

## PHYSICAL ACCESSIBILITY REQUIREMENTS FOR HOUSING IN MAINE

ACCESSIBILITY LAW	COVERED HOUSING	NEW CONSTRUCTION REQUIREMENTS	REHABILITATION REQUIREMENTS	ACCESSIBILITY STANDARD
Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and 24 CFR Part 100	Multifamily housing with 4 or more dwelling units (excludes townhouses)	At least one accessible entrance on an accessible route into and throughout the housing. Accessible public and common use areas and <u>all</u> dwelling units must be adaptable. At least 2% of all parking spaces must be accessible.*	None. Only applies to new construction.	HUD's Fair Housing Act Design Manual  10 safe harbors – MaineHousing uses ICC/ANSI A117.1 requirements for Type B units
Section 504 of Rehabilitation Act of 1973 and 24 CFR Part 8	Federally-assisted multifamily housing with 5 or more dwelling units	At least one accessible entrance on an accessible route into and throughout the housing. Accessible public and common use areas. At least 5% of units accessible for persons with mobility impairments plus minimum 2% of units accessible for persons with hearing/visual (H/V) impairments. Parking varies based on type and number of spaces - generally, at least one accessible space for each unit with accessible mobility features and at least one van space for each 6 accessible spaces.	New construction requirements apply to substantial rehabilitation (rehabilitation equal to 75% or more of replacement cost) of housing with 15 or more units. For other rehabilitation, all alterations must be made accessible until new construction requirements are met.**	Uniform Physical Accessibility Standards (UFAS)  or  Recently designated HUD Alternative Standard in HUD Notice No. FR-5784-N-01 dated May 16, 2014 - 2010 ADA Standards of Accessible Design (ADAAG) with exceptions

<p>Americans with Disabilities Act of 1990 and 28 CFR Parts 35 and 36</p>	<p>State or local government assisted housing and public accommodations. No threshold number of dwelling units.</p>	<p>At least one accessible entrance on an accessible route into and throughout the housing. Accessible public and common use areas. At least 5% of units accessible for persons with mobility impairments plus minimum 2% of H/V accessible units. Parking varies based on type and number of spaces - generally, at least one accessible space for each unit with mobility features and at least one van space for each 6 accessible spaces. ***</p>	<p>New construction requirements apply to vacant buildings with 15 or more units and substantial rehabilitation (rehabilitation equal to 75% or more of replacement cost) of housing with 15 or more units. For other rehabilitation, all alterations must be made accessible until new construction requirements are met. ***</p>	<p>2010 Standards of Accessible Design (ADAAG)</p>
<p>State Fair Housing Requirements – 5 MRSA §4582 of Maine Human Rights Act and MHRC Rule Chapter 8</p>	<p>Same as Federal Fair Housing Act</p>	<p>Same as Federal Fair Housing Act</p>	<p>New construction requirements apply to substantial rehabilitation (rehabilitation equal to 75% or more of replacement cost)</p>	<p>Requirements for Type B units in most recent ICC/ANSI A117.1 – currently 2009 ICC/ANSI A117.1</p>
<p>State’s Public Housing Requirements – 5 MRSA §4582 of Maine Human Rights Act and MHRC Rule Chapter 8</p>	<p>Publicly-funded housing with 20 or more units on single parcel of land</p>	<p>At least 10% of ground floor units and at least 10% of upper floor units accessible for persons with mobility impairments plus at least 2% of H/V accessible units. Generally, one space for each unit with mobility features and at least one van space for each 6 accessible spaces.</p>	<p>Same number of units as new construction requirements, but only required to provide accessible routes, accessible doors, adaptable bathrooms and tactile warnings on doors to hazardous areas.</p>	<p>Requirements for Type A units in most recent ICC/ANSI A117.1 – currently 2009 ICC/ANSI A117.1</p>

## EXCEPTIONS

\* Federal Fair Housing Act and State Fair Housing Act requirements – Housing is exempt from all requirements if it is impracticable to provide at least one building entrance on an accessible route because of the terrain or unusual characteristics of the site.

\*\* Section 504 of Rehabilitation Act of 1973 – Only applies to alterations to existing housing – compliance is required except to the extent it is structurally impracticable, which means “changes having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of 50 percent or more of the value of the element of the building or facility involved.”

\*\*\* Americans with Disabilities Act – compliance is required except to the extent that it is structurally impracticable, which means only those “rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.” If structurally impracticable, the owner of the project must alter or construct a comparable residential unit for each unit required to comply with the new construction requirements. Comparability is considered in terms of location, number of bedrooms, amenities in the unit, types of common spaces within the facility and proximity to community resources and services. Regardless of structural impracticability, a project must include H/V accessibility features in at least 2% of the units.



**MAINE STATE HOUSING AUTHORITY**  
**ACCESSIBILITY POLICY AND PROCEDURES**  
**FOR THE DESIGN AND CONSTRUCTION OF**  
**MULTIFAMILY AND SUPPORTIVE HOUSING PROJECTS**

Maine State Housing Authority (MaineHousing) has adopted the following policy and procedures to provide equal access to the housing funded under MaineHousing's multifamily and supportive housing programs and to further fair housing in the State of Maine. The policy and procedures replace all prior policies, procedures and practices.

***Policy***

Housing funded under MaineHousing's multifamily and supportive housing programs shall, at a minimum, comply with all applicable local, state and federal accessibility requirements, including without limitation:

- Federal Fair Housing Act
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Title II and Title III of the Americans with Disabilities Act of 1990 (ADA)
- Maine Human Rights Act (State fair housing act and publicly-funded housing)

The owner of any housing funded under MaineHousing's multifamily housing and supportive housing programs is responsible for compliance with all applicable accessibility laws. This policy and the procedures set forth herein are solely for the benefit of MaineHousing, the purpose of which is to ensure that all housing funded by MaineHousing complies with applicable accessibility laws pursuant to MaineHousing's obligations to governing regulatory agencies. MaineHousing has no responsibility or liability of any nature whatsoever to the owner or its agents, contractors, successors or assigns or any other party for noncompliance with accessibility laws.

The applicability of these laws to housing funded under MaineHousing's multifamily and supportive housing programs and a summary of the requirements is set forth in the Summary of Accessibility Requirements Appendix attached hereto. Note that Section 504 applies to all housing funded under MaineHousing's multifamily housing programs because these programs are considered federally-assisted regardless of the direct source(s) of funding for the project. Also note that Title II of the Americans with Disabilities Act (and the new 2010 ADA Standards for Accessible Design) applies to all housing funded under MaineHousing's multifamily and supportive housing programs.

Most projects are subject to more than one accessibility law. A project must comply with all applicable laws. For example, a 25-unit, new construction multi-family project for which construction begins after March 15, 2012 will be subject to the Federal Fair Housing Act, Section 504, the ADA and all of the requirements of the Maine Human Rights Act.

The requirements and standards under these laws may be different. To the extent the requirements and standards differ, the most restrictive requirement or standard applies. Note that one standard

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may be more restrictive with respect to a particular specification but less restrictive than another standard with respect to a different specification. A project must comply with the most restrictive of each specification among the different standards.

If it is unclear which requirement or specification is more restrictive or if the requirements or specifications are inconsistent, MaineHousing, in consultation with its legal counsel and applicable regulatory agencies if advisable or necessary, will provide guidance on the appropriate requirement or specification.

When selecting a site for and designing a proposed project to be funded under MaineHousing's multifamily or supportive housing programs, a developer must consider whether full compliance with applicable accessibility laws and any additional accessibility required under the program can be achieved. Selecting sites and designing proposed projects that cannot fully comply with applicable accessibility laws due to structural impracticability, technical infeasibility, or otherwise will not fully comply with applicable accessibility laws is strongly discouraged, and under some laws, may not be allowed.

Any site or proposed project design that will not fully comply with applicable accessibility laws because of structural impracticability, technical infeasibility or otherwise must be approved by MaineHousing. The burden to prove the proposed project is structurally impracticable, technically infeasible or is otherwise exempt from fully complying with applicable accessibility laws is on the owner. MaineHousing will reject any proposed project that cannot fully comply with applicable accessibility laws if MaineHousing determines the proposed housing could be achieved at an alternative site or with an alternate design that could fully comply with applicable accessibility laws. Applicants should seek MaineHousing's approval of proposed projects that cannot fully comply with applicable accessibility laws as early in the process as possible. Most multifamily and supportive housing programs require site selection as a condition of application. Applicants should have MaineHousing's approval before submitting an application to these programs. If a multifamily or supportive housing program does not require site selection at the time of application, an applicant should have MaineHousing's approval before entering into a purchase and sale agreement or option agreement or otherwise establishing site control.

MaineHousing will resolve any disputes about compliance with applicable accessibility laws through consultation with applicable regulatory agencies.

### ***Compliance and Monitoring Procedures***

MaineHousing has adopted the following procedures to provide notice of and ensure compliance with the applicable accessibility requirements.

#### *Program Requirements*

1. The policy and procedures will be included or incorporated by reference in all program guides or offerings to notify an applicant of the accessibility requirements applicable to its

project prior to submitting an application to the program.

2. The policy and procedures will be included or incorporated by reference in all of MaineHousing's design and construction requirements for multifamily and supportive housing.
3. The policy and procedures will be posted on MaineHousing's web page(s) containing information about MaineHousing's multifamily and supportive housing programs.

*Pre-Application or Pre-Site Control*

1. All proposed sites to be funded under MaineHousing's multifamily and supportive housing programs must undergo a site review by MaineHousing. If the program requires site control at the time of application, the site review is required before an application is submitted. If site control is not required at the time of application, the site review is required before the applicant establishes site control. MaineHousing will notify applicants in writing of any accessibility concerns about a proposed site or project design.
2. Prior to submitting an application or prior to establishing site control, if site control is not a condition of applying to a program, an applicant shall submit a written request to MaineHousing to review any proposed project that will not fully comply with applicable accessibility laws. The request shall include (a) information about the site and proposed design of the project, (b) an explanation of the structural impracticability, technical infeasibility or other failure to fully comply with applicable accessibility laws and any supporting documentation as may be required by MaineHousing, including without limitation, an analysis from a design professional, (d) a detailed description of the applicants efforts to find an alternative site for the proposed housing and the lack of suitable alternative sites, (e) if required by law, an explanation of how the applicant intends to construct or alter a comparable residential unit for each unit that would have been required at the proposed site. A complete request must be submitted at least sixty (60) days prior to the applicable application deadline or establishing site control.
3. An applicant may be required to construct or alter a comparable residential unit for each unit that would have been required at the proposed site as a condition of approval of the request pursuant to applicable accessibility laws. Comparability will be determined based on location, number of bedrooms, amenities in the unit, types of common spaces within the facility and proximity to community resources and services.
4. All requests must be reviewed by a MaineHousing construction analyst and legal counsel and approved by MaineHousing's Director. MaineHousing may consult appropriate regulatory agencies in making its determination. All determinations must be in writing, specify the basis for denying any request or any conditions of approval, and be kept in the project file.

5. The applicant will be notified in writing if MaineHousing denies a request and the basis for the denial.

#### *Application*

1. All applicants will be required to certify compliance with applicable accessibility laws in their applications to MaineHousing's multi-family and supportive housing programs.
2. Each applicant will be required to explain how the applicant's project complies with applicable accessibility laws and any additional requirements of the program in the application to the program.
3. If the proposed project will not fully comply with applicable accessibility laws, the project should have been reviewed and approved by MaineHousing prior to the submission of the application. If not, MaineHousing may reject the application.

#### *Pre-Construction*

1. Successful applicants will receive an award notice, which is sometimes referred to as a notice to proceed. All award notices will include these policies and procedures as a condition of any funding and will specify the consequences for failure to comply with the applicable requirements. MaineHousing will not issue a funding commitment to any project that does not comply with applicable accessibility requirements.
2. Promptly after an award notice or notice to proceed is issued to a successful applicant, MaineHousing staff assigned to the project, including the loan officer, the construction analyst, the asset manager and counsel, will meet to discuss the project, including the accessibility requirements applicable to the project.
3. Following the internal meeting of MaineHousing staff, the MaineHousing construction analyst, loan officer and asset manager will meet with the applicant and its design and development team to discuss the project, including the accessibility requirements applicable to the project.
4. Project plans and specifications are subject to MaineHousing's approval pursuant to the multifamily and supportive housing programs. MaineHousing's construction analyst will review plans and specifications for compliance with applicable accessibility laws and program accessibility requirements. The construction analyst will provide written notice (which can be in the form of an e-mail or other form of electronic transmission) of any findings of noncompliance to the owner. Any findings of noncompliance must be corrected before MaineHousing will approve the plans and specifications. Once the plans and specifications are finalized, the construction analyst will document in writing that the analyst has reviewed the plans and specifications, and, to the best of the construction analyst's knowledge, concurs that the plans and specifications comply with applicable accessibility laws. All

communications and documentation about a project's accessibility will be kept in the project file.

### *Construction*

1. Funding commitments and loan documents will include these policies and procedures as a condition of any funding and will specify the consequences for failure to comply with the applicable requirements, including without limitation, loss of funding or other default rights and remedies under the funding commitment and loan documents, as applicable. The loan documents will include a specific certification of compliance with applicable accessibility laws and indemnification by the owner of the project.
2. MaineHousing's construction analysts monitor the construction of projects funded under its multifamily and supportive housing projects. Construction analysts will periodically inspect the installation of accessibility features in projects during construction in an effort to identify any noncompliance prior to completion of the project in an effort to reduce costs and construction delays to correct any noncompliance. All inspections will be documented and kept in the project file. The construction analyst will provide written notice (which can be in the form of an e-mail or other electronic transmission) of any findings of noncompliance to the owner. Any noncompliance identified by the construction analyst during the construction of the project must be corrected before any MaineHousing funding is disbursed except as provided below. If MaineHousing is providing funding during construction, MaineHousing may cease disbursing funds until the noncompliance is corrected.
3. Upon completion of construction of a project, the construction analyst will perform a full inspection of the accessibility features of the project. The construction analyst will document in writing that the construction analyst (a) has conducted the inspection, and (b) to the best of the construction analyst's knowledge, either (i) concurs that the project complies with applicable accessibility laws or (ii) has determined that the project does not fully comply with applicable accessibility laws, specifically identifying the findings of noncompliance.
4. The construction analyst will provide written notice (which can be in the form of an e-mail or other electronic transmission) of any findings of noncompliance to the owner. Except as provided below, any findings of noncompliance must be corrected before MaineHousing will approve the final disbursement of funds, including any retainage, or use of contingency funds if MaineHousing is providing construction financing (including any participation in a construction loan) or, if MaineHousing is providing permanent funding only, before MaineHousing will provide any funding or approve the release of retainage or use of contingency funds.
5. If any findings of noncompliance (a) cannot be corrected due to seasonal limitations or other extraordinary circumstances pursuant to MaineHousing's incomplete work escrow policies and procedures, or (b) are minor in nature and easily correctable, as determined by MaineHousing in its sole discretion, and are agreed upon by the developer, architect and

contractor, then MaineHousing will utilize an incomplete work escrow agreement to ensure project completion in accordance with applicable accessibility laws.

6. Upon correction of any findings of noncompliance, the construction analyst will inspect the corrected features. All inspections and communications with the owner about the findings of noncompliance shall be documented and kept in the file. If the noncompliance is corrected to MaineHousing's satisfaction, the construction analyst will document in writing that the analyst has conducted a final inspection, and, to the best of the construction analyst's knowledge, concurs the corrected features comply with applicable accessibility laws.
7. MaineHousing will not issue IRS Form 8609 for any low-income housing tax credit project unless all findings of noncompliance identified in the incomplete work escrow agreement or otherwise are corrected.
8. All inspections, communications and documentation about a project's accessibility must be kept in the project file for a period of three (3) years after the end of the term of any MaineHousing funding for the project.

*Disclaimer*

ALL INSPECTION REPORTS AND OTHER MAINEHOUSING DOCUMENTATION CONCERNING COMPLIANCE WITH FAIR HOUSING AND ACCESSIBILITY REQUIREMENTS ARE FOR MAINEHOUSING'S PURPOSES ONLY, AND MAY NOT BE RELIED ON BY ANY OTHER PERSON OR ENTITY OR USED FOR ANY OTHER PURPOSE. WITHOUT IN ANY WAY LIMITING THE FOREGOING, THE ABSENCE OR SATISFACTION OF ANY DEFICIENCIES IDENTIFIED IN ANY REPORT OR OTHER MAINEHOUSING DOCUMENTATION IS IN NO WAY A REPRESENTATION OR GUARANTEE THAT A PROPERTY COMPLIES WITH FAIR HOUSING AND ACCESSIBILITY REQUIREMENTS. MAINEHOUSING HAS NO RESPONSIBILITY OR LIABILITY TO THE OWNER OF A PROPERTY OR ANY OTHER PERSON OR ENTITY FOR THE PROPERTY'S COMPLIANCE WITH FAIR HOUSING AND ACCESSIBILITY REQUIREMENTS.

## Summary of Accessibility Requirements Appendix

The following is a summary of certain accessibility requirements applicable to MaineHousing's multifamily and supportive housing programs. The summary is for informational purposes only. MaineHousing is in no way representing or guaranteeing that the summary is a complete and accurate description of the obligations under applicable accessibility laws. Reference should be made to the actual laws and standards for the full scope and context of the requirements.

Also, please note that the term "accessible" may have a different meaning under the various federal and state accessibility laws. What is accessible for purposes of complying with the Federal Fair Housing Act is different than what is accessible for purposes of complying with Section 504 of the Rehabilitation Act. Each accessibility law has implementing regulations and associated accessibility standards which contain scoping requirements and technical requirements. The scoping requirements identify which facilities, elements, features and areas of a project must be accessible and the technical requirements specify the level of accessibility, e.g. grab bars at toilets and in showers or just blocking in the walls for later installation of grab bars as needed.

## **Federal Fair Housing Act**

**Title VIII of the Civil Rights Act of 1968 (as amended by Fair Housing Amendments of 1988)**

**42 U.S.C. § 3601 et seq. [www.law.cornell.edu/uscode/text/42/3601](http://www.law.cornell.edu/uscode/text/42/3601)**

**24 CFR Part 100 [www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/cfr100\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/cfr100_main_02.tpl)**

### *Applicability*

- Applies to all newly-constructed multifamily housing constructed for first occupancy after March 13, 1991
  - Multi-family housing is defined as buildings with 4 or more units
  - A project with one or more buildings with a total of 4 or more units is multi-family housing subject to these requirements
  - Multi-family housing includes both rental and homeownership units, except multi-family townhouses
  - First occupancy means the building has never been used for any purpose – applies if a building is occupied on March 13, 1991 or if the last building permit or renewal for the dwelling is issued by a State, county or local government on or before June 15, 1990
  - Common use areas are rooms or spaces inside or outside a building that are available for use by the residents or their guests
  - Public use areas are rooms or spaces inside or outside a building that are available to the general public (regardless of whether the building is privately or publicly owned)
- Applies to the addition of 4 or more units to an existing building after March 13, 1991

### *Requirements*

- At least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site
- If at least one building entrance on an accessible route, then the following requirements apply:

- The public use areas and common use areas are readily accessible to and usable by persons with physical and mental disabilities
- All doors designed to allow passage into and within all premises must be sufficiently wide to allow passage by persons with disabilities in wheelchairs
- Dwelling units
  - If a building contains an elevator, then all of the units in the building must be accessible
  - If a building does not contain an elevator, then only the ground floor units must be accessible
- All premises within the covered dwelling units must contain following features of adaptable design:
  - An accessible route for a person in a wheelchair into and through the unit
  - Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
  - 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
  - Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space
- Parking
  - Minimum of 2% of total parking spaces, but no less than one space, for dwelling units
  - Must be on an accessible route
  - If different types of parking (e.g. surface, garage, covered), at least one of each must be accessible – if covered parking, at least one and more than one is preferable, and an accessible covered space can be substituted for an accessible garage space if the garage parking is not accessible
  - If a resident needs an accessible space and none are available, one must be provided – must be on same terms as other residents and the full range of choices available to other residents (e.g. surface, garage or covered) must be offered

- A resident with a disability can request an unused accessible space to be moved, but the relocated space must be on an accessible route
- Minimum of at least one accessible space for each common use or public use facility that is separate from the dwelling units (e.g. a sales/rental office, or a community service facility that is available to the public, or a community room or laundry facilities that are in a separate building from the dwelling units)
- If visitor parking is provided, then accessible visitor parking must be provided – no specific number of units are required, but it must be sufficient to provide access to the grade level entrances of housing – for larger projects, several visitor spaces should be provided and should be distributed throughout the site

*Standard*

- HUD recognizes 10 safe harbors, which are set forth in 24 CFR §100.205 – [www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/cfr100\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/cfr100_main_02.tpl) - The requirements for Type B units under American National Standard: Accessible and Usable Buildings and Facilities, 2003 Edition (ICC/ANSI A117.1-2003) is the preferred standard of Maine Housing
- United States Department of Housing and Urban Development's Fair Housing Act Design Manual [www.huduser.org/portal/publications/destech/fairhousing.html](http://www.huduser.org/portal/publications/destech/fairhousing.html)

*Exception*

- If it is impracticable to provide at least one building entrance on an accessible route because of the terrain or unusual characteristics of the site, the project is exempt from the above requirements

## Section 504 of the Rehabilitation Act of 1973

29 U.S.C. §794 [www.law.cornell.edu/uscode/text/29/794](http://www.law.cornell.edu/uscode/text/29/794)

24 CFR Part 8 [www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/cfr8\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/cfr8_main_02.tpl)

### *Applicability*

- Applies to the new construction and rehabilitation of federally-assisted multi-family housing designed, constructed or altered on or after July 11, 1988
  - MaineHousing's multi-family housing programs are federally-assisted, so all projects funded under these programs are federally-assisted
  - MaineHousing's supportive housing programs are not federally-assisted, so projects funded under these programs are not federally-assisted unless they receive direct federal assistance from another source
  - Federal assistance includes capital funding, such as FedHOME, McKinney-Vento funds (such as Continuum of Care funds), Rural Development Section 515 funding and funding under HUD's Section 202 and Section 818 programs
  - Federal assistance also includes federal rental assistance, such as Section 8 project-based vouchers, project-based rental assistance under HUD's Section 8, Section 202 and Section 818 programs, and Rural Development project-based rental assistance
  - Applies to the whole project even if less than all of the units in the project are federally-assisted
  - Multi-family housing is defined as a project containing 5 or more dwelling units
  - A project is defined as the whole of one or more residential structures and related common areas which are covered by a single contract, or designated as a whole for processing purposes, whether or not all of the units are located in the same building or on the same site, e.g. multiple buildings on a single site or buildings on scattered sites that are owned by the same entity and operated as a single project

NOTE: If an owner is combining existing housing projects into a single project, each existing housing project may be considered a separate project for purposes of determining the accessibility requirements because each existing housing project should have met the accessibility requirements before they were combined.

- Multi-family housing includes rental and homeownership opportunities – multifamily townhouses are not exempt

- Date a project is designed, constructed or altered is the date bids for the construction or alteration of the project are solicited
- Alteration (or rehabilitation) means any change in a facility (including all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property) or its permanent fixtures or equipment, including without limitation remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs – does not include normal maintenance and repairs, interior decoration, energy improvements, or changes to mechanical systems
- “Maximum extent feasible” means to the extent it would not impose an undue financial or administrative burden on the operation of the housing: factors to be considered are limited to the project construction budget; they include the nature and cost of the improvements, the overall financial resources of the owner, the resources available to pay for the improvements (including without limitation available government funding), documented good faith efforts to explore less restrictive or expensive alternatives, the availability of the equipment and technology to comply with the requirements, whether the alteration will result in a fundamental change in the nature of the housing, efforts to minimize costs by spreading costs over time and the extent to which other costs could be cut or deferred to cover the costs of the alterations
- NOTE: Under the alteration requirements set forth below, each and every element or feature that is altered must be made accessible until the new construction requirements are met. For example, if the showers in 10 units in a 20 unit project are replaced, then each of the showers that are replaced must be accessible until the project, as a whole, meets the new construction requirements. Owners should consider complying with the new construction requirements, which will avoid partially accessible units of little use and will likely be more cost effective.

### *Requirements*

- Access
  - New Construction, Substantial Alteration and Completely Altered Vacant Buildings
    - At least one accessible entrance and accessible route to, into and through the project connecting all accessible elements and spaces, including units accessible to persons with physical disabilities and accessible common areas, spaces and amenities
    - Substantial alteration is alteration of a project with 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed project, replacement cost being the current cost of construction