

TITLE 9 ARTICLE 5
Standards for Accessible Housing

Editor's note: This article was amended with relocations in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

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

(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 ICC/ANSI A117.1.

(3) Repealed.

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(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.

(5.5) "ICC/ANSI A117.1" means the "Accessible and Usable Buildings and Facilities" standard, or any successor standard, promulgated and amended from time to time by the international code council.

(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 ICC/ANSI A117.1, section 1002, or any successor section within ICC/ANSI A117.1.

(11) "Type A multistory dwelling unit" means a multiple-story dwelling unit with a ground story level designed in accordance with ICC/ANSI A117.1, section 1002, or any successor section within ICC/ANSI A117.1, 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 ICC/ANSI A117.1, section 1003, or any successor section within ICC/ANSI A117.1.

(13) "Type B multistory dwelling unit" means a multiple-story dwelling unit with a ground story level that is designed in accordance with ICC/ANSI A117.1, section 1003, or any Colorado Revised Statutes 2018 Page 46 of 67 Uncertified Printout successor section within ICC/ANSI A117.1, 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 ICC/ANSI A117.1, section 1003, or any successor section within ICC/ANSI A117.1.

(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.

Source: L. 2003: Entire article amended with relocations, p. 1415, § 1, effective April 29. **L. 2017:** IP, (2), and (10) to (14) amended, (3) repealed, and (5.5) added, (HB 17-1067), ch. 19, p. 62, § 1, effective August 9.

9-5-102. Disabilities covered - purpose. (1) This article is intended to provide accessibility standards for residential projects designed to serve persons with non-ambulatory disabilities, semi-ambulatory disabilities, sight disabilities, hearing disabilities, disabilities of incoordination, and aging.

(2) **Design criteria.** Design criteria must comply with ICC/ANSI A117.1.

Source: L. 2003: Entire article amended with relocations, p. 1418, § 1, effective April 29. **L. 2017:** (2) amended, (HB 17-1067), ch. 19, p. 63, § 2, effective August 9.

Editor's note: This section is similar to former §§ 9-5-103 and 9-5-104 as they existed prior to 2003, and the former § 9-5-102 was relocated to § 9-5-103.

9-5-103. Applicability of standards - enforcement. (1) The standards and specifications set forth in this article shall apply to all buildings and facilities used 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 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 undue hardship. 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 that are constructed or proposed on or after April 29, 2003. 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.

(3) Any building or facility that would have been subject to this article 5 but was under construction prior to July 1, 1976, must comply with the 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 ICC/ANSI A117.1. This subsection (3)(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.

(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.

Source: L. 2003: Entire article amended with relocations, p. 1418, § 1, effective April 29. **L. 2017:** IP(3) and (3)(a) amended, (HB 17-1067), ch. 19, p. 63, § 3, effective August 9.

Editor's note: This section is similar to former § 9-5-102 as it existed prior to 2003, and the former § 9-5-103 was relocated to § 9-5-102.

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

(a) For factory-built residential structures as defined in section 24-32-3302 (10), C.R.S., the division of housing created in section 24-32-704, C.R.S.;

(b) 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) 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.

Source: L. 2003: Entire article amended with relocations, p. 1419, § 1, effective April 29. **L. 2004:** (1)(a) amended, p. 1189, § 12, effective August 4.

Editor's note: This section is similar to former § 9-5-110 as it existed prior to 2003, and the former § 9-5-104 was relocated to § 9-5-102.

9-5-105. 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 a detached residence or residences or to other types of residential property containing less than seven residential units.

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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 Accessibility point value

unit type: 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 Accessibility points

project: 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.

Source: L. 2003: Entire article amended with relocations, p. 1420, § 1, effective April 29.

Editor's note: This section is similar to former § 9-5-111 as it existed prior to 2003.

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

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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.