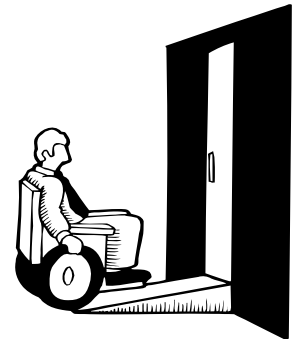


2012

VERMONT ACCESS RULES And Adaptable & Visitable Standards for Dwellings

DRAFT



**Vermont Access Board
And The
Vermont Department of Public Safety
Division of Fire Safety**

Effective: March 15, 2012

Proposed Rule

Vermont Access Rules - 2012-
To provide access to public buildings for people with disabilities

VERMONT ACCESS BOARD and the
VERMONT DEPARTMENT of PUBLIC SAFETY

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A. Introduction

Since May 4, 1977 Vermont law has required that construction work in public buildings be accessible to people with disabilities. The accessibility codes were originally based on the American National Standards Institute (ANSI) 117.1 entitled “providing accessibility and usability for physically handicapped people”. The law initially covered publicly funded new construction, then all new construction, with requirements for all new construction and major renovations established in 1987.

In 1990, the United States Congress passed the Americans with Disabilities Act (ADA). ADA recognized, that for people with disabilities, building accessibility was a civil right. ADA contained some provisions that pre-empted Vermont law while some provisions required less accessibility than Vermont law. In 1996, the Vermont legislature passed Act 187 that was intended to eliminate portions of Vermont law that did not meet or exceed the requirements of ADA. Portions of Vermont law that already exceeded ADA were retained. Religious buildings and private clubs, exempt under ADA, are covered under these rules. In addition, there are requirements for vertical access in smaller buildings and other requirements including adaptability in multi-family dwellings that exceed ADA and the Federal Fair Housing Act requirements. In 1998 the Vermont Access Board and the Department of Labor and Industry adopted the “rules for new construction and for alterations to existing buildings” that included the Americans with Disabilities Accessibility Guidelines (ADAAG) as printed July 26, 1991. Since that time the U. S. Access Board has developed several significant changes for the ADAAG regarding children’s elements, recreation facilities, correctional facilities and courthouses, but only minor changes have

been adopted by the U. S. Department of Transportation and the U. S. Department of Justice. Those adopted changes are included in these rules. In 2000 the Vermont legislature extended certain adaptability requirements, called “visitable” [Act 88] requirements, to all new construction of dwelling units. It is the intent of these rules to incorporate the changes that have occurred at both the federal and state level.

B. Organization

These rules are divided into 13 Chapters to coincide with the 2010 ADA Standards and the Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG).

Chapter 1 – 5 Contain Application & Administration, Scoping Requirements, Building Blocks, Accessible Routes and General Site and Building Elements:

Chapter 6 – 10 Plumbing Elements and Facilities, Communication Elements and Features, Special rooms, Spaces and elements, Built-in Elements and Recreation Facilities:

Chapter 11 Sets out the specific technical and design guidelines for housing. It is the intent of these rules that the requirements for dwelling units identified as “adaptable” are consistent with and meet or exceed the requirements of the Federal Fair Housing Act. It is the intent of these rules that the requirements for dwelling identified as “visitable” [Act 88], that are not covered by the Federal Fair Housing Act, are consistent with the requirements as established under 20 V.S.A. 2903 (c) and 2907.

Chapter 12 Establishes the standards and process for a variance, exemption or abatement from specific requirements of these rules.

Chapter 13 Sets the effective date and severability clause for this rule.

C. Adoption of the 2010 Americans with Disabilities Act Standards for Accessible Design

These rules are adopted under 20 V.S.A. Chapter 174. These rules apply to all public buildings as defined in 20 V.S.A. section 2900(8).

Chapter 10 of the 2010 ADA Design Manual only applies to those recreation facilities that are incorporated into a public building project. (i.e. building, stadium or tent structure as defined by the State Building Code) Exempt from these rules are Amusement Rides, 206.2.9, 216.12, 234; Recreational Boating Facilities, 206.2.10 & 235, Fishing Piers and Platforms, 206.2.14 & 237; Golf Facilities, 206.2.15 & 238; Miniature Golf Facilities 206.2.16 & 239; Play Areas 206.2.17 & 240; Swimming Pools, Wading Pools and Spas 242; Shooting Ranges 243; as Defined by Chapter 2: Scoping Requirements. Deletion of Chapter 10 for non-public building recreation facilities from the Vermont Rules does not relieve or obviate the owner from complying with the Department of Justice 2010 ADA Standards for Accessible Design.

These rules do not apply to existing buildings that are not altered. These rules do not address the requirements for a building that is classified as a "place of public accommodation" and where owners must comply with federal accessibility requirements for removal of barriers, or requirements for existing municipal or state owned buildings. *[Reports of discrimination regarding public accommodations can be referred to the Human Rights Commission at (802) 828-2480]*

To meet the individual needs of Vermont, the **Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) contained in 28 CFR 35.151 and 28 CFR Part 36, revised as of September 15, 2010**, are adopted as amended in the following chapters:

CHAPTER 1. Application and Administration Amendments

-add- section 106.6 Definitions

Abatement - Relief from one or more requirements of these rules for a period of time specified by the Board.

Adaptable - A combination of adaptable elements for multi-family dwelling units including:

1. At least one building entrance on an accessible route.
2. The public and common use areas are readily accessible to and usable by people with disabilities.
3. Usable doors that are at least 34" wide providing a clear opening of at least 32", and a threshold not greater than 1/2", to allow passage into and within all dwelling units.
4. A route into and through single story dwelling units, or through the primary level of multi-story dwellings units, 36" wide, with 32" clear doorways and lacking abrupt changes in floor surface or elevation, so that residents and guests with disabilities can safely use all rooms and spaces except a basement and garage and either a raised or sunken area. The route shall be continuous throughout the dwelling unit and not be interrupted by the raised or sunken area. No part of a kitchen or bathroom may be located in a raised or sunken area unless an accessible route is provided for that area. The primary level of multi-story dwelling units shall contain a usable bathroom or powder room.
5. Light switches, electrical outlets and environmental controls including thermostats for heating, air-conditioning and ventilation systems located within 15" to 48" off the floor for front reach limits and 9" and 54" for side reach limits
6. Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall and shower seat, where such facilities are provided.
7. Useable kitchens and bathrooms, designed such that an individual in a wheelchair can maneuver about the space, in accordance

with the mandatory provisions of the Fair Housing Act Design Manual Chapter 7. [Annex II contains additional information regarding the Fair Housing Act Design Manual, Chapter 7]

Board – The Vermont Access Board established under 20 V.S.A. Section 2901.

Commissioner – The Commissioner of the Vermont Department of Public Safety or a designee.

Covered Multi-family Dwellings – A residential unit for sale or rent in a public building consisting of four or more residential units if the building has one or more elevators; and a ground floor residential unit for sale or rent in a public building consisting of four or more residential units, if the building has no elevator.

Exemption – Relief from strict adherence to the standards set forth in these rules as determined by statute or by the Board.

Ground Floor Residential Unit – A single story residential dwelling unit in a multi-family dwelling with an entrance within one story of the predominant exterior finish grade of the building. A building may have more than one ground floor.

Historic Building – Any structure that is listed in or eligible for listing in the National Register of Historic Places or included in the state register of historic places.

Public Building – A state, county, or municipal building, airport terminal, bus or railroad station, school building or school, or society hall, hotel as defined in section 9202 of Title 32, restaurant, apartment, church or other house of worship, factory, mill, office building, or in other building in which persons are employed, store or other space wherein goods are offered for sale at wholesale or retail, nursery, convalescent home, home of the aged or day care facility; provided that the term “public building” does not include a family residence registered as a day care home

under subchapter 1 of chapter 35 of Title 33. [A registered day care facility that provides care on a regular basis in the caregiver’s own residence for not more than ten children at any one time.] Of this number up to six children may be provided care on a full time basis and the remainder on a part-time basis. Care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the care giver.] “Public building” also means a tent or outdoor structure, place of amusement, barn, shed or workshop, if normally open to the public for the purpose of offering goods for sale at wholesale or retail, public assembly or viewing, entertainment, or education. For the purpose of these rules, “public building” includes, in addition to the definition in this subsection, a cooperative or condominium if the building otherwise meets the definition of “covered multifamily dwelling”. “Public building” shall not include a working farm or farms, as that term is defined by 20 V.S.A. Section 2730. However, for purposes of these rules “public building” shall not include existing housing on a working farm provided to farm employees or a farm building which is open for public tours and for which no fee is charged for those tours. [The definition of a public building under these rules differs in some respects from the definition of a public building that applies to the Vermont Fire & Building Safety Code under 20 V.S.A. 2730.]

Variance – An acceptable alternative to a specific technical requirement and/or application of a standard set forth in these rules, as determined by the Board.

Visitable [Act 88] – A combination of accessible and adaptable elements for all dwelling units established under Act 88, signed in to law April 27, 2000, including:

1. At least one first floor exterior door that is at least 36 inches wide.
2. First floor interior doors between rooms that are at least 34 inches wide or open doorways that are at least 32 inches wide with thresholds that are level, ramped or beveled.

3. Interior hallways that are level and at least 36 inches wide.
4. Environmental and utility controls and outlets are located at heights that are within 15" to 48" off the floor for front reach limits and 9" and 54" for side reach limits.
5. Bathroom walls that are reinforced to permit attachment of grab bars around the toilet, tub, shower stall and shower seat, where such facilities are provided.

CHAPTER 2. Scoping Requirements –Amendments-

*-add- section 201.1(a) Application for a **Construction Permit:** The owner, or a designated representative, of a building or premise shall obtain a construction permit in accordance with the "Vermont Fire & Building Safety Code" before beginning any construction, addition, alteration, demolition or installation of fixed building equipment at the building site unless specifically waived by the authority having jurisdiction (AHJ). [For most construction projects the review of accessibility features required under these rules will take place at the same time as the review of fire and structural safety features and a separate construction permit will not be required. A separate construction permit is required when the only work being done is to provide accessible features and the work is not covered under another permit. Portions of the Vermont Fire & Building Safety Code regarding the application for a construction permit are included in Annex IV.]*

*-add- **New elevator:** section 3002.4.1 as currently required by the Vermont Fire and Building Safety Code; Required Locations: An elevator car of such a size and arrangement to accommodate an ambulance stretcher (24" X 84") as specified in section 3002.4 (International Building Code) shall be provided where a passenger elevator is newly installed in a building three or more stories in height. This section shall not apply to the installation of a (LULA) Limited-Use / Limited-Application*

elevator approved by the Vermont Access Board.

*–delete & replace- 206.2.3. Exception 1, §36.401(d) (page 20) **Elevator, New Construction:** In public buildings, an accessible route is not required to spaces that are less than 1,000 square feet. [In new construction platform lifts may be used in lieu of an elevator only by obtaining a variance or exception under Chapter 12 or under the conditions described in ADAAG]*

-delete- 206.2.3 Exception 2, 4, 5 & 7.

*-delete & replace- §36.404.(page 25) **Elevator, Alterations to Existing Buildings:** In public buildings, an accessible route is not required to spaces that are less than 1,000 square feet.*

*-add- section 35.151(a)(1)(2)**New Construction and Alterations:** An owner of any public building shall maintain in operable working condition any features and equipment required by these rules, or previous editions of these rules, except for isolated or temporary interruptions in service or access due to maintenance or repairs.*

Parking Spaces: Any parking facility on the premise of a public building shall contain at least one (1) parking space per ADAAG standards. (Sec. 2. 20 V.S.A. § 2904) For additional parking space requirements refer to Table 208.2.

Chapter 3. Building Blocks -no amendments-

Chapter 4. Accessible Routes -no amendments-

Chapter 5. General Site and Building Elements -no amendments-

Chapter 6. Plumbing Elements and Facilities -no amendments-

Chapter 7. Communication Elements -no amendments-

Chapter 8. Special Rooms, Spaces and Elements -no amendments-

Chapter 9. Built-in Elements -no amendments-

Chapter 10. Recreation Facilities -amendments-

Chapter 10 of the 2010 ADA Design Manual only applies to those recreation facilities that are incorporated into a public building project. (i.e. building, stadium or tent structure as defined by the State Building Code) (refer to page 4)

Chapter 11. Housing, Adaptable and Visitable [Act 88] Dwelling Units

-add-Chapter 11 Housing, Adaptable and Visitable [Act 88] Dwelling Units: (21V.S.A. 286(b) Effective July 11, 2001)

11.1 Application: This section establishes minimum requirements for new construction, or alterations to existing buildings, for buildings with dwelling units. It is the intent of these rules that the requirements for dwelling units identified as "adaptable" are consistent with and meet or exceed the requirements of the Federal Fair Housing Act. It is the intent of these rules that the requirements for dwelling units identified as "visitable" [Act 88], that are not covered by the Federal Fair Housing Act, are consistent with the requirements as established under 20 V.S.A. 2903 (c) and 2907. [Section 233 contains the requirements for all residential dwelling units whether identified as apartments, townhouses, cooperatives, condominiums or other name. Section 224 contains the requirements for

transient lodging, including time shares, dormitories, and town homes] (see transient lodging definition page 48)

11.2 Common Areas in Multi-family

Dwellings: All public use and common areas in buildings with four or more dwelling units shall comply with these rules as required for a public building.

11.3 Portions of a Dwelling Unit Used as a Public Building:

The portion of a dwelling unit used exclusively for a dwelling unit shall be subject to this section. The portion of a dwelling unit used as a public building shall be subject to these rules as required for a public building.

11.4 New Construction of Dwelling Units:

- (a) In buildings containing four or more dwelling units, with one or more elevators, all dwelling units shall be "adaptable" as that term is defined in Chapter 1.
- (b) In buildings containing four or more dwelling units, with no elevators, all ground floor dwelling units shall be "adaptable" as that term is defined in Chapter 1.
- (c) In buildings containing four or more dwelling units, with units that contain more than one story per unit, 5% or at least one of the dwelling units, whichever is greater, shall have an accessible entrance to the primary level of the dwelling unit(s), and all dwelling units shall be "visitable" [Act 88] as that term is defined in Chapter 1.
- (d) All dwelling units in public buildings, including multi-family dwellings, not required to be adaptable under sub-sections (a) and (b) of this section shall be "visitable" [Act 88] as that term is defined in Chapter 1.
- (e) Section 11.4(c) and (d) shall not apply to the assembly or placement of residential construction that is prefabricated or manufactured out of state.

[Annex VI contains a table outlining requirements for Adaptable and Visitable Dwelling Units]

11.5 Alterations of Dwelling Units:

- (a) Any altered elements, spaces or features, in dwelling units required to be adaptable under section 11.4 (a) or (b), shall be altered to be

“adaptable” as that term is defined in Chapter 11.5. A 34” wide door shall not be required for alterations into and within any dwelling unit in a historic building where a clear opening of 32” is otherwise provided.

- (b) Chapter 3 shall not apply to privately funded and operated dwelling units with more than one story within the dwelling unit. (Refer to Act 88)

11.6 Consumer and Construction

Information: The building owner or manager shall permanently mount directions for the installation of grab bars, or any other adaptable feature provided, in every dwelling unit made to be “adaptable” or “visitable” [act 88]. The directions shall include the type of construction used, the location of reinforced areas and the most effective method for installing grab bars.

[New construction or alteration to existing multi-family dwellings may be subject to accessibility requirements in addition to these rules depending on the source of project financing. An owner, builder or developer should consult with the organization or agency providing funding for the project to determine if there are any additional requirements. Reports of discrimination regarding housing can be referred to the Human Rights Commission at (802) 828-2480].

Chapter 12. Variances, Exemptions or Abatements

12.1 Variance, Exemption or Abatement:

The Access Board may grant a variance, exemption or abatement for compliance with these rules if the Board determines that compliance is not required by federal law for new construction or alteration and compliance with the rules:

- (a) would be prohibitively costly in relation to the normal cost of the total project; or
- (b) would threaten or destroy the historic significance of an historic building or historic project; or
- (c) would be technically infeasible, or structurally impracticable; or

- (d) would be impractical because of the terrain or unusual characteristics of the building site; or
- (e) would provide access to adjoining levels of the building by a LULA elevator, private residence elevator, vertical platform lift, inclined platform lift, or would provide substantially equivalent or greater access to and usability of a facility under the 2010 ADA Chapter 1, Section 103 (Equivalent Facilitation)

12.2 Process for Obtaining a Variance, Exemption or Abatement:

Any request for a variance, exemption or abatement may be reviewed under any category at the discretion of the board. All requests for a variance, exemption or abatement shall be submitted to the Vermont Access Board, Division of Fire Safety, 1311 US Route 302 – Berlin, Suite 600, Barre, VT 05641-2351, at least 15 days prior to a board meeting, with sufficient data and information so the board can make an informed decision on the request; including the following information:

- (a) A written statement of the specific request from the applicant.
- (b) Whether the applicant or a representative of the applicant will appear before the board to present information on the request.
- (c) Whether the request is covered by federal law.
- (d) A summary of the request indicating why a variance, exemption or abatement should be granted by the board and what alternative provisions are being made to provide access and or use by people with disabilities.
- (e) Documentation that the building is a historic building and the historic features, elements or spaces important to the understanding of the request.
- (f) Documentation on the overall costs of the building project including the cost of accessible features provided, costs of full compliance with these rules and the costs for any alternative proposed by the applicant. Estimates of construction cost shall be based upon fair market value. (See page 8 – 2010 ADA Accessibility Guide for additional information regarding “Disproportionality”)

12.3 Participation in Board Proceeding: Any person who can demonstrate a substantial interest in a request under consideration by the board may request permission to participate in the proceeding before the Board. The request to participate shall be made to the Division at least two working days before the meeting of the Board. The Board may limit repetitive or irrelevant discussion.

15.4 Reconsideration or Appeal:

- (a) When there has been a denial of a request for a variance, exemption or abatement, the person affected by the decision may request reconsideration of that decision by providing additional information, or other grounds for the reconsideration, to the Board at the address of the Division of Fire Safety, Central Office, within 60 days of the written denial by the Board.
- (b) After reconsideration, an appeal of the decision of the Board is to the Superior Court, pursuant to the provisions of Vermont Rules of Civil Procedure, Rule 75. An appeal shall be filed within 60 days of the written denial by the Board of the request for reconsideration.

Chapter 13. Effective Date and Severability

16.1 Effective Dates:

- (a) These rules shall take effect March 15, 2012 and shall be known as the Vermont Access Rules – 2012.
- (b) These rules shall not require changes in the construction documents or construction of a building or portions of a building for which a construction permit has been issued and construction has started within 90 days of the effective date of these rules.

16.2 Severability: In the event any part or provision of these rules is held to be illegal, this shall not have the effect of making void or illegal any of the other parts or provisions of these rules.

Annex I. Excerpts from Vermont Law Pertaining to the Vermont Access Rules:

20 V.S.A. § 2900. Definitions

[The definitions established in 20 V.S.A. 2900 is included in section 3 of these rules.]

§ 2901. Access board

(a) An access board is created consisting of ten members. The members of the board shall be the commissioner of public safety, or designee; the chair of the house committee on institutions, or designee; the chair of the senate committee on institutions, or designee; the commissioner of buildings and general services, or designee; the state historic preservation officer, or designee; and five members appointed by the governor, including an independent architect, a builder or contractor, and three individuals with disabilities representing organizations for persons with disabilities in this state, appointed by the governor. The governor shall also appoint one additional individual with a disability to act as an alternate for the three members with disabilities in the event one of those members is unable to attend a board meeting. The alternate may attend all meetings and shall be paid a per diem for those meetings attended. The alternate shall vote only in the absence of an appointed member with a disability. Members and the alternate appointed by the governor shall serve for a term of six years.

(b) The commissioner of public safety, or designee, shall be the chair of the access board and shall convene the board whenever an application is made for a variance. Five members of the board shall constitute a quorum. A decision of the board based upon a majority vote of members present shall be binding. Members of the board who are not state employees shall receive a per diem of \$50.00 for each day devoted to official duties and reimbursement for actual and necessary expenses. These expenses shall be reimbursed from the appropriation to the department of public safety.

(c) The access board may adopt, amend, and repeal rules under chapter 25 of Title 3 to carry out the provisions of this chapter.

§ 2902. Construction standards; variance

(a) A person shall not construct, alter, or permit construction or alteration of a public building or allow the change in use of a nonpublic building to become a public building unless the specifications at the time work commences meet or exceed the accessibility standards for new construction and alterations incorporated in 28 C.F.R. § § 35 and 36, the Americans with Disabilities Act Accessibility Guidelines (ADAAG), as amended by this chapter and the access board.

(b) Alterations of a public building and changes in use of a nonpublic building to become a public building shall comply with the standards specified in subsection (a) of this section and the rules of the access board. All altered elements and spaces shall be made accessible to the maximum extent feasible. Each existing element, space, or common area that is altered shall comply with the standards of this chapter. If compliance with accessibility standards is technically infeasible, the alteration shall provide accessibility to the maximum extent feasible. Any elements or features of the building or facility that are being altered and can be made accessible shall be made accessible within the scope of the alteration.

(c) If an alteration affects or could affect the usability of or access to an area of a facility that contains a primary function, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area shall be made accessible to individuals who use wheelchairs to the maximum extent feasible. Compliance with this subsection is required only to the extent that the cost of making the additional elements and spaces accessible does not exceed 20 percent of the total cost of the overall alteration.

(d) Full compliance with the standards in this section is not required in the rare circumstance in which an entity can demonstrate that it is structurally impracticable to meet the standards. If full compliance with the standards would be structurally impracticable, compliance is required to the extent that it is structurally practicable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is structurally practicable. If provision of accessibility to individuals with certain disabilities in compliance with the standards would be structurally impracticable, accessibility shall nonetheless be provided to persons with other types of disabilities. Full compliance will be considered structurally impracticable only when the unique characteristics of terrain prevent the incorporation of accessibility features. The burden of proving the impracticability is on the person who designed or constructed the public building.

(e) The access board may exempt a public building from compliance with any of the standards established by this chapter if the board determines that compliance with the standards is not required by federal law and:

(1) would be prohibitively costly in relation to the normal cost of the total project; or

(2) would threaten or destroy the historic significance of an historic building or an historic project.

(f) The exemption provided in subdivision (e)(1) of this section shall not apply to newly constructed buildings consisting of covered multifamily dwellings built for first occupancy after January 1, 1990, unless it is impracticable to design and construct at least one building entrance on an accessible route, as defined by the appropriate requirements of ADAAG because of the terrain or unusual characteristics of the site. The burden of proving the impracticability shall be on the person who designed or constructed the covered multifamily dwelling.

(g) The access board shall adopt rules regarding compliance, variances, or abatements to a specified date, exemptions, and appeals.

(h) A public building or unit constructed or altered in accordance with the requirements of this section shall not be rendered inaccessible as a result of subsequent renovations, alterations, or additions to that building or unit.

§ 2903. Exemptions

(a) The following are exempt from the provisions of this chapter, unless compliance with access standards is required by federal law:

(1) alterations to privately funded and operated dwelling units consisting of two or more stories within a single dwelling unit. This exemption shall not apply to alterations of dwelling units which are operated by state or local government or units that receive federal financial assistance to alter the unit or to provide rental assistance to an altered unit;

(2) apartments or rooming houses, cooperatives, condominiums, and other residential buildings consisting of three living units or less;

(3) alterations to the dwelling unit in a public building in which the owner of the public building resides.

(b) Unless required by federal law, dwelling units which consist of three stories or less and two- or three-story retail establishments with a total of 15,000 square feet or less shall be exempt from any requirements pertaining to the installation of elevators. All other multistory buildings shall be provided with vertical access unless the building is exempted from this requirement pursuant to a rule of the access board.

(c) Unless required by federal law, any single dwelling unit of two or more stories within a building consisting of four or more dwelling units is not required to have a vertical access within the dwelling unit provided that five percent of the dwelling units or one unit, whichever is greater, has an accessible entrance, and all the dwelling units meet or exceed the minimum standards required in section 2907 of this title.

§ 2904. Parking spaces

Any parking facility on the premises of a public building shall contain at least the number of parking spaces required by ADAAG standards, and in any event at least one parking space, as free designated parking for individuals with ambulatory disabilities or blind individuals patronizing the building. The space or spaces shall be accessibly and proximately located to the building. Consideration shall be given to the distribution of spaces in accordance with the frequency and persistence of parking needs. Such spaces shall be designated by the international symbol of access and, where appropriate, the words "van accessible" and shall be in accordance with the standards established under section 2902 of this title.

§ 2905. Accessibility; markings

All public buildings which comply with the standards adopted under this chapter may be marked with the international symbol of access.

§ 2906. Administration and enforcement

(a) The department of public safety shall enforce the provisions of this chapter relating to facilities for persons with disabilities and shall adopt rules which are necessary for the performance of its duties under this chapter.

(b) Any person may file a complaint with the commissioner of public safety alleging that a public building or unit is out of compliance with the provisions of this chapter. The commissioner shall investigate the complaint, and if substantiated, shall order that the public building or unit be brought into compliance with the provisions of this chapter within a reasonable period of time. Notwithstanding the foregoing, the commissioner may establish a priority system for the investigation and enforcement of this chapter.

(c) Any person who fails to carry out an order or condition attached to an approval shall be fined not more than \$200.00 per day, not to exceed a maximum of \$10,000.00, until compliance is affected.

(d) On application by the commissioner, the superior court for the county in which a violation of any rule adopted or any order issued under this chapter occurs shall have jurisdiction to enjoin or restrain the violation. An election by the commissioner to proceed under this subsection shall not limit or restrict the commissioner's authority under this or other subchapters.

(e) The commissioner may assess penalties under section 2734 of this title against a person who violates this chapter or any rule adopted under this chapter.

§ 2907. Accessibility standards: residential construction

(a) For the purposes of this chapter, "residential construction" means new construction of one family or multifamily dwellings. "Residential construction" shall not include a single family dwelling built by the owner for the personal occupancy of the owner and the owner's family, or the assembly or placement of residential construction that is prefabricated or manufactured out of state.

(b) Any residential construction shall be built to comply with all the following standards:

- (1) At least one first floor exterior door that is at least 36 inches wide.
- (2) First floor interior doors between rooms that are at least 34 inches wide or open doorways that are at least 32 inches wide with thresholds that are level, ramped, or beveled.
- (3) Interior hallways that are level and at least 36 inches wide.
- (4) Environmental and utility controls and outlets that are located at heights that are in compliance with standards adopted by the Vermont access board.
- (5) Bathroom walls that are reinforced to permit attachment of grab bars.

(c) A violation of this section shall neither affect marketability nor create a defect in title of the residential construction.

Annex II. Federal Fair Housing Design Manual:

The *Fair Housing Act Design Manual*, a manual to assist designers and builders in meeting the requirements of the Fair Housing Act, provides clear and helpful guidance about ways to design and build housing that meets the Fair Housing Act. A link to the manual is provided from the division website to <http://www.huduser.org/Publications/PDF/FAIRHOUSING/fairfull.pdf> . The *Fair Housing Act Design Manual* offers numerous design solutions to provide usable space in kitchens and bathrooms for people with disabilities.

The *Fair Housing Act Design Manual* specifies in Chapter 7, Part A, for **usable space in kitchens:**

- 1) a minimum 30" x 48" clear floor space for each appliance or fixture centered on the appliance or fixture,
- 2) a minimum clearance of 40" between all opposing cabinets, countertops, appliances and walls,

3) and additional specifications for “U” shaped kitchens

Wheelchair turning spaces, that are described in accessibility standards, are not required in kitchens that meet the *Fair Housing Act Design Manual*, except in some “U” shaped kitchens. It is anticipated that in any conventional kitchen plan, the overlapping of the minimum 36” wide accessible route with the clear floor spaces at all fixtures and appliances will provide the necessary maneuvering space to make it possible for a person using a mobility aid to approach, and then position himself or herself close enough to use the fixture safely. The clear floor space must be positioned either parallel or perpendicular to and centered on the appliance or fixture. Unless knee space is provided, space to execute a parallel approach must be provided at ranges, cooktops and sinks. The clear floor space in this parallel orientation allows the wheelchair user to make a close side approach permitting safer and easier reach to controls and cooking surfaces. A parallel approach also must be provided at sinks so a seated user can reach down into the bowl.

Additional requirements for “U” shaped kitchens include a 60” turning circle in a “U” shaped kitchen that has a sink, range or cooktop at the base of the “U”, unless the sink or cooktop has removable base cabinets under the cooktop or sink. The floor, walls and cabinet faces of knee space must be finished during initial construction so no other work is necessary when the base cabinet is removed.

The *Fair Housing Act Design Manual* contains information on the requirements for both **usable space in bathrooms and powder rooms** in Chapter 7, Part B. Usable bathrooms and powder rooms, although not fully accessible, provide a person who uses a wheelchair or scooter, or who may use a walker or other mobility aid, with a bathroom or powder room that has enough maneuvering space to allow the person to enter, close the door, use the fixtures, and exit. In some cases a resident with a disability will find it necessary to make additional modifications to meet his or her specific needs. The primary entry level of a multi-story dwelling must contain either a usable bathroom or powder room. If there is both a bathroom and a powder room on the primary entry level the bathroom is required to be usable and the powder room is required to meet requirements 3 (usable doors), 4 (accessible route) and 5 (controls), of the adaptable requirements.

A 30” by 48” clear floor space is required for bathrooms located outside of the swing of the door as it is closed. Additional maneuvering and clear floor space is required for fixtures depending on whether “Specification A” or “Specification B” floor plans are selected by the builder, owner or developer. The primary difference between “Specification A” and “Specification B” is that a clear floor space must be provided adjacent to the foot of the bathtub under “Specification B” to increase access to the bathtub and bathtub controls. If “Specification A” is selected then all bathrooms in the dwelling unit must meet the criteria for “Specification A”. If “Specification B” is selected then only that bathroom needs to meet the maneuvering and clear floor space requirements. Examples of “Specification A” and “Specification B” bathrooms are found on pages 7.36 and 7.37 of the *Fair Housing Act Design Manual*.

The maneuvering space necessary for usable bathrooms is made up of the combination of the designated clear floor spaces at the fixtures and the clear floor space outside the swing of the door. Clear floor spaces may overlap each other and the maneuvering space also may include knee or toe space under lavatories or toilet bowls. One of three clear floor space designs must be provided at toilets to allow people using wheelchairs and walkers to maneuver, approach, and make a safe transfer onto the toilet. [specifications for the three designs are on page 7.43 of the *Fair Housing Act Design Manual*] A 30” by 48” clear floor space is required at a lavatory so a person who uses a wheelchair or scooter can get close enough to the basin and controls to use the fixture. The lavatory type and width, plus the available maneuvering space in the room, determines whether or not a vanity cabinet must be removable. [for additional specifications see the *Fair Housing Act Design Manual* page 7.47] There are also three clear floor space options to meet the clear floor space requirement at bathtubs, or combination bathtub and shower, so people who use wheelchairs or scooters can get close enough to execute transfers into and out of bathtubs. [for additional specifications see the *Fair Housing Act Design Manual* page 7.53] For showers, a 30” by 48” clear floor space must be provided at shower stalls, parallel to the fixture and flush with the wall that has the shower controls. [for additional specifications see the *Fair Housing Act Design Manual* page 7.56] Chapter 7 of the *Fair Housing Act Design Manual* contains designs for numerous bathroom floor plans that comply with the requirements.

The Vermont Access Rules require **reinforcement in bathroom walls for grab bars** to allow later installation of the grab bars in both adaptable dwelling units and in dwelling units designed to meet “Act 88” or so-called “visitable units”. The reinforcement is required around the toilet, tub, shower stall and shower seat, where such facilities are provided. The minimum size for a reinforced area is 24” long by 6” wide, located between 32” and 38” above the floor. However, a larger reinforced area is actually needed to provide adequate reinforced area to attach standard size mounting brackets and flanges for grab bars. A longer reinforced area is also needed so that each end of the reinforced area is supported at wall studs. A 2” x 8” x 32” let into wall studs is a common solution. Another common solution is to provide plywood for reinforcement over a larger area. A larger reinforced area provides greater flexibility in placement of grab bars, easier installation of grab bars and the plywood may also act as the base for ceramic tile or other finish material. For details on the exact location of reinforced areas for different types of fixtures use Chapter 6 of the *Fair Housing Act Design Manual*.

Annex III. Technical Assistance:

Clearance on Stairs for Inclined Stairway Chairlifts and Platform Lifts – Where a platform or chair lift is installed on a stair the clearance to pass by the lift, when it is in the down position, must be at least the exit width required for the stair by the Vermont Fire & Building Safety Code. When the stair only serves a small number of people the clearance to pass by the lift can be reduced to 22" where the stair serves fewer than 50 people or to 18" where the stair serves fewer than 10 people. [section NFPA 101:7.1.10.1.1 as amended]

Construction Permit: For most construction projects the review of accessibility features required under these rules will take place at the same time as the review of fire and structural safety features and a separate construction permit will not be required. A separate construction permit is required when the only work being done is to provide accessible features and the work is not covered under another permit

Vermont Fire & Building Safety Code

(b) To obtain a construction permit the applicant shall:

- (1) Complete a Construction Permit Application form and submit it along with the required construction permit fee to the Division of Fire Safety regional office.
- (2) Provide construction documents relating to the construction work and equipment under consideration unless specifically waived by the AHJ based on the size, use, occupancy or complexity of the work.
- (3) For buildings where the applicant is requesting special consideration for a historic building, documentation shall be included on the historic designation of the building, including identification and evaluation of historic adjacent structures and site elements such as sheds, walkways, and fencing; historic construction features such as sheathing, facade or roofing materials, chimneys, skylights, cornices or molding, windows or doors, wainscoting, cabinets and finishes; and historic spaces such as archways, lobbies or rooms which are important to the understanding and application of the building.

(d) Plans required under this Code shall be drawn to scale, using customary inch-pound units and English language, and shall be sufficiently clear, comprehensive, detailed and legible when submitted to the AHJ so that, together with any accompanying specifications and data, the AHJ can readily determine whether or not the proposed building, addition, or alteration, and all proposed building equipment will conform to this Code.

(e) The AHJ shall review the application for a construction permit and the construction documents where applicable and shall issue a permit, a conditional permit with specific terms and conditions, or deny the application. The AHJ may require additional information before issuing, or denying the application for a construction permit. Any conditions of the permit or reasons for denial of the permit shall be transmitted to the applicant in writing.

(f) The AHJ may provide consultation or preliminary plan review for proposed construction to identify high priority code issues when deemed warranted by the significance or complexity of the project.

(g) A construction permit shall expire if the work authorized under the permit is not commenced, or is suspended or abandoned, for a time period of 12 months.

(h) Construction permit fees are established by the Vermont Legislature under Title 20 V.S.A. section 2731. The current construction permit fees are available on the Division's website or by contacting any office of the Division.

(2) In the case of abandonment or discontinuance of a building project involving a construction permit fee greater than \$150 the construction permit fee may be refunded, upon written request to the AHJ, prorated on construction work, services, reviews and inspections conducted prior to such abandonment. Such request shall be received within 12 months of the date that the construction permit was issued.

(3) The AHJ may refuse to issue a construction or occupancy permit if the owner or a designated representative owes the Department fees or penalties.

Dimensional Tolerances, Americans with Disabilities Act Accessibility Guidelines (ADAAG) [3.2] – The ADAAG, adopted under the Vermont Access Rules, recognizes conventional industry standards for field conditions. For instance a handrail specified to be 1½" in diameter in accordance with section 4.26.2 is permitted to be almost 2" in diameter based on field condition standards for the trade. The outside diameter of a nominal 1 ½" pipe is 1 29/32".

Electrical Controls in Adaptable Dwelling Units – The Vermont Access Rules, similar to the Federal Fair Housing Act, require light switches, electrical outlets, thermostats and other environmental controls to be in accessible locations when they are newly

installed. These controls are required to be mounted between 15" and 48" off the floor for front reach limits and between 9" and 54" for side reach limits. Electrical panels or sub-panels containing circuit breakers are not required to be located at a height within the side or front reach limits.

Light switches, electrical outlets and environmental controls including thermostats for heating, air-conditioning and ventilation systems are covered by the rules and need to be located within reach limits. Circuit breakers, appliance controls and outlets dedicated for specific appliances are not covered and do not need to be within the reach limits. For additional information see the Federal Fair Housing Act Design Manual Part two, Chapter 5, Page 5.4.

Reinforced Walls for Grab Bars – The Vermont Access Rules require reinforcement in bathroom walls to allow later installation of grab bars in both adaptable dwelling units and in dwelling units designed to meet "Act 88" or so-called "visitable units". The reinforcement is required around the toilet, tub, shower stall and shower seat, where such facilities are provided. The minimum size for a reinforced area is 24" long by 6" wide, located between 32" and 38" above the floor. However, a larger reinforced area is actually needed to provide adequate reinforced area to attach standard size mounting brackets and flanges for grab bars. A longer reinforced area is also needed so that each end of the reinforced area is supported at wall studs. A 2" x 8" x 32" let into wall studs is a common solution. Another common solution is to provide plywood for reinforcement over a larger area. A larger reinforced area provides greater flexibility in placement of grab bars, easier installation of grab bars and the plywood may also act as the base for ceramic tile or other finish material. For details on the exact location of reinforced areas for differ types of fixtures use Chapter 6 of the *Fair Housing Act Design Manual*.

Space used for Storage – The Vermont Access Rules exempts space used for storage that is used on an infrequent basis, or is not occupiable, from the requirement to provide an elevator or platform lift for vertical access to the space. The ADAAG defines "Occupiable" as "A room or space designed for human occupancy in which individuals congregate for amusement, education or similar purposes, or in which occupants are engaged at labor, and which is equipped with means of egress, light and ventilation." Infrequent is defined as occasional, rare or irregular. An example of a space that is not occupiable could be an unheated second floor space used to store automotive exhaust pipes. Although the frequency of use may vary for the space, the space is unheated and would not be occupiable. An example of a space that is used on an infrequent basis could be the basement of an office building used for filing cabinets that contain records from prior years as a back up to electronic records and are rarely used.

Annex IV. Ramp Specifications:

From the Americans with Disabilities Act Accessibility Guidelines (ADAAG) contained in 28 CFR Part 36, Subpart D, and the 2004 ADAAG at 36 CFR part 1191, appendices B and D revised as of September 15, 2010.

Chapter 4. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with Table 405. (See ramp definition page 47)

Slope and Rise. The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12. The maximum rise for any run shall be 30 in (760 mm) (see Fig. 405.6). Curb ramps and ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises as allowed in 406 if space limitations prohibit the use of a 1:12 slope or less.

405.5 Clear Width. The minimum clear width of a ramp shall be 36 in (915 mm).

405.7 Landings. Ramps shall have level landings at bottom and top of each ramp and each ramp run. Landings shall have the following features:

- (1) The landing shall be at least as wide as the ramp run leading to it.
- (2) The landing length shall be a minimum of 60 in (1525 mm) clear.
- (3) If ramps change direction at landings, the minimum landing size shall be 60 in by 60 in (1525 mm by 1525 mm).
- (4) If a doorway is located at a landing, then the area in front of the doorway shall comply with 405.7.1 thru 405.7.5

405.8 Handrails. If a ramp run has a rise greater than 6 in (150 mm) or a horizontal projection greater than 72 in (1830 mm), then it shall have handrails on both sides. Handrails are not required on curb ramps or adjacent to seating in assembly areas. Handrails shall comply with 505.7 and shall have the following features:

- (1) Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dogleg ramps shall always be continuous.

- (2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface (see [Fig. 405.9.1](#)).
- (3) The clear space between the handrail and the wall shall be 1 - 1/2 in (38 mm).
- (4) Gripping surfaces shall be continuous.
- (5) Top of handrail gripping surfaces shall be mounted between 34 in and 38 in (865 mm and 965 mm) above ramp surfaces.
- (6) Ends of handrails shall be either rounded or returned smoothly to floor, wall, or post.
- (7) Handrails shall not rotate within their fittings.

405.3 & 405.4 Cross Slope and Surfaces. The cross slope of ramp surfaces shall be no greater than 1:48. Ramp surfaces shall comply with 405.7.1.

405.9 Edge Protection. Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp. Curbs shall be a minimum of 2 in (50 mm) high (see [Fig. 405.9.1](#) & [405.9.2](#)).

405.10 Outdoor Conditions. Outdoor ramps and their approaches shall be designed so that water will not accumulate on walking surfaces.

Annex V. Table for Adaptable and Visitable [Act 88] Dwelling Units:

Use	Adaptable	Visitable [Act 88]	Accessible Entrance	Notes
four or more dwelling units served by an elevator	all units		all units	any altered elements, spaces or features in existing construction must be adaptable
four or more dwelling units not served by an elevator	all ground floor units	all other units	all ground floor units	any altered elements, spaces or features in existing construction must be adaptable
four or more dwelling units, not served by an elevator, with units that contain more than one story		all units	5 % or at least one unit	
three or less dwelling units		all units	not required	

Annex VI. Frequently Asked Questions:

- Question:** When renovating, when must I comply with ADA standards?
Answer: During alterations or renovations 20% of the project cost must be applied to access. Access begins with an accessible entrance and route to the altered area. ADA §35.151 (4) (iii) (Disproportionate) (page 8)
- Question:** If an area has been altered without providing an accessible path due to disproportionality, and next year additional alterations take place, must I now make area accessible?
Answer: Yes. When alterations are undertaken within 3 years of original alteration, the total cost of alterations to primary function area shall be considered. ADA §35.151 (4) (v)(B)(1) (page 9)
- Question:** How many residential units must be accessible?
Answer: Where 15 or fewer residential dwelling units are provided under a single contract, whether or not located on a common site shall provide at least 5%, but no fewer than one unit with mobility features. (ADA section 233.3.1, page 92)
- Question:** How many guest rooms must be accessible?
Answer: One unit up to 25, two units up to 50, 4 units up to 75. §36.406 (page 28) (c)(1)(i) (see chart on page 84)
- Question:** Can a LULA (Limited-Use Limited-Application) elevator be used?
Answer: Yes, the LULA shall be a passenger elevator as classified by ASME A17.1. (ADA Section 408.1, page 143)
- Question:** How many toilet rooms must be accessible?
Answer: All new toilet rooms must be accessible and useable. (ADA Section 603.1, page 160)
- Question:** Can a unisex toilet be used?
Answer: Only when one toilet room is required by plumbing code and only one toilet room is constructed. (ADA Section 603.1, page 160)
- Question:** I have an existing building constructed prior to May 4, 1977 and no renovations, alterations or additions are planned. Must I comply with ADA?
Answer: No (ADA 201.1, page 50)
- Question:** Must minimum clear width of a ramp be measured inside the handrails?
Answer: Yes (ADA 405.5 page 129)
- Question:** When a landing changes direction, does ramp width need to increase?
Answer: Yes (60" minimum - ADA 405.7.4 page 129)
- Question:** Do all areas within an employee work area need to be accessible?
Answer: No (See ADA 203.9, page 54; Employee Work Areas 206.8, 207.1 Egress & 215.3 Alarm Coverage)
- Question:** What construction tolerances are allowed?
Answer: All dimensions are subject to industry tolerances except where requirement is stated as a "range". (ADA 104.1.1, Page 38) See 604.2 Water closet tolerance, page 161)

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Annex VIII. Contact Information:

The Division of Fire Safety's four regional offices are located in:

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Codes and Standards Adopted and referenced under this Code are available at:

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Phone (TTY): (202) 272-0082 toll free: (800) 993-2822
Fax: (202) 272-0081
E-mail:info@access-board.gov

A link to the *Americans with Disabilities Act Accessibility Guidelines (ADAAG)* is provided from the division website to <http://www.access-board.gov>

A link to the *Fair Housing Act Design Manual* is provided from the division website to <http://www.huduser.org/Publications/>

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Institute for Human Centered Design
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