



# WHAT YOU SHOULD KNOW ABOUT DISABLED ACCESS REQUIREMENTS FOR NEW BUILDING CONSTRUCTION AND/OR REMODELING OF EXISTING BUILDINGS



A public information service of

## **Miami-Dade Building Department**

Permitting & Inspection Center

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Monday - Friday

**7:30 a.m. - 4:00 p.m.**

[www.miamidade.gov/building](http://www.miamidade.gov/building)

<http://buildit.miamidade.gov>



## Building Access Laws & Codes

The State of Florida has adopted laws requiring that commercial and public-use buildings be designed and constructed to be accessible so that persons with physical disabilities may enter, travel within, and function within work areas and other spaces in buildings. People with disabilities include those with hearing or vision impairments; people who have limited physical strength, and people who use wheelchairs for mobility.

The State of Florida enacted the “Florida Americans With Disabilities Accessibility Implementation Act”, in Sections 553.501-.553.513, Florida Statutes. The purpose of the Act is to incorporate the Federal Americans with Disabilities Act of 1990 (ADA) into Florida law and to obtain certification that the state’s accessibility code is equivalent to federal standards. In 1997, these sections were amended. The legislative history of the amendatory act states its intent to “obtain and maintain federal certification of the Florida Accessibility Code for Building Construction as equivalent to federal standards.” Thus, the last expression of the Legislature is amending section 553.505, Florida Statutes, which exempts churches from the requirements of Sections 553.501-553.513, Florida Statutes.

In May 27, 1998, the Justice Department certified Florida codes as being in compliance with ADA federal regulations. Florida building owners, contractors and architects can be assured they are complying with federal guidelines for individuals with disabilities by following state law as these are in compliance with federal laws requiring access for individuals with disabilities. The certification means that the Florida Accessibility Code for Building Construction is compatible with regulations governing new or altered buildings under the ADA. Florida has been one among the first four states--in addition to Texas, Washington and Maine--that has had building codes certified as ADA equivalent. In 2001, Florida building access laws were revised and expanded. The building code requirements for access are located in the *Florida Building Code*, Chapter 11.

The Americans with Disabilities Act of 1990 is a Federal civil rights law that provides important legal rights to some 50 million Americans with disabilities. Title III of the ADA was enacted to eliminate the obstacles faced by persons with disabilities in obtaining the full and equal enjoyment of the goods and services provided by America's businesses. Title III of the ADA became effective on January 26, 1992.

Title III of the ADA applies to places of *public accommodation* and *commercial facilities*. However, if you own, lease or operate a business that invites the public into a facility to do business, then your establishment probably is subject to Title III of the ADA. Examples of *public accommodations* include, but are not limited to, hotels, motels, restaurants, bars, theatres, stadiums, auditoriums, bakeries, grocery stores, shopping centers, banks, shoe shops, dry cleaners, professional offices, gas stations, libraries, museums, parks, schools, gyms and most other business establishments that invite the public in to do business.

Title III of ADA and the ADA Accessibility Guidelines ("ADAAG"); prescribe accessibility requirements for buildings and facilities. These sets of accessibility regulations are federal law and are separate and apart from the state requirements. Under the Florida Statutes, enforcement is under the jurisdiction of county and municipal authorities, generally the building and code compliance departments. Under the ADA, enforcement is by the U.S. Department of Justice or by private action in federal court.

The Miami-Dade County Building Department does not enforce ADA and cannot make recommendations on ADA. The Miami-Dade County Building Department enforces handicapped accessibility requirements contained in Chapter 11 of the Florida Building Code as they pertain to new building construction and/or remodeling of existing buildings and facilities. Even though you may meet all state accessibility requirements when you construct or remodel a building, there may be other access requirements under the ADA. It is recommended to check with a consultant or an architect to be assured that you are in full compliance with federal ADA access requirements. For information concerning the ADA, please contact:

# Architectural Transportation Barrier Compliance Board at (800) 872-2253.

## Governor's Working Group on Americans with Disabilities Act

4040 Esplanade Way  
Suite 180  
Tallahassee, FL  
32399-7106

[austinj1@dms.state.fl.us](mailto:austinj1@dms.state.fl.us)

(850) 487-3423 (Voice)

(850) 410-0684 (TTY)

## U.S. Department of Justice Disability Rights Section

Civil Rights Division  
P.O. Box 66738  
Washington, DC  
20035-6738

[www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)

(800) 514-0301 (Voice)

(800) 514-0383 (TTY)

**Construction, alterations and barrier removal performed in the State of Florida must comply with the ADA and the Florida Building Code, Chapter 11.**

Some of the questions most frequently asked at the Miami-Dade County Building Department concerning accessibility requirements are listed below. This information will be helpful to building owners, architects, engineers, and contractors in designing and constructing new buildings, or making alterations to existing buildings to meet accessibility requirements.

## When Must Buildings Be Accessible?

Most new buildings and remodeled areas of existing buildings are required to be accessible. General guidelines as to what must be accessible are as follows:

**Single-family and duplex or 2-family dwellings** are generally not required to be accessible except when they are part of a condominium or planned-use development.

**Existing privately funded multi-family buildings** can generally undergo remodeling or alterations with little or no access work required except for public or employee areas.

**New dwelling units having all the living space on one floor and forming part of multi-family buildings comprised of four or more units, whether apartments, condominium or townhouses, must be**

accessible and must meet the following minimum requirements in accordance with the regulations of the Fair Housing Act which is part of the FBC, Chapter 11:

- At least one accessible building entrance on an accessible route.
- Accessible and usable public and common use areas.
- All doors designed to allow passage by wheelchair users.
- Accessible route into and through the dwelling unit.
- Light switches, electrical outlets, thermostats, and other environmental controls must be accessible.
- Bathroom walls must contain reinforcements in the walls to allow later installation of grab bars around toilets, tubs, shower stalls and seats.
- Kitchens and bathrooms must be accessible and contain adequate maneuvering space.

**Existing commercial buildings**, when remodeled, must have the following minimum access features:

- At least one accessible building entrance with signs at the inaccessible entrances to direct the disabled;
- A path-of-travel to the remodeled area;
- Access in the remodeled area itself;
- Accessible toilet rooms that serve the remodeled areas;
- Accessible public telephones and drinking fountains serving the remodeled area;
- Accessible parking areas and spaces for the remodeled area with accessible spaces close to the accessible building entrances.

**New commercial buildings** must meet all minimum access standards for new buildings including accessibility of:

- Building approaches (from arrival on site to the building entrance);
- At least half of all building entrances;
- Accessible exits;
- All paths of travel within the building including corridors, elevators, and door widths;
- All common areas and uses throughout the building;

- All common toilet rooms;
- Public telephones and drinking fountains;
- Parking areas and spaces including provisions for tall van parking.

## If I Remodel A Tenant Space, Will I Be Required To Improve Access From Parking To Space?

Tenants are not obligated to make access improvements outside the confines of their own space.

## How Many Handicapped Parking Spaces Must Be Provided?

At least, the number of spaces indicated in the table below must be provided in newly constructed buildings and facilities as well as in an existing building being remodeled.

TOTAL PARKING IN LOT	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
1001 and over	20 plus 1 for each 100 over 1000

## **If I Build A Tenant Improvement With Some Access Features Now, Will I Be Required To Do More Access Work In The Future?**

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Each building permit issued carries its own access requirements depending upon the scope and value of the work. If you do a modest size-remodeling project now and provide some features (such as entrance and path-of-travel) and then do a much larger remodel on the same building at a later date, other features such as parking, elevators, etc., could be required.

## **Must Historical Buildings Be Made Accessible When They Are Remodeled?**

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Yes. Even historical buildings, when remodeled or altered, must have the same accessible features (entrance, path-of-travel, toilets, phones, drinking fountains, and parking) as other buildings. The Florida Building Code does allow limited exceptions. However, they must be applied on a case-by-case, or item-by-item basis. Exceptions may be granted, in accordance with the procedures established in the code, in cases where compliance with the accessibility requirements would threaten or destroy the historic significance of the building.

To be considered as a qualified historical building, the building must be listed in a register, publication, or local inventory such as:

- Federal List of Historical Places;
- Designated as historic under an appropriate State or Local law.

## **Do Places Of Worship Need To Comply With Accessibility Requirements?**

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Sanctuary buildings, the primary use for which is conducting worship services, are exempt. Other buildings, such as multi-use buildings, meeting halls, auditoriums, classrooms and other buildings not designed or intended primarily for worship services are subject to all the accessibility requirements of Chapter 11, Florida Building Code, even if within the same property.



## **I Believe Access Requirements Are Too Expensive Or Too Difficult, Are There Exceptions?**

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Possibly. If you are remodeling or altering an existing building, you may request an exception based on unreasonable hardship. In making an unreasonable hardship request, six key factors must be considered:

1. Cost of providing access.
2. Cost of all construction contemplated.
3. Impact of access work on financial feasibility of the project.
4. Nature of the accessibility, which would be gained or lost.
5. Nature of the use of the facility under construction and its availability to persons with disabilities.
6. Whether it is technically unfeasible due to existing structural or other conditions.

Even when hardships are granted for financial reasons, however, the building owner must spend up to 20% of the construction cost for accessible features. In choosing which accessible elements to provide, priority shall be given in the following order:

- An accessible entrance;
- An accessible route to the altered area;
- At least one accessible toilet room for each sex;
- Accessible drinking fountains; and
- Additional features such as parking, storage, and alarms.

## **What If My Unreasonable Hardship Request Is Denied?**

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If your hardship request is denied, an appeal may be made to the State of Florida Department of Community Affairs. Consideration may be given due to structural or spatial limitations of a building. Typical examples for such appeals are: basement parking without tall van clearance of 8'2" because of building height limitations; extremely small restaurants or commercial spaces where accessible toilets could not be reasonably constructed; and buildings where floors

are raised above the sidewalk levels.

When making an appeal, it is important to consider “equivalent facilitation” or alternate methods to achieve accessibility. A few common alternatives are: alternate building entrances; street “blue zone” parking for tall vans; special access lifts; and signage to direct people with disabilities.

In regards to appeal forms, hearing dates and procedures, please contact the Florida Building Commission at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

## **Do I Have To Install An Elevator To Provide Access To All Building Levels?**

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The code requires that vertical accessibility be provided to all normally occupied levels. This may not necessarily entail the use of an elevator. Elevators are not required in facilities that are less than three stories in height or that have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, the professional office of a health care provider, or another type of facility as determined by the U.S. Attorney General.

However, vertical accessibility will still need to be provided by other means, such as ramps, lifts, etc., even in cases where an elevator as such is not required.

Exemptions to the vertical accessibility requirement are:

1. Mechanical rooms, equipment catwalks, lubrication pits and other similar areas.
2. Storage and other spaces not designed for human occupancy.
3. Spaces not open to the public and that house no more than five persons.



