

**ACCESSIBILITY CODE AND LAW WORKSHOP
REPORT TO THE FLORIDA BUILDING COMMISSION**



JANUARY 20, 2011—WORKSHOP II

TAMPA, FLORIDA

FACILITATION, MEETING AND PROCESS DESIGN BY



CONSENSUS CENTER

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FLORIDA BUILDING COMMISSION

FLORIDA ACCESSIBILITY CODE AND LAW WORKSHOP REPORT

OVERVIEW

OVERVIEW OF DOJ RULEMAKING INITIATIVE

Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board began the process of revising ADAAG a number of years ago. It published new ADAAG in final form on July 23, 2004, after having published guidelines in proposed form in November 1999 and in draft final form in April 2002. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulations and expects to propose, in one or more stages, to adopt revised ADA Standards consistent with the final revised ADAAG and to make related revisions to the Department's title III regulations. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions is to more closely coordinate with voluntary standards; to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion; to reflect evolving technologies in areas affected by the Standards; and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic impact upon a substantial number of small entities. The first step in adopting revised Standards was an advance notice of proposed rulemaking that was published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes that the advance notice simplified and clarified the preparation of the proposed rule. In addition to giving notice that the proposed rule will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule. The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board. The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above described title III rulemaking. This notice proposed to adopt revised ADA Standards for Accessible Design consistent with the minimum guidelines of the revised ADAAG, and initiated the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

DOJ Rulemaking Timetable		
Action	Date	FR Cite
ANPRM	09/30/2004	69 FR 58768
ANPRM Comment Period End	01/28/2005	

ANPRM Comment Period Extended	01/19/2005	70 FR 2992
ANPRM Comment Period End	05/31/2005	
NPRM	06/17/2008	73 FR 34508
NPRM Comment Period End	08/18/2008	
NPRM Correction	06/30/2008	73 FR 37009
Final Action – Publish in Federal Register	09/15/2010	http://www.ada.gov/regs2010/ADAregs2010.htm
Effective Dates for 2010 Standards Begin Voluntary Use Begin Mandatory Use	03/15/2011 03/15/2012	Note: 1994 Standards can be used during voluntary use period for 2010 Standards.

OVERVIEW OF FLORIDA ACCESSIBILITY CODE WORKGROUP INITIATIVE

The scope of the Workgroup is to develop recommendations for updating the Florida Accessibility Code for Building Construction once the US Department of Justice completes its adoption of the next generation of the ADA Standards for Accessibility Design (SAD). The task is to integrate the relevant Florida standards in ss. 553.501-553.513, F.S., into the 2004 ADAAG as adopted by 28 CFR 36 (prospective). Although DOJ's process was not complete, the Workgroup began with the 2004 ADAAG and DOJ's additions currently adopted in 28 CFR 36 and further additions proposed in its June 8, 2008 Notice of Proposed Rule (NOPR).

The process for developing the new Florida Accessibility Code for Building Construction is comprised of three phases.

Phase I of the project focused on the integration of Florida Specific Requirements into the Proposed DOJ ADA Standards, June 2008, and was divided into major tasks as follows:

Task 1: Integration of Florida standards established in s.553.501-s.553.513, F.S. into sections of the 2004 ADAAG that have a one for one parallel section in the 1994 ADA Standards.

Task 2: Deciding what to do with Florida standards that are in sections/subsections of the Florida Accessibility Code for Building Construction (1994 ADA Standards with Florida amendments) that do not have a one for one parallel section in the 2004 ADAAG.

Task 3: Integration of Florida standards into new sections in the 2004 ADAAG that have no parallel in the current Florida Accessibility Code (e.g., recreational facilities).

Task 4: Revising the draft Florida Accessibility Code developed from completion of Tasks 1 – 3 (above) for changes made by DOJ in its final rule.

Phase II of the project focused on identifying changes to Florida law necessary to update references to section numbers in the 2010 ADA Standards and to adopt and clarify Florida requirements to maintain current policies and prepare for code certification by DOJ.

Phase III A of the project focused on indentifying changes to Florida law necessary to conform the FACBC with the DOJ Rules 28 CFR 35 and 28 CFR 36 as Revised September 15, 2010.

Phase III B of the project will focus on reviewing all of the current Florida Specific Requirements and recommending whether there should be any revisions or clarifications.

SCHEDULE

Phase I initiated with the February 2009 meeting and concluded with the April 2010 meeting.

Phase II of the project commenced at the June 7, 2010 meeting (Meeting VIII) and focuses on identification of the 2010 ADA Standards section numbers for updating references in s.553.501-553.513, Florida Statutes, currently based on the 1991 Standards for Accessible Design and identification of other changes/clarifications necessary to maintain current policy but match the law to the 2010 ADA Standards to prepare for code certification by DOJ. The target date for Phase II is to develop recommendations for the 2011 Legislature.

Phase III commenced October 11, 2010 with a public workshop. In Phase III the Workgroup will review all of the current Florida Specific Requirements and recommend whether there should be any revisions or clarifications. The target date for Phase III will be to develop recommendations for the 2011 Legislature.

SUMMARY OF WORKGROUP MEETINGS

During Meeting I (February 2, 2009), The Workgroup voted unanimously to integrate all current Florida Specific requirements into the Proposed DOJ ADA Standards for Accessible Design, June 2008, "Proposed ADA Standards".

During Meeting II (April 6, 2009) Members were requested to identify, discuss and evaluate a range of options regarding the integration of Florida Specific Requirements into the ADA Standards. For each of the Florida Specific Requirements, member's were asked to identify a range of potential options for the Workgroup to consider. A preliminary list of options were proposed by members as a pre-meeting assignment, and the Workgroup was requested to discuss and add any additional relevant options they deemed appropriate.

During Meeting III (August 10, 2009) members continued the process of reviewing options for the integration of Florida Specific Requirements into the Proposed ADA Standards, June 2008. Members reviewed all of the remaining Florida Specific requirements except portions of the parking requirements and the vertical accessibility requirements. Staff will propose a draft integrating these provisions for member evaluation (remaining parking and vertical accessibility requirements).

During Meeting IV (October 12, 2009) members continued the process of reviewing options for the integration of Florida Specific Requirements into the Proposed ADA Standards, June 2008. Members reviewed staff proposal for integration of Florida vertical accessibility requirements.

During Meeting V (December 7, 2009) members focused on the review of options for the integration of Florida Specific Requirements into the Proposed ADA Standards, June 2008 for parking requirements and some "other" requirements. In addition, the Workgroup reviewed the integration of vertical accessibility requirements and some parking and "other" requirements to ensure the integration accurately reflected the Workgroup's intent.

During Meeting VI (February 1, 2010) members reviewed the “Draft Final Draft” to ensure the Florida Specific requirements were integrated into the Proposed ADA Standards, June 2008 as agreed by the Workgroup.

During Meeting VII (April 6, 2010) members reviewed the “Draft Final Draft” to ensure the Florida Specific requirements were integrated into the Proposed ADA Standards, June 2008 as agreed by the Workgroup, and approved final recommendations for the Draft pending DOJ’s completion of rulemaking and review of the final version of the Standards for Accessible Design. Meeting VII completed Phase I of the Accessibility Code Review project.

During Meeting VIII (June 7, 2010) members initiated Phase II of the project and reviewed updated Florida statutory references to ensure the Florida Building Code, Accessibility Volume is correlated with requirements of the new ADA Standards, and proposed statutory changes required to ensure conformance. The target date for Phase II is to develop recommendations for the 2011 Legislature.

Meeting IX initiated Phase III of the project. During Meeting IX (October 11, 2010) members reviewed the final draft integration document and voted unanimously to approve the “Final Draft Based on V.11” of the integration document, and to authorize staff to implement the proposed “corrections document” and the 28 CFR 36 Revised 9/15/10 document into a “Final Draft V.12” for public comment and Workgroup review.

At the conclusion of Phase II the Workgroup initiated Phase III (October 2010) of the project. In Phase III the Workgroup is reviewing all of the current Florida Specific Requirements and recommending whether there should be any revisions or additions. The target date for Phase III will be to develop recommendations for the 2011 Legislature, with critical legislative issue such as integrating 28 CFR 35 into current Florida law for the 2011 Legislature.

During the process of evaluating options, all options voted in favor of with a 75% or greater number of 4’s (acceptable) and 3’s (minor reservations) in proportion to 2’s (major reservations) and 1’s (unacceptable) shall be considered consensus recommendations. Members of the public were also invited to provide feedback and options for evaluation. Between meetings Workgroup members are requested to send their proposed options to Jeff Blair for compilation in the "Florida Specific Requirement Integration Draft".

The Draft Integration Document and other relevant project documents may be viewed or downloaded at the project webpage as follows: <http://consensus.fsu.edu/FBC/accessibility-code.html>

WORKGROUP MEMBERS AND REPRESENTATION

Raul L. Rodriguez, AIA, Chair of the Florida Building Commission, made the following appointments to the Florida Accessibility Code Workgroup. Members are charged with representing their stakeholder group’s interests, and working with other interest groups to develop consensus package(s) of recommendations for submittal to the Commission.

Scott Cannard, Bemmie Eustace, Kiko Franco, Jeff Gross, Jon Hamrick, Jack Humburg, Diana Ibarra, Julia Kates, J.W. Longman, Chris Masal, Sharon Mignardi, Ronald Muschong, John O'Connor, Barbara Page, Catherine Powell, Ben Ritter, Larry Schneider, Jim Schock, Shelly Siegal, Julie Shaw, Randy Vann, and Phillip Wisely.

REPORT OF THE JANUARY 20, 2011 WORKSHOP

Opening and Workshop Attendance

The meeting started at 10:00 AM and approximately 40 people were in attendance.

DCA Staff Present

Rick Dixon, Bruce Ketcham, Mo Madani, and Mary Kathryn Smith.

Workshop Facilitation

The Workshop was facilitated by Jeff Blair from the FCRC Consensus Center at Florida State University. Information at: <http://consensus.fsu.edu/>



Project Webpage

Information on the project, including agenda packets, meeting reports, and related documents may be found in downloadable formats at the project webpage below:

<http://consensus.fsu.edu/FBC/accessibility-code.html>

Agenda Review

Jeff Blair, Workshop Facilitator, reviewed the agenda for the Workshop including the following objectives:

- ✓ To Review Workshop Agenda and Participation Guidelines
- ✓ To Review Florida Accessibility Code Project Scope
- ✓ To Provide an Overview of the Draft 2012 Florida Accessibility Code and the Florida Law and DOJ Regulations Integration Tracking Documents
- ✓ To Consider Statutory Amendments Required to Conform FACBC Code with Revised SAD
- ✓ To Consider Participant Comments Regarding Changes to Florida Law
- ✓ To Identify Needed Next Steps, Assignments and Agenda Items for Next Workshop

Workshop Purpose and Organization Overview

The Florida Building Commission is in the process of conforming the Florida Accessibility Code for Building Construction (FACBC) with the new DOJ Standards for Accessible Design Based on the Final DOJ Rules 28 CFR 35 and 28 CFR 36 as published in the September 15, 2010 Federal Register. The ultimate goal is to have the new FACBC certified by the Department of Justice (DOJ). The Commission convened a Workgroup of stakeholders to develop recommendations for updating the Florida Accessibility Code for Building Construction with US Department of Justice's adoption of the next generation of the ADA Standards for Accessibility Design (ADA Standards). The task is to integrate the relevant Florida standards in ss. 553.501-553.513, F.S., into the 2004 ADAAG as adopted by 28 CFR 36. The Workgroup began with the 2004 ADAAG and DOJ's additions currently adopted in 28 CFR 36 and further additions proposed in its June 8, 2008 Notice

of Proposed Rule (NPR). The DOJ has now completed their adoption process and Florida is in a good position to finalize the new FACBC and receive DOJ certification. The Commission and the Florida Accessibility Code Workgroup are now in the process of soliciting comments from interested stakeholders regarding the integration of Florida Specific Requirements into the new ADA Standards, and any proposed changes to Florida Law. The October 11, 2010 Workshop was the first workshop in a series of efforts to seek public input for the process and proposed changes to Law, and the January 19, 2011 Workshop was the second.

The primary focus for Workshop II is as follows:

- Review the Florida Building Commission's code update project;
- Identify the next steps and plan for completing the 2012 Code;
- Identify the essential law changes;
- Discuss other possible revisions to existing Florida Law; and,
- Initiate public discussion and input on updating accessibility standards.

Workshop Agenda

The key Workshop agenda items were as follows:

- Overview of the Draft 2012 Florida Accessibility Code and Reference Documents Tracking the Integration of Florida Specific Requirements and DOJ Regulations 28 CFR 35 and 28 CFR 36 into the 2010 ADA Standards for Accessible Design (ADA Standards);
- Overview of Staff Recommendations for Changes to Florida Law Necessary to Conform/Certify the Draft 2012 FACBC with the 2010 ADA Standards;
- Discussion of Issues and Recommendations Identified by the Accessibility Code Workgroup and Public Comment at the October 1, 2010 Accessibility Code Workshop; and,
- Identify and Discuss Additional Changes to Florida Law Options.

Draft 2012 Florida Accessibility Code and the Florida Law and DOJ Regulations Integration

Following an overview of the Draft 2012 Florida Accessibility Code and the Florida Law and DOJ Regulations Integration document participants expressed support for the integration, and submittal to the Florida Building Commission for implementation.

Staff Recommendations for Changes to Florida Law Necessary to Conform/Certify the Draft 2012 FACBC with the 2010 ADA Standards

Following an overview of staff recommendations for changes to Florida Law necessary to conform/certify the Draft 2012 FACBC with the 2010 ADA Standards participants expressed support for staff's recommendations for changes to Florida Law, and submittal to the Florida Building Commission for implementation.

Participants Comments Regarding Possible Changes to Florida Law

- Todd Anderson: Asked how to distinguish between the actual requirements and the DOJ advisories. Rick Dixon replied that the only content of the new code will be the technical requirements of the code found in the law and federal rules. The advisory information will be in a separate document as

an advisory to explain the code.

- Larry Schneider: Suggested that the advisories remain embedded in the code, rather than as a separate document.
- Scott Cannard: Suggested continuing to publish a separate document for Chapter 11 as well as being a component of the overall Florida Building Code.
- Todd Anderson: Said the draft code incorporates requirements for curb ramps that exceed the scope of federal curb ramp specifications and they should be clarified.
- Bemmie Eustace: Building officials are not consistent in calculating the number of occupants of a given area, particularly with respect to determining whether five or fewer are in a specific area.
- Chris Zimmerman: Suggested adding a section stating there are no exceptions other than those enumerated in Chapter 553.
- Bemmie Eustace: Suggested adding a modification to remove all levels and replace it with vertical accessibility requirements for only two levels or less in the Florida statutes, and allow the DOJ standards to kick in thereafter.
- Dale Greiner: Suggested using only the DOJ standards, not the Florida code.
- Todd Anderson: The federal regulations are civil rights laws and Florida incorporates them into the building code, which governs more types of facilities than are addressed in the federal guidelines.
- Jack Humburg: Disagreed with eliminating the Florida-specific standards.
- Larry Schneider, representing AIA Florida: AIA Florida supports using as much ADAAG as possible and eliminating most Florida specific requirements. There is no objection to retaining the 29" clear width opening into a bathroom in single family, duplex, triplex and condominiums. Recommend deleting the requirement for 29" doors not otherwise covered by ADAAG or Fair Housing guidelines. Recommend deleting the 72" clear space at the bottom of ramps and using the 60" in ADAAG. Recommend deleting the 18" extension on handrails. Suggest modifying 406.3 to delete the 1:10 standard and make curb ramp flares 1:12. Renumber section on door pressure. Delete the section on specific dining requirements in favor of ADAAG. There is no objection to retaining the Florida-specific requirements for 5% of hotel/motel rooms, and delete any reference to condominiums. Recommend using the ADAAG requirements for detectable warnings. Telephone installation requirements should be consistent with ADAAG. Recommend clarifying that the lavatory within a toilet stall is only mandatory in new construction. Delete any reference to restroom since there is no corresponding language in ADAAG and refer to toilet rooms. Delete requirements for checkout counters and defer to ADAAG. Delete turnstile requirements and defer to ADAAG. Maintain the state agency parking standards. Perpendicular and diagonal accessible parking spaces should conform to ADAAG. Parking space markings should be maintained. Recommend modifying parking requirements to allow a wheelchair user to wheel behind both his/her vehicle and one other. Delete references to multiple entrances in parking section as well as signage for van accessible spaces in open parking areas. Change the dimensions for accessible parking to 11 feet instead of 12 feet with a 5' access aisle. Maintain the standards for entertainment complex parking. Recommend using federal guidelines for on-street parking. The requirements for parallel parking and curb ramps should be consistent with ADAAG. Include a statement that the number of required parking spaces may not be reduced unless a waiver has been granted to permit use of the federal ratio. Add a drawing clarifying the design of the accessible parking sign.
- Ben Ritter: Concerning the striping of Accessible Parking Spaces, there is a great deal of

misunderstanding of 553.5041(6) - Parking spaces for persons who have disabilities - by many Florida code officials and paving/stripping contractors. Accessible parking spaces need to be striped in white and outlined in blue. We see parking spaces all over the state of Florida that have been striped entirely in blue. When code officials and contractors read (553.5041(6)): "*...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....*" it is, understandably, logical for them to believe that they are required to stripe the space ENTIRELY in blue. This is wrong. This requirement is repeated in the FACBC in Section 11-4.6.4 of the Florida Building Code. The misunderstanding can easily be eliminated by amending & clarifying 553.5041(6) and 11-4.6.4 Signage to read: "*Each parking space must be striped in white and 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 - - -*". This amendment would clarify the intention of both the statute and the code.

Concerning access aisles: S. 553.5041(5)(c)1 requires that the "*...access aisle must be striped diagonally to designate it as a no-parking zone.*"

We might further clarify the access aisle striping issue by amending 553.504(5)(c)1 to read: "*... access aisle must be striped diagonally in white to designate it as a no-parking zone.*"

For further clarification, consider adding this wording: The correct markings for accessible parking spaces have *both* white and blue stripes, and access aisles are marked in white."

- Larry Schneider: In Section 553.505, delete the last sentence; change the "on or after" date for code imposition; delete exception #1 for vertical accessibility; delete the portion exempting five or fewer employees; and maintain the requirements for van parking in garages.
- Todd Anderson: Recommended no differentiation between the types of parking, e.g. public, employees or in the case of schools, students.
- Sandy Shroka: Water closets in hotel rooms should not be 15 inches high; the bed height in accessible rooms should be standardized since higher mountings are unusable for many wheelchair users and the elderly.
- Larry Schneider: Signs designating accessible parking should be mounted a minimum of 84 inches above grade.
- Jack Humburg: Recommended retaining the ratio of required accessible seats in the Florida code rather than the new federal standards which do not provide as many, particularly in large venues.
- Diana Ibarra (clarified workshop comment in writing): Texas has a fairly well-organized system of accessible plan review that takes the accessible plan review off of the building department and provides checks and balances for out-of-state architects and Owners working in Texas. The Texas Department of Licensing and Regulation has an established list of Accessibility Plan Reviewers who are independent contractors and not tied to the state or county. The Architect or Owner is required to contract to one of the reviewers which is the Architect's/Owner's choice as the reviewers are dispersed across Texas so it's possible to have a reviewer very near your project (some charge hourly for the drive time). The Architect must submit plans to the Accessibility reviewer within 2 days of submitting to the Bldg. Dept. for a permit application. It works better to submit 1 day before as the Architect's license can be in peril for non-compliance. The plan reviewer then issues a number that is required on the Permit Application to verify to the jurisdiction that plans have been received for accessibility review. The plan reviewer will review the plans and provide a list of deficiencies, if any, which the architect must correct. The plan reviewer must be notified within 12 months after the Certificate of Occupancy for a site inspection. If there are deficiencies, a 2nd site visit is required. Fees are posted on the varying plan reviewer websites as well as online forms, registration and

payment. As a prudent Architect representing the Owner, it is useful to tie the GC's final retainer release to the Approved Site Inspection as it will ensure that the Inspection occurs more nearly to time of completion vs. 11.5 months afterwards.

Submitted Written Comments

Ben Ritter (Florida Gulf Coast Chapter Paralyzed Veterans of America):

- Recommend amending 553.5041(6), Parking spaces for persons who have disabilities– and 11-4.6.4 Signage – to clarify that correct markings for accessible parking spaces have both white and blue stripes; “...,must be striped in white and prominently outlined in blue...” This amendment would clarify the intention of both the statute and the code.
- Recommend amending 553.504(5)(c)1 and 11-5.6.3 to clarify that access aisles must be striped in white: “The access aisle shall be striped diagonally in white to designate it as a no parking zone.”
- “Van accessible” signs are not necessary in Florida outside of parking structures and spaces with height limitations because all of Florida’s 12’ and 5’ spaces are van accessible. Recommend amending 11-4.6.4 Signage – Add: “Van accessible signs are not required outside of parking structures.”
- Wheelchair users have difficulty closing doors behind them when they pull into a toilet room or stall when the door opens out. Recommend amending statute to require door pulls be installed on the hinge side of the doors to accessible toilet rooms. Also amend 11-4.17.5 Doors (to toilet stalls) – Add the above language. This is a cheap, easy fix and would enhance the FACBC.
- Wheelchair users have difficulty transferring to hotel beds that are over 24” high. Recommend limiting hotel bed heights. Range 21”-24” to top of mattress.
- Wheelchair users have difficulty maneuvering in and out of hotel beds. Back boards with vertical bars that can be gripped are very helpful. Recommend amending appropriate statute(s).

Greg Alfsen (Florida Department of Health):

- The sections (101.1, 101.2, and 201.1) of the 2010 ADA and proposed Florida Code imply that only altered existing facilities will require the swimming pool retrofits found in ADA section 1009.
- Is this true for the Florida Code, or will existing facilities that are not altered also be required to retrofit their pools?
- Does the “no safe harbor” clause of ADA Title III require all the existing Florida pools to retrofit by March 2012?
- Will the alteration of a building where a pool is located trigger a requirement to retrofit the pool, or will only the pool alteration trigger the retrofit?
- Is one of the criteria that triggers a requirement to retrofit a pool based upon the cost of an alteration? If yes how much is that threshold?
- How will the FBC determine if compliance is “technically infeasible” for an existing pool facility?

Ben Ritter (Florida Gulf Coast Chapter Paralyzed Veterans of America):

- Concerning 11-4.6.3 Parking spaces. Oregon requires placing an access aisle on the passenger side where there is only one accessible space. I recommend we amend our Florida code to include similar language. Go to: <http://www.aocweb.org/crp/Portals/1/RoadManual/ORS/447/447.233.pdf>
See: 447.233 Accessible parking space requirements; inspection of spaces; violation.
(d) The access aisle shall be located on the passenger side of the parking space except that two adjacent accessible parking spaces may share a common access aisle.
- Concerning Illegal parking in Access Aisles:

It is common to see vehicles with Parking Permits and ISA symbol license plates and Specialty Plates illegally parked in access aisles. This action prevents a wheelchair-user from reentering his or her lift or ramp-equipped vehicle, unless a companion or a courteous passer-by is able to back the van out far enough to allow access. But when the driver with the disability is driving seated in his or her wheelchair, this is not possible because there is no driver's seat for an able bodied person to assist. We receive many complaints from our PVA Members on this issue, and I, myself have experienced this problem twice in the past two weeks.

Yesterday at the Workshop I mentioned that Hawaii requires No Parking signs to be posted in Access Aisles. They amended their statute a few years ago to require signage in access aisles of their VAN ACCESSIBLE spaces because judges were dismissing cases when people with parking permits and specialty plates protested their fines in court. Here in Florida, ALL of our accessible parking spaces are Van Accessible. I recommend we amend our code to require similar signage be placed in all of our state's access aisles. This would be appropriate, given our high population of elderly individuals and veterans and out-of-state visitors with disabilities

Go to: <http://hawaii.gov/health/dcab/parking/> and click on the PDF: How to Design an Accessible Parking Space. Note that Hawaii's "no parking in the access aisle" sign does not display the parking fine. We should include. Go to:

<http://webcache.googleusercontent.com/search?hl=en&q=cache:G157dGn83pUJ:http://www.state.hi.us/health/dcab/pt11219/+Hawaii++State+requirements+for+signage+of+car+and+van-accessible+spaces&ct=clnk>

See §11-219-14 Signage and marking of parking spaces and access aisles §11-219-14 Signage and marking of parking spaces and access aisles. (a) Parking spaces designated as reserved for persons with disabilities shall be identified as follows:

The parking space shall be posted with the following notice signs:

A reserved parking sign with the dimensions and text and graphic sizes as shown on the "Typical Reserved Parking Sign for Persons with Disabilities" (Exhibit 1) and "Typical Reserved Parking Sign for Van Accessible Stall" (Exhibit 2), dated 5/29/02 at the end of this chapter and made a part of this section. The reserved parking sign shall be located at the front of each parking space reserved for persons with disabilities. The reserved parking sign shall be mounted at minimum 80 inches above the finished floor to the bottom of the reserved parking sign, unless technically infeasible because of low ceiling height, in which case the sign shall be mounted at the highest point above the finished floor. The reserved parking sign shall be mounted on a free-standing pole, on a wall, or suspended overhead. The reserved parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the parking space.

If the parking space is designed to accommodate a passenger van, a van-accessible sign with the dimensions and text size shown on Exhibit 2 at the end of this chapter. The van-accessible sign shall be mounted immediately below the reserved parking sign at minimum 80 inches above the finished floor to the bottom of the van-accessible sign, unless technically infeasible because of low ceiling height, in which case the van-accessible sign shall be mounted at the highest point above the finished floor.

Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, the parking space shall be striped on two sides of the parking space. The striping shall be four (4) inches in width and shall be clearly visible in contrast to the parking surface.

(b) Access aisles shall be identified as follows:

Van access aisles shall be posted with a no parking sign with the dimensions and text sizes shown on the "Typical Access Aisle Sign" (Exhibit 3) dated 5/29/02, at the end of this chapter and made a part of this section. The no parking sign shall be mounted at minimum 80 inches above the finished

floor to the bottom of the no parking sign, unless technically infeasible because of low ceiling height, in which case the sign shall be mounted at the highest point above the finished floor. The no parking sign shall be on a free-standing pole, on a wall, or suspended overhead. The no parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the parking space. The no parking sign shall be placed in a location reasonably calculated to call the sign to the attention of drivers.

Access aisles, other than van access aisles, shall not require additional signage.

Go to:

<http://webcache.googleusercontent.com/search?hl=en&q=cache:s-uVZEWx4kgJ:http://hawaii.gov/health/dcab/designaccparkingstall/+hawaii+state+parking+statutes+access+aisle&ct=clnk>

What are the additional (Hawaii) State requirements for signage of car and van-accessible spaces?

The following elements are required on the sign:

- the words "Reserved Parking,"
- the International Symbol of Access,
- the words "Maximum Fine \$500," and
- the words "Placard or Special License Plate Required."
- Minimum sign dimensions are 12" wide by 18" long.
- Minimum mounting height of the "Reserved Parking" sign is 80" from the bottom of the sign to the ground.
- Minimum mounting height of the "Van Accessible" sign is 80" from the bottom of the sign to the ground.
- Access Aisles for van-accessible spaces must have a "No Parking – Access Aisle" sign posted.

Next Steps

At the January 31, 2011 workshop participants will be asked to discuss proposed changes to Florida law and any changes that enjoy support from participants will be conveyed to the Commission for their consideration during their evaluation of proposed changes to Florida law at the February 1, 2011 meeting. Comments submitted by participants and the AIA presentation/proposal are found on the following webpage (linked to Accessibility Code Workshop III agenda):

http://www.dca.state.fl.us/fbc/commission/FBC_0111/ACC_workshop/Accessibility_Code_Workshop_Agenda_13111.htm

It is expected that a statutory recommendation to integrate 28 CFR 35 will be made to the 2011 Legislature to ensure the 2010 FACBC can be certified by the Department of Justice.

Following are the Project's Remaining Goals:

- Revise Draft to Integrate All Final DOJ Rules into the Draft Code;
- Identify Essential Law Changes for Code Update (Current Policies);
- Identify and Develop Consensus on Any Other Changes to Law; and,
- Pursue Changes to Law in 2011 Legislative Session.

Adjournment

There were no further comments and the Workshop concluded at 2:30 PM.

ATTACHMENT 1
WORKSHOP ATTENDANCE

NAME	REPRESENTATION
Dale Greiner	Building Commission
William Twaite	Hills County Health Dept.
Greg Alfsen	FLA Dept. of Health
Scott Cannaro	FDEP, DRP, Bureau of Design and Consulting
Merle Carroll	Otis Elevator
Ben Ritter	FL Gulf Coast Paralyzed Veterans of America
Mia McMillen	Semco Consulting
Nicole Bargeron	Hillsborough Community College
Alex Kobryn	Contractors Exam School
Jack Humburg	PVA- Boley Centers
Barb Page	Disability Rights FLA
Theresa Jones	City of St. Petersburg
Todd Andersen	Self
Ron Muschong	CIL SW FL
Gary Paitthorp	Brack Engineering INC
William Neary	PSI DBPR #SMI 79 DBPR# SMI 51
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Diana Ibarra	Ibarra Collaborative/ FBCC
Wayne Leonard	Jacobs Engineering
Nicholas Nicholson	FBC
Bill Scott	Garaventa Lift
Melinda Watley	Hills. CO. Alliance of Cities with Disabilities

ATTACHMENT 2

PROPOSED STATUTORY CHANGES TO CONFORM FLORIDA LAW TO THE 2010 ADA SAD

Further Changes Recommended for Conforming FL Law to Format and Terminology of the 2010 ADA Standards for Accessible Design No Changes to Current Policy in This Version v.12-28-10

Gray, blue and yellow background shading are tied to the annotated law file indicating where text is located in 1997 FACBC and Draft 2012 FACBC.

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~~ Americans with Disabilities Act Standards for Accessible Design 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~~ Standards for Accessible Design, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to places of public accommodation of Title III entity facilities.

553.503 Adoption of ~~guidelines~~ ADA Standards for Accessible Design.— Subject to the exceptions in s.553.504 ~~modifications of this part~~, the federal Americans with Disabilities Act ~~Accessibility Guidelines~~ Standards for Accessible Design (the standards), and associated requirements as adopted by reference in established by 28 C.F.R. 36, ~~subparts A and D~~, and Title II of Public L. No. 101-336, 28 C.F.R. 35 and 49 C.F.R. 37 are hereby adopted and incorporated by reference as the law of this state. The ~~guidelines~~ requirements of this part shall establish the minimum standards for the accessibility of buildings and facilities built or altered within this state. The ~~1997~~ requirements of this part establish the Florida Accessibility Code for Building Construction ~~and~~ must be adopted by the Florida Building Commission in accordance with chapter 120.

Note: This rewrite of 553.503 will

- directly reference the Standards for Accessible Design which is what the code must be determined substantially equivalent to for certification and clearly provides for capture of federal regulation requirements for new construction and alteration of existing facilities owned by both Title III and Title II entities.*
- provides a clear statement the ADA Standards together with modifications of the statute establish minimum standards for accessibility of facilities.*
- gives an explicit creation of the FACBC in place of the current inferred creation.*
- removes the explicit date thereby clarifying authority for the Commission to adopt new editions when law changes or when the federal ADA Standards changes, i.e harmonizing the with the intent language of 553.502*

- allow including requirements for new construction and alterations of existing facilities owned by Title II entities that are different from requirements for Title III entities to be included in the code. The code covers both Title II and Title III facilities and there are some differences, e.g. elevator exemption (1991 ADA Standards) and residential dwelling units (2010 ADA Standards)

- text added to include definitions from 28 CFR 36 Subpart A that are relevant to the ADA Standards but not included specifically within what the regulations describe as the Standards. Also, correlates with 553.508 reference to 28 CFR s.36.304 and allows including criteria for places of public accommodation in private residences to be included in the code.

- provides for including the US DOT requirements of 49 CFR 37 for public entity transportation facilities, which are referenced in the ADA Standards, in the Code

553.504 Exceptions to applicability of the guidelines standards.--Notwithstanding the adoption of the Americans with Disabilities Act Accessibility Guidelines Standards for Accessible Design pursuant to ~~it~~ 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.
- (2) All new single-family houses, duplexes, triplexes, condominiums, and townhouses shall provide at least one bathroom, located with maximum possible 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.
- (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.
- (4) All curb ramps shall be designed and constructed in accordance with the following requirements:
 - (a) In addition to the requirements in reference ~~4.8.4~~ 405.7 of the guidelines standards, all landings on ramps shall ~~be~~ have not less than 60 inches clear length, and the bottom landing of each ramp shall have not less than 72 inches of straight and level clearance length.
 - (b) Notwithstanding the requirements of reference ~~4.8.5.2~~ 505.10.1 of the guidelines standards, 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. **Moved from (5)(a)**
- (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~~ 505.10.1 of the guidelines standards, 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. **Move to (4)(b)**
 - (b) Notwithstanding the requirements of references ~~4.3.3~~ and ~~4.8.3~~ 405 and 406 of the guidelines standards, curb ramps that are part of a required means of egress shall be not less than 44 inches wide.
 - (c) Notwithstanding the requirements of reference ~~4.7.5~~ 406.3 of the guidelines standards, 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.
- (6) Notwithstanding the requirements in reference ~~4.13.14~~ sections 206 and 404 of the guidelines standards, 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.
- (7) Notwithstanding the requirements in reference ~~4.33.4~~ sections 221 and 226 of the guidelines standards, 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~~ 201 of the guidelines shall provide seating or spaces for seating in accordance with the following requirements:

(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

(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.

(8) Notwithstanding the requirements in ~~references 4.32.1-4.32.4~~ sections 206 and 402 of the ~~guidelines-standards~~, 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.

****Clarify this. Currently it is only applied to restaurants and bars but current reference to 4.1 is general.**

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

(a) Grab rails in bathrooms and toilet rooms that comply with ~~s. 4.16.4604.5~~ of the ~~guidelines-standards~~.

(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, F.S., 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~~ sections 224 and 806 of the ~~guidelines standards~~.

(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.

NOTE: ELIMINATION OF THE ANSI STANDARD A117.1-1986 FROM LAW IS NECESSARY FOR CERTIFICATION OF THE CODE FOR THE SINGLE DUE TO CONFLICT WITH TRUNCATED DOME REQUIREMENT FOR DETECTABLE WARNINGS.

THE 2010 ADA STANDARDS ELIMINATE DETECTABLE WARNING REQUIREMENTS FOR "HAZARDOUS VEHICULAR WAYS AND REFLECTING POOLS" CURRENTLY COVERED BY THE CODE AND RETAINS THEM ONLY FOR PLATFORM BOARDING EDGES. THIS WILL APPLY TO BOTH PUBLIC ENTITIES' AND PRIVATE ENTITIES' TRANSPORTATION FACILITIES.

THE US DOT REGULATIONS 49 CFR 37, APPENDIX A REQUIRE TRUNCATED DOME DETECTABLE WARNINGS ON CURB RAMPS FOR TRANSPORTATION FACILITIES COVERED BY 49 CFR 37, i.e. PUBLIC ENTITIES PER 37.41 (NEW CONSTRUCTION) AND 37.43 (ALTERATIONS). PRIVATE ENTITIES' TRANSPORTATION FACILITIES COMPLY WITH DOJ'S REGULATIONS 28 CFR 36 REQUIREMENTS PER 49 CFR, SECTION 37.45 (CONSTRUCTION AND ALTERATION BY PRIVATE ENTITIES).

Renumber (11) – (15) below if (10) is eliminated.

(11) Notwithstanding the requirements in ~~references 4.31.2 and 4.31.3~~ section 207 of the ~~guidelines-standards~~, the installation and placement of all public telephones shall be governed by the rules of the Florida Public Service Commission.

(12) Notwithstanding the requirements in ~~references 4.1.3(11) and 4.16-4.23~~ sections 213 and 604 of the ~~guidelines standards~~, required ~~restrooms-bathing rooms~~ and toilet rooms in new construction shall be designed and constructed in accordance with the following requirements:

(a) The standard accessible ~~restroom-stall~~ ~~toilet room~~ and ~~bathing room~~ ~~toilet compartment~~ 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-section 604~~ of the ~~standards~~ for the standard accessible ~~stall-compartment~~ and to comply with ~~s. 4.19~~ section 606 of the ~~guidelines-standards~~. Such lavatories shall be counted as part of the required fixture count for the building.

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

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

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

(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-standards~~.

(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.

NOTE THIS REQUIREMENT FOR REMOVAL OF BARRIERS NEEDS TO BE CLARIFIED. BUILDING CODES ONLY IMPOSE REQUIREMENTS WHERE ALTERATIONS REQUIRE PERMITS SO BETTER WORDING WOULD CLARIFY INTENT.

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 Standards for Accessible Design~~, 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) Standards for Accessible Design (the standards)~~, and associated requirements as ~~adopted by reference in~~ established by 28 C.F.R. 36, subparts A and D, and Title II of Public L. No. 101-336 28 C.F.R. 35; and 49 C.F.R. 37 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 right-of-way width than would otherwise be planned under regulations, guidelines, or practices normally applied to new development.

(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 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.

(4) The number of accessible parking spaces must comply with the parking requirements in ~~ADAAG the standards s. 4.1 section 208~~ 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.

(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 standards ss. 4.1.2 and 4.6 sections 502 and 503 and Appendix s. A4.6.3 "Universal Parking Design."~~

(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.

(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.

(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 the standards s. 4.6.3 section 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.

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.

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 the standards sections 208 and 502~~.

(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 standards sections 208 and 502, 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 the standards sections 208 and 502.

(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, where feasible.

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

(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.

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.

(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 and which bears the international symbol of accessibility meeting the requirements of ADAAG s. 4.30.7 the standards 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 the standards reference 502.6.

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.

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 Standards for Accessible Design pursuant to s. 553.503 in accordance with chapter 120.

553.507 Exemptions Applicability.—

Sections 553.501-553.513 do not and the code shall apply to any of the following:

(1) ~~All areas of newly designed and newly constructed Bbuildings, structures, or and facilities that were either under construction or under contract for construction on October 1, 1997 as determined by the federal standards adopted pursuant to s.553.503 and established by the code.~~

(2) ~~Portions of altered buildings and facilities as determined by the federal standards adopted pursuant to s.553.503 and established by the code. Buildings, structures, or facilities that were in existence on October 1, 1997, unless:~~

~~(a)(3) AThe building, structure, or facility that is being converted from residential to nonresidential or mixed use; as defined by the Florida Building Code shall comply as a minimum with s.553.508 and the requirements for alterations as determined by the federal standards adopted pursuant to s.553.503 and established by the code. 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~~

~~(e)(4) Buildings and facilities where~~ The original construction or any former alteration or renovation of the building, structure, or facility was carried out in violation of applicable permitting law.

This rewrite will allow the Commission to ensure the application of editions of the code can be consistent with the federal standards they are based on by allowing applicability and effective dates to be established by the code rule instead of law.

It puts applicability criteria in positive instead of negative terms.

It uses language more consistent with the federal standards for newly designed and constructed buildings and altered portions of existing buildings and facilities.

It retains the additional call out for buildings built or altered without permits.

It modifies the requirement for applying accessibility requirements for buildings undergoing changes of occupancy/use classifications. The first modification is to revise the definition of change of occupancy/use to the Florida Building Code (this should have been revised when the FBC took effect but was missed). The second modification is it expands to all changes of occupancy/use in lieu of just residential to non-residential or mixed use. Note changes of occupancy/use usually involve mandatory modifications to buildings to comply with other building code minimum standards but in the odd event no modification was needed this change would apply the architectural barrier removal pursuant to the "readily achievable" standard established by federal law and regulation and the technical criteria of the code.

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.

553.509 Vertical accessibility.--

(1) Nothing in ss. 553.501-553.513 or the ~~guidelines-standards~~ 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-standards~~ require an elevator to be installed in such building, structure, or facility, except for:

(a) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, and automobile lubrication and maintenance pits and platforms;

(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 persons, including, but not limited to, equipment control rooms and projection booths.

:

Note: Subsections (2)(a) through (2)(f) [see below] are not part of the Accessibility Code.

:

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

(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.*

NOT INCLUDED IN 2007 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 INCLUDED IN 2007 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 INCLUDED IN 2007 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 INCLUDED IN 2007 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 INCLUDED IN 2007 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 prewiring 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~~ Standards for Accessible Design.

NOT INCLUDED IN 2007 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.

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

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.
