



## Building and Safety Division

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### ACCESSIBILITY REQUIREMENTS FOR EXISTING BUILDINGS

Information Bulletin:

# 24

## INTRODUCTION

The 2013 California Building Code, Chapter 11B, Title 24 Accessibility Standards have *changed*. They are now aligned with and in most cases mirror the 2010 Federal Americans with Disabilities Act (ADA). There are elements in the California codes that are more restrictive than the Federal codes. In all cases, the more restrictive elements shall apply.

Accessibility codes and guidelines have specific provisions allowing certain features of a facility to be constructed without providing for full compliance with the minimum requirements.

This handout is provided to help explain the complexities of the State's provisions. It is the applicant's responsibility to review the requirements with their design professional and determine the applicability of the Unreasonable Hardship provisions and provide the documentation of the hardship in construction.

## SECTION 11B-202 ACCESSIBILITY FOR EXISTING BUILDINGS

### Scope

The provisions of this section apply to renovations, structural repair, alterations, and additions to existing buildings, including those identified as historic buildings. This section identifies minimum standards for removing architectural barriers, and providing and maintaining accessibility to existing buildings and their related facilities.

### General

In **new construction**, all elements of accessibility shall be incorporated in the design and there are no provisions for elements that are *Technically Infeasible* or cost hardships in construction.

All existing buildings and facilities, when **additions** are made to such buildings or facilities, all elements shall comply with all provisions of the 2013 CBC section 11B Division 2 – New Buildings.

In alterations of existing elements or spaces, each altered element or space shall comply with the requirements of new construction per 2013 CBC 11B-Division 2 including 11B-202.4. An exception is allowed when the compliance element(s) is/are *Technically Infeasible*.

These requirements shall apply only to the area of specific alteration, structural repair or addition and shall include a primary entrance to the building or facility and the primary path of travel to the specific area of alteration, structural repair or addition, and sanitary facilities, drinking fountains, signs and public telephones serving the area.

## EXCEPTIONS

**Existing Buildings and Facilities.** Additions to existing buildings shall comply with all elements of new construction. In alterations of existing elements or spaces, each altered element or space shall comply with the requirements of new

construction per 2013 CBC 11B-Division 2 including 11B-202.4. An exception is allowed when the compliance element is *Technically Infeasible*.

When the adjusted construction cost of the alterations, structural repairs or additions is *less than or equal* to the current valuation threshold of \$150,244.00, based on January 2016, “ENR US20 Cities” Average Construction Cost Index, compliance shall be limited to 20%. When the cost would exceed 20%, compliance shall be provided to the greatest extent possible without exceeding the 20%.

When the adjusted construction cost *exceeds* the current valuation threshold and the enforcing agency finds that the cost of compliance with Section 11B-202.4 is an unreasonable hardship, full compliance shall not be required. Compliance shall be provided by equivalent facilitation or to the greatest extent possible without creating an unreasonable hardship but in no case shall the cost of compliance be less than 20% of the adjusted construction cost of the alterations, structural repairs or additions.

For the purposes of this exception, the adjusted construction cost of alterations, structural repairs or additions shall not include the cost of alterations to the path of travel elements required by 11B-202.4. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access in the following order:

An accessible entrance; An accessible route to the altered area; At least one accessible restroom for each sex; Accessible telephones; Accessible drinking fountains; and when possible, additional accessible elements such as parking, storage and alarms.

The obligation to provide access may *not* be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking. If an area has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area or a different area on the same path of travel are undertaken within three years of the original alteration, the total cost of alterations to the areas on that path of travel during the preceding three-year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

Certain types of privately funded, multistory buildings and facilities were formerly exempt from accessibility requirements above and below the first floor under this code, but as of the effective date of this regulation are no longer exempt due to more restrictive provisions in the Federal ADA. In alteration projects involving buildings and facilities previously approved and built without elevators, areas above and below the ground floor are subject to the 20-percent disproportionality provisions described in section 11B-202.4, Exception 8, above, even if the value of the project exceeds the valuation threshold.

Alterations, structural repairs or additions consisting of one or more of the following shall be limited to the actual work of the project:

- Altering one building entrance to meet accessibility requirements.
  - Altering one existing toilet facility to meet accessibility requirements.
  - Altering existing elevators to meet accessibility requirements.
  - Altering existing steps to meet accessibility requirements.
  - Altering existing handrails to meet accessibility requirements.
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- Alteration solely for the purpose of removing barriers undertaken pursuant to the requirements of Sections 36.402 and 36.404 through 36.406 of Title III of the Department of Justice regulations promulgated pursuant to the Americans with Disabilities Act (Public Law 101-336, 28 C.F.R. Section 36.402, 28 C.F.R. Section 36.404, 28 C.F.R. Section 36.405, and

28 C.F.R. 36.406) or the accessibility requirements of this code as those requirements or regulations now exist or are hereafter amended, and shall be limited to the actual work of the project.

Projects which consist only of heating, ventilation, air conditioning, reroofing, electrical work not involving placement of switches and receptacles, cosmetic work that does not affect items regulated by this code, such as painting, equipment not considered to be a part of the architecture of the building or area, such as computer terminals, office equipment, etc., are not considered alteration projects for the purposes of accessibility for persons with disabilities and shall not be subject to this code unless they affect the usability of the building or facility. For the purposes of this section, the term “construction cost” does not include building permit fees or discretionary permit fees.

The only purpose of this exception is to exclude projects from activating the provisions of this section. The exceptions are not intended to relieve projects from complying with other applicable provisions of this code (e.g., replacement of carpet does not activate the provisions of this section; however, it still must comply with Section 11B-302.2).

Some elements of the code sections shown above are condensed for clarity. See the California Building Codes Section 11B for full code text.

### **TECHNICALLY INFEASIBLE 11B-202.3.2**

In alterations, where the enforcing authority determines compliance with the applicable requirements is technically infeasible, the alteration shall provide equivalent facilitation or comply with the requirements to the maximum extent feasible. The details of the finding that full compliance with the requirements is technically infeasible shall be recorded and entered into the file of the enforcing agency.

### **EXPENDITURES FOR UNREASONABLE HARDSHIP COMPLIANCE**

When an exemption is approved for partial compliance, the costs of the accessible upgrades are in addition to the value of the original alteration or improvement cost.

### **DETERMINING THE PRIMARY OBLIGATIONS IN ALTERATIONS AND IMPROVEMENTS**

It is extremely important to understand the difference between what is required for the “Specific Area of Alterations” and what modifications are required for the “Primary Path of Travel”. These are totally separate issues and must be dealt with separately.

### **SPECIFIC AREA OF ALTERATION, STRUCTURAL REPAIR, OR ADDITIONS**

The cost must include every item necessary to complete the desired alteration, including electrical, plumbing, mechanical, carpeting, paint, ceiling tiles, lever handled hardware, walls, partitions, etc. If the planned alteration includes installation of new restrooms, these restrooms are considered part of the “Specific Area of Alteration”.

### **PRIMARY PATH OF TRAVEL**

When alterations or additions are made to existing buildings or facilities, an accessible path of travel to the specific area of alterations shall be provided. The primary accessible path of travel shall include:

- A primary entrance to the building or facility.
- Toilet and bathing facilities serving the area.
- Drinking fountains serving the area.

- Public telephones serving the area, and
- Signs

If the following elements of a path of travel have been constructed or altered in compliance with the accessible requirements of the immediately preceding edition of the California Building Codes, that element is considered compliant and no further alteration of that element is required.

### **SINGLE PATH**

It is only necessary to provide a single primary path of travel to the area of specific alteration. This path of travel should be the most direct common route from the area of specific alteration to the primary entrance and out to the exterior approaches and must include access to the sanitary facilities, drinking fountains, and public telephones serving the area of specific alteration.

### **COMPLIANCE**

Determination of Unreasonable Hardship is based solely on the 2013 California Building Code accessibility requirements of Section 11B-202 and the specifically adopted code sections as amended by the City of Covina Municipal Code. The exemption and subsequent plan review approvals will be reviewed for both State of California and Federal ADA compliance. With the adoption of the 2013 standards, the State and Federal ADA requirements are in alignment. In most cases, the State code sections and the Federal code sections share the same code section numbers. When a section of the codes reflect different elements, the more restrictive element will apply. It is the applicant's responsibility to check with your Design Professional or Lawyer as needed to determine ADA applicability and compliance requirements.