

# CHAPTER 60.UNIVERSAL ACCESSIBILITY STANDARDS

## Administrative

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## Authority

The provisions of this Chapter 60 issued under section 3 of the act of September 1, 1965 (P. L. 459, No. 235) (71 P. S. §1455.3), unless otherwise noted.

## Source

The provisions of this Chapter 60 adopted March 11, 1994, effective March 12, 1994, 24 Pa.B. 1343, unless otherwise noted.

## Cross References

This chapter cited in 52 Pa. Code §69.221 (relating to application of accessibility and usability standards to pay telephone service providersstatement of policy).

## Administrative

### §60.1. Definitions.

The definitions set forth in §49.1 (relating to definitions) are applicable when used in this chapter, unless the context clearly indicates otherwise. The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*ADAAG* - The Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities at 28 CFR Part 36 App. A (relating to standards for accessible design).

*Access aisle* - An accessible pedestrian space between elements, such as parking spaces, seating and desks, that provides clearances appropriate for use of the elements.

*Accessible* - A building, building site or portion thereof which complies with the specifications and standards established by the Department and that can be approached, entered, negotiated and used by persons with physical disabilities. In the case of existing buildings, the Department under certain conditions may allow, by regulation or variance, for a lesser degree of accessibility than that required for new construction. In the case of residential buildings, the Department may allow, by regulation, that adaptable units will meet accessibility requirements.

*Accessible element* - An element specified by this chapter; for example, a telephone, a control, and the like.

*Accessible route* - A continuous unobstructed path which connects all areas within a building and a building site that can be negotiated by a person with a severe physical disability using a wheelchair and that is also safe for and usable by people with other physical disabilities. Interior accessible routes include doorways, corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. Exterior accessible routes include doorways, parking access aisles, curb cuts, walks, ramps and lifts.

*Act* - The act of September 1, 1965 (P. L. 459, No. 235) (71 P. S. §§1455.11455.3b), known as the Universal Accessibility Act.

*Adaptable* - The ability of certain building spaces and elements, such as kitchen counters, sinks and grab bars, to be added or altered to accommodate the needs of persons with disabilities, or to accommodate the needs of persons with different types or degrees of disabilities.

*Area of rescue assistance* - An area which has direct access to an exit where people who are unable to use stairs may remain temporarily in safety to await further instructions or assistance during emergency evacuation.

*Assembly area* - A room or space accommodating 50 or more individuals for religious, recreational, educational, political, social or amusement purposes, or for the consumption of food and drink, including connected rooms or spaces with a common means of egress and ingress.

*Automatic door* - A door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat or manual switch mounted on or near the door itself. See the definition of power-assisted door in this section.

*Board* - The Advisory Board created under section 3.1 of the act (71 P. S. §1455.3a).

*Building* - A structure used for supporting or sheltering a use or occupancy.

*Building site* - A parcel of land bounded by a property line or a designated portion of a public right-of-way.

*Children* - People 11 years of age or younger.

*Circulation path* - An exterior or interior way of passage from one place to another for pedestrians, including walks, hallways, courtyards, stairways and stair landings.

*Clear floor space* - The minimum unobstructed floor or ground space required to accommodate a single, stationary wheelchair and occupant.

*Closed circuit telephone* - A telephone with dedicated lines, such as a house phone, courtesy phone or phone that must be used to gain entrance to a facility.

*Common use* - Interior and exterior rooms, spaces or elements that are made available for the use of a restricted group of people; for example, residents of an apartment building, the occupants of an office building or the guests of the residents or occupants.

*Construction cost* - The total cost or estimated cost of a building, including labor, materials and fixed equipment at current market rates and a reasonable allowance for overhead and profit for a building contractor. The term does not include the cost of architectural fees, other design consultant fees and the cost of the land. The owner or owners agent shall provide the construction cost to the Department.

*Construction documents* - Drawings, specifications, or both, which delineate proposed construction or remodeling.

*Cross slope* - The slope that is perpendicular to the direction of travel. See the definition of running slope in this section.

*Curb ramp* - A short ramp cutting through a curb or built up to it.

*Department* - The Department of Labor and Industry of the Commonwealth. In cities of the First Class, Second Class and Second Class A, the term means the agency assigned the responsibility of enforcing the act.

*Detectable* - Perceptible by one or more of the senses.

*Detectable warning* - A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.

*Dwelling units* - A room or suite of rooms with sanitation facilities, with or without cooking facilities, and occupied as the home or residence of a single family, individual or group of individuals.

*Element* - An architectural or mechanical component of a building, facility, space, or site, such as a telephone, curb ramp, door, drinking fountain, seating or water closet.

*Entrance* - An access point to a building or portion of a building or facility used for the purpose of entering. The term includes the approach walk, the vertical access leading to the entrance platform, the entrance platform, vestibules (if provided) the entry door or gate, and the hardware of the entry door or gate. The principal entrance of a building or facility is the main door through which most people enter.

*Facility* - All or a portion of a building, structure or area including the site on which the building, structure or area is located, wherein specific services are provided or activities are performed.

*Ground floor* - An occupiable floor less than one story above or below grade with direct access to grade. A building or facility always has at least one ground floor and may have more than one ground floor as where a split level entrance has been provided or where a building is built into a hillside.

*Marked crossing* - A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way.

*Means of egress* - A continuous and unobstructed way of travel from any point in a building or structure to a safe area of refuge outside of the building or structure.

*Net floor area* - The surface area included within the surrounding walls of a building, including the areas occupied by equipment or furnishings. The term does not include vent shafts, elevator shafts, fire towers and other areas as may be designated by regulation.

*Operable part* - A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate or adjust the equipment or appliance; for example, a coin slot, pushbutton or handle.

*Persons with physical disabilities* - Individuals who have physical disabilities, including impaired sensory or manual abilities, which result in a functional limitation in access to and use of a building or facility.

*Power-assisted door* - A door used for human passage with a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself. If the switch or door is released, the doors immediately begin to close or close completely within 3 to 30 seconds. See the definition of automatic door in this section.

*Public* - Employees, visitors or other persons who may be on the premises for a lawful purpose.

*Ramp* - A walking surface in an accessible space that has a running slope greater than 1:20.

*Remodeled* - Renovated, reconstructed, altered or added to. The term does not include the following: roofing alterations; energy-efficiency-improvement measures, such as weatherization and the addition of insulation; window repair or replacement; rebuilding or replacement of heating, ventilating and cooling systems; remodeling which is cosmetic in nature, such as painting, plastering, improving wall coverings, and repair and replacement of carpeting and floor coverings; rewiring and replumbing except when the rewiring or replumbing involves the relocation of receptacles, controls or fixtures; and other minor repairs and necessary maintenance which do not affect the accessibility or usability of a building by persons with physical disabilities.

*Running slope* - The slope that is parallel to the direction of travel. See the definition of cross slope in this section.

*Secretary* - The Secretary of the Department. In cities of the First Class, Second Class and Second Class A, the term means the administrative head of the agency assigned the responsibility of enforcing the act.

*Service entrance* - An entrance intended primarily for delivery of services.

*Signage* - Audio, symbolic, tactile and pictorial information.

*Sleeping accommodations* - Rooms in which people sleep; for example, a dormitory or hotel or motel guest room.

*Tactile* - An object that can be perceived using the sense of touch.

*Tactile warning* - A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.

*Temporary* - Intended for use for 6 months or less.

*Text telephone* - Machinery or equipment that employs interactive graphic; that is, typed, communications through the transmission of coded signals across the standard telephone network. Text telephones can include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers.

*Townhouse* - A residential building in which dwelling units do not overlap each other in a vertical plane.

*Variance* - The permitted use of a standard or specification which differs in degree or measurement from the requirements of the act or this chapter or a permitted alternative solution to a design problem.

*Vehicular way* - A route intended for vehicular traffic, such as a street, driveway or parking lot.

*Walk* - An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

*Worth of the building* - The value of the building prior to the remodeling as reasonably determined, based upon the use of the building and the net floor area, either from a table of standard values established by the Department or from an appraisal provided by the owner or the owners agent.

## **§60.2. Jurisdiction and effective dates.**

(a) *Applicability.* This chapter applies to government buildings, private buildings and building sites as follows:

- (1) Factories, powerplants, mercantile buildings, shopping centers, department stores, retail stores, restaurants with sit-down, interior dining facilities, hotels, motels, office buildings, financial institutions, hospitals, public and private institutions, convalescent and nursing homes, schools, colleges, dormitories, auditoriums, gymnasiums, transportation stations and terminals, warehouses and garages.
- (2) Theaters, motion picture theaters, museums, concert halls and summer stock theaters.
- (3) Public halls, dance halls, banquet halls, lodge halls, skating rinks, armory halls or any other type of auditorium where the public assembles.
- (4) Places of worship.
- (5) Apartment houses, multistory condominium complexes, certain multifamily dwellings, clubhouses, lodging houses and rooming houses.
- (6) Grandstands, sports arenas, stadiums and amphitheaters.
- (7) Other buildings, facilities or complexes used by the public.
- (8) Building sites. The standards and specifications set forth in the act and this chapter also apply to building sites for a building or facility to which the act applies. These building sites shall provide an accessible route.

(b) *Effective date.* This chapter shall be effective as follows:

- (1) *New construction.* New construction of buildings, building sites and facilities subject to the act and this chapter which was begun on or after February 18, 1989, shall be accessible to, and usable by, persons with physical disabilities.
- (2) *Existing buildings.* Remodeling of buildings, building sites and facilities subject to the act and this chapter which was begun on or after March 12, 1994, shall be accessible to, and usable by, persons with physical disabilities to the following degree:
  - (i) When the construction cost of the remodeling is less than 30% of the worth of the building, only the remodeled area shall be made accessible to, and usable by, persons with physical disabilities. An accessible route to the remodeled area is not required.

- (ii) When the construction cost of the remodeling is greater than, or equal to, 30% but less than 50% of the worth of the building, the remodeled area shall be made accessible to, and usable by, persons with physical disabilities, and an accessible route to the remodeled area shall be provided. The cost of providing an accessible route to the remodeled area may not be considered when calculating the required degree of conformity.
  - (iii) When the construction cost of the remodeling is 50% or more of the worth of the building, the entire building and building site shall be made accessible to, and usable by, persons with physical disabilities.
  - (iv) When a series of remodeling is made to a building over any 3-year period which accumulates in a series of construction costs which total 30% or more but less than 50% of the worth of the building at the beginning of the 3-year period, the remodeled areas shall be made accessible to, and usable by, persons with physical disabilities, and an accessible route to the areas shall be provided. When a series of remodeling is made to a building over a 3-year period which accumulates in any series of construction costs which total 50% or more of the worth of the building at the beginning of the 3-year period, the entire building and building site shall be accessible to, and usable by, persons with physical disabilities.
  - (v) The worth of an existing building shall be determined by using the most current edition of the Means Building Construction Cost Data or the building owner may submit an appraisal completed by a real estate appraiser certified by the Commonwealth.
- (3) *Government-leased buildings or building space.* Effective March 12, 1995, when a new lease is entered to lease new building space of 2,800 square feet or more, the lessor shall lease a building or building space which is accessible to, and usable by, persons with physical disabilities when the building or building space is leased, in whole or in part, by the use of Commonwealth funds, the funds of an instrumentality of the Commonwealth or the funds of a political subdivision of this Commonwealth. When only a part of a building is being leased, an accessible route shall be provided to the leased space.
- (4) *New or existing multifamily dwellings.* In new residential construction of seven or more units and in remodeling of existing residential buildings of 11 or more units when the remodeling costs exceed 50% of the worth of the building, all grade level apartments or at least a minimum of 25% of the total apartments in the building shall be accessible or adaptable units in buildings without elevators. Twenty-five percent of the total apartment units in buildings with elevators shall be accessible or adaptable units. Multifamily dwellings covered by this section shall comply with this chapter and the applicable provisions of the most current American National Standards Institute Inc. (ANSI) publication pertaining to accessible and adaptable dwelling units.
- (c) *Exemptions.* The following are exempt from this chapter:
- (1) *Certain residential construction.* Existing single-family, townhouse and multifamily dwellings which are exclusively residential and which house ten or fewer families are excluded from the requirements of the act. New single-family, townhouse and multifamily dwellings which are exclusively residential and which house six or fewer families are excluded from the act.
  - (2) *Certain new construction.* In new construction of a private building as described in subsection (a) with less than 2,800 square feet of net floor area, only the ground floor of the building shall be accessible to and usable by persons with physical disabilities. Existing private buildings that have less than 2,800 square feet of net floor area are excluded from the act. If an existing private building is remodeled so that the resulting net floor area upon completing of the remodeling will be 2,800 square feet or more, the building shall comply with the act and be accessible to and usable by persons with physical disabilities to the degree required by subsection (b)(2).
  - (3) *Certain construction.* In the case of new and existing construction with less than 12,500 square feet of net floor area, an elevator or ramp is not required to provide an accessible route to nonground level floors. Access is required to ground level floors.
  - (4) *Special purpose spaces.* Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, electrical or telephone closets, general utility rooms, walk-in freezers, fur vaults and areas where only employees have occasion to enter and within which the work cannot reasonably be performed by a person with a physical disability because of the nature of the abilities required will be considered special purpose spaces.
  - (5) *Comparable service areas.* In the case of remodeled construction, an accessible route is not required to be provided to the remodeled area if an occupant offers goods, services or facilities that are comparable to those the occupant offers elsewhere in the building in an accessible area. The Department will determine if goods, services or facilities are comparable.

- (6) *Designated historic buildings.* Accessibility provisions are not required when the Department or the State Historic Preservation Officer or other appointed agent for enforcing the historic preservation provisions of the United States Department of Interior determines that renovations cannot be accomplished without threatening or destroying the historic fabric of a building which has been identified and classified by the Historical and Museum Commission as historic or for which an approval for a Part I application to the United States Department of Interior has been granted.

### **Cross References**

This section cited in 34 Pa. Code §60.8 (relating to field inspection).

#### **§60.3. Submission of plans.**

- (a) *Compliance.* Before a building or building site to which this chapter applies is constructed or remodeled, detailed architectural plans, wall sections and elevations for new construction or other data required by the Department showing compliance with the act and this chapter shall be submitted to the Bureau of Occupational and Industrial Safety, Buildings Division, of the Department, for approval. Construction documents, such as drawings, shall be submitted in triplicate.
- (b) *Plan requirements.* Plans shall be prepared in accordance with §49.3(c) (relating to submission of plans).
- (c) *Accelerated approvals.* Accelerated plan approval may be applied for, and granted, in accordance with §49.3(d).

#### **§60.4. Certification of plans.**

If a construction or remodeling project subject to the act and this chapter is required by the Architects Licensure Law (63 P. S. §§34.134.22), the Landscape Architects Registration Law (63 P. S. §§901913) or the Professional Engineers and Professional Land Surveyors Registration Law (63 P. S. §§148158), to be designed by an architect or engineer registered in this Commonwealth, the architect or engineer who prepared plans and specifications for the construction or remodeling shall file a certificate with the Buildings Division of the Bureau of Occupational and Industrial Safety of the Department, at the time of submission of the plans. The certificate shall be on a form prescribed by the Department.

#### **§60.5. Appeal of Department action as to final plans.**

- (a) A person whose final plans are not approved by the Department may appeal the Department's action to the Secretary.
- (b) The appeals shall be filed with the Secretary, Labor and Industry Building, Harrisburg, Pennsylvania 17120, and shall be handled in accordance with the procedure in §60.6 (relating to variances).

#### **§60.6. Variances.**

- (a) The Board will review applications for variances, including those submitted prior to, or concurrent with, the submission of plans; those submitted in connection with an answer to an order to show cause; and those submitted in connection with an appeal to the Secretary; and will advise the Secretary with respect to whether a variance from the act or this chapter, or both, should be granted.
- (b) The Board may recommend that a variance be granted or denied, and the Secretary may grant or deny a variance. A variance may be granted if all of the following conditions are met:
- (1) Compliance with the act and this chapter would result in an extreme hardship which may include instances where compliance would result in prohibitive costs or a conflict with local zoning ordinances or where compliance is not feasible due to inherent dimensional, structural or other physical constraints.
  - (2) The extreme hardship has not been created by the applicant.
  - (3) The terms of the variance are consistent with the intent of the act. In existing buildings, the terms of a variance may exempt a portion of the remodeled area from a requirement of the act and this chapter.
- (c) A request for a variance not acted upon by the Secretary within 60 days after receipt of the request will be deemed granted.

### **Cross References**

This section cited in 34 Pa. Code §60.5 (relating to appeal of Department action as to final plans).

### **§60.7. Legal effect of approval of plans**

Final plans approved by the Department which reflect compliance with the act and this chapter are valid for 2 years after the date of the final plan approval. If construction or remodeling commences within 2 years of the date of final plan approval, final plan approval is valid for 5 years after the date of final plan approval.

### **§60.8. Field inspection.**

- (a) The government agency, owner or owners agent, shall notify the Bureau of Occupational and Industrial Safety Office listed on the plan approval letter when construction or remodeling has begun.
- (b) Prefinal inspections may be conducted based upon the size and complexity of a project.
  - (1) If nonconforming conditions are observed at a prefinal inspection, the Department will notify the government agency or owner of these observations in writing.
  - (2) It is the government agency's or owner's responsibility to correct these conditions or obtain a revised approval for these conditions.
- (c) The government agency or owner, or owners agent, shall arrange for a final inspection by contacting the Department.
- (d) A Bureau of Occupational and Industrial Safety inspector will make a final inspection of the building and will permit occupancy when all conditions required by this chapter and Chapters 4959, known as the Fire and Panic Regulations, are complete.
- (e) The Department will issue an occupancy permit within 30 days of the final inspection, if the inspection demonstrates compliance with the act and this part. It is the government agency's or owner's, or owners agent's, responsibility to maintain and operate the building in accordance with the act and this chapter.
- (f) After the issuance of an occupancy permit by the Department, the Department will not require changes in a building, unless one of the following applies:
  - (1) The occupancy permit was issued through connivance or fraud.
  - (2) The occupancy or use of the building has changed.
  - (3) The building is not maintained and operated in accordance with this chapter and Chapters 4959.
  - (4) The building is remodeled and is subject to the act and this chapter under §60.2(b)(2) (relating to jurisdiction and effective dates).

### **§60.9. Applicability of general rules.**

Under 1 Pa. Code §31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to proceedings for the enforcement of the act, except as otherwise provided in this chapter.

### **§60.10. Service of orders and notices**

Service of orders, and notices and other documents shall be effected in the manner provided by 1 Pa. Code §33.31 (relating to service by the agency).

### **§60.11. Enforcement.**

If the plans for a construction or remodeling project subject to the act or this chapter are not submitted and approved by the Department and the construction or remodeling project is nevertheless commenced, or if a construction or remodeling project subject to the act or this chapter is not performed or completed in conformance with the act or this chapter, the Department will take the following action:

- (1) *Notice of violation and order to correct.*
  - (i) A written notice of violations will be served upon the government agency or the owner, or owners agent, describing the violations.

- (ii) An order requiring the submission and approval of plans or requiring the correction of violations within a reasonable period as will be determined by the Department will be served simultaneously with the notice required in this paragraph. The order shall also advise the government agency, owner or the owners agent of the appeal rights under the act.
- (iii) If the government agency or owner, or the owners agent, failed to obtain the Departments approval of plans for a construction or remodeling project subject to the act and this chapter, the Department may also order the government agency or owner to cease work on the project immediately. If the Department issues this order, a notice will be placed at the building prohibiting the continuation of work being performed until approval is given by the Department.

(2) *Determination of compliance or noncompliance.*

- (i) At the end of the period provided in the order to correct, the Department will inspect the building and determine whether compliance has been effected.
- (ii) If compliance has been effected, the order will be closed by the Department.
- (iii) If compliance has not been effected, the Department may issue to the government agency or owner, an order to show cause why the Department should not take further enforcement action against the government agency or owner.

(3) *Answer to order to show cause.*

- (i) An answer to the order to show cause shall be filed with the Secretary, in accordance with 1 Pa. Code §35.37 (relating to answers to orders to show cause), and may include a request for a variance or an extension of time, or both. The answer shall be filed within 30 days of the date of the issuance of the order to show cause.
- (ii) If a request for variance or an extension of time, or both, has already been filed with the Secretary and is still pending, consideration of the request will be merged with the answer and considered simultaneously with the answer.
- (iii) If a request for a variance or an extension of time, or both, has already been filed and is still pending, and no answer is filed, the request for a variance or an extension of time, or both, shall be deemed the answer.

(4) *Appeals to the Secretary.*

- (i) The government agency or owner, or owners agent, may file an appeal with the Secretary within 30 days of the date of notice of violation and orders to correct and may request variances or extensions of time, or both. An appeal may not be filed with the Secretary after the expiration of these periods, except at the discretion of the Secretary upon good cause shown.
- (ii) An appeal shall be filed with the Secretary, Labor and Industry Building, Harrisburg, Pennsylvania 17120, and will be deemed filed the date of the mailing, as indicated by the postmark date or the date of personal delivery.
- (iii) An appeal to the Secretary may include a request for an extension of time within which to comply, a variance, or both, or other relief which is appropriate.
- (iv) The Secretary will refer the appeal to the Board, which shall make recommendations to the Secretary.
- (v) The government agency or owner, or the owners agent, may request a hearing before the Board. If a hearing is requested, the Board will schedule a hearing and notify the government agency or owner, or owners agent, and the Department of the date, time and place of the hearing.
- (vi) The Board may consider the following factors in making its recommendation with respect to a request for an extension of time, a variance, or other relief which is requested:
  - (A) The reasonableness of the Departments regulations as applied in the specific case.
  - (B) The extent to which an extension of time or a variance will impede access by persons with a physical disability.
  - (C) The availability of professional or technical personnel needed to come into compliance.

- (D) The availability of materials and equipment needed to come into compliance.
  - (E) The efforts being made to come into compliance as quickly as possible.
  - (F) Compensatory features which the government agency or owner has incorporated which will provide an equivalent degree of accessibility to persons with physical disabilities.
- (vii) The Board, after consideration of a request for an extension of time or a variance or other relief, may recommend that the Secretary:
- (A) Deny the request.
  - (B) Grant the request.
  - (C) Grant the request upon certain conditions being satisfied.
  - (D) Grant other relief which is appropriate.
- (5) *Adjudication of the Secretary.* After giving consideration to the guidelines and recommendations of the Board, the Secretary will issue an adjudication in accordance with 2 Pa.C.S. §§501508 and 701704 (relating to the Administrative Agency Law).
- (6) *Enforcement of orders.*
- (i) *Courts of common pleas.* The Department may secure enforcement of its orders or seek other appropriate relief through the appropriate court of common pleas.
  - (ii) *Summary for criminal proceedings.* The Department may institute summary criminal proceedings against a government agency or owner who violates the act or this chapter and who fails or refuses to observe orders issued by the Department for enforcement of the act or this chapter. The government agency or owner, or owners agent, shall be subject to a fine of not more than \$300 for each day that the violation continues.
- (7) *Judicial review.* An individual, partnership, agency, association or corporation aggrieved by a final determination of the Department may file a petition for review within 30 days of the final determination in the Commonwealth Court, under 42 Pa.C.S. §763(a) (relating to direct appeals from government agencies).

#### **§60.12. Private right of action.**

A private right of action may be commenced by filing a complaint with the Department, in accordance with section 3.2 of the act (71 P. S. §1455.3b).

- (1) *Citizen complaints.* An individual, partnership, agency, association or corporation who reasonably believes there is a violation of the act and this chapter by a governmental agency or private owner may file a complaint with the Department. The complaint shall be in writing, shall be verified and set forth the grounds for the complaint. Within 60 days after receipt of the complaint, the Department will respond to the complainant by acknowledging receipt of the complaint in writing. The Department will investigate the complaint and respond to the complainant in writing with its findings, determinations and enforcement measures initiated or contemplated within 120 days after receipt of the complaint. For the purpose of investigating a complaint, an employe of the Department may inspect at reasonable times the building or building site which is the subject of the complaint and may make any additional investigation deemed necessary for the full and effective determination of compliance with the act and this chapter.
- (2) *Judicial review.* An individual, partnership, agency, association or corporation aggrieved by a final determination of the Department may file a petition for review within 30 days of the final determination in Commonwealth Court under 42 Pa.C.S. §763(a) (relating to direct appeals from government agencies). The decision of the Department will not be reversed or modified unless it is found to be arbitrary, capricious, illegal or not supported by substantial evidence.
- (3) *Original action.*
  - (i) An individual, partnership, agency, association or corporation who filed a complaint under paragraph (1) and received no written response from the Department acknowledging receipt of its complaint within 60 days, or received a response from the Department indicating that a violation was found but enforcement measures were not contemplated or enforcement measures were contemplated but the measures were not initiated after a

period of 60 days from the response may either bring suit in Commonwealth Court against the Department for failure to enforce the act and this chapter or may bring a civil action in the appropriate court of common pleas against the building owner or owners agent for a violation of one or more provisions of the act or this chapter.

- (ii) If the court finds a violation of the act or this chapter, the court may enjoin construction or remodeling of the building, direct the correction of violations within a reasonable and specified time period or order other relief deemed appropriate. The court, in issuing a final order in an action brought under this section, may award costs of litigation including attorney and expert witness feesto any party, when the court determines the award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with 231 Pa. Code (relating to Rules of Civil Procedure).
- (iii) An architect or licensed design professional who has complied with the act and this chapter and prepared construction documents in accordance with accepted professional standards shall have no further liability pursuant to litigation commenced under this section.

## Specific Requirements

### §60.31. Technical requirements.

Buildings subject to the act and this chapter shall comply with the applicable provisions of ADAAG beginning with section 4.2, to the extent they do not conflict with the act and this chapter.

### §60.32. Sites and exterior facilities.

An accessible site shall meet the following minimum requirements:

- (1) At least one accessible route complying with ADAAG 4.3 shall be provided within the boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones if provided, and public streets or sidewalks, to an accessible building entrance.
- (2) At least one accessible route complying with ADAAG 4.3 shall connect accessible buildings, accessible facilities, accessible elements and accessible spaces that are on the same site.
- (3) Objects that protrude from surfaces or posts into circulation paths shall comply with ADAAG 4.4.
- (4) Ground surfaces along accessible routes and in accessible spaces shall comply with ADAAG 4.5.
- (5) When parking is provided, accessible parking shall be provided as follows:
  - (i) If parking spaces are provided for self-parking by employes or visitors, or both, the accessible spaces complying with ADAAG 4.6 shall be provided in each parking area in conformance with the following Parking Table. Spaces required by the table need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

**PARKING TABLE**

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 1,000

- (ii) Except as provided in subparagraph (iii), access aisles adjacent to accessible spaces shall be 60 inches (1525 mm) wide minimum.
  - (iii) One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches (2440 mm) wide minimum and shall be designated van accessible as required by ADAAG 4.6.4. The vertical clearance at the spaces shall comply with ADAAG 4.6.5. The spaces may be grouped on one level of a parking structure.
  - (iv) Provision of all required parking spaces in conformance with Universal Parking Design (see ADAAG appendix A4.6.3) is permitted.
  - (v) If passenger loading zones are provided, at least one passenger loading zone shall comply with ADAAG 4.6.6.
  - (vi) At facilities providing medical care and other services for persons with mobility impairments, parking spaces shall comply with §60.32(5) except as follows:
    - (A) Outpatient units and facilities:10% of the total number of parking spaces provided serving each outpatient unit or facility.
    - (B) Units and facilities that specialize in treatment or services for persons with mobility impairments:20% of the total number of parking spaces provided serving each unit or facility.
  - (vii) Valet parking facilities shall provide a passenger loading zone complying with ADAAG 4.6.6 located on an accessible route to the entrance of the facility. Subparagraphs (i), (iii) and (vi) do not apply to valet parking facilities.
- (6) When toilet facilities are provided, they shall comply with the following:
- (i) If toilet facilities are provided on a site, each public or common use toilet facility shall comply with ADAAG 4.22. If bathing facilities are provided on a site, then each public or common use bathing facility shall comply with ADAAG 4.23.
  - (ii) For single user portable toilet or bathing units clustered at a single location, at least 5% but no less than one toilet unit or bathing unit complying with ADAAG 4.22 or 4.23 shall be installed at each cluster whenever typical inaccessible units are provided. Accessible units shall be identified by the International Symbol of Accessibility.
  - (iii) Portable toilet units at construction sites used exclusively by construction personnel are not required to comply.
- (7) Signs which designate permanent rooms and spaces shall comply with ADAAG 4.30.1, 4.30.4, 4.30.5 and 4.30.6. Other signs which provide direction to, or information about, functional spaces of the building shall comply with ADAAG 4.30.1, 4.30.2, 4.30.3 and 4.30.5. Elements and spaces of accessible facilities which shall be identified by the International Symbol of Accessibility and which shall comply with ADAAG 4.30.7 are:
- (i) Parking spaces designated as reserved for individuals with disabilities.
  - (ii) Accessible passenger loading zones.
  - (iii) Accessible entrances when not all are accessible. Inaccessible entrances shall have directional signage to indicate the route to the nearest accessible entrance.
  - (iv) Accessible toilet and bathing facilities when they are not all accessible.

### **§60.33. Buildings.**

Buildings and facilities shall meet the following minimum requirements:

- (1) At least one accessible route complying with ADAAG 4.3 shall connect building or facility entrances with all accessible spaces and elements within the building or facility.
- (2) Objects that overhang or protrude into circulation paths shall comply with ADAAG 4.4.
- (3) Ground and floor surfaces along accessible routes and in accessible rooms and spaces shall comply with ADAAG 4.5.

- (4) Interior and exterior stairs connecting levels that are not connected by an elevator, ramp or other accessible means of vertical access shall comply with ADAAG 4.9.
- (5) One passenger elevator complying with ADAAG 4.10 shall serve each level, including mezzanines, in multistory buildings and facilities, except that in new and existing construction with less than 12,500 square feet of net floor area, an elevator or ramp is not required to provide an accessible route to nongrade floor levels. If more than one elevator is provided, each full passenger elevator shall comply with ADAAG 4.10. Platform lifts (wheelchair lifts) complying with ADAAG 4.11 and Chapter 7 (relating to elevators, lifts, escalators, dumbwaiters, hoists and tramways) may be used in lieu of an elevator only under the following conditions:
  - (i) To provide an accessible route to a performing area in an assembly occupancy.
  - (ii) To comply with the wheelchair viewing position line-of-sight and dispersion requirements of ADAAG 4.33.3.
  - (iii) To provide access to incidental occupiable spaces and rooms which are not open to the general public and which house no more than five persons.
- (6) Windows - no requirements.
- (7) Doors:
  - (i) At each accessible entrance to a building or facility, at least one door shall comply with ADAAG 4.13.
  - (ii) Within a building or facility, at least one door at each accessible space shall comply with ADAAG 4.13.
  - (iii) Each door that is an element of an accessible route shall comply with ADAAG 4.13.
  - (iv) Each door required by ADAAG 4.3.10, Egress, shall comply with ADAAG 4.13.
- (8) In new construction, at a minimum, the requirements in subparagraphs (i) and (ii) shall be satisfied independently:
  - (i) Accessible entrances shall be provided as follows:
    - (A) At least 50% of all public entrances excluding those in subparagraph (iii) shall be accessible. At least one shall be a ground floor entrance. Public entrances are entrances that are not loading or service entrances.
    - (B) Accessible entrances shall be provided in a number at least equivalent to the number of exits required by Chapters 4959, known as the Fire and Panic Regulations. This clause does not require an increase in the total number of entrances planned for a facility.
    - (C) An accessible entrance shall be provided to each tenancy in a facility; for example, individual stores in a strip shopping center.
  - (ii) One entrance may be considered as meeting more than one of the requirements in subparagraph (i). Where feasible, accessible entrances shall be the entrances used by the majority of people visiting or working in the building.
  - (iii) Pedestrian access shall be provided as follows:
    - (A) If direct access is provided for pedestrians from an enclosed parking garage to the building, at least one direct entrance from the garage to the building shall be accessible.
    - (B) If access is provided for pedestrians from a pedestrian tunnel or elevated walkway, one entrance to the building from each tunnel or walkway shall be accessible.
  - (iv) One entrance may be considered as meeting more than one of the requirements in subparagraph (iii).
  - (v) Because entrances also serve as emergency exits whose proximity to all parts of buildings and facilities is essential, it is preferable that all entrances be accessible.
  - (vi) If the only entrance to a building, or tenancy in a facility, is a service entrance, that entrance shall be accessible.

- (vii) Entrances which are not accessible shall have directional signage complying with ADAAG 4.30.1, 4.30.2, 4.30.3 and 4.30.5, which indicates the location of the nearest accessible entrance.
- (9) In buildings or facilities, or portions of buildings or facilities, required to be accessible, accessible means of egress shall be provided in the same number as required for exits by Chapters 4959. Where a required exit from an occupiable level above or below a level of accessible exit discharge is not accessible, an area of rescue assistance shall be provided on each level in a number equal to that of inaccessible required exits. Areas of rescue assistance shall comply with ADAAG 4.3.11. A horizontal exit, meeting the requirements of Chapters 4959 shall satisfy the requirement for an area of rescue assistance. Areas of rescue assistance are not required in buildings or facilities having a supervised automatic sprinkler system.
- (10) Drinking fountain requirements are as follows:
- (i) Where only one drinking fountain is provided on a floor, it shall be accessible to individuals who use wheelchairs in accordance with ADAAG 4.15 and to those who have difficulty bending or stooping. This can be accommodated by the use of a hi-lo fountain; by providing a fountain accessible under ADAAG 4.15 and a water cooler; or by other means that would achieve the required accessibility for each group on each floor.
  - (ii) Where more than one drinking fountain or water cooler is provided on a floor, at least 50% of those provided shall comply with ADAAG 4.15 and shall be on an accessible route.
- (11) Toilet facilities shall be as follows: If toilet rooms are provided, each public and common use toilet room shall comply with ADAAG 4.22. Other toilet rooms provided for the use of occupants of specific spaces such as, a private toilet room for the occupant of a private office shall be adaptable. If bathing rooms are provided, each public and common use bathroom shall comply with ADAAG 4.23. Accessible toilet rooms and bathing facilities shall be on an accessible route.
- (12) Storage, shelving and display units shall be provided as follows:
- (i) If fixed or built-in storage facilities, such as cabinets, shelves, closets and drawers are provided in accessible spaces, at least one of each type provided shall contain storage space complying with ADAAG 4.25. Additional storage may be provided outside of the dimensions required by ADAAG 4.25.
  - (ii) Shelves or display units allowing self-service by customers in mercantile occupancies shall be located on an accessible route complying with ADAAG 4.3. Requirements for accessible reach range do not apply.
- (13) Controls and operating mechanisms in accessible spaces, along accessible routes, or as parts of accessible elements for example, light switches and dispenser controls shall comply with ADAAG 4.27.
- (14) If emergency warning systems are provided, they shall include audible alarms and visual alarms complying with ADAAG 4.28. Sleeping accommodations required to comply with ADAAG 9.3 shall have an alarm system complying with ADAAG 4.28. Emergency warning systems in medical care facilities may be modified to suit standard health care alarm design practice.
- (15) Detectable warnings shall be provided at locations as specified in ADAAG 4.29.
- (16) Building signage shall be provided as follows:
- (i) Signs which designate permanent rooms and spaces shall comply with ADAAG 4.30.1, 4.30.4, 4.30.5 and 4.30.6.
  - (ii) Other signs which provide direction to or information about functional spaces of the building shall comply with ADAAG 4.30.1, 4.30.2, 4.30.3 and 4.30.5.
  - (iii) Building directories, menus and all other signs which are temporary are not required to comply with this paragraph.
- (17) Public telephones shall be provided as follows:
- (i) If public pay telephones, public closed circuit telephones or other public telephones are provided, they shall comply with ADAAG 4.31.24.31.8 to the extent required by the following Public Telephone Table:

## PUBLIC TELEPHONE TABLE

<b>Number of each type of telephone provided on each floor</b>	<b>Number of telephone required to comply with ADAAG 4.31.2 through 4.31.8<sup>1</sup></b>
1 or more single unit	1 per floor
1 bank <sup>3</sup>	1 per floor
2 or more banks <sup>2</sup>	1 per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to the bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone <sup>3</sup>

<sup>1</sup> Additional public telephones may be installed at any height. Unless otherwise specified, accessible telephones may be either forward or side reach telephones.

<sup>2</sup> A bank consists of two or more adjacent public telephones, often installed as a unit.

<sup>3</sup> EXCEPTION: For exterior installations only, if dial tone first service is available, then a side reach telephone may be installed instead of the required forward reach telephone (that is, one telephone in proximity to each bank shall comply with ADAAG 4.31).

- (ii) Telephones required to be accessible and complying with ADAAG 4.31.2 through 4.31.8 shall be equipped with a volume control. In addition, 25%, but never less than one, of all other public telephones provided shall be equipped with a volume control and shall be dispersed among all types of public telephones, including closed circuit telephones, throughout the building or facility. Signage complying with applicable provisions of ADAAG 4.30.7 shall be provided.
  - (iii) The following shall be provided in accordance with ADAAG 4.31.9:
    - (A) If a total number of four or more public pay telephones including both interior and exterior phones is provided at a site, and at least one is in an interior location, at least one interior public text telephone shall be provided.
    - (B) If an interior public pay telephone is provided in a stadium or arena, in a convention center, in a hotel with a convention center or in a covered mall, at least one interior public text telephone shall be provided in the facility.
    - (C) If a public pay telephone is located in or adjacent to a hospital emergency room, hospital recovery room or hospital waiting room, one public text telephone shall be provided at each of these locations.
  - (iv) Where a bank of telephones in the interior of a building consists of three or more public pay telephones, at least one public pay telephone in each bank shall be equipped with a shelf and outlet in compliance with ADAAG 4.31.9(2).
- (18) If fixed or built-in seating or tables, such as study carrels and student laboratory stations, are provided in accessible public or common use areas, at least 5%, but not less than one, of the fixed or built-in seating areas or tables shall comply with ADAAG 4.32. An accessible route shall lead to and through the fixed or built-in seating areas, or tables.
- (19) Assembly areas shall comply with the following:
- (i) Places of assembly with fixed seating accessible wheelchair locations shall comply with ADAAG 4.33.2, 4.33.3 and 4.33.4 and shall be provided in conformance with the following Assembly Seating Table:

## ASSEMBLY SEATING TABLE

Capacity of Seating in Assembly Areas	Number or Required Wheelchair Locations
4 to 25	1
26 to 50	2
51 to 300	4
301 to 500	6
over 500	6, plus 1 additional space for each total seating capacity increase of 100

- (ii) In addition, 1%, but not less than one, of all fixed seats shall be aisle seats with no armrests on the aisle side, or removable or folding armrests on the aisle side. Each seat shall be identified by a sign or marker. Signage notifying patrons of the availability of seats shall be posted at the ticket office. Aisle seats are not required to comply with ADAAG 4.33.4.
  - (iii) This paragraph applies to assembly areas where audible communications are integral to the use of the spacesuch as, concert and lecture halls, playhouses and movie theaters, meeting rooms, and the like. These assembly areas, if they accommodate at least 50 persons, or if they have audio-amplification systems, and they have fixed seating, shall have a permanently installed assistive listening system complying with ADAAG 4.33. For other assembly areas, a permanently installed assistive listening system, or an adequate number of electrical outlets or other supplementary wiring necessary to support a portable assistive listening system shall be provided. The minimum number of receivers to be provided shall be equal to 4% of the total number of seats, but not less than two. Signage complying with applicable provisions of ADAAG 4.30 shall be installed to notify patrons of the availability of a listening system.
- (20) Where automated teller machines (ATMs) are provided, each ATM shall comply with ADAAG 4.34 except where two or more are provided at a location, then only one shall comply. Drive-up-only automated teller machines are not required to comply with ADAAG 4.27.2, 4.27.3 and 4.34.3.
- (21) Where dressing and fitting rooms are provided for use by the general public, patients, customers or employes, 5%, but not less than one, of dressing rooms for each type of use in each cluster of dressing rooms shall be accessible and shall comply with ADAAG 4.35. Examples of types of dressing rooms are those serving different genders or distinct and different functions as in different treatment or examination facilities.

### Cross References

This section cited in 34 Pa. Code §60.34 (relating to group habitation under physical restraint).

#### **§60.34. Group habitation under physical restraint.**

Penal institutions, detention facilities, correctional facilities and similar facilities shall comply with §60.33 (relating to buildings) except as specified or modified in this section.

- (1) The greater of 1% or the percentage specified in applicable Federal regulations of the total cell capacity shall be accessible to and usable by persons with physical disabilities.
- (2) Accessible cells shall meet the following:
  - (i) The cell door shall comply with ADAAG 4.13. Cell doors may not encroach into the clear floor space requirements of other fixtures.
  - (ii) The turning space within the cell shall comply with ADAAG 4.2.3.
  - (iii) The bed shall have a minimum clear floor space of 32 inches along one side of the bed except that in dormitory situations with two or more beds, the clearance requirements of ADAAG 6.3(2) or 6.3(3) apply. Bunk beds are not permitted in accessible cells.
  - (iv) Other fixtures and features, such as water closet, lavatory, storage cabinet, and the like, that are provided in a regular cell shall be provided in an accessible cell and meet the applicable requirements of this chapter