

## PART II

### ACCESSIBILITY BY HANDICAPPED PERSONS

(proposed modifications)

**553.501 Short title.**--Sections [553.501](#)-553.513 may be cited as the "Florida Americans With Disabilities Accessibility Implementation Act."

**553.502 Intent.**--The purpose and intent of ss. [553.501](#)-553.513 is to incorporate into the law of this state the accessibility requirements of the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. ss. 12101 et seq., and to obtain and maintain United States Department of Justice certification of the Florida Accessibility Code for Building Construction as equivalent to federal standards for accessibility of buildings, structures, and facilities. All state laws, rules, standards, and codes governing facilities covered by the guidelines shall be maintained to assure certification of the state's construction standards and codes. Nothing in ss. [553.501](#)-553.513 is intended to expand or diminish the defenses available to a place of public accommodation under the Americans with Disabilities Act and the federal Americans with Disabilities Act Accessibility Guidelines, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to places of public accommodation.

**History.**--s. 1, ch. 93-183; s. 1, ch. 97-76.

**553.503 Adoption of guidelines.**--Subject to the exceptions in s. [553.504](#), the federal Americans with Disabilities Act Accessibility Guidelines, as adopted by reference in 28 C.F.R., part 36, subparts A and D, and Title II of Pub. L. No. 101-336, are hereby adopted and incorporated by reference as the law of this state. The guidelines shall establish the minimum standards for the accessibility of buildings and facilities built or altered within this state. The 1997 Florida Accessibility Code for Building Construction must be adopted by the Florida Building Commission in accordance with chapter 120.

**History.**--s. 1, ch. 93-183; s. 2, ch. 97-76; s. 65, ch. 2000-141; s. 59, ch. 2000-154.

**553.504 Exceptions to applicability of the guidelines.**--Notwithstanding the adoption of the Americans with Disabilities Act Accessibility Guidelines in s. [553.503](#), all buildings, structures, and facilities in this state shall meet the following additional requirements when they provide increased accessibility:

(1) All new or altered buildings and facilities subject to ss. [553.501](#)-553.513 which may be frequented in, lived in, or worked in by the public shall comply with ss. [553.501](#)-553.513.

#### FACBC 1.2

(2) All new single-family houses, duplexes, triplexes, condominiums, and townhouses shall provide at least one bathroom, located with maximum possible

**Comment [BE1]:** Does this need to be updated to 2010?

privacy, where bathrooms are provided on habitable grade levels, with a door that has a 29-inch clear opening. However, if only a toilet room is provided at grade level, such toilet room shall have a clear opening of not less than 29 inches.

**FACBC 1.3 and 4.1.1(1)(c) and 4.22.2 and 4.23.2 and 11.1(1)**

(3) All required doors and walk-through openings in buildings excluding single-family homes, duplexes, and triplexes not covered by the Americans with Disabilities Act of 1990 or the Fair Housing Act shall have at least 29 inches of clear width except under ss. [553.501](#)-553.513.

**FACBC 4.13.1(2)**

~~(4) In addition to the requirements in reference 4.8.4 of the guidelines, all landings on ramps shall be not less than 60 inches clear, and the bottom of each ramp shall have not less than 72 inches of straight and level clearance.~~

Delete (4). This provision has not provided clear evidence of benefit. Recommend deferring to the minimum 60" clear landing at the bottom of each ramp pursuant to the 2010 SAD (405.7.3).

**FACBC 4.8.4(2)**

~~(5) All curb ramps shall be designed and constructed in accordance with the following requirements:~~

~~(a) Notwithstanding the requirements of reference 4.8.5.2 of the guidelines, handrails on ramps which are not continuous shall extend not less than 18 inches beyond the sloped segment at both the top and bottom, and shall be parallel to the floor or ground surface.~~

Delete (5). This provision has not provided clear evidence of benefit. Recommend deferring to the 2010 SAD for the minimum 12" handrail extension as prescribed in the 2010 SAD (505.10.1).

If provision is retained, delete reference to curb ramps throughout subsection (5).

**FACBC 4.8.5(2)**

~~(b) Notwithstanding the requirements of references 4.3.3 and 4.8.3 of the guidelines, curb ramps that are part of a required means of egress shall be not less than 44 inches wide.~~

Option 1: Recommend deleting in its entirety; option 2: delete "curb" from curb ramps; option 3 defer means of egress to FBC Chapter 10 (?) for minimum required width of the egress, but not less than 36" which is consistent with the federal law. Reference 2010 SAD (404.5.1).

**FACBC 4.3.3 and 4.8.3**

~~(c) Notwithstanding the requirements of reference 4.7.5 of the guidelines, curb ramps located where pedestrians must use them and all curb ramps which are not protected by handrails or guardrails shall have flared sides with a slope not exceeding a ratio of 1 to 12.~~

Delete subsection (c). This provision has not provided clear evidence of benefit. Recommend consistency with the 2010 SAD allowing a 1:10 maximum slope for flared sides (406.3).

**FACBC 4.7.5 and Figure 12(b)**

~~(6) Notwithstanding the requirements in reference 4.13.11 of the guidelines, exterior hinged doors shall be so designed that such doors can be pushed or pulled open with a force not exceeding 8.5 foot pounds.~~

Delete section (6). Recommend deferring requirement to the Life Safety Code and Fire codes. This would be consistent with the 2010 SAD 404.2.9.

**FACBC 4.13.11(2)(a)**

~~(7) Notwithstanding the requirements in reference 4.33.1 of the guidelines, all public food service establishments, all establishments licensed under the Beverage Law for consumption on the premises, and all facilities governed by reference 4.1 of the guidelines shall provide seating or spaces for seating in accordance with the following requirements:~~

**FACBC 4.33.1**

(a) For the first 100 fixed seats, accessible and usable spaces must be provided consistent with the following table:

Capacity of Seating In Assembly Areas	Number of Required Wheelchair Locations
1 to 25 .....	1
26 to 50 .....	2
51 to 100 .....	4

**FACBC 4.1.3(19)(a)**

(b) For all remaining fixed seats, there shall be not less than one such accessible and usable space for each 100 fixed seats or fraction thereof.

1<sup>st</sup> option: Delete section (7) and subsections. Recommend deferring to 2010 SAD 221.2.1.1 for number of accessible seats required in large assembly areas such as stadiums and theaters, which is the same, less one seat in one category, as the 2010 SAD.

This provision was reduced in the updated 2010 SAD due to lack of demonstrated need; deferring this section to the federal is prudent unless it can be demonstrated that the need for the additional seating is made.

2<sup>nd</sup> option: If this section is maintained, recommend modification to eliminate Chapter 509 businesses as the section descriptions do not pertain to restaurant seating, and identify the intended users such as theaters, stadiums or large meeting or conference rooms. Elimination of Chapter 509 entities will be consistent with 2010 SAD definition of assembly areas 106.5 which does not include restaurants. Additionally, the 2010 SAD requirement for accessible dining seating and standing spaces exceeds the requirements for number of accessible seats in the above table, as the 2010 SAD requires accessible seating or standing spaces to be 5% of total seats or standing spaces (226.1).

ADAAG currently defines assembly areas generally but it is not entirely consistent with the Building Code Occupancy Use definition of Assembly. The IBC and the FBC subcategorizes Assembly uses to address various type of uses and sizes. Florida should consider adding clarification that only Assembly occupancies consistent with A-3 through A-5 are included in section 221. In ADAAG, this section does not include restaurants by definition. Building officials will apply Chapter 11 language of "Assembly Areas" as it is defined in the Building code and include all Assembly occupancies (A-1 through A-5).

#### **FACBC 4.1.3(19)(a)**

~~(8) Notwithstanding the requirements in references 4.32.1-4.32.4 of the guidelines, all fixed seating in public food service establishments, in establishments licensed under the Beverage Law for consumption on the premises, and in all other facilities governed by reference 4.1 of the guidelines shall be designed and constructed in accordance with the following requirements:~~

~~(a) All aisles adjacent to fixed seating shall provide clear space for wheelchairs.~~

~~(b) Where there are open positions along both sides of such aisles, the aisles shall be not less than 52 inches wide.~~

Delete section (8) and subsections. This provision has not provided clear evidence of benefit and its intent can be met without the added area.

(a) This provision is unclear as to how the clear space is to be positioned...at the end of a fixed table, at a moveable table, to allow space in the aisle?

Section 305.6 of the 2010 SAD indicates clear space for wheelchairs shall adjoin an accessible route, not overlap, so this provision is redundant to the 2010 SAD provisions which requires a minimum 36" accessible route (or aisle in this case). Section 1014.4 of the FL Building Code requires the means of egress aisles to remain unobstructed, so this provision is redundant.

(b) The current ADAAG and the proposed 2010 SAD provides for a 60" x 60" minimum passing space every 200' on an accessible route. Pursuant to the building and life safety codes, the minimum width for means of egress must be maintained and virtually always exceeds equals or exceeds the minimum 36" accessible route required. This, coupled with the passing space required, where the length of aisles in restaurants is well below the 200' spacing, provides sufficient maneuvering for customers in restaurants or other food service establishments.

The increased provision of 5% of total seats required for accessibility and the necessary dispersion of these seats throughout the facility would result in 8" per aisle x a hypothetical 6 aisles in a typical casual dining restaurant = 48" or 4' additional width to the building x the length of the dining area, say 30' = 120sf added building area x \$100/sf = \$12,000 additional construction costs + costs of additional land to accommodate the larger building, say 4 additional feet x 200' of land = 800 sf of land x \$25/sf = \$20,000 of additional land costs. That totals \$32,000 of additional costs for every restaurant (not including design costs) to accommodate passing areas throughout the restaurant for customers with wheelchairs. This is excessive when restaurants can accommodate customers adequately without having the additional area.

#### **FACBC 4.32.2**

(9) In motels and hotels a number of rooms equaling at least 5 percent of the guest rooms minus the number of accessible mobility rooms required by the guidelines shall provide the following special accessibility features:

Recommend adding the word mobility if this section is retained.

(a) Grab rails in bathrooms and toilet rooms that comply with s. 4.16.4 of the guidelines.

(b) All beds in designed accessible guest rooms shall be open-frame type to permit passage of lift devices.

(c) All standard water closet seats shall be at a height of 15 inches, measured vertically from the finished floor to the top of the seat, with a variation of plus or minus 1/2 inch. A portable or attached raised toilet seat shall be provided in all designated handicapped accessible rooms.

All buildings, structures, or facilities licensed as a hotel, motel, or condominium pursuant to chapter 509 shall be subject to the provisions of this subsection. Nothing in this subsection shall be construed as relieving the owner of the responsibility of providing accessible rooms in conformance with ~~ss. 9.1-9.5 of the guidelines.~~ 2010 SAD (806).

Recommend deleting section (9) (a) and (c). There is not any clear evidence of benefit or demonstrated need.

**FACBC 9.1.2 and 9.2.3 (Note wording in law is all contained but rearranged in FACBC)**

~~(10) Notwithstanding the requirements in reference 4.29.2 of the guidelines, all detectable warning surfaces required by the guidelines shall be governed by the requirements of American National Standards Institute A117.1-1986.~~

Delete section (10). Defer to 2010 SAD which has eliminated detectable warnings except at transportation platforms. Maintain consistency with federal law.

**FACBC 4.29.2(1)**

~~(11) Notwithstanding the requirements in references 4.31.2 and 4.31.3 of the guidelines, the installation and placement of all public telephones shall be governed by the rules of the Florida Public Service Commission.~~

Delete section (11). Already addressed with the PSC and in 2010 SAD. No additional provisions are proposed in this section.

**FACBC (Note there are no indications in the FACBC of changes to ADAAG)**

~~(12) Notwithstanding the requirements in references 4.1.3(11) and 4.16-4.23 of the guidelines~~ 2010 SAD Sections 213.3.1 and 604, 605, and 606, required restrooms and toilet rooms in new construction shall be designed and constructed in accordance with the following requirements:

**Comment [BE2]:** Not sure where the balance of 4.1.3.(11) is in SAD

Add this language to the text of the code and eliminate its current reading to be an exception for New Construction. This provision is often misconstrued and misapplied by Building Officials who tie this in with the ADAAG provision that alterations must meet New Construction standards, and subsequently require a lavatory in the accessible stall. The statute must be very clear that Alterations and Removal of Barriers scopes of work do not require a lavatory in the stall, as provided below:

Add Exception to end of subsection (12): "Alterations and removal of barriers do not have to provide an accessible lavatory in the accessible stall compartment."

Section 213.3.1 must contain an exception for 604.8.1.1 requiring a lavatory in the accessible toilet compartment for Alterations and Removal of Barriers scopes of work.

**(Note there is no indication in FACBC 4.1.3(11) of change to ADAAG)**

(a) The standard accessible restroom stall shall contain an accessible lavatory within it, the size of such lavatory to be not less than 19 inches wide by 17 inches deep, nominal size, and wall-mounted. The lavatory shall be mounted so as not to overlap the clear floor space areas required by s. 4.17 figure 30(a) of the guidelines for the standard accessible stall and to comply with s. 4.19 of the guidelines. Such lavatories shall be counted as part of the required fixture count for the building.

**FACBC 4.17.3 added Exception (1)**

(b) The accessible water closet shall be located in the corner, diagonal to the door.

**FACBC 4.17.3 added Exception (2)**

~~(c) The accessible stall door shall be self-closing.~~

Delete subsection (c). This provision is included in the 2010 SAD (604.8.1.2).

**FACBC 4.17.5 (Requirement imbedded in ADAAG text)**

(13) All customer checkout aisles not required by the guidelines to be handicapped accessible shall have at least 32 inches of clear passage.

**FACBC 7.3(4)**

~~(14) Turnstiles shall not be used in occupancies which serve fewer than 100 persons, but turnstiles may be used in occupancies which serve at least 100 persons if there is an unlocked alternate passageway on an accessible route affording not less than 32 inches of clearance, equipped with latching devices in accordance with the guidelines.~~

Delete section (14). The 2010 SAD Section 404.3.7 does not allow turnstiles as part of an accessible route.

**FACBC 4.13.2(2)**

~~(15) Barriers at common or emergency entrances and exits of business establishments conducting business with the general public that are existing, under construction, or under contract for construction which would prevent a person from using such entrances or exits shall be removed.~~

Delete section (15). The removal of barriers at entrances and exits is covered under 2010 SAD provision (101.2) for existing facilities and is clearly written to be solely under the umbrella of DOJ. This provision has no enforcing mechanism in place.

**FACBC 4.1.8(2)**

**History.**--s. 1, ch. 93-183; s. 3, ch. 97-76.

**553.5041 Parking spaces for persons who have disabilities.--**

(1) This section is not intended to expand or diminish the defenses available to a place of public accommodation under the Americans with Disabilities Act and the federal Americans with Disabilities Act Accessibility Guidelines, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to places of public accommodation. Subject to the exceptions described in subsections (2), (4), (5), and (6), when the parking and loading zone requirements of the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG), as adopted by reference in 28 C.F.R. part 36, subparts A and D, and Title II of Pub. L. No. 101-336, provide increased accessibility, those requirements are adopted and incorporated by reference as the law of this state.

(2) State agencies and political subdivisions having jurisdiction over street parking or publicly owned or operated parking facilities are not required to provide a greater

**Comment [BE3]:** 2010 SAD???

**Comment [BE4]:** Recommend deleting this as App D of the 1991 standards incorporates and this is really the ADA only.

right-of-way width than would otherwise be planned under regulations, guidelines, or practices normally applied to new development.

**FACBC 4.1.2(5)(f)**

~~(3) If parking spaces are provided for self-parking by employees or visitors, or both, accessible spaces shall be provided in each such parking area. Such Designated accessible spaces shall be designed and marked for the exclusive use of those individuals who have a severe physical disability and have permanent or temporary mobility problems that substantially impair their ability to ambulate and who have been issued either a disabled parking permit under s. [316.1958](#) or s. [320.0848](#) or a license plate under s. [320.084](#), s. [320.0842](#), s. [320.0843](#), or s. [320.0845](#).~~

Delete first sentence which is addressed in 2010 SAD Section 208.2.

**FACBC 4.1.2(5)(a)**

(4) The number of accessible parking spaces must comply with the parking requirements in ADAAG s. ~~4-1~~ [502](#) and the following:

(a) There must be one accessible parking space in the immediate vicinity of a publicly owned or leased building that houses a governmental entity or a political subdivision, including, but not limited to, state office buildings and courthouses, if no parking for the public is provided on the premises of the building.

(b) There must be one accessible parking space for each 150 metered on-street parking spaces provided by state agencies and political subdivisions.

(c) The number of parking spaces for persons who have disabilities must be increased on the basis of demonstrated and documented need.

**FACBC 4.12(5)(a) (i), (ii) and (iii)**

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located in conformance with the guidelines set forth in ADAAG ss. ~~4.1.2 and 4.6~~ and Appendix s. A4.6.3 "Universal Parking Design." [2010 SAD Sections 208 and 209](#).

Comment [BE5]: And universal design???

**FACBC (See specifics below)**

(a) All spaces must be located on an accessible route no less than 44 inches wide so that users will not be compelled to walk or wheel behind parked vehicles.

**FACBC 4.3.3 and 4.6.2(1)**

(b) Each space must be located on the shortest ~~safely~~ accessible route from the parking space to an accessible entrance. If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. [509.013](#)(9) provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated



for parking by persons who have disabilities, if the lot or area is located on the shortest ~~safely~~ accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

Delete "safely" from language. The 2010 SAD specifies the accessible parking spaces must be closet to the accessible entrance, which is iterated in the statute 553.504(5) above "...accessible parking spaces and loading zones must be designed and located in conformance with the guidelines...". The added provision of "safely" often results in the accessible parking spaces further than the closest in order to provide the safest accessible route.

Example: Big box retailer with parking across a main drive aisle, closest to the accessible entrance is commonplace though the safest location for the accessible parking spaces is the side of the big box building where a customer using the spaces does not have to cross traffic patterns in the drive aisles. The same is true for a quick service restaurant with a drive thru component, in that placement of the accessible parking spaces so users do not have to cross a heavily traveled driveway results in the location of the accessible parking spaces further than is required by the federal law.

The addition of the word "safely" is often interpreted in a manner that results in direct conflict with the federal law requiring the accessible parking spaces to be closest to the accessible entrance.

#### **FACBC 4.6.2**

#### **FACBC 4.6.2(2) and 12(2) (Note- third sentence above in both FACBC sections)**

(c)1. Each parking space must be no less than 12 feet wide. Parking access aisles must be no less than 5 feet wide and must be part of an accessible route to the building or facility entrance. ~~In accordance with ADAAG s. 4.6.3 502, access aisles must be placed adjacent to accessible parking spaces; however, two accessible parking spaces may share a common access aisle.~~ The access aisle must be striped diagonally to designate it as a no-parking zone.

Delete the sentence as shown since the 2010 SAD 502.3 addresses.

Recommend moving access aisle striping to 553.5041(6) where the streiping for the accessible space is provided.

#### **FACBC 4.6.3**

2. The parking access aisles are reserved for the temporary exclusive use of persons who have disabled parking permits and who require extra space to deploy a mobility device, lift, or ramp in order to exit from or enter a vehicle. Parking is not allowed in an access aisle. Violators are subject to the same penalties that are imposed for illegally parking in parking spaces that are designated for persons who have disabilities. A vehicle may not be parked in an access aisle, even if the vehicle owner or passenger is disabled or owns a disabled parking permit.

**Not in FACBC - Not a building construction requirement**

3. Any provision of this subsection to the contrary notwithstanding, a theme park or an entertainment complex as defined in s. [509.013\(9\)](#) in which are provided continuous attendant services for directing individuals to marked accessible parking spaces or designated lots for parking by persons who have disabilities, may, in lieu of the required parking space design, provide parking spaces that comply with ADAAG ss. [4.1 and 4.6 2010 SAD sections 208 and 502](#).

#### **FACBC 4.6.3 Exception and 12(1)**

(d) On-street parallel parking spaces must be located either at the beginning or end of a block or adjacent to alley entrances. Such spaces must be designed in conformance with the guidelines set forth in ADAAG ss. [4.6.2 through 4.6.5 2010 SAD Sections 208.3, 502.2, 502.5, and 502.6](#), exception: access aisles are not required. Curbs adjacent to such spaces must be of a height that will not interfere with the opening and closing of motor vehicle doors. This subsection does not relieve the owner of the responsibility to comply with the parking requirements of ADAAG ss. [4.1 and 4.6 2010 SAD Sections 208 and 502](#).

#### **FACBC 4.6.2(3) (Note- Yellow shaded text is in this section of the Code)**

#### **FACBC 4.6.3 (Note- Blue shaded text is in this section of the Code)**

(e) Parallel parking spaces must be even with surface slopes, may match the grade of the adjacent travel lane, and must not exceed a cross slope of 1 to ~~50~~ [48](#), where feasible.

Modify 1:50 to 1:48 for consistency with 2010 SAD cross slopes

#### **FACBC 4.6.3**

~~(f) Curb ramps must be located outside of the disabled parking spaces and access aisles.~~

Recommend deleting since by definition the curb ramp slope cannot exceed the maximum slope of parking spaces and access aisles.

#### **FACBC 4.7.1**

(g)1. The removal of architectural barriers from a parking facility in accordance with 28 C.F.R. s. 36.304 or with s. [553.508](#) must comply with this section unless compliance would cause the barrier removal not to be readily achievable. If compliance would cause the barrier removal not to be readily achievable, a facility may provide parking spaces at alternative locations for persons who have disabilities and provide appropriate signage directing persons who have disabilities to the alternative parking if readily achievable. The facility may not reduce the required number or dimensions of those spaces, nor may it unreasonably increase the length of the accessible route from a parking space to the facility. The removal of an architectural barrier must not create a significant risk to the health or safety of a person who has a disability or to that of others.

Delete (g). The removal of barriers, parking or otherwise, is covered under 2010 SAD provision (101.2) for existing facilities and is clearly written to be solely under the umbrella of DOJ. This provision has no enforcing mechanism in place.

Add the definition of Removal of Barriers (for the benefit of building officials) but add that it is not enforceable by statute. Also add that building permits with a Removal of Barriers scope of work do not trigger the provisions of alterations or new construction, including the 20% disproportionate provision.

This will eliminate building officials requiring a lavatory in the accessible toilet compartment for a Removal of Barriers scope of work.

### **FACBC 4.1.8(3)**

2. A facility that is making alterations under s. [553.507](#)(2)(b) must comply with this section to the maximum extent feasible. If compliance with parking location requirements is not feasible, the facility may provide parking spaces at alternative locations for persons who have disabilities and provide appropriate signage directing persons who have a disability to alternative parking. The facility may not reduce the required number or dimensions of those spaces, nor may it unnecessarily increase the length of the accessible route from a parking space to the facility. The alteration must not create a significant risk to the health or safety of a person who has a disability or to that of others.

Add provision that alterations to an existing facility constructed prior to October 1, 1997 are not required to include a lavatory in the accessible toilet compartment. This will need to be added to sections 604.8.1.1 and 213.3.1.

Section 213.3.1 must contain an exception for 604.8.1.1 requiring a lavatory in the accessible toilet compartment for Alterations and Removal of Barriers scopes of work.

### **FACBC 4.1.6(k)(iv)**

(6) Each such parking space must be prominently outlined with blue paint, and must be repainted when necessary, to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign of a color and design approved by the Department of Transportation, which is placed on or at a distance of ~~84 inches above the ground to the bottom of the sign~~ a minimum of 60" above the finished floor or ground surface measured to the bottom of the sign and which bears the international symbol of accessibility meeting the requirements of ~~ADAAG s. 4.30.7~~ 2010 SAD Section 703.7.2.1 and the caption "PARKING BY DISABLED PERMIT ONLY." Such a sign erected after October 1, 1996, must indicate the penalty for illegal use of the space. Any provision of this section to the contrary notwithstanding, in a theme park or an entertainment complex as defined in s. [509.013](#)(9) in which accessible parking is located in designated lots or areas, the signage indicating the lot as reserved for accessible parking may be located at the entrances to the lot in lieu of a sign at each parking place. This subsection does not relieve the owner of the responsibility of complying with the signage requirements of ADAAG s. 4.30.

Modify the 84" fixed dimension for the sign height to 60" minimum for consistency with 2010 SAD Section 502.6 as noted above.

Consider adding access aisle striping in this section and removing it from 553.5041(5)c.(1) so all striping information is together.

#### **FACBC 4.6.4 (First and third paragraphs)**

**History.**--s. 66, ch. 2000-141.

#### **553.505 Exceptions to applicability of the Americans with Disabilities Act.--**

Notwithstanding the Americans with Disabilities Act of 1990, private clubs are governed by ss. [553.501](#)-553.513. Parking spaces, parking lots, and other parking facilities are governed by s. [553.5041](#) when that section provides increased accessibility.

#### **FACBC 1.3**

**History.**--s. 1, ch. 93-183; s. 14, ch. 96-200; s. 4, ch. 97-76; s. 23, ch. 2001-186.

**553.506 Powers of the commission.**--In addition to any other authority vested in the Florida Building Commission by law, the commission, in implementing ss. [553.501](#)-553.513, may, by rule, adopt revised and updated versions of the Americans with Disabilities Act Accessibility Guidelines in accordance with chapter 120.

#### **NOT A PART OF FACBC**

**History.**--s. 1, ch. 93-183; s. 67, ch. 2000-141; s. 60, ch. 2000-154.

**553.507 Exemptions.**--Sections [553.501](#)-553.513 do not apply to any of the following:

(1) Buildings, structures, or facilities that were either under construction or under contract for construction on October 1, 1997.

#### **FACBC 4.1.1 and 4.1.2 and 4.1.3**

(2) Buildings, structures, or facilities that were in existence on October 1, 1997, unless:

(a) The building, structure, or facility is being converted from residential to nonresidential or mixed use, as defined by local law;

(b) The proposed alteration or renovation of the building, structure, or facility will affect usability or accessibility to a degree that invokes the requirements of s. 303(a) of the Americans with Disabilities Act of 1990; or

(c) The original construction or any former alteration or renovation of the building, structure, or facility was carried out in violation of applicable permitting law.

#### **FACBC 4.1.6 and (a) in 11.1(2)**

**History.**--s. 1, ch. 93-183; s. 5, ch. 97-76; s. 31, ch. 2001-63; s. 24, ch. 2001-186.

**553.508 Architectural barrier removal.** ~~Removal of architectural barriers, pursuant to 28 C.F.R. s. 36.304, from buildings, structures, or facilities to which this act applies shall comply with ss. [553.501](#)-[553.513](#) unless compliance would render the removal not readily achievable. In no instance shall the removal of an architectural barrier create a significant risk to the health or safety of an individual with a disability or others.~~

Delete 553.508 or modify to reflect language from 2010 SAD Section 101.2. This provision is not enforceable and the 2010 SAD (101.2) is clear that the DOJ maintains the determination of this provision's applicability.

#### **FACBC 4.1.1(1)(b) and 4.1.8(1)**

**History.**--s. 1, ch. 93-183.

#### **553.509 Vertical accessibility.--**

(1) Nothing in ss. [553.501](#)-[553.513](#) or the guidelines shall be construed to relieve the owner of any building, structure, or facility governed by those sections from the duty to provide vertical accessibility ~~to all levels~~ above and below the occupiable grade level, regardless of whether the guidelines require an elevator to be installed in such building, structure, or facility, except for:

**Comment [BE6]:** Recommend deleting "all" levels or providing provisions to allow design and permitting without the mandate for a waiver.

(a) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, [work spaces accessed by ladders, catwalks, crawl spaces, very narrow passageways, freight \(nonpassenger\) elevators,](#) and automobile lubrication and maintenance pits and platforms;

The added language comes from the current 4.1.1(5)(b)

(b) Unoccupiable spaces, such as rooms, enclosed spaces, and storage spaces that are not designed for human occupancy, for public accommodations, or for work areas; and

(c) Occupiable spaces and rooms that are not open to the public and that house no more than five [physical](#) persons [\(not as calculated for Occupant Load in FBC chapter 10\),](#) including, but not limited to, equipment control rooms, ~~and~~ projection booths, [projection rooms, performance control rooms, dedicated follow spot areas, chairwagon storage areas, and grid iron / steel grated paths necessary for assembly use operations.](#)

[\(d\) Theaters, concert halls and stadiums, or other large assemble areas with stadium style seating or tiered seating, provided Sections 221 and 802 of the 2010 SAD are provided](#)

Or, ...provided the following criteria is met:

(i) [Designated accessible seating is placed \\_\\_\\_\\_\\_ in relation to the aisle, and](#)

**Comment [BE7]:** These are fill in the blank" if the discussion goes there; generally to add the typical conditions of approval for the many waivers that have been approved for these types of venue.

(ii) provisions of the 2010 SAD sections 221 and 802 are met.

(e) All play and recreation areas, provided the 2010 SAD Chapter 10 requirements are met.

(f) All employee areas as exempted in 2010 SAD Section 208.2.8.

Add to 206.2.4 exceptions in 2010 SAD after language for vertical accessibility is inserted

**FACBC 4.1.2 and 4.1.3(5) and 4.1.6(1)(f) and 4.1.6(1)(k)(iii) and 5.4 Exception**

(2)(a) Any person, firm, or corporation that owns, manages, or operates a residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, as described in s. [399.035](#)(2) and (3) and rules adopted by the Florida Building Commission, shall have at least one public elevator that is capable of operating on an alternate power source for emergency purposes. Alternate power shall be available for the purpose of allowing all residents access for a specified number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate power source that controls elevator operations must also be capable of powering any connected fire alarm system in the building.

Recommend deleting (2)(a) thru (f) as they do not pertain to public accommodations or commercial facilities and are more appropriately placed in a statute that pertains to elevator safety.

**NOT A PART OF FACBC**

(b) At a minimum, the elevator must be appropriately prewired and prepared to accept an alternate power source and must have a connection on the line side of the main disconnect, pursuant to National Electric Code Handbook, Article 700. In addition to the required power source for the elevator and connected fire alarm system in the building, the alternate power supply must be sufficient to provide emergency lighting to the interior lobbies, hallways, and other portions of the building used by the public. Residential multifamily dwellings must have an available generator and fuel source on the property or have proof of a current contract posted in the elevator machine room or other place conspicuous to the elevator inspector affirming a current guaranteed service contract for such equipment and fuel source to operate the elevator on an on-call basis within 24 hours after a request. By December 31, 2006, any person, firm or corporation that owns, manages, or operates a residential multifamily dwelling as defined in paragraph (a) must provide to the local building inspection agency verification of engineering plans for residential multifamily dwellings that provide for the capability to generate power by alternate means. Compliance with installation requirements and operational capability requirements must be verified by local building inspectors and reported to the county emergency management agency by December 31, 2007.

**NOT A PART OF FACBC**

(c) Each newly constructed residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, as described in s. [399.035](#)(2) and (3) and rules adopted by the Florida Building Commission, must have at least one public elevator that is capable of operating on an alternate power source for the purpose of allowing all residents access for a specified number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate power source that controls elevator operations must be capable of powering any connected fire alarm system in the building. In addition to the required power source for the elevator and connected fire alarm system, the alternate power supply must be sufficient to provide emergency lighting to the interior lobbies, hallways, and other portions of the building used by the public. Engineering plans and verification of operational capability must be provided by the local building inspector to the county emergency management agency before occupancy of the newly constructed building.

**NOT A PART OF FACBC**

(d) Each person, firm, or corporation that is required to maintain an alternate power source under this subsection shall maintain a written emergency operations plan that details the sequence of operations before, during, and after a natural or manmade disaster or other emergency situation. The plan must include, at a minimum, a lifesafety plan for evacuation, maintenance of the electrical and lighting supply, and provisions for the health, safety, and welfare of the residents. In addition, the owner, manager, or operator of the residential multifamily dwelling must keep written records of any contracts for alternative power generation equipment. Also, quarterly inspection records of lifesafety equipment and alternate power generation equipment must be posted in the elevator machine room or other place conspicuous to the elevator inspector, which confirm that such equipment is properly maintained and in good working condition, and copies of contracts for alternate power generation equipment shall be maintained on site for verification. The written emergency operations plan and inspection records shall also be open for periodic inspection by local and state government agencies as deemed necessary. The owner or operator must keep a generator key in a lockbox posted at or near any installed generator unit.

**NOT A PART OF FACBC**

(e) Multistory affordable residential dwellings for persons age 62 and older that are financed or insured by the United States Department of Housing and Urban Development must make every effort to obtain grant funding from the Federal Government or the Florida Housing Finance Corporation to comply with this subsection. If an owner of such a residential dwelling cannot comply with the requirements of this subsection, the owner must develop a plan with the local emergency management agency to ensure that residents are evacuated to a place of safety in the event of a power outage resulting from a natural or manmade disaster or other emergency situation that disrupts the normal supply of electricity for an extended period of time. A place of safety may include, but is not limited to, relocation to an alternative site within the building or evacuation to a local shelter.

**NOT A PART OF FACBC**

(f) As a part of the annual elevator inspection required under s. [399.061](#), certified elevator inspectors shall confirm that all installed generators required by this chapter are in working order, have current inspection records posted in the elevator machine room or other place conspicuous to the elevator inspector, and that the required generator key is present in the lockbox posted at or near the installed generator. If a building does not have an installed generator, the inspector shall confirm that the appropriate rewiring and switching capabilities are present and that a statement is posted in the elevator machine room or other place conspicuous to the elevator inspector affirming a current guaranteed contract exists for contingent services for alternate power is current for the operating period.

However, buildings, structures, and facilities must, as a minimum, comply with the requirements in the Americans with Disabilities Act Accessibility Guidelines.

#### **NOT A PART OF FACBC**

**History.**--s. 1, ch. 93-183; s. 6, ch. 97-76; s. 12, ch. 2006-71.

**553.511 Parking facilities; minimum height clearance requirement.**--Every nonresidential structure built on or after January 1, 1991, which is designed to use covered or underground parking as the primary available parking space shall design the covered or underground parking facility to maintain a minimum height for the portion of the street-accessible level of the parking facility directly over van-accessible parking spaces and for providing ingress and egress to such parking spaces of at least 8 feet 2 inches. Signs shall be posted to warn operators of handicapped-equipped vans that they cannot pass beyond a certain point due to height limitations. If compliance with this minimum height clearance requirement will cause the structure to exceed local height limitations imposed by local zoning, planning, or fire ordinances, or will result in the imposition of any additional requirements of such ordinances, the structure may exceed the height limitation specified in those particular codes as necessary to comply with the requirements of this section and is exempt from such additional requirements. Structures for which the plans were sealed by an architect prior to January 1, 1991, are exempt from this section.

#### **FACBC 4.6.5**

**History.**--s. 2, ch. 90-250; s. 2, ch. 93-183; s. 7, ch. 97-76.

**Note.**--Former s. 553.482.

#### **553.512 Modifications and waivers; advisory council.**--

(1) The Florida Building Commission shall provide by regulation criteria for granting individual modifications of, or exceptions from, the literal requirements of this part upon a determination of unnecessary, unreasonable, or extreme hardship, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council. Notwithstanding any other provision of this subsection, if an applicant for a waiver demonstrates economic hardship in accordance with 28 C.F.R. s. 36.403(f)(1), a waiver shall be granted. The commission may not consider waiving any of the requirements of s. [553.5041](#) unless the applicant first demonstrates that she or he has applied for and been denied



waiver or variance from all local government zoning, subdivision regulations, or other ordinances that prevent compliance therewith. Further, the commission may not waive the requirement of s. [553.5041\(5\)\(a\)](#) and (c)1. governing the minimum width of accessible routes and minimum width of accessible parking spaces.

**NOT A PART OF FACBC**

(2) The Accessibility Advisory Council shall consist of the following seven members, who shall be knowledgeable in the area of accessibility for persons with disabilities. The Secretary of Community Affairs shall appoint the following: a representative from the Advocacy Center for Persons with Disabilities, Inc.; a representative from the Division of Blind Services; a representative from the Division of Vocational Rehabilitation; a representative from a statewide organization representing the physically handicapped; a representative from the hearing impaired; a representative from the President, Florida Council of Handicapped Organizations; and a representative of the Paralyzed Veterans of America. The terms for the first three council members appointed subsequent to October 1, 1991, shall be for 4 years, the terms for the next two council members appointed shall be for 3 years, and the terms for the next two members shall be for 2 years. Thereafter, all council member appointments shall be for terms of 4 years. No council member shall serve more than two 4-year terms subsequent to October 1, 1991. Any member of the council may be replaced by the secretary upon three unexcused absences. Upon application made in the form provided, an individual waiver or modification may be granted by the commission so long as such modification or waiver is not in conflict with more stringent standards provided in another chapter.

**NOT A PART OF FACBC**

(3) Members of the council shall serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses as provided by s. [112.061](#).

**NOT A PART OF FACBC**

(4) Meetings of the advisory council shall be held in conjunction with the regular meetings of the commission.

**NOT A PART OF FACBC**

**History.**--s. 3, ch. 78-333; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 25, ch. 86-220; s. 5, ch. 89-97; ss. 1, 5, 6, ch. 91-172; s. 5, ch. 91-429; s. 2, ch. 93-183; s. 10, ch. 97-76; s. 68, ch. 2000-141; s. 61, ch. 2000-154; s. 13, ch. 2002-293.

**Note.**--Former s. 553.49.

**553.513 Enforcement.**--It shall be the responsibility of each local government and each code enforcement agency established pursuant to s. [553.80](#) to enforce the provisions of this part. This act expressly preempts the establishment of handicapped accessibility standards to the state and supersedes any county or municipal ordinance on the subject. However, nothing in this section shall prohibit municipalities and counties from enforcing the provisions of this act.

**History.**--s. 6, ch. 89-97; s. 2, ch. 93-183.

**Note.**--Former s. 553.495.

