

Kansas Administrative Regulations

Kansas Human Rights Commission

Article 70.—Nondiscrimination on the Basis of Disability by Public Accommodations

21-70-34. New construction; exception for structural impracticability; elevator exemption.

(a) Except as provided in subsection (b) of this regulation, an unlawful discriminatory practice shall include a failure to design and construct facilities for first occupancy after July 1, 1994, that are readily accessible to and useable by individuals with disabilities.

(b) For purposes of the act and this regulation, a facility shall be considered to have been designed and constructed for first occupancy after July 1, 1994, only if:

(1) (A) the last application for a building permit or permit extension for the facility is certified to be complete, by a state, county, or local government after July 1, 1993; or

(B) in those jurisdictions where the government does not certify completion of applications, the last application for a building permit or permit extension for the facility is received by the state, county, or local government after July 1, 1992; and

(2) if the first certificate of occupancy for the facility is issued after July 1, 1994.

(c) (1) If an entity can demonstrate that it is structurally impracticable to fully comply with the requirements of this regulation, compliance shall be required to the extent that it is not structurally impracticable. Full compliance shall be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If providing accessibility to individuals with certain disabilities, such as those who use wheelchairs, would be structurally impracticable, accessibility shall nonetheless be ensured in accordance with this subsection (c) to persons with other types of disabilities, such as those who use crutches or who have sight, hearing, or mental impairments.

(d) Installation of an elevator shall not be required in a facility that is less than three stories high or has less than 3000 square feet per story, unless the facility houses one or more of the following:

(1) a shopping center or shopping mall, or a professional office of a health care provider; or

(2) a terminal, depot, or other station used for specified public transportation, or an airport passenger terminal. In these facilities, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities and other common areas open to the public, shall be on an accessible route from an accessible entrance.

(e) The elevator exemption set forth in subsection (d) shall not obviate or limit in any way the obligation to comply with the other accessibility requirements established in subsection (a) of this regulation.

(Authorized by K.S.A. 44-1004; implementing K.S.A. 44-1009; effective Dec. 19, 1994.)

***** Authenticated Kansas Administrative Regulation *****