8 AM to 5:30 PM Eastern. You can reach the DCRC toll-free at 888-341-7781.

Or you can reach the DCRC at [FairHousingFirst@hud.gov](mailto:FairHousingFirst@hud.gov).

You can also subscribe via the website for updates from the Fair Housing Accessibility FIRST program.

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