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## 3 **Accessibility Commentary**

4 March 2002 comments (to line 367)

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7 As of the deadline February 25, 2002 the following persons submitted comments for potential  
8 integration within the existing document:

9 Larry Schneider - comments

10 Sharon Mignardi - comments

11 Johnny Long - comments

12 Andrea Williamson - comments

13 Kathy Butler- Legal comments

14 Bruce Ketcham- staff recommendation, integration and formatting of comments.

15 **Bruce Ketcham**

16 Staff to the Florida Building Commission

17 Staff recommendation: To include all accessibility relevant declaratory statements as part of the  
18 commentary. The DEC statements could be added as the FBC is developed or amended.

19 **Larry M. Schneider, AIA**

20 Accessibility TAC member to the FBC

21 General comment: Relevant to the existing document and applying to all sections within it.

22 When we first generated this document, it was thought of as part of  
23 a training guide and "helper." Since that time the Access Board has  
24 published the ADAAG MANUAL - A guide to the ADAAG. I would strongly  
25 recommend that we forget about what we have done in the past (consider using  
26 it as informational only) and use the ADAAG MANUAL as the bases for any type  
27 of commentary document.

28 **Sharon Mignardi** <[smignardi@worldnet.att.net](mailto:smignardi@worldnet.att.net)>

29 Accessibility TAC member to the FBC

30 General comment: Relevant to the existing document as well as a proposed alternate.

31 1. The Florida Accessibility Code Training Commentary is not a code  
32 commentary. It was developed as a training manual, basically a question  
33 and answer from the ADA or legal opinions from DCA (something that was  
34 already published). Do we have the authority to work on this document  
35 if it is not a Code commentary?.

36 2. A code commentary is an explanation of a code section. It is  
37 organized as follows: the code section is stated, there is an  
38 explanation of the code section, and sometimes examples are given to  
39 clarify the explanation or further explain. See included examples in sections, 11-9.1.2,  
40 Accessible Units, Sleeping Rooms, and Suites, 11-9.1.3 Sleeping Accommodations for Persons  
41 with Hearing Impairments.

42 Note: Some of the questions and answers in the Code Training Commentary may be  
43 able to be adapted to be incorporated into the Code Commentary. A  
44 beginning point for the Code Commentary can be the Appendix to ADAAG,  
45 DOJ technical bulletins, Access Board Bulletins, DCA legal opinions and  
46 DEC statements etc. Another source could be the model codes that have  
47 similar requirements in the code. Another way to start would be to look  
48 at problem areas in the code elements that are consistently constructed  
49 wrong or misinterpreted. an example would be the vertical accessibility  
50 to all levels. Everyone will have their own opinion on this, but it  
51 identifies areas that need commentary.

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53 3. The last point I want to make is that this will take several  
54 months or more to develop, depending on how much participation there is,  
55 and how much work is done outside the meetings. The Code Training  
56 Manual took over 2 years to develop. The work involved was limited to  
57 finding information already published on the code, reviewing it and  
58 incorporating it into the manual for others to review. This endeavor  
59 will require writing explanations of code sections and then reviewing  
60 this information with the committee.

61 Code section and commentary

62 **11-9.1.2 Accessible Units, Sleeping Rooms, and Suites.** Accessible  
63 sleeping rooms or suites that comply with the requirements of 11-9.2.1  
64 to 11-9.2.2 (Requirements for Accessible Units, Sleeping Rooms, and  
65 Suites) shall be provided in conformance with the table below. In  
66 addition, in hotels, of 50 or more sleeping rooms or suites, additional  
67 accessible sleeping rooms or suites that include a roll-in shower shall  
68 also be provided in conformance with the table below. Such  
69 accommodations shall comply with the requirements of 11-9.2, 4.21, and  
70 Fig. 57(a) or (b).

| 71 Number of Rooms | Accessible Rooms | Rooms with Roll-in |
|--------------------|------------------|--------------------|
| 72 Showers         | Florida 5%       |                    |

|            |   |  |
|------------|---|--|
| 74 1 to 25 | 1 |  |
|------------|---|--|

|             |   |  |
|-------------|---|--|
| 75 26 to 50 | 2 |  |
|-------------|---|--|

|    |  |                                  |
|----|--|----------------------------------|
| 76 | 51 to 75                                     | 3                                |
| 77 | 1  |                                  |
| 78 | 76 to 100                                    | 4                                |
| 79 | 1  |                                  |
| 80 | 101 to 150                                   | 5                                |
| 81 | 2  | (See text below)                 |
| 82 | 151 to 200                                   | 6                                |
| 83 | 2  |                                  |
| 84 | 201 to 300                                   | 7                                |
| 85 | 3  |                                  |
| 86 | 301 to 400                                   | 8                                |
| 87 | 4  |                                  |
| 88 | 401 to 500                                   | 9                                |
| 89 | 4, plus one for each additional 100 over 400 |                                  |
| 90 | 501 to 1000                                  | 2% of total                      |
| 91 | 1001 and over                                | 20 plus 1 for each 100 over 1000 |

92 In all buildings, structures and facilities licensed as a hotel, motel,  
 93 or "Resort Condominium" pursuant to Chapter 509, Florida Statutes, a  
 94 number of rooms equaling at least 5 percent of the guest rooms minus the  
 95 number of accessible rooms required by the table above shall provide the  
 96 additional special accessibility features of 11-9.2.3.

97 **Code Commentary**

98 The number of accessible rooms is calculated separately from the rooms  
 99 with roll-in showers and the Florida 5% special accessibility features.  
 100 The number of rooms with roll-in showers is in addition to the number of  
 101 accessible rooms. For example, a proposed 300 room hotel requires 7  
 102 accessible rooms and 3 additional accessible rooms with roll-in showers  
 103 for a total of 10 accessible rooms. In addition to that, 5 additional  
 104 rooms are required to meet the Florida 5% special accessibility feature  
 105 in section 11-9.2.3. The Florida 5% is calculated as follows: 300  
 106 hotel rooms x 5% = 15 minus 10 (the number of accessible rooms required  
 107 by table 11-9.1.2) = 5 rooms with the special accessibility features  
 108 required in section 11-9.2.3. The 10 accessible rooms would have to  
 109 comply with 11-9.2.2 for minimum requirements which includes hearing  
 110 impaired requirements in section 11-9.3. The roll-in showers shall  
 111 comply with figure 57a or b.

Code section and commentary

**11-9.1.3 Sleeping Accommodations for Persons with Hearing Impairments.**

In addition to those accessible sleeping rooms and suites required by 9.1.2, sleeping rooms and suites that comply with 9.3 (Visual Alarms, Notification Devices, and Telephones) shall be provided in conformance with the following table:

| <u>Number of Elements</u> | <u>Accessible Elements</u>         |
|---------------------------|------------------------------------|
| -                         |                                    |
| <u>1 to 25</u>            | <u>1</u>                           |
| <u>26 to 50</u>           | <u>2</u>                           |
| <u>51 to 75</u>           | <u>3</u>                           |
| <u>76 to 100</u>          | <u>4</u>                           |
| <u>101 to 150</u>         | <u>5</u>                           |
| <u>151 to 200</u>         | <u>6</u>                           |
| <u>201 to 300</u>         | <u>7</u>                           |
| <u>301 to 400</u>         | <u>8</u>                           |
| <u>401 to 500</u>         | <u>9</u>                           |
| <u>501 to 1000</u>        | <u>2% of total</u>                 |
| <u>1001 and over</u>      | <u>20 plus 1 for each 100 over</u> |
| <u>1000</u>               |                                    |

**Code Commentary:**

In the example above in section 11-9.1.2, an additional 7 rooms would have to meet the requirements of 11-9.3 for persons with hearing impairments. These rooms do not have to provide accessibility features for persons with mobility impairments. The 10 fully accessible rooms required in section 11.9.1.2 provide features for both mobility and hearing impaired persons.

**Johnny Long**

Accessibility Council member

142 Bruce, for many reasons I did miss your deadline. I wanted you to know that I after reviewing the  
143 complete document that I had the following concerns:

144 1. Construction grand-fathered /or exempted from the Code See pg. 8 of 30 Lines 7 though 19 - Seems to  
145 conflict/ this is one of the major reasons for the Waiver Council.

146 Suggestion: Change the language to include that under the Federal Title 3 of the Americans with  
147 Disabilities Act and its administrative regulations; that Florida can not waive any Federal requirements.

148 2.4.1.1(3) Vertical Accessibility-Same pg., line 25- See ADAAG requires an elevator to be installed in a  
149 building, structure or facility, except for:

150 Suggestion: Change the language to include elevator and or/other lifts devices.

151 3. 4.1.5(5) New Construction-Same pg. line 42 though pg. 9 line 5- Suggestion: Start this item with  
152 information concerning the Fl. Building Commission Waiver Council will review an application for waiver  
153 of the Code due to structurally impracticable new construction. The waiver can then be reviewed by the  
154 entire Fl. Building Commission; the Commissioners are the state's agency capable to deny or grant  
155 construction waivers.

156 4. Parking Permits (permanent and temporary status) for Medically Certified Mobility Impairments should  
157 be included on line 39 pg.9 .

158 5. Pg. 13 4.1.6 Note: that there are no disproportionate cost ceiling provided for vertical accessibility. See  
159 Kathy Butler memo and date.

160 6. See pg. 17 Line- 4.3.11.4 Two Way Communication

161 Change language to include accessible transient lodging for providing emergency communication 9.1.2  
162 Accessible Transient Lodging.

163 7. Pg, 18 Line 39- Change language to include the word safest to the wording -However, accessible  
164 spaces can and should be located closest and safest accessible entrances.

165 8. Pg. 27 Line 17- Change Federal ADA - Suggestion: include Federal ADA requirements that Florida can  
166 not waive. Florida requires that vertical accessibility must be met (if structurally possible).

167 **Andrea Williamson**

168 Accessibility Council member to the F.C.

170 Explanation of the difference between a stall 11-4.17 and a toilet room 11-4.22;  
171 Site language from the code on these issues

172 11-4.17 when alternate design for stalls (Fig. 30b) can be used versus the standard stall (Fig. 30a);

173 α explanation of ADAGE for Children's Facilities and where the **FACE F.C.** requirements may  
174 conflict and trigger requesting a waiver; Research conflict?

175 α Assistive Listening Devices - explanation as to what type of ADD would compliment the specific  
176 facility based on the nature of that facility and it's use; Site code language and section here.

177 α general examples of undue hardship (unnecessary or extreme hardship); I think this would

178           come from the waiver and not sure it is in the existing scope of work, research this.  
179       α   general examples of technical infeasibility; Site language and section from the code  
180       α   basic explanation of legal interpretation regarding the 20% disproportionate cost and vertical  
181           accessibility requirements.

182       Integrate legal's (Kathy Butler's ) opinion here:

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185       **FLORIDA DEPARTMENT OF COMMUNITY**  
186           **AFFAIRS**

187       **OFFICE OF THE GENERAL COUNSEL**

188       **GENERAL GOVERNMENT SECTION**

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191       **(850) 488-0410   SUNCOM 278-0410**

192       **FAX (850) 922-2679**



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**M E M O R A N D U M**

196       TO:                   Whom It May Concern

197       FROM:           Kathy Butler  
198                   Assistant General Counsel

199       SUBJECT:Accessibility Issues

200       DATE:                June 6, 2000

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202

203           This memorandum explores two accessibility issues which have recently caused a certain  
204           amount of confusion.

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**1. QUESTION: Can the federal accessibility exception based on disproportionate cost be applied to the Florida vertical accessibility requirement?**

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**ANSWER: No. Under the current law, the federal disproportionate cost exception may not be applied to the Florida vertical accessibility requirement. The federal disproportionate cost exception may be used only when complying with the federal path of travel requirement.**

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This issue is particularly confusing because until Florida law was changed in 1997, the federal accessibility exception could properly be applied to the requirement of vertical accessibility, as set forth in a 1993 memorandum authored by attorney Alfred O. Bragg, III. However, legislative action in 1997 deleted two items from the applicable statute, section 553.507, which resulted in a removal of all reference to disproportionate cost in Florida law. A copy of the 1997 legislation is attached to this memo.

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Disproportionate cost is a federal exception which applies to the federal path of travel requirement. Under section 303(a) of the Americans With Disabilities Act (ADA), when a facility subject to the ADA is altered to a certain degree, the alterations must be made so that the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible, as long as the cost of making the path of travel accessible is not disproportionate to the cost of the overall alteration. *See* 42 USC 12183(a)(2). The cost of providing an accessible path of travel is disproportionate if it exceeds 20% of the cost of the overall alteration. *See* 28 CFR 36.403(f)(1).

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Current Florida law does not include any reference to disproportionate cost, but the Florida Americans With Disabilities Act (Act) does include section 553.509, which states that “[n]othing in sections 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 . . . .” § 553.509, Fla. Stat. (1999) (emphasis added). If a building is subject to the Act, then nothing, not anything elsewhere in the Act or anything in the ADAGE, including the disproportionate cost exception, relieves the owner of the duty to provide vertical accessibility. Of course, vertical accessibility will not have to be provided if the situation falls under one of the exceptions to vertical accessibility described in section 553.509 and in various locations in the Florida Accessibility Code for Building Construction. These exceptions include unoccupiable spaces not designed for human occupancy and occupiable spaces not open to the public that house no more than five people. *See id.* The building official determines whether a situation falls under these exceptions.

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Other than the statutory exceptions to vertical accessibility, the only way an owner may avoid providing vertical accessibility to all levels is to obtain a waiver from the Florida Building Commission. Section 553.512, Florida Statutes, authorizes the commission to

245 waive Florida accessibility requirements “upon a determination of unnecessary,  
246 unreasonable, or extreme hardship.” § 553.512(1), Fla. Stat. (1999). One of the three  
247 criteria for determining such a hardship is “[t]hat substantial financial costs will be  
248 incurred by the owner if the waiver is denied.” R. 9B-7.006, Fla. Admin. Code (2000).  
249 Therefore, the commission can consider cost of compliance when deciding whether to  
250 grant a request for waiver of the vertical accessibility requirement.

251 **2. QUESTION: What triggers the application of Florida accessibility**  
252 **requirements in existing buildings?**

253 **ANSWER: When a building owner is making an alteration to the building and the**  
254 **alteration affects or could affect usability of or access to a primary function area,**  
255 **the owner must comply with Florida accessibility requirements, including the**  
256 **vertical accessibility requirement.**

257 Florida Statutes section 553.507(2)(b) states that the Florida Americans with Disabilities  
258 Act (Act) and the accessible parking requirements set forth in section 316.1955, Florida  
259 Statutes, do not apply to buildings in existence on October 1, 1997, unless “[t]he  
260 proposed alteration . . . will affect usability or accessibility to a degree that invokes the  
261 requirements of s. 303(a) of the ADA.” § 553.507(2)(b), Fla. Stat. (1999) (emphasis  
262 added). This means that the trigger, or type of alteration, that requires existing buildings  
263 to comply with Florida accessibility requirements is the same one that invokes the  
264 requirements of section 303(a) of the ADA. I examined section 303(a) of the ADA to  
265 determine what trigger invokes the requirements of that section. A copy of section  
266 303(a) of the ADA is attached to this memo.

267 There is only one requirement in section 303(a) of the ADA. Section 303(a) describes  
268 discrimination against individuals with disabilities by public accommodations and  
269 commercial facilities under the ADA. Section 303(a)(1) states discrimination includes a  
270 failure to design and construct new facilities that are readily accessible to and usable by  
271 individuals with disabilities. 303(a)(2) states discrimination includes failure to make  
272 alterations in such a manner that, to the maximum extent feasible, the altered portions of  
273 the facility are readily accessible to and usable by individuals with disabilities. Neither  
274 of these descriptions of discrimination is a “requirement” capable of being invoked. The  
275 sole requirement in this section of the ADA is section 303(a)(2), which includes the  
276 language, “where the entity is undertaking an alteration that affects or could affect  
277 usability of or access to an area . . . containing a primary function, the entity shall also  
278 make the alterations in such a manner that, to the maximum extent feasible, the path of  
279 travel to the altered area and the bathrooms, telephones, and drinking fountains serving  
280 the altered area, are readily accessible to and usable by individuals with disabilities  
281 where such alterations to the path of travel or the bathrooms, telephones, and drinking  
282 fountains serving the altered area are not disproportionate to the overall alterations in  
283 terms of cost and scope” (emphasis added).

284 Accordingly, the trigger that “invokes the requirements of section 303(a) of the ADA” is  
285 **an alteration that affects or could affect usability of or access to an area containing**  
286 **a primary function.** It is important to note that here we are only concerned with the  
287 trigger, not with the requirement itself. The concepts of path of travel, maximum extent  
288 feasible, and disproportionate cost have nothing to do with what invokes the  
289 requirements of 303(a), they are the requirements. Also, the trigger is not an alteration to  
290 a primary function area, but an alteration that affects usability of or access to a primary  
291 function area. It may be helpful to think of the trigger for Florida accessibility  
292 requirements as being the same type of alteration that triggers the federal path of travel  
293 requirement.

294 Therefore, when a proposed alteration affects or could affect the usability of or access to  
295 an area containing a primary function area, the accessibility requirements in the Act  
296 (including vertical accessibility) and section 316.1955 kick in. It is up to the professional  
297 judgment of the building official to determine whether an alteration affects or could  
298 affect such usability or access. Section 36.403 of 28 CFR Part 36 (federal regulations  
299 implementing Title III of the ADA) and the definition section of the FACBC provide  
300 guidance as to primary function areas and alterations to primary function areas. A copy  
301 of section 28 CFR 36.403 is attached to this memo. Sections III-6.1000 and III-6.2000 in  
302 the Dept. of Justice Title III Technical Assistance Manual may provide further  
303 information.

304 **Please note:** this determination as to when Florida accessibility requirements are  
305 triggered for existing buildings does not affect the applicability of federal accessibility  
306 requirements in any way whatsoever. If an owner is making an alteration to a two-story  
307 building that does not affect usability of or access to a primary function area, even though  
308 the owner must pull a permit to begin the project, the project is exempt from Florida  
309 accessibility requirements. However, pursuant to section 4.1.6(1)(b) of ADAGE, which  
310 requires altered existing elements, spaces or common areas to “comply with the  
311 applicable provisions of 4.1.1 to 4.1.3 Minimum Requirements (for New Construction),”  
312 the altered element must still be made accessible according to ADAGE standards. In this  
313 case, of course, the requirement for vertical accessibility would not be triggered, because  
314 vertical accessibility to all levels is required only in a “building, structure, or facility  
315 governed by” the Act.

316 Further, the discussion here does not affect the opinion set forth in the first part of this  
317 memo that in Florida, the disproportionate cost exception may only be used in  
318 conjunction with the federal path of travel requirement, and not with the Florida vertical  
319 accessibility requirement. As long as the Florida accessibility requirements apply to a  
320 building with more than one level, meaning the proposed alteration affects usability of or  
321 access to a primary function area, then vertical accessibility is required unless the  
322 situation falls under one of the statutory exceptions or a waiver is obtained from the  
323 Building Commission. END

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326 **Comments from Kathy Butler/Legal:** (further comments appear in italics within document)

327 - agree with suggestion to use document such as Access Board’s ADAGE Manual as base for  
328 FACBC commentary rather than using this Training Manual. However, I would recommend  
329 also discussing the use of guidance documents distributed by DOJ (ADAGE Appendix; Title II  
330 and III Technical Assistance Manuals) rather than those distributed by the Access Board, as DOJ  
331 is the federal entity that adopted ADAGE as minimum design standards and is the agency with  
332 enforcement authority. If any federal documents are used, be sure to clearly indicate where  
333 Florida requirements differ from federal requirements.

334 - strongly recommend inclusion of introductory disclaimer language that this document is not  
335 binding or enforceable and is only advisory - earlier versions of the Training Manual included a  
336 “Preface” that stated this perfectly.

337 - recommend ensuring that everything is cited, and cited correctly (and with consistent citation  
338 form). I noticed several citations to the ADA Handbook, which is no longer published; I think  
339 the same info appears in the two Tech. Assistance Manuals. Also recommend including a key to  
340 citations used throughout the document.

341 - how far can the commentary go? Per section 553.77(6), Fla. Stat., code “commentary must be  
342 limited in effect to providing technical assistance and must not have the effect of binding  
343 interpretations of the code document itself.” I believe this would preclude stating specific  
344 dimensional requirements in the commentary when such dimensions are general in the code –  
345 that would be interpreting the code.

346 **Legislative changes affecting affecting the accuracy of this document.**

347 **General:**

348 The Florida Accessibility Code (the Code) consists of eleven main sections and a separate appendix.  
349 Sections 1 through 3 contain general provisions and definitions. Section 4 contains scoping  
350 provisions and technical specifications applicable to all covered buildings and facilities. The scoping  
351 provisions are listed separately for new construction of sites and exterior facilities; new construction  
352 of buildings; additions; alterations; and alterations to historic properties. The technical specifications  
353 generally reprint the text and illustrations of the ANSI A117.1 standard, except where differences  
354 are noted by italics federal Americans with Disabilities Act Accessibility Guidelines (ADAGE)  
355 except where Florida law differs and this is so indicated. Sections 5 through 9 of the Code are  
356 special application sections and contain additional requirements for restaurants and cafeterias,  
357 medical care facilities, business and mercantile facilities, libraries, and transient lodging,  
358 transportation facilities, residential buildings, theme parks and entertainment complexes. The  
359 appendix to the guidelines contains additional information to aid in understanding the technical  
360 specifications. The section numbers in the appendix correspond to the sections of the guidelines to  
361 which they relate. An asterisk after a section number indicates that additional information appears  
362 in the appendix.

363 The Code's provisions are further explained under Summary of ADAGE. [28 CFR 36, App. B,  
364 4.1.1; FACBC]

365 **Comment from Kathy Butler/Legal:** *The strike-out language in the above paragraph applies*  
366 *only to ADAGE, not to the FACBC.*

367 **END OF COMMENTS**.....

368 **Draft copy of the Florida Accessibility Code Training manual,**  
369 **September 14, 1998**

370 **2.2 Equivalent Facilitation**

371 **What are some specific examples of equivalent facilitation?**

372 In altered areas, elevator car dimensions can be smaller than the standards would mandate for new  
373 construction (4.1.6(3)(c));

374 Rather than install a text telephone next to a pay phone, hotels may keep portable text telephones  
375 at the desk, if they are available 24 hours per day and certain other conditions are met. (4.31.9(3));

376 A folding shelf with space for handling materials back and forth can be used instead of providing  
377 an accessible ticketing or other similar counter (7.2(2) iii);

378 Accessible guest quarters in newly constructed hotels may all be “multiple-occupancy” rooms,  
379 provided that individuals with disabilities who request accessible single-occupancy rooms are  
380 allowed to use the multiple-occupancy rooms at the cost of a single-occupancy room (9.1.4(2));

381 If balconies or terraces cannot be made accessible because wind or water damage will result, a ramp  
382 or raised decking may be used (9.2.2(6)).

383 (ADA Title III Technical Assistance Manual, III-7.2100 Equivalent facilitation.)

384 **Are these the only places where equivalent facilitation can be used?**

385 No. A departure from any provision is permitted as long as equivalent access is provided. However,  
386 portable ramps are not considered equivalent facilitation. (ADA Title III Technical Assistance  
387 Manual, III-7.2100 Equivalent facilitation.)

388 **3.5 Definitions**

389 **Alterations**

390 **What is an alteration?**

391 An alteration is any change that affects usability. It includes remodeling, renovation,  
392 rearrangements in structural parts, and changes or rearrangement of walls and full-height partitions.

393 Normal maintenance, re-roofing, painting, wallpapering, asbestos removal, and changes to electrical  
394 and mechanical systems are not “alterations,” unless they affect usability. (ADA Title III Technical  
395 Assistance Manual, III-6.1000 General)

396 **Commerce**

397 **What does it mean for a facility’s operations to “affect commerce”?**

398 The phrase “affect commerce” is a constitutional law concept frequently used in Federal statutes

399 enacted pursuant to Congress' power to regulate interstate commerce. Some factors to examine in  
400 determining whether a facility's operations affect commerce are:

401 Whether the facility is open to Out-of State visitors:

402 Whether the products it exhibits or sells originated out of State, or have traveled through other  
403 States;

404 Whether facilities of this kind, in the aggregate, would affect interstate commerce.

405 (ADA Title III Technical Assistance Manual 1994 Supplement, III-1.2000 Public accommodation.)

406 Illustration: A private restaurant, located near an interstate highway, serves customers who come  
407 from other States and offers food that contains ingredients grown or processed in a different State.  
408 This restaurant's operations affect commerce because of any one of the following factors,  
409 independently: 1. it serves out-of-state customers: 2. it serves products that originated out of State:  
410 or 3. The restaurant industry as a whole affects interstate commerce. (ADA Title III Technical  
411 Assistance Manual 1994 Supplement, III-1.2000 Public accommodation.)

## 412 **Commercial facilities**

### 413 **What types of facilities fall under the category of commercial facilities?**

414 Factories, warehouses, office buildings and other places of employment. (ADA Handbook, Section  
415 36.104 Definitions.)

### 416 **Are private air terminals considered as a commercial facility?**

417 Yes, private air terminals are commercial facilities and, therefore, would be subject to the new  
418 construction and alteration requirements of title III. Moreover, while a private air terminal, itself,  
419 may not be a place of public accommodation, the retail stores and service establishments located  
420 within a private airport would be places of public accommodation. (ADA Title III Technical  
421 Assistance Manual, III-1.3000 Commercial facilities.)

## 422 **Maximum extent Feasible**

### 423 **What does "maximum extent feasible" mean?**

424 Occasionally, the nature of a facility makes it impossible to comply with all of the alterations  
425 standards. In such a case, features must only be made accessible to the extent that it is technically  
426 feasible to do so. The fact that adding accessibility features during an alteration may increase costs  
427 does not mean compliance is technically infeasible. Cost is not to be considered. Moreover, even  
428 when it may be technically infeasible to comply with standards for individuals with certain  
429 disabilities (for instance, those that use wheelchairs), the alteration must still comply with standards  
430 for individuals with other impairments. (ADA Title III Technical Assistance Manual, III-6.1000  
431 General.)

432 Illustration: A restaurant is undergoing a major renovation. Widening the entrance would affect the  
433 building structure because removal of an essential part of the structural frame would be required.  
434 In this case, it is "technically infeasible" to widen the entrance and the action is not required. (ADA  
435 Title III Technical Assistance Manual, III-6.1000 General.)

436 **Path of Travel**

437 **What is a “path of travel”?**

438 It is a continuous route connecting the altered area to the entrance. It can include sidewalks, lobbies,  
439 corridors, rooms, and elevators. It also includes phones, restrooms, and drinking fountains serving  
440 the altered area. (ADA Title III Technical Assistance Manual, III-6.2000 Alterations: Path of travel.)

441 **Place of public accommodation**

442 **What are public accommodations?**

443 A public accommodation is a private entity that owns, operates, leases, or leases to, a place of public  
444 accommodation. Places of public accommodation include a wide range of entities, such as  
445 restaurants, hotels, theaters, doctor’s offices, pharmacies, retail stores, museums, libraries, parks,  
446 private schools, and day care centers. (The Americans with Disabilities Act Questions and Answers)

447 **Are places of public accommodation and commercial facilities subject to the same**  
448 **requirements?**

449 Both places of public accommodation and commercial facilities (which include many facilities that  
450 are not places of public accommodation) are subject to the requirements for new construction and  
451 alterations. (Florida Accessibility Code for Building Construction, Purpose)

452 **Can a facility be considered a place of public accommodation if it does not fall under one of**  
453 **these 12 categories?**

454 No. The 12 categories are an exhaustive list. However, within each category the examples given  
455 are just illustrations. For example, the category “sales or rental establishments” would include many  
456 facilities other than those specifically listed, such as video stores, carpet showrooms, and athletic  
457 equipment stores. (ADA Title III Technical Assistance Manual, III-1.2000 Public accommodation.)

458 **What if a private entity operates, or leases space to, many different types of facilities, of which**  
459 **only relatively few are places of public accommodation? Is the whole private entity still a**  
460 **public accommodation?**

461 The entire private entity is legally speaking, a public accommodation, but it only has ADA title III  
462 obligations with respect to the operations of the places of public accommodation. (ADA Title III  
463 Technical Assistance Manual, III-1.2000 Public accommodation.)

464 Illustration: ZZ Oil Company owns a wide range of production and processing facilities that are not  
465 places of public accommodation. It also operates a large number of retail service stations that are  
466 places of public accommodation. In this case, ZZ Oil Company would be a public accommodation.  
467 However, only its operations relating to the retail service stations are subject to the broad title III  
468 requirements for public accommodations. The other facilities, however, are commercial facilities  
469 and would be subject only to the requirements for new construction and alterations. (ADA Title III  
470 Technical Assistance Manual, III-1.2000 Public accommodation.)

471 **Are common areas within multifamily residential facilities places of public accommodation?**

472 Yes, if the areas are not limited exclusively to owners, residents and their guests. (The Americans  
473 with Disabilities Act Questions and Answers)

474 Illustration: A private residential apartment complex includes a swimming pool for use by  
475 apartment tenants and their guests. The complex also sells pool “memberships” generally to the  
476 public. The pool qualifies as a place of public accommodation. . (ADA Title III Technical  
477 Assistance Manual, III-1.2000 Public accommodation.)

478 Illustration: A residential condominium association maintains a long-standing policy of restricting  
479 use of its party room to owners, residents, and their guests. Consistent with that policy, it refuses  
480 to rent the room to local businesses and community organizations as a meeting place for educational  
481 seminars. The party room is not a place of public accommodation. (ADA Title III Technical  
482 Assistance Manual, III-1.2000 Public accommodation.)

483 Illustration: A private residential apartment complex contains a rental office. The rental office is  
484 a place of public accommodation. (ADA Title III Technical Assistance Manual, III-1.2000 Public  
485 accommodation.)

486 **Do both a landlord who leases space in a building to a tenant and the tenant who operates a**  
487 **place of public accommodation have responsibilities under the FACBC?**

488 Both the landlord and the tenant are public accommodations and have full responsibility for  
489 complying with all ADA title III requirements applicable to that place of public accommodation.  
490 The title II regulation permits the landlord and the tenant to allocate responsibility, in the lease, for  
491 complying with particular provisions of the regulation. However, any allocation made in a lease or  
492 other contract is only effective as between the parties, and both landlord and tenant remain fully  
493 liable for compliance with all provisions of the ADA relating to that place of public accommodation.  
494 (ADA Title III Technical Assistance Manual, III-1.2000 Public accommodation.)

495 Illustration: ABC Company leases space in a shopping center it owns to XYZ Boutique. In their  
496 lease, the parties have allocated to XYZ Boutique the responsibility for complying with the barrier  
497 removal requirements of title III within that store. In this situation, if XYZ Boutique fails to remove  
498 barriers, both ABC Company (the landlord) and XYZ Boutique (the tenant) would be liable for  
499 violating the ADA and could be sued by an XYZ customer. Of course, in the lease, ABC could  
500 require XYZ to indemnify it against all losses caused by XYZ’s failure to comply with its  
501 obligations under the lease, but again, such matters would be between the parties and would not  
502 affect their liability under the ADA. (ADA Title III Technical Assistance Manual, III-1.2000 Public  
503 accommodation.)

504 **Are model homes places of public accommodation?**

505 Generally, no. A model home does not fall under one of the 12 categories of places of public  
506 accommodation. If, however, the sales office for a residential housing development were located  
507 in a model home, the area used for the sales office would be considered a place of public  
508 accommodation. (ADA Title III Technical Assistance Manual, III-1.2000 Public accommodation.)

509 **If a public accommodation operating two geographically separate facilities serves clients or**  
510 **customers at one location and has only administrative offices at another, are both sites places**  
511 **of public accommodation?**

512 No. Only the facility in which clients or customers are served is covered as a place of public  
513 accommodation. The geographically separate, employees--only facility is a commercial facility, but

514 any activities undertaken in that facility that affect the operations of the place of public  
515 accommodation are subject to the title III requirements for public accommodations. (ADA Title III  
516 Technical Assistance Manual, III-1.2000 Public accommodation.)

517 **What does social services center establishments include?**

518 Social service center establishments would include the types of establishments listed, day care  
519 centers, senior citizen centers, homeless shelters, food banks, adoption agencies, but also  
520 establishments such as substance abuse treatment centers, rape crisis centers, and halfway houses.  
521 (ADA Handbook, Section 36.104 Definitions.)

522 **Are nursing homes, congregate care facilities, independent living centers, and retirement  
523 communities covered as places of public accommodation?**

524 Some may be. Nursing homes are expressly covered in the title III regulation as social service  
525 center establishments. Similar residential facilities, such as congregate care facilities, independent  
526 living centers, and retirement communities, are covered by title III, if they provide a significant  
527 enough level of social services that they can be considered social service center establishments.  
528 Social services in this context include medical care, assistance with daily living activities, provision  
529 of meals, transportation, counseling, and organized recreational activities. No one of these services  
530 will automatically trigger ADA coverage. Rather, the determination of whether a private entity  
531 provides a significant enough level of social services will depend on the nature and degree of the  
532 services.

533 If a facility provides a significant enough level of social services such that it can be considered a  
534 social service center establishment, all of those portions of the facility that are used in the provision  
535 of the social services are covered by the ADA. For example, if the social services are provided  
536 throughout the facility, including in the individual housing units, then the entire facility is a place  
537 of public accommodation, covered by title III. (ADA Title III Technical Assistance Manual 1994  
538 Supplement, III-1.2000 Public Accommodation.)

539 **Are group homes covered?**

540 Not always. Like congregate care facilities and the other dual residential/social service facilities  
541 discussed above, group homes are covered by title III if they provide a significant enough level of  
542 social services to be considered social service center establishments. The homes are not subject to  
543 title III if they simply provide family-like living arrangements without significant social services.  
544 Foster care provided by a family in its own home is not covered. (ADA Title III Technical  
545 Assistance Manual 1994 Supplement, III-1.2000 Public Accommodation.)

546 **Would a wholesale business to the public under sales and rental establishments be a place of  
547 public accommodation?**

548 Yes. A wholesale business open to the public would be considered a sales establishment.  
549 (ADA Handbook, Section 36.104 Definitions.)

550 Illustration: A company that grows food produce and supplies its crops exclusively to food  
551 processing corporations on a wholesale basis does not become a public accommodation because of  
552 these transactions. If this company operates a roadside stand where its crops are sold to the public,  
553 the roadside stand would be a sales establishment. (ADA Handbook, Section 36.104 Definitions.)

554 **Primary Function**

555 **What is a primary function area?**

556 It is any area where a major activity takes place. It includes both the customer services areas and  
557 work areas in places of public accommodation. It includes all offices and work areas in commercial  
558 facilities. It does not include mechanical rooms, boiler rooms, supply storage rooms, employee  
559 lounges or locker rooms, janitorial closets, entrances, corridors, or restrooms. (ADA Title III  
560 Technical Assistance Manual, III-6.2000 Alterations: Path of Travel.)

561 Illustration: The customer service area of a dry cleaning store and the employee area behind the  
562 counter are both primary function areas. (ADA Title III Technical Assistance Manual, III-6.2000  
563 Alterations: Path of Travel.) Page 16 of 40

564 Illustration: Remodeling an office is an alteration to a primary function area. But remodeling the  
565 employee restrooms is not an alteration to a primary function area. (ADA Title III Technical  
566 Assistance Manual, III-6.2000 Alterations: Path of Travel.)

567 Illustration: Installing a new floor surface in a factory work room is an  
568 alteration to a primary function area, but installing a new floor surface in the corridor leading to the  
569 workroom is not. (ADA Title III Technical Assistance Manual, III-6.2000 Alterations: Path of  
570 Travel.)

571 **Readily Achievable**

572 **What are examples of the types of modifications that would be readily achievable in most**  
573 **cases?**

574 Examples include the simple ramping of a few steps, the installation of grab bars where only routine  
575 reinforcement of the wall is required, the lowering of telephones, and similar modest adjustments.  
576 (The Americans with Disabilities Act Questions and Answers)

577 **How does the “readily achievable” standard relate to other standards in the FACBC?**

578 The FACBC establishes different standards for existing facilities and new construction. In existing  
579 facilities, where retrofitting may be expensive, the requirement to provide access is less stringent  
580 than it is in new construction and alteration, where accessibility can be incorporated in the initial  
581 stages of design and construction without a significant increase in cost. (ADA Technical Assistance  
582 Manual, III-4.4000 Removal of barriers.)

583 **Story**

584 **What is a “story”?**

585 A story is “occupiable” space, which means space designed for human occupancy and equipped with  
586 one or more means of egress, light, and ventilation. Basements designed or intended for occupancy  
587 are considered “stories.” Mezzanines are not counted as stories, but are just levels within stories.  
588 (ADA Technical Assistance Manual, III-5.4000 Elevator exemption.)

589 **4.1.1 Do all areas of newly designed or newly constructed buildings and facilities and altered**  
590 **portions of existing buildings and facilities required to be accessible by Section 4.1.6 have to**

591 **comply with the Florida Accessibility Code?**

592 Yes, unless otherwise provided in Sec. 4.1.1 or a special application section. [FACBC 4.1.1(1)(a)]

593  
594 **4.1.1 Are any buildings or facilities grand fathered or exempted from complying with the**  
595 **requirements of the Code?**

596 Yes. Florida Statute 553.507 provides that the Code (including 553.501-553.513 and s. 316.1955(4)  
597 Fla. Statue.) does not apply to any of the following:

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

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

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

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

606 (c) The original construction or any former alteration or renovation of the building, structure,  
607 or facility was carried out in violation of applicable permitting law.  
608

609 Buildings and facilities that are not subject to the Code may nonetheless have requirements to  
610 remove architectural barriers under Title III of the Americans with Disabilities Act and its  
611 administrative regulations. [FS 553.507 (1997); FACBC 4.1.1(5); 28 CFR 36.304]  
612

613 **4.1.1(3) Do areas that are used only by employees, as work areas have to be accessible?**

614 Section 4.1.1(3) preserves the basic principle of the proposed rule: Areas that may be used by  
615 employees with disabilities shall be designed and constructed so that an individual with a disability  
616 can approach, enter, and exit the area. This applies to any area used only as a work area (not just to  
617 areas “that may be used by employees with disabilities”), and that the Code does not require that  
618 any area used as an individual work station be designed with maneuvering space or equipped to be  
619 accessible. The appendix to the federal ADA Accessibility Guidelines (ADAAG) explains that work  
620 areas must meet the guidelines' requirements for doors and accessible routes, and recommends, but  
621 does not require, that 5% of individual work stations be designed to permit a person using a  
622 wheelchair to maneuver within the space. [FACBC 4.1.1(3); 28 CFR 36, App. A, Appendix  
623 4.1.1(3)]  
624

625 **4.1.1(3) Is vertical accessibility required in employee work areas?**

626 Florida Statute 553.509 (1997) requires that vertical accessibility be provided to all levels above  
627 and below the occupiable grade level, regardless of whether the ADAAG requires an elevator to be  
628 installed in a building, structure or facility, except for:

629 1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, and  
630 automobile lubrication and maintenance pits and platforms;

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

633 3) Occupiable spaces and rooms that are not open to the public and that house no more than five  
634 persons, including, but not limited to, equipment control rooms and projection booths.

635 The above noted exceptions to the requirement to provide vertical accessibility are limited by, and  
636 do not supercede the requirement to provide vertical accessibility where required by the ADAAG

637 or other parts of the ADA. [FS 553.507 (1997)]

638  
639 Further discussion of work areas is found in the preamble to the Department of Justice regulations  
640 for Title III of the ADA in the section concerning Sec.36.401 (b).

641  
642 **4.1.1(5) In new construction, is a person or entity required to comply with the requirements**  
643 **of the Code without exception?**

644 In new construction, a person or entity is not required to meet fully the requirements of the Code  
645 where that person or entity can demonstrate that it is structurally impracticable to do so. Full  
646 compliance will be considered structurally impracticable only in those rare circumstances when the  
647 unique characteristics of terrain prevent the incorporation of accessibility features. If full compliance  
648 with the requirements of the Code is structurally impracticable, a person or entity shall comply with  
649 the requirements to the extent it is not structurally impracticable. Any portion of the building or  
650 facility, which can be made accessible, shall comply to the extent that it is not structurally  
651 impracticable. [FACBC 4.1.1(5)]

652 **What does “structurally impracticable” mean?**

653 The phrase “structurally impracticable” means that unique characteristics of the land prevent the  
654 incorporation of accessibility features in a facility. In such a case, the new construction  
655 requirements apply, except where the private entity can demonstrate that it is structurally  
656 impracticable to meet those requirements. This exception is very narrow and should not be used in  
657 cases of merely hilly terrain. It is expected that it will be used in only rare and unusual  
658 circumstances.

659 Even in those circumstances where the exception applies, portions of a facility that can be made  
660 accessible must still be made accessible. In addition, access should be provided for individuals with  
661 other types of disabilities, even if it may be structurally impracticable to provide access to  
662 individuals who use wheelchairs. (ADA Title III Technical Assistance Manual, III-5.1000 General)

663 **4.1.2 Accessible Site and Exterior Facilities: New Construction**

664 **When do accessible parking spaces have to be provided?**

665 If parking spaces are provided for self-parking by employees or visitors, or both, then accessible  
666 spaces must be provided in each such parking area. If no parking for the public is provided on the  
667 premises of a building which houses a governmental entity or a political subdivision, including, but  
668 not limited to, state office buildings and courthouses, one accessible space in the immediate vicinity  
669 of a publicly owned or leased building must be provided. If parking spaces are provided by state  
670 agencies or political subdivisions on the street, then one accessible space for every 150 metered  
671 spaces must be provided. (Source: FACBC 4.1.2 (5) - 1997)

672 **4.1.2 Accessible and site and Exterior Facilities: New Construction**

673 **Essentially, what is the difference between a van accessible space and the Florida specific 12-**  
674 **foot space in parking facilities or structures?**

675 The only difference is the height requirements. (Source: FACBC 4.1.2 (5) (b) and 4.6.3 - 1997)

676 **What provisions for parking apply in medical care settings?**

677 A greater number of accessible parking spaces is required at facilities providing medical care and  
678 other services for persons with mobility impairments. The term “mobility impairments” is intended  
679 to include:

- 680 -conditions requiring the use or assistance of a brace, cane, crutch, prosthetic device, wheelchair or  
681 other mobility aid;
- 682 -Arthritic, neurological, or orthopedic conditions that severely limit one’s ability to walk;
- 683 -Respiratory diseases and other conditions which may require the use of portable oxygen; or
- 684 -Cardiac conditions that impose significant functional limitations.

685 At outpatient facilities, 10% of the parking spaces must be accessible. Facilities that specialize in  
686 medical treatment and other services for persons with mobility impairment are required to have 20%  
687 of parking spaces accessible. Other facilities (including medical care facilities) that do not provide  
688 outpatient services or specialized service for persons with mobility impairments are subject only to  
689 the general scoping requirement in the table in ADAAG 4.1.2(5)(a). (Source: U.S.A.T.B.C. Board,  
690 Bulletin 6, February 1994 and FACBC 4.1.2 (5) (d), (i), (ii). - 1977)

691 **4.1.2 Accessible Site and Exterior Facilities**

692 **What provision for parking applies in facilities or units specializing in the treatment or**  
693 **services for people with mobility impairments?**

694 Facilities or units that specialize in treatment or other services for persons with mobility  
695 impairments, including vocational rehabilitation and physical therapy, must have 20% of parking  
696 spaces accessible. These are facilities in which the treatment or service specifically serves persons  
697 with mobility impairments, such as spinal cord injury treatment centers, prosthetic and orthotic retail  
698 establishments, and vocational rehabilitation centers for persons with mobility impairments. This  
699 requirement does not apply to facilities providing, but not specializing in, services or treatment for  
700 persons with mobility impairments, such as general rehabilitative counseling or therapy centers. In  
701 determining whether a facility is subject to this requirement, both the nature of the services or  
702 treatment provided and the population they serve should be carefully considered.

703 (Source: U.S.A.T.B.C. Board, Bulletin 6, February 1994 and FACBC 4.1.2 (5) (d), (ii). - 1977)

704 **4.1.2 Accessible Site and Exterior Facilities**

705 **Do the 10% and 20% requirements apply to employee parking spaces as well?**

706 The higher percentages required for outpatient facilities or those facilities specializing in treatment  
707 and services for persons with mobility impairments are intended primarily for visitor and patient  
708 parking. If there are separate lots for visitors or patients and employees, the 10% or 20%  
709 requirement may be applied only to the visitor/patient lot while accessible parking could be provided  
710 in the employee lot according to the general scoping requirement in the chart. If a lot serves both  
711 visitors or patients, and employees, 10% or 20% of the spaces intended for use by visitors or patients  
712 must be accessible. (Source: U.S.A.T.B.C. Board, Bulletin 6, February 1994)

713 **4.1.2 Accessible Site and Exterior Facilities**

714 **If a hospital with an outpatient unit is served generally by one lot, must 10% of all spaces be**  
715 **accessible?**

716 At medical care facilities where parking does not specifically serve an outpatient unit, only a portion  
717 of the lot would need to comply with the 10% scoping requirement. A local zoning code that  
718 requires a minimum number of parking spaces according to occupancy type and square footage may  
719 be an appropriate guide in assessing the number of spaces in the lot that “belong” to the outpatient  
720 unit. These spaces would be held to the 10% requirement while the rest of the lot would be subject  
721 to the general scoping requirement in the chart. Those accessible spaces required for the outpatient  
722 unit should be located at the accessible entrance serving the unit. This method may also be used in  
723 applying the 20% requirement to hospitals or other facilities where only a portion or unit provides  
724 specialized treatment or services for persons with mobility impairments. (Source: U.S.A.T.B.C.  
725 Board, Bulletin 6, February 1994)

#### 726 **4.1.2 Accessible Site and Exterior Facilities**

##### 727 **Are accessible spaces required where valet parking is provided?**

728 Parking facilities that provide valet parking only are not required to provide accessible spaces but  
729 must have an accessible passenger-loading zone that is connected to a facility entrance by an  
730 accessible route. However, it is strongly recommended that some accessible parking be provided  
731 even if valet parking is available. Some vehicles may be specially adapted with hand controls only  
732 or lack a driver’s seat and may not be operable by an attendant. In addition, accessible spaces must  
733 be provided if valet service is not available during all hours of operation for users who must  
734 sometimes retrieve or park their own vehicles. (Source: U.S.A.T.B.C. Board, Bulletin 6, February  
735 1994 and FACBC 4.1.2 (5) (e) - 1977)

##### 736 **What is the length of accessible parking spaces?**

737 The length of the parking space is based on the local zoning code requirements.

##### 738 **4.1.2 Can I use the ADAAG parking standards to provide accessible parking in Florida?**

739 No, except as provided in the Florida Statutes. Florida Statute 316.1955 provides Florida-specific  
740 parking requirements. These are found in Section 4.6 of the Code. [FS 316.1955 (1997)]

##### 742 **4.1.2 Are elevators required to serve each level of a newly constructed building?**

743 Section 4.1.3(5) generally requires elevators to serve each level in a newly  
744 constructed building, with four exceptions included in the subsection. Exception  
745 1 is the “elevator exception” established in Sec.36.401 (d) of Title III of the  
746 ADA, which must be read with this section. Exception 4 allows the use of platform  
747 lifts under certain conditions.

748 Notwithstanding the “elevator exception” of Title III, Florida law mandates  
749 vertical accessibility under almost all conditions where a level change exists.  
750 Florida Statutes, section 553.509 requires that vertical accessibility be  
751 provided to all levels above and below the occupiable grade level, regardless of  
752 whether the ADAAG requires an elevator to be installed in a building, structure  
753 or facility, except for:

- 754 Elevator pits, elevator penthouses, mechanical rooms, piping or equipment
- 755 catwalks, and automobile lubrication and maintenance pits and platforms;
- 756 Unoccupiable spaces, such as rooms, enclosed spaces, and storage spaces that
- 757 are not designed for human occupancy, for public accommodations, or for
- 758 work areas; and
- 759 Occupiable spaces and rooms that are not open to the public and that house
- 760 no more than five persons, including, but not limited to, equipment
- 761 control rooms and projection booths.

762 The above noted exceptions to the requirement to provide vertical accessibility  
763 are limited by, and do not supersede the requirement to provide vertical

764 accessibility where required by the ADAAG. [FS 553.509 (1997); FACBC 4.1.2]  
765

766 **4.1.3(8) Must all public entrances be accessible?**

767 Under Sec.4.1.3 (8), at least 50% of all public entrances must be accessible. In  
768 addition, if a building is designed to provide access to enclosed parking,  
769 pedestrian tunnels, or elevated walkways, at least one entrance that serves each  
770 such function must be accessible. An accessible entrance must serve each tenancy  
771 in a building. Where local regulations (e.g., fire codes) require that a minimum  
772 number of exits are provided, an equivalent number of accessible entrances must  
773 be provided. (The latter provision does not require a greater number of entrances  
774 than otherwise planned.) [FACBC 4.1.3(8)]  
775

776 **4.1.3(9) When is an area of rescue assistance required?**

777 Section 4.1.3(9), with accompanying technical requirements in Section 4.3,  
778 requires an area of rescue assistance (i.e., an area with direct access to an  
779 exit stairway and where people who are unable to use stairs, may await assistance  
780 during an emergency evacuation) to be established on each floor of a multi-story  
781 building. The Florida Accessibility Code, adopts by reference the ADAAG which is  
782 based on current Uniform Building Code requirements and retains the requirement  
783 that areas of refuge (renamed "areas of rescue assistance") be provided, but  
784 specifies that this requirement does not apply to buildings that have a  
785 supervised automatic sprinkler system. Areas of refuge are not required in  
786 alterations. [FACBC 4.1.3(9)]

787 **4.1.3(11) Is every toilet stall in a newly constructed toilet room required to  
788 be accessible?**

789 Section 4.1.3(11) requires that toilet facilities comply with Sec.4.22, which  
790 requires one standard accessible toilet stall in each newly constructed toilet  
791 room. A second accessible stall must be provided in toilet rooms that have six  
792 or more stalls. [FACBC 4.22]  
793

794 **4.1.3(16) Does every sign have to have Braille and/or a pictogram?**

795 No. Signs that designate permanent rooms and spaces are required to have Braille  
796 and pictograms. Signs indicating accessible building elements where not all of  
797 that type of element is accessible should contain the International Symbol of  
798 Accessibility. Specific signage requirements may be found in 4.1.3(16) and 4.30.  
799 [FACBC 4.1.3(16)]  
800

801 **4.1.3(17) Are there special requirements for public pay telephones?**

802 Yes. Section 4.1.3(17) establishes requirements for accessibility of pay phones  
803 to persons with mobility impairments, hearing impairments (requiring some phones  
804 with volume controls), and those who cannot use voice telephones. It requires one  
805 interior text telephone to be provided at any facility that has a total of four  
806 or more public pay phones. (The term "text telephone" has been adopted to  
807 reflect current terminology and changes in technology.) In addition, text  
808 telephones will be required in specific locations, such as covered shopping  
809 malls, hospitals (in emergency rooms, waiting rooms, and  
810 recovery areas), and convention centers. [FACBC 4.1.17]  
811

812 **4.1.3(18) Are all tables in a restaurant required to be accessible?**

813 No. Paragraph 18 of Section 4.1.3 requires that at least five percent of fixed  
814 or built-in seating or tables be accessible. [FACBC 4.1.3(18)]

815 **4.1.3(19) Can a single section in an assembly area be designated for wheelchair  
816 seating?**

817 Yes, section 4.33 covers the requirements for seating in assembly areas.

818 **\*\*\* Comment from Kathy Butler/Legal: Mention requirement of vertical**  
819 **accessibility to all levels of seating.**

820 **Are there other special requirements?**

821 Yes. The FACBC requires dispersal of wheelchair seating locations in facilities  
822 where there are more than 300 seats. In addition, the Code also requires that at

823 least one percent of all fixed seats be aisle seats without armrests (or with  
824 moveable armrests) on the aisle side to increase accessibility for persons with  
825 mobility impairments who prefer to transfer from their wheelchairs to fixed  
826 seating. In addition, the final Code requires that fixed seating for a companion  
827 is located adjacent to each wheelchair location. [FACBC 4.1.3(19)]  
828

829 **\*\*\* Comment from Kathy Butler/Legal:** *Mention requirement of vertical*  
830 *accessibility to all levels of seating.*

831 **4.1.3(20) Are automatic teller machines required to be accessible?**

832 Yes. Paragraph 20 requires that where automated teller machines are provided,  
833 at least one must comply with section 4.34, which, among other things, requires  
834 accessible controls, and instructions and other information that are accessible  
835 to persons with sight impairments. [FACBC 4.1.3(20)]  
836

837 **4.1.3(21) Must all dressing rooms be accessible?**

838 No. However, where dressing rooms are provided, five percent or at least one must  
839 comply with section 4.35. [FACBC 4.1.3(21)]  
840

841 **4.1.5 Is an addition to an existing building considered to be new construction**  
842 **or an alteration with regard to accessibility requirements?**

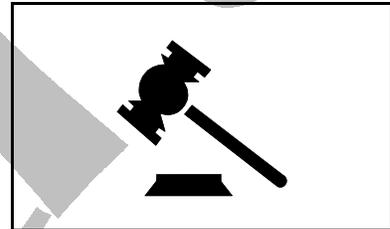
843 Each addition to an existing building or facility is regarded as an alteration,  
844 including being subject to Sec.36.402 through 36.406 of subpart D of the  
845 (federal) Title III of ADA regulations as adopted by Florida law. Additions also  
846 have attributes of new construction. To the extent that a space or element in the  
847 addition is newly constructed, each new space or element must comply with the  
848 applicable scoping provisions of sections 4.1.1 to 4.1.3 for new construction,  
849 the applicable technical specifications of sections 4.2 through 4.34, and any  
850 applicable special provisions in sections 5 through 10. For instance, if a  
851 restroom is provided in the addition, it must comply with the requirements for  
852 new construction. Construction of an addition does not, however, create an  
853 obligation to retrofit the entire existing building or facility to meet  
854 requirements for new construction. The addition is to be regarded as an  
855 alteration, and to the extent that it affects, or could affect, the usability of  
856 or access to an area containing a primary function, the requirements in section  
857 4.1.6(2) are triggered with respect to providing an accessible path of travel to  
858 the altered area, and making the restrooms, telephones, and drinking fountains  
859 serving the altered area accessible. For example, if a museum adds a new wing  
860 that does not have a separate entrance as part of the addition, an accessible  
861 path of travel would have to be provided through the existing building or  
862 facility unless it is disproportionate to the overall cost and scope of the  
863 addition as established in Sec.36.403(f) of the Title III regulations. [FACBC  
864 4.1.5; 28 CFR 36, App. B, 4.1.5]

865 **4.1.6 In an alteration, is the requirement to provide vertical accessibility**  
866 **limited by the disproportionate cost ceiling provided for in Sec. 4.1.6(2)?**

867 When an area of a building or facility which contains a primary function area is being altered, and  
868 the path of travel to the altered area requires a vertical transition of greater than 1/2", Florida Statutes  
869 553.509 requires that vertical accessibility must be provided even where the building or facility  
870 would meet the elevator exemption provided in 36.404 of the Title III of ADA regulations. The  
871 obligation to provide accessibility to the path of travel to the altered area containing a primary  
872 function, including vertical accessibility, is limited to 20% of the cost of the alteration to the area  
873 containing a primary function. [Opinion of Al Bragg as documented in memos and opinion letters  
874 including the letter regarding Boston Chicken]

875 **\*\*\* Comment from Kathy Butler/Legal:** *1997 statutory change means can no longer use*  
876 *federal disproportionate cost exception to avoid vertical accessibility requirement. (See 6/6/00*  
877 *memo attached)*

878  
879  
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887  
888  
889 **M E M O R A N D U M**

890 TO: Whom It May Concern  
891 FROM: Kathy Butler  
892 Assistant General Counsel  
893 SUBJECT: Accessibility Issues  
894 DATE: June 6, 2000

895  
896  
897 This memorandum explores two accessibility issues which have recently caused a certain  
898 amount of confusion.

899 **1. QUESTION: Can the federal accessibility exception based on disproportionate**  
900 **cost be applied to the Florida vertical accessibility requirement?**

901 **ANSWER: No. Under the current law, the federal disproportionate cost exception**  
902 **may not be applied to the Florida vertical accessibility requirement. The federal**  
903 **disproportionate cost exception may be used only when complying with the federal path of**

904 **travel requirement.**

905 This issue is particularly confusing because until Florida law was changed in 1997, the  
906 federal accessibility exception could properly be applied to the requirement of vertical accessibility,  
907 as set forth in a 1993 memorandum authored by attorney Alfred O. Bragg, III. However, legislative  
908 action in 1997 deleted two items from the applicable statute, section 553.507, which resulted in a  
909 removal of all reference to disproportionate cost in Florida law. A copy of the 1997 legislation is  
910 attached to this memo.

911 Disproportionate cost is a federal exception which applies to the federal path of travel  
912 requirement. Under section 303(a) of the Americans With Disabilities Act (ADA), when a facility  
913 subject to the ADA is altered to a certain degree, the alterations must be made so that the path of  
914 travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered  
915 area are readily accessible, as long as the cost of making the path of travel accessible is not  
916 disproportionate to the cost of the overall alteration. *See* 42 USC 12183(a)(2). The cost of  
917 providing an accessible path of travel is disproportionate if it exceeds 20% of the cost of the overall  
918 alteration. *See* 28 CFR 36.403(f)(1).

919 Current Florida law does not include any reference to disproportionate cost, but the Florida  
920 Americans With Disabilities Act (Act) does include section 553.509, which states that “[n]othing  
921 in sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any  
922 building, structure, or facility governed by those sections from the duty to provide vertical  
923 accessibility to all levels above and below the occupiable grade level . . . .” § 553.509, Fla. Stat.  
924 (1999) (emphasis added). If a building is subject to the Act, then nothing, not anything elsewhere  
925 in the Act or anything in the ADAAG, including the disproportionate cost exception, relieves the  
926 owner of the duty to provide vertical accessibility. Of course, vertical accessibility will not have  
927 to be provided if the situation falls under one of the exceptions to vertical accessibility described in  
928 section 553.509 and in various locations in the Florida Accessibility Code for Building Construction.  
929 These exceptions include unoccupiable spaces not designed for human occupancy and occupiable  
930 spaces not open to the public that house no more than five people. *See id.* The building official  
931 determines whether a situation falls under these exceptions.

932 Other than the statutory exceptions to vertical accessibility, the only way an owner may  
933 avoid providing vertical accessibility to all levels is to obtain a waiver from the Florida Building  
934 Commission. Section 553.512, Florida Statutes, authorizes the commission to waive Florida  
935 accessibility requirements “upon a determination of unnecessary, unreasonable, or extreme  
936 hardship.” § 553.512(1), Fla. Stat. (1999). One of the three criteria for determining such a hardship  
937 is “[t]hat substantial financial costs will be incurred by the owner if the waiver is denied.” R. 9B-  
938 7.006, Fla. Admin. Code (2000). Therefore, the commission can consider cost of compliance when  
939 deciding whether to grant a request for waiver of the vertical accessibility requirement.

940 **2. QUESTION: What triggers the application of Florida accessibility**  
941 **requirements in existing buildings?**

942 **ANSWER: When a building owner is making an alteration to the building and the**  
943 **alteration affects or could affect usability of or access to a primary function area, the owner**  
944 **must comply with Florida accessibility requirements, including the vertical accessibility**

945 **requirement.**

946 Florida Statutes section 553.507(2)(b) states that the Florida Americans with Disabilities Act  
947 (Act) and the accessible parking requirements set forth in section 316.1955, Florida Statutes, do not  
948 apply to buildings in existence on October 1, 1997, unless “[t]he proposed alteration . . . will affect  
949 usability or accessibility to a degree that invokes the requirements of s. 303(a) of the ADA.” §  
950 553.507(2)(b), Fla. Stat. (1999) (emphasis added). This means that the trigger, or type of alteration,  
951 that requires existing buildings to comply with Florida accessibility requirements is the same one  
952 that invokes the requirements of section 303(a) of the ADA. I examined section 303(a) of the ADA  
953 to determine what trigger invokes the requirements of that section. A copy of section 303(a) of the  
954 ADA is attached to this memo.

955 There is only one requirement in section 303(a) of the ADA. Section 303(a) describes  
956 discrimination against individuals with disabilities by public accommodations and commercial  
957 facilities under the ADA. Section 303(a)(1) states discrimination includes a failure to design and  
958 construct new facilities that are readily accessible to and usable by individuals with disabilities.  
959 303(a)(2) states discrimination includes failure to make alterations in such a manner that, to the  
960 maximum extent feasible, the altered portions of the facility are readily accessible to and usable by  
961 individuals with disabilities. Neither of these descriptions of discrimination is a “requirement”  
962 capable of being invoked. The sole requirement in this section of the ADA is section 303(a)(2),  
963 which includes the language, “where the entity is undertaking an alteration that affects or could  
964 affect usability of or access to an area . . . containing a primary function, the entity shall also make  
965 the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered  
966 area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily  
967 accessible to and usable by individuals with disabilities where such alterations to the path of travel  
968 or the bathrooms, telephones, and drinking fountains serving the altered area are not  
969 disproportionate to the overall alterations in terms of cost and scope” (emphasis added).

970 Accordingly, the trigger that “invokes the requirements of section 303(a) of the ADA” is **an**  
971 **alteration that affects or could affect usability of or access to an area containing a primary**  
972 **function**. It is important to note that here we are only concerned with the trigger, not with the  
973 requirement itself. The concepts of path of travel, maximum extent feasible, and disproportionate  
974 cost have nothing to do with what invokes the requirements of 303(a), they are the requirements.  
975 Also, the trigger is not an alteration to a primary function area, but an alteration that affects usability  
976 of or access to a primary function area. It may be helpful to think of the trigger for Florida  
977 accessibility requirements as being the same type of alteration that triggers the federal path of travel  
978 requirement.

979 Therefore, when a proposed alteration affects or could affect the usability of or access to an  
980 area containing a primary function area, the accessibility requirements in the Act (including vertical  
981 accessibility) and section 316.1955 kick in. It is up to the professional judgment of the building  
982 official to determine whether an alteration affects or could affect such usability or access. Section  
983 36.403 of 28 CFR Part 36 (federal regulations implementing Title III of the ADA) and the definition  
984 section of the FACBC provide guidance as to primary function areas and alterations to primary  
985 function areas. A copy of section 28 CFR 36.403 is attached to this memo. Sections III-6.1000 and  
986 III-6.2000 in the Dept. of Justice Title III Technical Assistance Manual may provide further

987 information.

988 **Please note:** this determination as to when Florida accessibility requirements are triggered  
989 for existing buildings does not affect the applicability of federal accessibility requirements in any  
990 way whatsoever. If an owner is making an alteration to a two-story building that does not affect  
991 usability of or access to a primary function area, even though the owner must pull a permit to begin  
992 the project, the project is exempt from Florida accessibility requirements. However, pursuant to  
993 section 4.1.6(1)(b) of ADAAG, which requires altered existing elements, spaces or common areas  
994 to “comply with the applicable provisions of 4.1.1 to 4.1.3 Minimum Requirements (for New  
995 Construction),” the altered element must still be made accessible according to ADAAG standards.  
996 In this case, of course, the requirement for vertical accessibility would not be triggered, because  
997 vertical accessibility to all levels is required only in a “building, structure, or facility governed by”  
998 the Act.

999 Further, the discussion here does not affect the opinion set forth in the first part of this memo  
1000 that in Florida, the disproportionate cost exception may only be used in conjunction with the federal  
1001 path of travel requirement, and not with the Florida vertical accessibility requirement. As long as  
1002 the Florida accessibility requirements apply to a building with more than one level, meaning the  
1003 proposed alteration affects usability of or access to a primary function area, then vertical  
1004 accessibility is required unless the situation falls under one of the statutory exceptions or a waiver  
1005 is obtained from the Building Commission. **Note: End 6/6/00 memo**

#### 1006 **4.1.7 Are the requirements for a Historic building any different from the requirements for** 1007 **non-historic buildings and facilities?**

1008 Yes. Section 4.1.7, Historic Preservation, contains scoping provisions and  
1009 alternative requirements for alterations to qualified historic buildings and  
1010 facilities. It clarifies the procedures under the National Historic Preservation  
1011 Act and their application to alterations covered by the ADA and the Florida  
1012 Accessibility Code. An individual seeking to alter a facility that is subject  
1013 to the ADA guidelines and to State or local historic preservation statutes shall  
1014 consult with the State Historic Preservation Officer to determine if the planned  
1015 alteration would threaten or destroy the historic significance of the facility.  
1016 [FACBC 4.1.7; 28 CFR 36, App. A, 4.1.7]

#### 1017 **4.1.8 What is Architectural Barrier Removal and when do I have to do it?**

1018 Although not a part of the Code, federal law (section 36.304 of Title III of ADA  
1019 regulations) requires that:

1020 A public accommodation shall remove architectural barriers in existing  
1021 facilities, including communication barriers that are structural in nature, where  
1022 such removal is readily achievable, i.e., easily accomplishable and able to be  
1023 carried out without much difficulty or expense.

1024 Examples of steps to remove barriers include, but are not limited to, the  
1025 following actions--

- 1026 (1) Installing ramps;
- 1027 (2) Making curb cuts in sidewalks and entrances;
- 1028 (3) Repositioning shelves;
- 1029 (4) Rearranging tables, chairs, vending machines, display racks, and other  
1030 furniture;
- 1031 (5) Repositioning telephones;
- 1032 (6) Adding raised markings on elevator control buttons;
- 1033 (7) Installing flashing alarm lights;
- 1034 (8) Widening doors;
- 1035 (9) Installing offset hinges to widen doorways;
- 1036 (10) Eliminating a turnstile or providing an alternative accessible path;

- 1037 (11) Installing accessible door hardware;  
1038 (12) Installing grab bars in toilet stalls;  
1039 (13) Rearranging toilet partitions to increase maneuvering space;  
1040 (14) Insulating lavatory pipes under sinks to prevent burns;  
1041 (15) Installing a raised toilet seat;  
1042 (16) Installing a full-length bathroom mirror;  
1043 (17) Repositioning the paper towel dispenser in a bathroom;  
1044 (18) Creating designated accessible parking spaces;  
1045 (19) Installing an accessible paper cup dispenser at an existing inaccessible  
1046 water fountain;  
1047 (20) Removing high pile, low density carpeting; or  
1048 (21) Installing vehicle hand controls.

1049 Priorities. A public accommodation is urged to take measures to comply with the  
1050 barrier removal requirements of this section in accordance with the following  
1051 order of priorities.

1052 First, a public accommodation should take measures to provide access to a place  
1053 of public accommodation from public sidewalks, parking, or public  
1054 transportation. These measures include, for example, installing an entrance  
1055 ramp, widening entrances, and providing accessible parking spaces.

1056 Second, a public accommodation should take measures to provide access to  
1057 those areas of a place of public accommodation where goods and services are  
1058 made available to the public. These measures include, for example, adjusting  
1059 the layout of display racks, rearranging tables, providing brailled and  
1060 raised character signage, widening doors, providing visual alarms, and  
1061 installing ramps.

1062 Third, a public accommodation should take measures to provide access to  
1063 restroom facilities. These measures include, for example, removal of  
1064 obstructing furniture or vending machines, widening of doors, installation  
1065 of ramps, providing accessible signage, widening of toilet stalls, and  
1066 installation of grab bars.

1067 Fourth, a public accommodation should take any other measures necessary to  
1068 provide access to the goods, services, facilities, privileges, advantages,  
1069 or accommodations of a place of public accommodation.

1070 Florida Statute section 553.508 states that Removal of architectural barriers,  
1071 pursuant to 28 C.F.R. s. -36.304, from buildings, structures, or facilities to  
1072 which this act applies shall comply with ss. 553.501 - 553.513 the Code unless  
1073 compliance would render the removal not readily achievable. In no instance shall  
1074 the removal of an architectural barrier create a significant risk to the health  
1075 or safety of an individual with a disability or others.

1076 Florida law also requires that barriers at common or emergency entrances and  
1077 exits of business establishments conducting business with the general public that  
1078 are existing, under construction, or under contract for construction which would  
1079 prevent a person from using such entrances or exits shall be removed.  
1080 553.504(16). [FACBC 4.1.8; FS 553.508 (1993); FS 553.504(16) (1993); 28 CFR  
1081 36.304]

## 1082 4.2 SPACE ALLOWANCE AND REACH RANGES

### 1083 4.2.1 Wheel Chair Passage Width

1084 **Why is the minimum clear width for wheelchair passage 32 inches at a point, while**  
1085 **it must be 36 inches continuously?**

1086 1. Space Requirements for Wheelchairs. Many persons who use wheelchairs need  
1087 a 30 in (760 mm) clear opening width for doorways, gates, and the like, when the  
1088 latter are entered head-on. If the person is unfamiliar with a building, if  
1089 competing traffic is heavy, if sudden or frequent movements are needed, or if the  
1090 wheelchair must be turned at an opening, then greater clear widths are needed.  
1091 For most situations, the addition of an inch of leeway on either side is  
1092 sufficient. Thus, a minimum clear width of 32 in (815 mm) will provide adequate  
1093 clearance. However, when an opening or a

1094 restriction in a passageway is more than 24 in (610 mm) long, it is essentially  
1095 a passageway and must be at least 36 in (915 mm) wide.

1096 2. Space Requirements for Use of Walking Aids. Although people who use walking  
1097 aids can maneuver through clear width openings of 32 in (815 mm), they need 36  
1098 in (915 mm) wide passageways and walks for comfortable gaits. Crutch tips, often  
1099 extending down at a wide angle, are a hazard in narrow passageways where other  
1100 pedestrians might not see them. Thus, the 36 in (915 mm) width provides a safety  
1101 allowance both for the person with a disability and for others.(Source: ADAAG  
1102 Appendix A, 4.2.1)

#### 1103 4.2.3 Wheelchair Turning Space

1104 **Why was a 180 degree turn or a T-Shaped space chosen for a wheelchair turning**  
1105 **space?**

1106 A minimum space of 60 in (1525 mm) diameter or a 60 in by 60 in (1525 mm – 1525 mm) T-shaped  
1107 space for a pivoting 190-degree turn of a wheelchair is usually satisfactory for turning around, but  
1108 many people will not be able to turn without repeated tries and bumping into surrounding  
1109 objects.(Source: ADAAG Appendix A, 4.2.3)

#### 1110 4.3 ACCESSIBLE ROUTE

##### 1111 4.3.1 General

1112 **Why is it so important to have an accessible route for halls, walks, corridors, tunnels, parking**  
1113 **areas, etc.?**

1114 1. Travel Distances. Many people with mobility impairments can move at only  
1115 very slow speeds, and assumes that the traveler would move continuously.  
1116 However, on trips over 100 ft (30 m), disabled people are apt to rest frequently,  
1117 increasing their trip times in inclement weather, slow progress and resting can  
1118 greatly increase a disabled person's exposure to the elements.

1119 2. Sites. Level, indirect routes or those with running slopes lower than 1:20  
1120 can sometimes provide more convenience than direct routes with maximum allowable  
1121 slopes or with ramps.(Source: ADAAG Appendix A, 4.3.1)

##### 1122 4.3.10 Egress

1123 **Why must accessible routes also serve as a means of egress, or connect to an area**  
1124 **of rescue assistance?**

1125 Because people with disabilities may visit, be employed or be a resident in any  
1126 building, emergency management plans with specific provisions to ensure their  
1127 safe evacuation also play an essential role in fire safety and life  
1128 safety.(Source: ADAAG Appendix A 4.3.10)

##### 1129 4.3.11.3 Stairway Width

1130 **What is the clear width required between handrails in a stairway adjacent to an area of rescue**  
1131 **assistance?**

1132 A 48 inch (1220 mm) wide exit stairway is required to allow assisted evacuation  
1133 (e.g. carrying a person in a wheelchair) without encroaching on the exit path for  
1134 ambulatory persons.(Source: ADAAG Appendix A 4.3.11.3)

##### 1135 4.3.11.4 Two Way Communication

1136 **Do you need both visible and audible signals between each area of rescue**  
1137 **assistance?**

1138 Yes. It is essential that emergency communication not be dependent on voice  
1139 communications alone because the safety of people with hearing or speech  
1140 impairments could be jeopardized. The visible signal requirement could be  
1141 satisfied with something as simple as a button in the area of rescue assistance

1142 that lights, indicating that help is on the way, when the message is answered at  
1143 the point of entry.(Source: ADDAG Appendix A 4.3.11.4

#### 1144 4.4 PROTRUDING OBJECTS

##### 1145 4.4.1 General

1146 **Are there different protrusion requirements for objects between 27 and 80 inches**  
1147 **above the floor, and objects at or below 27 inches from the floor?**

1148 Yes. Service animals are trained to recognize and avoid hazards. However, most people with severe  
1149 impairments of vision use the long cane as an aid to mobility. The two principal cane techniques  
1150 are the touch technique, where the cane arcs from side to side and touches points outside both  
1151 shoulders: and the diagonal technique, where the cane is held in a stationary position diagonally  
1152 across the body with the cane tip touching or just above the ground at a point outside one shoulder  
1153 and the handle or grip extending to a point outside the other shoulder. The touch technique is used  
1154 primarily in uncontrolled areas, while the diagonal technique is used primarily in certain limited,  
1155 controlled, and familiar environments. Cane users are often trained to use both techniques.

1156 Potential hazardous objects are noticed only if they fall within the detection  
1157 range of canes. Visually impaired people walking toward an object can detect an  
1158 overhang if its lowest surface is not higher than 27 in. (655 mm). When walking  
1159 alongside protruding objects, they cannot detect overhangs. Since proper cane  
1160 and service animal techniques keep people away from the edge of a path or from  
1161 walls, a slight overhang of no more than 4 in (100 mm) is not hazardous.(Source:  
1162 ADAAG Appendix A 4.4.1)

#### 1163 4.5 GROUND FLOOR SURFACES

##### 1164 4.5.1 General

1165 **Do ground and floor surfaces along accessible routes, rooms and spaces have to be stable, firm,**  
1166 **and slip-resistant?**

1167 Yes. People who have difficulty walking or maintaining balance or who use  
1168 crutches, canes, or walkers, and those with restricted gaits are particularly  
1169 sensitive to slipping and tripping hazards. For such people, a stable and  
1170 regular surface is necessary for safe walking, particularly on stairs.  
1171 Wheelchairs can be propelled most easily on surfaces that are hard, stable and  
1172 regular. Soft loose surfaces such as shag carpet, loose sand or gravel, wet  
1173 clay, and irregular surfaces such as cobblestones can significantly impede  
1174 wheelchair movement. The current coefficient of friction is .5 or greater. You  
1175 should contact your flooring manufacturer or distributor for the coefficient of  
1176 friction for the flooring being installed.(Source: ADAAG Appendix A 4.5.1)

##### 1177 4.5.3 Carpet

1178 **Are there restrictions on the types of carpet and padding that can be used on a**  
1179 **ground or floor surface?**

1180 Yes. There is a maximum pile thickness of ½ inch required by section 4.5.3.  
1181 When both carpet and padding are used, it is desirable to have minimum movement  
1182 (preferably none) between the floor and the pad and the pad and the carpet which  
1183 would allow the carpet to hump or warp. In heavily trafficked areas, a thick,  
1184 soft (plush) pad or cushion, particularly in combination with long carpet pile,  
1185 makes it  
1186 difficult for individuals in wheelchairs and those with other ambulatory  
1187 disabilities to get about. Firm carpeting can be achieved through proper  
1188 selection and combination of pad and carpet, sometimes with the elimination of  
1189 the pad or cushion, and with proper installation. Carpeting designed with a  
1190 weave that causes a zigzag effect when wheeled across is strongly discouraged.  
1191 (Appendix A4.5.3)

#### 1192 4.6 PARKING AND PASSENGER LOADING ZONES

1193  
1194 **4.6.1 Minimum Number**

1195 **How is the minimum number of accessible spaces determined?**

1196 In new construction, the total number of space provided in a parking lot  
1197 determines the minimum number of spaces. If there is more than one lot, the  
1198 minimum is determined lot-by-lot, not by the total number of spaces provided.  
1199 The minimum number of spaces must still be determined separately for each lot  
1200 even if the spaces are to be provided in other lots or locations.

1201 In alterations, the minimum number of spaces is based on the total number of  
1202 spaces altered in each lot. Although it is recommended that the full number of  
1203 spaces required for new construction be provided where the opportunity to do so  
1204 exists within the planned scope of work. Accessible spaces are required in each  
1205 altered lot. However, accessible spaces can and should be located closest to  
1206 accessible entrances even where such locations lie outside of the altered area  
1207 or lot. (Source: U.S.A.T.B.C. Board, Bulletin 6, February 1994)

1208 **4.6.2 Location**

1209 **Do accessible parking spaces need to be provided in each lot or on each level**  
1210 **of parking garages?**

1211 Accessible spaces can be provided in other lots or locations, or in the case of  
1212 parking garages, on one level only when equal or greater access is provided in  
1213 terms of proximity to an accessible entrance, cost, and convenience. For  
1214 example, accessible spaces required for outlying parking lots must be located on  
1215 the shortest safely accessible route of travel from the parking lot to the  
1216 accessible pedestrian entrance or placed in a parking lot closest to the  
1217 accessible entrance. Accessible spaces may be grouped on one level of a parking  
1218 garage in  
1219 order to achieve greater access. However, where parking levels serve different  
1220 building entrances, accessible spaces should be dispersed so that convenient  
1221 access is provided to each entrance. (Source: U.S.A.T.B.C. Board, Bulletin 6,  
1222 February 1994 and FACBC 4.6 - 1997)

1223 **4.6.2 Location**

1224 **Must accessible spaces be provided in lots where parking is assigned to**  
1225 **individual employees or to paying customers?**

1226 In other than Theme Parks, Section 12, the FACBC does not distinguish between  
1227 lots or garages with assigned spaces and those without. Thus, in lots or garages  
1228 comprised only of spaces that are leased or assigned to employees, accessible  
1229 spaces are required. However, in such situations, policies regarding the use of  
1230 accessible spaces may be feasible so long as they do not discriminate against  
1231 persons with disabilities. For example, in lots reserved for employees only,  
1232 accessible spaces may be used by persons without disabilities when they are not  
1233 needed by employees with disabilities. (Source: U.S.A.T.B.C. Board, Bulletin 6,  
1234 February 1994)

1235 **4.6.3 Parking Spaces**

1236 **What are the size requirements for accessible parking spaces and access aisles?**

1237 Each parking space must be no less than 12 feet wide accompanied by a 5-foot  
1238 access aisle. The access aisle must be part of an accessible route to the  
1239 building or facility. Two accessible spaces may share a common access aisle.  
1240 The access aisle must be striped diagonally to designate it as a no-parking zone.  
1241 (Source: FACBC Section 4.6.3 and 12 - 1997)

1242 **In a strip shopping center when a tenant acquires a permit to retrofit the inside of that tenant**  
1243 **space only, does it require the landlord to do improvements on the exterior of the site?**

1244 No, if the 20% disproportionate cost is applicable to the parking area

1245 **4.6.5 Vertical Clearance**

1246 **Does the vertical clearance for accessible parking spaces differ from that**  
1247 **required for passenger loading zones?**

1248 Yes. Vans used for accessible transit and paratransit may have higher roofs than  
1249 those owned and used by most individuals. The minimum vertical clearance  
1250 required for passenger loading zones (114inches) is higher than the one specified  
1251 for van accessible spaces (98 inches)  
1252 (Source: U.S.A.T.B.C. Board, Bulletin 6, February 1994 and FACBC 4.6.5 - 1977)

#### 1253 **4.7 CURB RAMPS**

##### 1254 **4.7.7 Detectable Warnings**

1255 **Are detectable warnings required at-on the flared sides of curb ramps in Florida?**

1256 No. They are only required on the ramp surface. Refer to section 4.7.5 for curb  
1257 ramps (Source: FACBC, Section 4.7.7 and 4.29.2 - 1977)

#### 1258 **4.8 RAMPS**

##### 1259 **4.8.4 Landings**

1260 **Are handrails allowed to encroach into the 60 inch clear width of the landing?**

1261 No. Refer to the definition of "clear" in section 3.5 of the definition section.

1262 **Must a full commercial elevator be installed in order to meet Florida's vertical**  
1263 **accessibility requirements?**

1264 No. Florida's more stringent vertical accessibility requirements does not  
1265 mandate the use of an elevator. Vertical and incline platform lifts, LULA  
1266 (Limited Use Limited Application) elevators can be used to provide vertical  
1267 accessibility

#### 1268 **4.11 PLATFORM LIFTS(WHEELCHAIR LIFTS)**

1269 **How can I determine when a platform lift or a LULA can be used instead of an**  
1270 **elevator?**

1271 The simplest way is to understand which access code is mandating the vertical  
1272 accessibility. If the application falls under the auspices of ADAAG's definition  
1273 of elevator use, then you must adhere to the requirement as stated in 4.1.3. All  
1274 structures three (3) stories and higher will fit into this category. Two story  
1275 structures over 3,000 square feet per floor, malls, health care provider or  
1276 doctor offices will also be required to have an elevator (see 4.1.3). Any two  
1277 story structure that does not have to provide an elevator per section 4.1.3 per  
1278 ADAAG must still provide vertical accessibility under F.S. 553.509.

1279 *Comment from Kathy Butler/Legal: Some buildings that fall under Title II of*  
1280 *the ADA may require elevators, as Title II allows the use of ADAAG minus the*  
1281 *elevator exemption.*

1282 To provide vertical accessibility per 553.509, no specific solution is provided  
1283 in statute. Therefor platform lifts and LULA elevators can be utilized to  
1284 provide vertical accessibility. Both are governed by the ANSI elevator code and  
1285 are approved for use in Florida. (Source: DCA Correspondence 9/17/96 and 4/3/96)

#### 1286 **What is a LULA elevator?**

1287 LULA (limited use limited application) is a "junior" elevator. It can travel up  
1288 to 25 feet floor to floor. It is rated to carry 1,400 pounds. It can penetrate  
1289 a floor and can have an inside cab area as big as 18 square feet. It is newly  
1290 approved (8/1/96) and is introduced to provide vertical accessibility at an  
1291 economical savings. It also requires less structural preparation for an  
1292 elevator.

#### 1293 **What is a platform lift?**

1294 Platform lifts were created in the 1970's to provide vertical accessibility to  
1295 existing buildings. They continue to be utilized to provide access in

1296 restaurants, stages, mezzanines, warehouses, hotels and many other structures.  
1297 Vertical platform lifts can travel up to 12 feet in height, can carry up to 850  
1298 pounds and are not allowed to penetrate a floor.

1299 Incline platform lifts are designed to fit perfectly over most stairways. A  
1300 platform is attached to custom rails on the side of the stairway and ride slowly  
1301 over the nose of each step. This lift is rated for 450 pounds and must meet ANSI  
1302 A17.1.

#### 1303 4.16 WATER CLOSETS

##### 1304 4.16.1 General

1305 **In designing an accessible stall that will be used in any municipality or County,**  
1306 **do I have to comply with that particular County's local ordinance requirements,**  
1307 **or do I comply with the Florida accessibility Code?**

1308 You comply with 1997 edition of the FACBC, which expressly preempts the  
1309 establishment of Accessibility standards of the State and supercedes any county  
1310 or municipal ordinance on the subject. A local jurisdiction cannot add to,  
1311 alter, or delete from this Accessibility Code.

##### 1312 4.16.2 Clear Floor Space

1313 **Can figure 28 be used for toilet room stall Design?**

1314 No, Section 4.16.2 states that the clear floor space for water closets not in  
1315 stalls shall comply with Fig. 28. This figure is to be only used for toilet rooms  
1316 and/or bathrooms. (Reference section 4.16.2)

##### 1317 4.16.5 Flush Controls

1318 **Is there any requirement for the installation of the flush control on the water**  
1319 **closet?**

1320 Yes. Section 4.16.5 states that the controls for flush valves shall be mounted on the wide side of  
1321 toilet areas no more than 44 inches above the floor. The flush controls should not interfere with the  
1322 rear grab bar; however, if and only if the local administrative authorities require flush controls for  
1323 flush valves to be located in a position that conflicts with the location of the rear grab bar, then that  
1324 bar may be split or shifted toward the wide side of the toilet area. (Reference section 4.16.5)

#### 1325 4.17 TOILET STALLS

##### 1326 4.17.3 Size and Arrangement

1327 **When is a lavatory required in an accessible stall?**

1328 A lavatory is required in the accessible stall in new construction. (Reference  
1329 section 4.17.3, exception, New Construction)

#### 1330 4.18 URINALS

##### 1331 4.18.2 Height

1332 **Q. What is an elongated rim urinal?**

1333 A tapered elongated rim is one that narrows toward the front to allow a wheelchair user to straddle  
1334 the basin and which extends at least 14 inches from the vertical surface on which the fixture is  
1335 mounted. (Reference Texas Accessibility Standards, 1994)

1336 **Comment from Kathy Butler/Legal: Texas?!**

1337 4.19 LAVATORIES AND MIRRORS

1338 4.19.4 Exposed Pipes and surfaces

1339 **Is a cover needed for exposed plumbing pipes under lavatories if there is no hot water?**

1340 Yes. Section 4.19.4 states that hot water and drainpipes under lavatories  
1341 shall be insulated or otherwise configured to protect against contact. There  
1342 shall be no sharp or abrasive surfaces under lavatories. (Reference section  
1343 4.19.4)

1344 **4.19.6 Mirrors**

1345 **From where do you take the measurement for the mounting height of a mirror?**

1346 The measurement is to the bottom of the mirror, not the frame. Section 4.19.6  
1347 states that a mirror shall be mounted with the bottom edge of the reflecting  
1348 surface no higher than 40 inches above the finished floor. (Reference section  
1349 4.19.6)

1350 **4.21 SHOWER STALLS**

1351 **4.21.2 Size and Clearances**

1352 **Does the FACBC Section 4.21.2 allow the construction of an accessible shower stall other than**  
1353 **a 36" by 36" size?**

1354 Yes. The other size allowed is a 30" by 60" minimum. Section 4.21.2 states that except as specified  
1355 in 9.1.2, shower stall size and clear floor space area must comply with Fig. 35(a) or Fig. 35(b).  
1356 (Reference section 4.21.2)

1357 **4.22 TOILET ROOMS**

1358 **4.22.4 Water Closets**

1359 **In new construction, if there are six or more toilet stalls in a toilet room or bathroom, how**  
1360 **many accessible toilet stalls are required?**

1361 Two; one of them shall be the Florida specific design and the other one will be 36" in width,  
1362 complying with section 4.22.4. (Reference 4.22.4)

1363 **4.28 ALARMS**

1364 **4.28.3 Visual Alarms**

1365 **What are the differences between the FACBC and the Uniform Fire Code, NFPA 72 for visual**  
1366 **alarms?**

1367 Section 4.28.3(4) of the FACBC states the intensity of visual alarms shall be a minimum of 75  
1368 candela, without setting limits on maximum intensity. The NFPA 72, Section 64.2.2 adopted as  
1369 Florida's Uniform Fire Code for alarms, does not set minimum limits on intensity; it does set 1,000  
1370 candela as the maximum intensity. Section 4.28.3(5) of the FACBC requires a flash rate to be  
1371 minimum of 1HZ and a maximum of 3HZ, while NFPA 72, 6-4.2 light pulse characteristics is  
1372 limited to 2HZ every two seconds.

1373 **4.29 DETECTABLE WARNINGS**

1374 **4.29.2 Detectable Warnings on Walking Surfaces**

1375 **Are detectable warnings required at transportation facilities?**

1376 Yes. Detectable warnings shall be 24 inches wide running the full length of the platform. (Source:  
1377 FACBC 10.3.1 (8))

1378 **4.32 FIXED OR BUILT IN SEATING OR TABLES**

1379 **4.32.2 Seating**

1380 **What is the minimum clear floor space for wheelchairs in section 4.32.2(1)?**

1381 The wheelchair user needs a space of 30 inches by 48 inches as typical dimensions for a large adult  
1382 male. (Appendix A4.2.4)

1383 **4.33 ASSEMBLY AREAS**

1384 **In assembly areas when should you provide accessible seating in more than one location?**

1385 Accessible seating must be located in more than one area when seating capacity exceeds 300 and  
1386 also should be provided to give people with disabilities a choice of admission prices and sight lines.  
1387 At least one companion fixed seat shall be provided next to each wheelchair seating area. Number  
1388 on accessible fixed seats is determined by 4.1.3(19).

1389 In addition to requiring companion seating and dispersion of wheelchair locations, ADAAG requires  
1390 that wheelchair locations provide people with disabilities lines of sight comparable to those for  
1391 members of the general public. Thus, in assembly areas where spectators can be expected to stand  
1392 during the event or show being viewed, the wheelchair locations must provide lines of sight over  
1393 spectators who stand. This can be accomplished in many ways, including placing wheelchair  
1394 locations at the front of a seating section, or by providing sufficient additional elevation for  
1395 wheelchair locations placed at the rear of seating sections to allow those spectators to see over the  
1396 spectators who stand in front of them.

1397 EXCEPTIONS: Accessible viewing positions may be clustered for bleachers, balconies, and other  
1398 areas having sight lines that require slopes of greater than 5 %. Equivalent accessible viewing  
1399 positions may be located on levels having accessible egress.

1400 (FACBC97, 4.33.3), Title III Technical Assistance Manual 1994 Supplement, Section 7.5180

1401 **\*\*\* Comment from Kathy Butler/Legal:** *Mention requirement of vertical accessibility to all*  
1402 *levels of seating.*

1403 **4.33.1 Minimum Number**

1404 **What are assembly areas and which ones are covered by this section?**

1405 Assembly areas are defined as "A room or space accommodating a group of individuals for  
1406 recreational, educational, political, social, or amusement purposes, or for the consumption of food

1407 and drink." This includes, but is not limited to, sports arenas, performance halls, theaters, theme  
1408 parks, restaurants, nightclubs, and many they places both public and privately owned. It also  
1409 includes all food service establishments, licensed under the Beverage Law for consumption on the  
1410 premises.  
1411 (Fl. Code 3.5, Fl. Code 4.1.3(19))

1412 **When a small theater with sixty fixed seats is constructed, how many wheelchair positions are**  
1413 **required and where should they be located? Is there other seating requirements?**

1414 A table is provided in section 4.1.3(19), which provides guidance on the number of wheelchair  
1415 locations required. For a theater with sixty fixed seats, four wheelchair positions would be required.  
1416 The positions shall be integrated into the seating plan in order to provide a choice of admission  
1417 prices and lines of sight (Fl. Code 4.33.3). The positions must be level and on an accessible path  
1418 of travel. The  
1419 Wheelchair positions shall have at least one fixed companion seat next to the wheelchair location  
1420 and "readily removable" seats may be installed in the wheelchair positions when not in use by  
1421 wheelchair users (4.33.3). Additionally, one percent, but not less than one, of the seats shall be on  
1422 an aisle with no armrests on the aisle side [Fl. Code 4.1.3(19a)].

1423 *\*\*\* Comment from Kathy Butler/Legal: Mention requirement of vertical accessibility to all*  
1424 *levels.*

1425 **4.33.3 Placement of Wheelchair Positions**

1426 **Can all of the wheelchair seating be located in the back of an assembly area?**

1427 In some circumstances, viewing positions may be clustered for bleachers, balconies, and other areas  
1428 having sight lines that require slopes of greater than 5 percent (4.33.3 Exception). Wheelchair  
1429 accessible positions must be dispersed throughout the price ranges and viewing positions in order  
1430 to provide equivalent choice in assembly areas where there are more than 300 seats. [Title III  
1431 Technical  
1432 Assistance Manual III-7.5180 (1), Fl Code 4.33.3].

1433 *\*\*\* Comment from Kathy Butler/Legal: Mention requirement of vertical accessibility to all*  
1434 *levels.*

1435 **What about viewing over the heads of standing spectators?**

1436 In assembly areas wheelchair locations must provide people with disabilities lines of sight  
1437 comparable to those for members of the general public. Thus, in assembly areas where spectators  
1438 can be expected to stand during the event or show being viewed, the wheelchair locations must  
1439 provide lines of sight over spectators who stand. This can be accomplished in many ways, including  
1440 placing wheelchair locations at the front of a seating section, or by providing sufficient additional  
1441 elevation for wheelchair locations placed at the rear of seating sections to allow those spectators to  
1442 see over the spectators who stand in front of them. [Title III Technical Assistance Manual, 1994  
1443 Supplement, III-7.5180].

1444 **4.33.5 Access to Performing Areas**

1445 **Are performing areas, backstage areas, and other similar areas required to be accessible?**

1446 Accessible routes are required to all locations including stages, dressing rooms, locker rooms, and  
1447 other spaces used by performers unless otherwise exempted. [Fl. Code 4.33.5].

1448 **4.33.6 Placement of Listening Systems**

1449 **When is an assistive listening system required and is there a specific type required?**

1450 Assembly areas that accommodate at least 50 persons or have audio-amplification systems, and  
1451 have fixed seating shall have a permanently installed assistive listening system. If there are no fixed  
1452 seats, a permanently installed assistive listening system can be used or an adequate number of  
1453 electrical outlets or other supplementary wiring necessary to support a portable system shall be  
1454 provided. The code does not specify which type of system to use.

1455 **Can all individuals who need assistive listening devices be required to sit in one area?**

1456 If the listening system provided serves individual fixed seats, then these seats must be within 50 feet  
1457 of the stage or playing area and shall have a complete view of the stage or playing area (4.33.6).

1458 **What is the minimum number of devices that is required?**

1459 The minimum number of devices required is equal to 4 percent of the total number of seats, but not  
1460 less than two devices. Signage must be provided that alerts individuals to the availability of these  
1461 devices. [Title III Technical Assistance Manual, III-7.51.180 (2), Fl Code 4.33.6].

1462 **4.34 AUTOMATED TELLER MACHINES**

1463 **4.34.1 General**

1464 **When more than one ATM machine is provided at the same location, are all of them required**  
1465 **to be fully accessible?**

1466 No. When only one machine is provided at a given location, it must comply with the clear floor  
1467 space, reach range, control activation, and access for persons with vision impairment requirements.  
1468 If a second machine is provided at that same location it is not required to meet these standards.  
1469 Drive-up ATMs are not required to comply with the clear floor space and reach range requirements  
1470 but must meet the control activation and vision impairment requirements. [Title III Technical  
1471 Assistance Manual, III-7.51.85, Fl Code 4.1.3(20), 4.34]

1472 **4.34.3 Reach Ranges**

1473 **What is the maximum reach range for automatic teller machines?**

1474 Maximum forward reach range is 48" as specified in 4.2.5. Parallel or side reach range is determined  
1475 by the depth of the operable parts. If the reach depth is 10" or less, the maximum reach height is  
1476 54". If the reach depth is more than 10" the reach range is determined by the following:  
1477 Parallel Approach Only. If only a parallel approach is possible, operable parts of controls shall be  
1478 placed as follows:

1479 Reach Depth not more than 10 in (255 mm). Where the reach depth to the operable parts of all

1480 controls as measured from the vertical plane perpendicular to the edge of the unobstructed clear  
1481 floor space at the farthest protrusion of the automated teller machine or surround is not more  
1482 than 10 in (255 cm), the maximum height above the finish floor or grade shall be 54 in (1370  
1483 mm).

1484 Reach Depth more than 10 in (255 mm). Where the reach depth to the operable parts of any control  
1485 as measured from the vertical plane perpendicular to the edge of the unobstructed clear floor  
1486 space at the farthest protrusion of the automated teller machine or surround is more than 10 in  
1487 (255 mm), the maximum height above the finished floor or grade shall be as follows: See table  
1488 in section 4.34.3, Reach Ranges.

#### 1489 **How is the table used for reach ranges at ATMs under 4.34.3(2.b)?**

1490 This table is to determine how high the uppermost control can be on an accessible ATM that requires  
1491 an individual to reach more than 10 inches from the leading edge of the ATM on a parallel approach  
1492 only.

1493 For example, if an individual approaching the ATM from the side must reach 17 inches over the  
1494 edge of the machine to access the furthestmost control device, that control cannot be more than 50  
1495 inches from the finished floor. If only a forward approach is available, the maximum height of a  
1496 control is 48 inches.

### 1497 **4.35 DRESSING AND FITTING ROOMS**

#### 1498 **4.35.1 General**

##### 1499 **If a new store has fitting rooms, how many must be accessible and can a solid door be used on 1500 accessible fitting rooms?**

1501 Five percent, but never less than one, of each type of fitting rooms must be accessible. A solid door  
1502 (as opposed to a curtain) may be used on the accessible fitting rooms as long as the clear floor space  
1503 allows a person using a wheelchair to make a 180 degree turn and the door does not swing into any  
1504 part of the  
1505 turning space (see figure 3 b). The door must also meet all the requirements of 4.13 including clear  
1506 width and accessible hardware. [Title III Technical Assistance Manual III-7.5190, Fl. Code  
1507 4.2.5(21), 4.35].

### 1508 **5 RESTAURANTS AND CAFETERIAS**

#### 1509 **5.1 General**

##### 1510 **What is an "accessible" table?**

1511 It is a fixed or built-in table that provides at least 27 inches of knee clearance and is between 28  
1512 inches and 34 inches in height from finished floor to the tabletop. The clear floor space  
1513 requirements of 4.2.4 must also be met which requires access to the table along an accessible route  
1514 that at  
1515 least 36 inches clear in width. The surface must be stable, firm, slip resistant, and comply with 4.5  
1516 for ground and floor surfaces. [Fl. Code 4.32.2, 4.32.3]

1517 **Are all levels in a dining area required to be accessible?**

1518 Yes. In new construction, all dining areas, including raised or sunken dining areas, loggias, and  
1519 outdoor seating.

1520 In alterations, accessibility is not required provided that the same services and decor are provided  
1521 in an accessible space usable by the general public. NOTE: 20% disproportionate cost would still  
1522 be required in an alteration.

1523 EXCEPTION: (Input vertical accessibility clause). Source: Florida Statute, 553.509, FACBC97, 5.4.

## 1524 **5.2 Counters and Bars**

1525 **In the bar of a new hotel the bar and all of the tables are at a height suitable for standing or**  
1526 **sitting on bar stools. Is this permitted by the Florida Code?**

1527 No. In new construction, a portion of the main counter that is 60 inches in length minimum shall  
1528 be provided in compliance with 4.32 or services shall be available at accessible tables within the  
1529 same area. [Fl Code 5.2].

1530 **An existing restaurant is renovating their dining area, and their plans depict a new raised area**  
1531 **where they wish to place 8 tables - Can a restaurant owner then be granted a waiver under the**  
1532 **Florida Accessibility Code to waive the vertical requirement to the raised dining area?**

1533 No, because of Section 4.1.6 (1)(b) Sub-Paragraph B of the Florida Accessibility Code of the  
1534 Federal ADA.

1535 **Comment from Kathy Butler/Legal:** *This is unclear.*

1536 **An existing restaurant is renovating their dining area and they have an existing platform that**  
1537 **is not accessible, and they wish to alter the area to build a new platform. Can the restaurant**  
1538 **owner then be granted a waiver under the Florida Accessibility Code to waive the vertical**  
1539 **requirement to the raised dining area?**

1540 No, because there is no waiver.

1541 **Comment from Kathy Butler/Legal:** *This is really unclear!*

1542 **Under New Construction: Can a dining area have all booths and still comply with the**  
1543 **accessibility requirement?**

1544 Answer - Yes, must comply with 5.1 of FACBC.

1545 **Under Existing Building:**

1546 **If an existing business is renovating only the lighting and ceiling area, must the remaining**  
1547 **restaurant be renovated?**

1548 No, as long as it does not involve elements that are required to be accessible under the code.

1549 **In new construction, does a platform that is designed for 5 employees or less have to be**  
1550 **accessible?**

1551 Yes. This is a Federal requirement and cannot receive a waiver. (Sections 4.1.1(3), 4.1.3(1))

1552 **In a food service line, what does preferred clear width of 42 inches mean, and, when does it**  
1553 **apply, if at all?**

1554 The minimum requirement is 36". Section 5.5 of FACBC states a minimum clear width of 36".  
1555 The width of 42" would be preferred to allow passage around a person using a wheelchair but is not  
1556 required.

1557 **Figure 25 stipulates a front approach-swinging door that shows 18" minimum, 24" preferred**  
1558 **on the pull side. Can a building department require 24" clearance?**

1559 18" minimum is all that is required. Section 4.13.6 and figure 25 of FACBC addresses door-  
1560 maneuvering clearance. as A Building Department cannot require 24" maneuvering clearance under  
1561 the accessibility code.(Section 553.513, Florida Statute)

## 1562 **5.5 Food Service Lines**

1563 **In a self-service cafeteria, how do I ensure that the food is available to individuals with**  
1564 **disabilities?**

1565 at least 50 percent of each type of self-service shelves must be within reach ranges specified in 4.2.5  
1566 and 4.2.6. It is likely that this will require a reach over a counter or other obstruction. Therefore,  
1567 the range for a minimum of 50% of each type shall be as shown in Figures 5(b) and 6(c) for forward  
1568 and side reaches respectfully. Please note that tableware and condiments shall also be available  
1569 within the reach ranges [ADAAG A5.1, Fl. Code 5.6, 4.2, (see figures 53 and 54)]

1570 **Comment from Kathy Butler/Legal:** *The following four entries seem out of place here. Also,*  
1571 *we've been telling people that in Florida, when an alteration is made anywhere, whether in the*  
1572 *tenant or landlord space, the entire building becomes subject to the FACBC - not just the space*  
1573 *being altered.*

1574 **A ten-story multi-tenant office building is remodeling the 5th floor, which comprises 3**  
1575 **different tenants. Tenant A, who occupies 1/3 of the premises, is issued a permit to commence**  
1576 **with tenant improvements. Is the Landlord required at this point, to upgrade the common**  
1577 **area outside of the tenant's premises, i.e. toilet room facilities?**

1578 No. Alterations by a tenant don't trigger a path of travel obligation for the landlord, nor is the tenant  
1579 required to make changes in areas not under his or her control. (Technical Assistance Manual, III-  
1580 6.2000,"Path of Travel")

1581 **A retail center - Tenant is issued a permit to improve his premises. Will this require the**  
1582 **Landlord to do any alterations on the exterior of the building? I.e., parking ramps,**

1583 No. Section 36.403, Sub Paragraph D of the Federal Guidelines.

1584 **An existing two-story building of approximately 2,500 square feet per floor is composed of**  
1585 **retail on the ground floor and office and residential on the 2nd floor. The owner wishes to**  
1586 **convert the 500 square feet of residential premises to office. Will this be treated as an**  
1587 **alteration, or will it fall under new construction codes and vertical accessibility be required?**

1588 This will be treated as an alteration, and, under alterations, the disproportionate cost rule for the path  
1589 of travel would apply.4.1.6. (2)

1590 \*\*\* **Comment from Kathy Butler/Legal:** *Note this: Can no longer use the disproportionate cost*  
1591 *to avoid vertical accessibility requirement.*

1592 **The same owner keeps his residential unit, and wishes to pull a permit for improvements in**  
1593 **the commercial side. However, he has 4 office tenants and 2 residential tenants, for a total of**  
1594 **6 occupants on the 2nd floor. Will this be treated as an alteration, or will this fall under the**  
1595 **new construction for ADA requirements and vertical accessibility be required?**

1596 This will be treated as an alteration under section 4.1.6(2) of the FACBC, and the disproportionate  
1597 cost rule for the path of travel would apply.

1598 \*\*\* **Comment from Kathy Butler/Legal:** *Note this: Can no longer use the disproportionate cost*  
1599 *to avoid vertical accessibility requirement.*

## 1600 **9 ACCESSIBLE TRANSIENT LODGING**

### 1601 **9.1 General**

#### 1602 **What are Florida's hotel, motel and condominium specific requirements?**

- 1603 1. Grab rails in bathrooms and toilets that comply with Section 4.1.6.1.4 of  
1604 Florida Accessibility Code for Building Construction.
- 1605 2. All beds in designated accessible guestrooms shall be open- framed types  
1606 to permit passage of lift devices.
- 1607 3. All standard water closet seats shall be at a height of 15" measured  
1608 vertically from the finished floor to the top of the seat, with a variation of  
1609 + or - ½ ".  
1610 4. A portable or attached raised toilet seat shall be provided in all  
1611 designated permanent disability accessible rooms.