

## ACCESS TO AND USE OF PUBLIC FACILITIES BY HANDICAPPED PERSONS

### Section

<b>120-3-20-.01</b>	<b>Promulgation and Purpose</b>
<b>120-3-20-.02</b>	<b>Application</b>
<b>120-3-20-.03</b>	<b>Definitions</b>
<b>120-3-20-.04</b>	<b>State Minimum Accessibility Standards with Modifications</b>
<b>120-3-20-.05</b>	<b>Request for Modification of Specific Requirements</b>
<b>120-3-20-.06</b>	<b>Parking Space Designation for Persons with Disabilities</b>
<b>120-3-20-.07</b>	<b>Notes</b>
<b>120-3-20-.08</b>	<b>Severability</b>

### **120-3-20-.01 Promulgation and Purpose**

(1) These rules and regulations of the Safety Fire Commissioner are promulgated to establish the State's minimum accessibility requirements of buildings, structures and facilities as specified in O.C.G.A. §30-3-7(g) and shall be entitled "Access To and Use of Public Facilities by Handicapped Persons."

(2) A primary purpose of these rules and regulations is to further the policy of the State of Georgia to encourage and enable persons with disabilities or elderly persons to participate fully in the social and economic life of Georgia and to eliminate, insofar as possible, unnecessary physical barriers encountered by persons with disabilities or elderly persons whose ability to participate in the social and economic life of this state is needlessly restricted when such persons cannot readily use government buildings, public buildings, and facilities used by the public under the jurisdiction of the Safety Fire Commissioner.

(3) Unless otherwise stated in this chapter of the rules and regulations of the Safety Fire Commissioner, the following meets the 2010 Americans with Disabilities Act Accessibility Guidelines ("ADAAG") and shall be the minimum standards for Accessibility to buildings, structures and facilities by individuals with disabilities under the Americans with Disabilities Act ("ADA") of 1990. These rules are to be applied during the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA to the extent required by regulations issued by Federal agencies, including the Department of Justice and the Department of Transportation, under the ADA.

Authority. - O.C.G.A. §§30-3-1, 30-3-7, 33-2-9, and 50-13-21.

### **120-3-20-.02 Application**

(1) If the start date for construction is on or after March 15, 2012, all newly constructed or altered State and local government facilities must comply with the 2010 ADA Standards for Accessible Design. Before that date and after June 24, 1997, Chapter 120-3-20 is applicable. All other applications for accessibility are prescribed by O.C.G.A. §30-3-3.

(2) The following minimum adopted standards apply to both State and local government facilities (Title II) and public accommodations and commercial facilities (Title III). The minimum adopted standards consist of ADA Chapters 1 and 2 and Chapters 3 through 10 of the 2004 ADAAG (36 CFR part 1191, appendices B and D, adopted as part of both Title II and Title III 2010 ADA Standards for Accessible Design).

(a) State and local government facilities must follow the requirements of the minimum standards adopted herein and referencing the 2010 ADA Standards for Accessible Design, including both the Title II regulations at 28 CFR 35.151; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

(b) Public accommodations and commercial facilities must follow the requirements of the minimum standards adopted herein and referencing the 2010 Standards for Accessible Design, including both the Title III regulations at 28 CFR part 36, subpart D; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

(c) In the few instances where requirements between the regulation and the 2004 ADAAG differ, the requirements of 28 CFR 35.151 or 28 CFR, part 36, subpart D, prevail.

(d) Regarding the 2% of total rental apartments or the minimum of one rental apartment required to be fully accessible or adaptable in apartment complexes of 20 or more units as defined under Section .03(8) of this chapter, the provisions found in Section 809 of the 2010 ADA Standards for Accessible Design shall be applicable. 50% of this number of fully accessible or adaptable rental apartment units required by this paragraph shall be adaptable for a roll-in shower stall.

(3) Pursuant to O.C.G.A. §30-3-3, all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1995, shall comply with the rules and regulations adopted by the Safety Fire Commissioner which meet ADAAG and establish the minimum state standards for accessibility.

(4) The Board of Regents of the University System of Georgia ("Board of Regents") and the local governing authority having jurisdiction over the buildings not subject to the jurisdiction of the Safety Fire Commissioner as specified in O.C.G.A. §30-3-7, after consultation with state rehabilitation agencies and other sources as they might determine, are authorized to promulgate such rules, regulations, and procedures as might reasonably be required to implement and enforce their responsibilities under Chapter 3 of Title 30 provided they are not less restrictive than those established by this Chapter.

Authority. - O.C.G.A. §§30-3-1, 30-3-3, 30-3-7, 33-2-9, and 50-13-21.

### **120-3-20-.03 Definitions**

(1) "ADAAG" means the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities issued by the United States Architectural and Transportation Barriers Compliance Board as set forth in the Federal Register.

(2) "Adaptable" is further explained as follows:

(a) Adaptable refers to features provided for but not actually installed. Such adaptability makes it possible for features required by ADAAG to be added for the occupant without major structural alteration;

(b) Items not installed at the time of construction under the adaptable provisions of ADAAG, and items installed which might need to be removed to provide access, must be installed or removed by the owner at the owner's expense when the dwelling is rented to a person with disabilities, within 30 days after his or her application for occupancy is approved by the owner.

(3) "Safety Fire Commissioner" means the Safety Fire Commissioner provided for in Chapter 2 of Title 25.

(4) "Covered multifamily dwelling" means a building which had first occupancy after March 31, 1993, and consists of four or more units and has an elevator or the ground floor units of a building which consists of four or more units and does not have an elevator.

(5) "Existing Building" means buildings, structures, facilities or conditions which are already in existence or constructed and officially authorized prior to the effective date of the adoption of this Chapter. This definition shall apply to all situations covered by this chapter except where otherwise noted by this chapter.

(6) "Facilities" shall include, but is not limited to, walkways, sidewalks, curbs, parking lots, parks, stadiums,

coliseums, and any other man-made or developed area used by the public.

(7) "Government buildings" means all buildings, structures, streets, sidewalks, walkways, and access thereto, which are used by the public or in which persons with disabilities or elderly persons may be employed, that are constructed, leased, or renovated in whole or in part by use of state, county, or municipal funds or the funds of any political subdivisions of the state, and, to the extent not required otherwise by federal law or regulations and not beyond the power of the state to regulate, all buildings and structures used by the public which are constructed or renovated in whole or in part by use of federal funds.

(8) "Public buildings" means all buildings, structures, streets, sidewalks, walkways, and access thereto, which are used by the public or in which persons with disabilities or elderly persons may be employed, that are constructed or renovated by the use of private funds, including rental apartment complexes of 20 units or more and temporary lodging facilities of 20 units or more, but excluding covered multifamily dwellings; provided, however, that this chapter shall require fully accessible or adaptable units in only 2 percent of the total rental apartments, or a minimum of one, whichever is greater, and this chapter shall apply to only 5 percent of the total temporary lodging units, or a minimum of one, whichever is greater; provided, further, that this chapter shall not apply to a private single-family residence or to duplexes or any complex containing fewer than 20 units, or to residential condominiums. Regarding the 2% of the total rental apartments or the minimum of one rental apartment required to be fully accessible or adaptable, the provisions found in Section 809 (Residential Dwelling Units) of the 2010 ADA Standards for Accessible Design are controlling. Fifty percent of the fully accessible or adaptable rental apartment units required by this paragraph shall be adaptable for a roll-in shower stall.

(9) "Used by the public" as applied to .03(8) of this chapter, shall not include those elements of covered multifamily dwelling complexes used only by members of the immediate dwelling community and their guests, as described in the Federal Fair Housing Amendments Act of 1988 cited in Article 4 of Title 8 of the Official Code of Georgia Annotated.

(10) "Reasonable number" for all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1995, as used in O.C.G.A. §30-3-4, shall mean the minimum number as established by ADAAG.

(11) "Reasonable number" for all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1987, but before July 1, 1995, as used in O.C.G.A. §30-3-4, shall be defined for each of the following standards to mean:

(a) "Accessible parking spaces for persons with disabilities (American National Standards Institute [ANSI] 4.6.1) in a reasonable number" means the minimum required by the 2010 ADA Standards for Accessible Design, but not less than the number determined as follows:

1. With a total of 1-400 parking spaces provided, then a minimum number of 1 space or 2 percent of the total provided shall be designated as accessible parking spaces in accordance with 120-3-20-.06, whichever is greater.

2. With a total of 401 or more parking spaces is provided, then a minimum number of 8 spaces plus 1 percent of the total provided above 401.

(b) "Accessible entrances (ANSI 4.14) in a reasonable number" means that all primary entrances usually considered major points of pedestrian flow must be accessible to and usable by persons with disabilities;

(c) "Accessible toilet rooms, bathrooms, bathing facilities, and shower rooms (ANSI 4.22) in a reasonable number" means that for every floor which is to be made accessible to and usable by persons with disabilities at least one toilet room, bathroom, bathing facility, and shower room at a reasonable location shall conform to ANSI 4.22; and

(d) "Accessible seating, tables, and work surfaces (ANSI 4.30) in a reasonable number" means the minimum required by the 2010 ADA Standards for Accessible Design, but not less than the following:

1. With a total of 1-50 seats provided, then a minimum number of 2 adjacent spaces shall be provided for wheelchair users.
2. With a total of 51-400 seats provided, then a minimum number of 4 spaces shall be provided including 2 adjacent spaces for wheelchair users.
3. With a total of 401 or more seats provided, then a minimum even number of spaces shall be provided including not less than 1 percent of the total number of spaces located throughout all price ranges or locations, or both.

(12) "Renovation" means:

- (a) If any specific component of an elevator is replaced or moved from its existing location to a different location, then the specific component shall be required to meet the ANSI A117.1 Standard, as specified in this Code section, as it applies to that specific component, including an accessible route as defined in the ANSI A117.1 Standard;
- (b) Any component of a building, structure, or facility, which is replaced, except for the purpose of repair, or moved, shall be required to meet the ANSI A117.1 Standard as specified in this Code section, including an accessible route as defined in the ANSI A117.1 Standard; or
- (c) The resurfacing, restriping, or repainting of any parking facility, whether or not such resurfacing, restriping, or repainting is required to have a permit from the appropriate political subdivision.

Authority. - O.C.G.A. §§30-3-2, 30-3-3, 30-3-7, 33-2-9, and 50-13-21.

#### **120-3-20-.04 State Minimum Accessibility Standards with Modifications**

- (1) Covered multifamily dwellings constructed for first occupancy after March 31, 1993, shall be designed and constructed to meet the provisions of O.C.G.A. §30-3-4.
- (2) Unless otherwise stated in this chapter, the minimum adopted standards for accessibility in the State shall be the 2010 Standards for Titles II and III Facilities: 2004 ADAAG also herein entitled, 2010 ADA Standards for Accessible Design, published in the Federal Register, September 15, 2010, and taking effect on March 15, 2011.

Authority. - O.C.G.A. §§30-3-3, 30-3-7, 33-2-9, and 50-13-21.

#### **120-3-20-.05 Request for Modification of Specific Requirements**

- (1) In order to receive an exemption from complying fully with a particular standard or specification established herein, the following shall be met:
  - (a) The person who owns or controls the use of any government building, public building, or facility subject to the requirements of this chapter, shall provide a sworn written statement indicating all circumstances of which the governing authority needs to consider in order to appropriately determine whether full compliance with any particular standard or specification set forth in this chapter is impractical;
  - (b) The posting of the request for the modification of a particular standard or specification herein shall be made in accordance with the provisions of Title 50; and

(c) Within 45 days of such determination, a written record shall be made by the Safety Fire Commissioner having jurisdiction over building in question setting forth the reasons why it is impractical for the person subject to this chapter to comply fully with the particular standard or specification at issue and also setting forth the extent to which the government building, public building, or facility shall conform with the standard or specification.

(2) The Safety Fire Commissioner or, where applicable, the Board of Regents or the local governing authority having jurisdiction over the buildings in question shall be responsible for making a final determination as to whether or not an exemption shall be granted.

Authority. - O.C.G.A. §§30-3-3, 30-3-7, 33-2-9, and 50-13-21.

#### **120-3-20-.06      Parking Space Designation for Persons with Disabilities**

The requirements for identifying parking spaces for persons with disabilities shall be as specified in O.C.G.A. Title 40, Chapter 6, Article 10, Part 2 entitled, "PARKING FOR PERSONS WITH DISABILITIES."

Authority. - O.C.G.A. §§30-3-3, 30-3-7, 33-2-9, 40-6-221 and 50-13-21.

#### **120-3-20-.07      Notes**

(1) The 2010 ADA Standards for Accessible Design adopted in this chapter are on file in the Office of the State Fire Marshal and are available for viewing.

Office of Insurance & Safety Fire Commissioner  
Safety Fire Division  
2 Martin Luther King, Jr. Drive  
Suite 620, West Tower  
Atlanta, GA 30334  
(404) 656-2064  
(770) 344-4899 (Fax)  
www.oci.ga.gov

(2) The State ADA Coordinator's Office can be found at:

State ADA Coordinator's Office  
Georgia State Financing and Investment Commission  
The Construction Division  
270 Washington Street, Second Floor  
Atlanta, Georgia 30334  
Phone: 404.463.5645  
Fax: 404.463-5650  
TTY: 404.657.9993  
www.ga.ada.gov  
800-514-0383 (TTY)

(3) Reproduction of this document is encouraged. Copies of the 2010 ADA Standards for Accessible Design may be viewed or downloaded from the ADA website ([www.ADA.gov](http://www.ADA.gov)). Additional copies may be obtained by calling the ADA Information Line: 800-514-0301 (voice).

[http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm)

**Toll-Free ADA Information Line**

**Call to obtain answers to general and technical questions about the ADA and to order technical assistance materials:**

**800-514-0301 (voice) 800-514-0383 (TTY)**

**ADA Regulations and Technical Assistance Materials**

**View or download Department of Justice ADA regulations and technical assistance documents for businesses, and state and local governments including the 2010 ADA Standards for Accessible Design.**

Authority. - O.C.G.A. §§30-3-3, 30-3-7, 33-2-9, and 50-13-21.

**120-3-20-.08 Severability**

If any rule or portion thereof contained in this chapter is held invalid by a court of competent jurisdiction, the remainder of the rules herein and the applicability of such provisions to other circumstances shall not be affected thereby.

Authority. - O.C.G.A. §§30-3-3, 30-3-7, 33-2-9, and 50-13-21.