

## CHAPTER 198

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**LABOR AND INDUSTRY**

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**HOUSE BILL 03-1221**

BY REPRESENTATIVE(S) Fairbank, Boyd, Frangas, Fritz, Jahn, Ragsdale, Rhodes, Rippy, Romano, Schultheis, Spradley, Stafford, Tochtrop, Veiga, Weddig, and Williams S.;  
also SENATOR(S) Cairns, Hanna, Hillman, and Tupa.

**AN ACT****CONCERNING ACCESSIBILITY STANDARDS FOR RESIDENTIAL PROJECTS DESIGNED TO SERVE PERSONS WITH DISABILITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 5 of title 9, Colorado Revised Statutes, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

**ARTICLE 5  
Standards For Accessible Housing**

**9-5-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) ~~"Aging" means those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the other categories mentioned in this section.~~

(2) ~~"Appropriate number" means the number of a specific item that would be reasonably necessary, in accord with the purpose and function of a building or facility, to accommodate individuals with specific disabilities in proportion to the anticipated number of individuals with disabilities who would use a particular building or facility.~~

(3) ~~"Disabilities of incoordination" means faulty coordination or palsy from brain, spinal, or peripheral nerve injury.~~

(4) ~~"Fixed turning radius, front structure to rear structure" means the turning radius~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~of a wheel chair, left front-foot platform to right rear wheel, or right front-foot platform to left rear wheel, when pivoting on a spot.~~

~~(5) "Fixed turning radius, wheel to wheel" means the tracking of the caster wheels and large wheels of a wheel chair when pivoting on a spot.~~

~~(6) "Hearing disabilities" means deafness or hearing impairments that might make an individual insecure in public areas because the individual is unable to communicate or hear warning signals.~~

~~(7) "Involved (involvement)" means a portion of the human anatomy or physiology, or both, which has a loss or impairment of normal function as a result of genesis, trauma, disease, inflammation, or degeneration.~~

~~(8) "Nonambulatory disabilities" means impairments that, regardless of cause or manifestation, for all practical purposes confine individuals to wheel chairs.~~

~~(9) "Ramps" or "ramps with gradients" means ramps with gradients, or ramps with slopes, that deviate from what would otherwise be considered the normal level. An "exterior ramp", as distinguished from a "walk", means an appendage to a building leading to a level above or below existing ground level. As such, a ramp shall meet certain requirements similar to those imposed upon stairs.~~

~~(10) "Semiambulatory disabilities" means impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory.~~

~~(11) "Sight disabilities" means total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger.~~

~~(12) "Standard" means that when this term appears in small letters, it is descriptive and means typical type.~~

~~(13) "Walk" means a predetermined, prepared surface, exterior pathway leading to or from a building or a facility, or from one exterior area to another, placed on the existing ground level and not deviating from the level of the existing ground immediately adjacent thereto.~~

(1) "ACCESSIBILITY POINT" MEANS A UNIT OF VALUE EXCHANGED FOR DIFFERENT LEVELS OF ACCESSIBLE DWELLING TYPES TO SATISFY THE REQUIREMENTS FOR DWELLING ACCESSIBILITY CONTAINED IN THIS ARTICLE.

(2) "ACCESSIBLE ROUTE" MEANS AN INTERIOR OR EXTERIOR CIRCULATION PATH THAT COMPLIES WITH THE PROVISIONS CONTAINED IN "ANSI A117.1-1998".

(3) "ANSI A117.1-1998" MEANS THE 1998 VERSION OF THE "AMERICAN NATIONAL STANDARD FOR BUILDINGS AND FACILITIES PROVIDING ACCESSIBILITY AND USABILITY FOR PHYSICALLY HANDICAPPED PEOPLE", PROMULGATED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE.

(4) "DETACHED RESIDENCE" MEANS A ONE- OR TWO-FAMILY RESIDENCE THAT IS SEPARATED FROM ADJACENT DWELLINGS BY AN UNOBSTRUCTED PHYSICAL SPACE. A ONE- OR TWO-FAMILY RESIDENCE THAT IS SEPARATED FROM AN ADJACENT DWELLING BY A PHYSICAL SPACE OF LESS THAN THREE FEET SHALL NOT BE CONSIDERED A DETACHED RESIDENCE.

(5) "GROUND STORY LEVEL" MEANS THE LOWEST STORY IN A DWELLING UNIT CONTAINING HABITABLE ROOMS OR AREAS WITH AN ACCESSIBLE ENTRANCE LOCATED ON AN ACCESSIBLE ROUTE THAT CONTAINS LIVING, SLEEPING, COOKING, BATHING, AND TOILET FACILITIES. FOR THE PURPOSES OF THIS ARTICLE, A BASEMENT SHALL NOT BE CONSIDERED THE GROUND STORY LEVEL IF THE FINISHED BASEMENT FLOOR IS LOCATED MORE THAN FOUR FEET BELOW THE EXTERIOR FINISHED GRADE DETERMINED AT ANY POINT ALONG THE EXPOSED PERIPHERY OF THE DWELLING UNIT.

(6) "PROJECT" MEANS THE TOTAL NUMBER OF PARCELS AND BUILDINGS IN A DEVELOPMENT PLANNED OR CONSTRUCTED BY THE SAME DEVELOPER, BUILDER, OR ENTITY ON ONE SITE OR CONTIGUOUS SITES, AND ALSO INCLUDES ALL PARCELS AND STRUCTURES THAT ARE PARTS OF THE SAME PLANNED DEVELOPMENT APPLICATION OR AGREEMENT. THE SEPARATION OF CONTIGUOUS INDIVIDUAL BUILDINGS, UNITS, LOTS, TRACTS, OR PARCELS OF LAND BY A PROPERTY LINE OR BY A PUBLIC OR PRIVATE ROAD SHALL NOT CREATE A SEPARATE PROJECT.

(7) "PROPERTY" MEANS THE SITE, PARCELS OF LAND, PLATS, LOTS, TRACTS, INDIVIDUAL DWELLING UNITS, EXISTING AND PROPOSED STRUCTURES, AND THE BUILT ENVIRONMENT.

(8) "RESIDENTIAL DWELLING UNIT" MEANS ANY PORTION OF A BUILDING THAT CONTAINS LIVING FACILITIES, INCLUDING A ROOM OR ROOMS IN A FACILITY THAT HAVE SHARED COOKING, BATHING, TOILET, OR LAUNDRY FACILITIES SUCH AS DORMITORIES, SHELTERS, ASSISTED LIVING FACILITIES, AND BOARDING HOMES. "RESIDENTIAL DWELLING UNIT" ALSO MEANS FACILITIES THAT INCLUDE PROVISIONS FOR SLEEPING, COOKING, BATHING, AND TOILET FACILITIES FOR ONE OR MORE PERSONS AND ARE USED FOR EXTENDED STAYS, SUCH AS TIME-SHARES AND EXTENDED-STAY MOTELS. "RESIDENTIAL DWELLING UNIT" DOES NOT MEAN A GUEST ROOM IN A MOTEL OR HOTEL.

(9) "TECHNICALLY INFEASIBLE", IN REFERENCE TO A PROPOSED ALTERATION TO A BUILDING OR FACILITY, MEANS THAT THE PROPOSED ALTERATION IS NOT IMPLEMENTED BECAUSE:

(a) AN EXISTING STRUCTURAL CONDITION OR CONDITIONS MAKE SUCH ALTERATION LABOR- OR COST-PROHIBITIVE;

(b) THE BUILDING OR FACILITY IS IN STRICT COMPLIANCE WITH MINIMUM ACCESSIBILITY REQUIREMENTS FOR NEW CONSTRUCTION AND, DUE TO EXISTING PHYSICAL OR SITE CONSTRAINTS, SUCH ALTERATION WOULD NEGATIVELY IMPACT SUCH COMPLIANCE.

(10) "TYPE A DWELLING UNIT" MEANS A DWELLING UNIT DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF ANSI A117.1-1998, SECTION 1002.

(11) "TYPE A MULTISTORY DWELLING UNIT" MEANS A MULTIPLE STORY DWELLING UNIT WITH A GROUND STORY LEVEL DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF ANSI A117.1-1998, SECTION 1002, AND, IF PROVIDED, ACCESSIBLE LAUNDRY FACILITIES ON THE GROUND STORY LEVEL.

(12) "TYPE B DWELLING UNIT" MEANS A DWELLING UNIT WITH A GROUND FLOOR LEVEL DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF ANSI A117.1-1998, SECTION 1003.

(13) "TYPE B MULTISTORY DWELLING UNIT" MEANS A MULTIPLE-STORY DWELLING UNIT WITH A GROUND STORY LEVEL THAT IS DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF ANSI A117.1-1998, SECTION 1003, AND, IF PROVIDED, ACCESSIBLE LAUNDRY FACILITIES ON THE GROUND STORY LEVEL.

(14) "TYPE B VISITABLE GROUND FLOOR" MEANS A MULTIPLE-STORY DWELLING UNIT WITH AN ACCESSIBLE ENTRANCE AND TOILET FACILITY DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF ANSI A117.1-1998, SECTION 1003.

(15) "UNDUE HARDSHIP" MEANS A SUBSTANTIAL AND UNUSUAL HARDSHIP THAT IS THE DIRECT RESULT OF UNIQUE PHYSICAL SITE CONDITIONS SUCH AS TOPOGRAPHY OR GEOLOGY, OR THAT IS THE DIRECT RESULT OF OTHER UNIQUE OR SPECIAL CONDITIONS ENCOUNTERED ON A PROPERTY, BUT THAT ARE NOT TYPICALLY ENCOUNTERED IN THE JURISDICTION IN WHICH SUCH PROPERTY IS LOCATED. CONSTRAINTS, COMPLICATIONS, OR DIFFICULTIES THAT MAY ARISE BY COMPLYING WITH THESE STATUTORY STANDARDS FOR ACCESSIBILITY BUT THAT DO NOT CONSTITUTE AN UNDUE HARDSHIP SHALL NOT SERVE TO JUSTIFY THE GRANTING OF AN EXCEPTION OR VARIANCE.

**9-5-102. [Formerly 9-5-103 and 9-5-104] Disabilities covered - purpose.**

(1) This article is ~~concerned~~ INTENDED TO PROVIDE ACCESSIBILITY STANDARDS FOR RESIDENTIAL PROJECTS DESIGNED TO SERVE PERSONS WITH NONAMBULATORY DISABILITIES, SEMIAMBULATORY DISABILITIES, SIGHT DISABILITIES, HEARING DISABILITIES, DISABILITIES OF INCOORDINATION, AND AGING.

~~(2) It is intended to make all buildings and facilities covered by this article accessible to and functional for persons with disabilities to, through, and within their doors without loss of function, space, or facility where the general public is concerned.~~

(2) **Design criteria.** Design criteria shall comply with the ~~most current~~ 1998 version of the "American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People", promulgated by the American national standard institute, commonly cited as "ANSI A117.1-1998".

**9-5-103. [Formerly 9-5-102] Applicability of standards - enforcement.**

(1) The standards and specifications set forth in this article shall apply to all buildings and facilities used ~~by the public which~~ FOR HOUSING THAT are constructed in whole or in part by the use of state, county, or municipal funds or the funds of any political subdivision of the state or ~~which~~ THAT are constructed with private funds. All such buildings and facilities to be constructed from plans on which architectural drawings are started after July 1, 1975, from any one of these funds or any combination thereof shall conform to each of the standards and specifications

prescribed in this article. The governmental unit responsible for the enforcement of this article shall grant exceptions to or modify any particular standard or specification when it is determined that it is impractical and would create an ~~unusual~~ UNDUE hardship. ~~or would unreasonably complicate the construction, alteration, or repair in question.~~ Any such exception or modification of the provisions of this article shall be made in writing as a matter of public record. These standards and specifications shall be adhered to in those buildings and facilities ~~which will be~~ THAT ARE constructed ~~from architectural drawings prepared after July 1, 1975, unless the authority responsible for the construction determines that the construction has reached a state where compliance is impractical~~ OR PROPOSED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT. This article shall apply to permanent buildings.

(2) THE JURISDICTION WITH RESPONSIBILITY FOR ENFORCEMENT OF THIS ARTICLE PURSUANT TO SECTION 9-5-104 SHALL DESIGNATE A BOARD OF APPEALS TO HEAR AND RESOLVE APPEALS OF ORDERS, DECISIONS, OR DETERMINATIONS MADE BY THE ENFORCING AGENCY REGARDING THE APPLICATION AND INTERPRETATION OF THIS ARTICLE.

~~(2)~~ (3) Any building or facility ~~which~~ THAT would have been subject to the provisions of this article but was under construction prior to July 1, 1976, shall comply with the standards and specifications set forth in this article when alterations, structural repairs, or additions are made to such building or facility. This requirement shall only apply to the area of specific alteration, structural repair, or addition and shall not be construed to mean that the entire structure or facility is subject to this article FOLLOWING:

(a) IF THE WALLS OR DEFINING BOUNDARIES OF AN ELEMENT OR SPACE ARE ALTERED, THEN THE ALTERED ELEMENT OR SPACE SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF SECTION 9-5-105, UNLESS SUCH ALTERATION IS TECHNICALLY INFEASIBLE. IF FULL COMPLIANCE WITH THIS ARTICLE IS TECHNICALLY INFEASIBLE, COMPLIANCE SHALL BE IMPLEMENTED UP TO THE POINT OF TECHNICAL INFEASIBILITY. NO ALTERATION SHALL BE UNDERTAKEN THAT NEGATIVELY IMPACTS ACCESSIBILITY OF A BUILDING OR FACILITY PURSUANT TO ANSI A117.1-1998. THIS PARAGRAPH (a) SHALL NOT BE CONSTRUED TO REQUIRE THE MOVING OF ANY EXISTING WALLS NOT OTHERWISE PLANNED TO BE MOVED.

(b) ANY ADDITIONS TO A BUILDING OR FACILITY SHALL BE TREATED AS NEW CONSTRUCTION FOR THE PURPOSES OF ENFORCEMENT OF THIS ARTICLE.

~~(3)~~ (4) The general assembly finds and declares that the standards and specifications set forth in this article are of statewide concern. Nothing in this article shall prohibit any municipality or other governmental subdivision from making and enforcing standards and specifications that are more stringent, AND THUS PROVIDE GREATER ACCESSIBILITY, than those set forth in this article.

**9-5-104. [Formerly 9-5-110] Responsibility for enforcing standards.** (1) The responsibility for enforcement of this article is as follows:

(a) ~~Where state funds are utilized, by the department of personnel~~ FOR FACTORY-BUILT HOUSING AS DEFINED IN SECTION 24-32-703 (3), C.R.S., THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704, C.R.S.;

~~(b) Where funds of counties, municipalities, or other political subdivisions are utilized, by the governing bodies thereof~~ IN A POLITICAL SUBDIVISION THAT DOES NOT HAVE A LOCAL BUILDING CODE, THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704, C.R.S.;

~~(c) Where wholly private funds are utilized~~ FOR ALL OTHER HOUSING OR IN A POLITICAL SUBDIVISION THAT HAS ADOPTED A BUILDING CODE, by the building department, or its equivalent, of the political subdivision having jurisdiction.

~~(2) The government unit responsible for enforcement of this article may exempt any building or facility from any provision of this article upon a finding that compliance with such provision would subject an undue hardship on the taxpayers of the governmental unit liable for the cost of such compliance in relation to the benefits to persons with disabilities that are derived from such compliance.~~

**9-5-105. [Formerly 9-5-111] Exemptions for certain privately funded projects.** (1) ACCESSIBLE DWELLING UNITS SHALL BE PROVIDED AS REQUIRED IN THIS ARTICLE; EXCEPT THAT this article does not apply to privately funded projects for the construction of ~~separate houses designed as single-family~~ A DETACHED RESIDENCE OR residences or to other types of residential property containing less than seven residential units. For larger residential and transient accommodation projects, this article shall apply to one unit for each seven units or major fraction thereof, as follows:

Number of units	Units required to comply
7	0
8-14	1
15-21	2
22-28	3
29-35	4
36-42	5
Etc.	

FOR THE PURPOSE OF DETERMINING THE NUMBER OF ACCESSIBILITY POINTS REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE ACCESSIBLE DWELLING UNIT TYPES SHALL HAVE THE FOLLOWING POINT VALUES:

ACCESSIBLE DWELLING UNIT TYPE:	ACCESSIBILITY POINT VALUE PER DWELLING UNIT:
TYPE A DWELLING UNIT	6
TYPE A MULTISTORY DWELLING UNIT	5
TYPE B DWELLING UNIT	4
TYPE B MULTISTORY DWELLING UNIT	3
TYPE B VISITABLE GROUND FLOOR	1

(2) **Residential projects.** (a) A PROJECT SHALL BE ASSIGNED ACCESSIBILITY POINTS BASED ON THE NUMBER OF UNITS CONTAINED WITHIN THE PROJECT AS FOLLOWS:

NUMBER OF UNITS WITHIN THE PROJECT:	ACCESSIBILITY POINTS REQUIRED:
0-6	0
7-14	6
15-28	12
29-42	18
43-57	24
58-71	30
72-85	36
86-99	42
100-114	48
115-128	54
129-142	60
143-157	66
158-171	72
172-185	78
186-199	84
ETC.	+6 ADDITIONAL POINTS EVERY 14 UNITS OR FRACTION THEREOF

(b) A PROJECT SHALL INCLUDE ENOUGH ACCESSIBLE DWELLING UNITS TO ACHIEVE AT LEAST THE SPECIFIED NUMBER OF ACCESSIBILITY POINTS REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2). A PROJECT MAY USE ANY COMBINATION OF ACCESSIBLE DWELLING UNIT TYPES TO COMPLY WITH THIS SECTION.

**9-5-106. Implementation plan.** THE BUILDER OF ANY PROJECT REGULATED BY THIS ARTICLE SHALL CREATE AN IMPLEMENTATION PLAN THAT GUARANTEES THE TIMELY AND EVENLY PHASED DELIVERY OF THE REQUIRED NUMBER OF ACCESSIBLE UNITS. SUCH PLAN SHALL CLEARLY SPECIFY THE NUMBER AND TYPE OF UNITS REQUIRED AND THE ORDER IN WHICH THEY ARE TO BE COMPLETED. SUCH IMPLEMENTATION PLAN SHALL BE SUBJECT TO APPROVAL BY THE ENTITY WITH ENFORCEMENT AUTHORITY IN SUCH PROJECT'S JURISDICTION. THE IMPLEMENTATION PLAN SHALL NOT BE APPROVED IF MORE THAN THIRTY PERCENT OF THE PROJECT IS INTENDED TO BE COMPLETED WITHOUT PROVIDING A PORTION OF ACCESSIBLE UNITS REQUIRED BY SECTION 9-5-105; EXCEPT THAT, IF AN UNDUE HARDSHIP CAN BE DEMONSTRATED, OR OTHER GUARANTEES PROVIDED ARE DEEMED SUFFICIENT, THE JURISDICTION HAVING RESPONSIBILITY FOR ENFORCEMENT MAY GRANT EXCEPTIONS TO THIS REQUIREMENT. THE IMPLEMENTATION PLAN SHALL BE APPROVED BY THE GOVERNMENTAL UNIT RESPONSIBLE FOR ENFORCEMENT BEFORE A BUILDING PERMIT IS ISSUED.

**SECTION 2. Repeal.** 24-30-1303 (1) (v), Colorado Revised Statutes, is repealed as follows:

**24-30-1303. Department of personnel - responsibilities.** (1) The department shall:

(v) ~~Enforce standards for persons with disabilities, as provided in section 9-5-110; C.R.S.;~~

**SECTION 3. Repeal of provisions not being relocated in this act.** 9-5-112,

Colorado Revised Statutes, is repealed.

**SECTION 4. Applicability.** This act shall apply to projects proposed or constructed on or after the effective date of this act.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 29, 2003