

TITLE 156 - STATE FIRE MARSHAL PUBLIC AND COMMERCIAL BUILDINGS AND FACILITIES

CHAPTER 3 - ALTERATIONS

001. Alteration to existing buildings and facilities shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

002. If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of chapter 4 of this title.

003. To the maximum extent feasible. The phrase, "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

004. Alterations: Path of Travel.

004.01. An alteration that affects or could affect the usability of or the access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

004.02. Primary Function. A "primary function" is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other private entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors and restrooms are not areas containing a primary function.

004.03. Alterations to an Area containing a primary function.

004.03A. Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to:

004.03A1. Remodeling merchandise display areas or employee work areas in a department store;

004.03A2. Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

004.03A3. Redesigning the assembly line area of a factory;
or

004.03A4. Installing a computer center in an accounting firm.

004.03B. For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

004.04. Landlord/tenant: If a tenant is making alterations that would trigger the requirements of this section, those alterations by the tenant in areas that only the tenant occupies do not trigger a path of travel obligation upon the landlord with respect to areas of the facility under the landlord's authority, if those areas are not otherwise being altered.

004.05. Path of Travel.

004.05A. A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

004.05B. An accessible path of travel may consist of walks, and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

004.05C. For the purpose of this part, the term "path of travel" also includes the restrooms, telephones, and drinking fountains serving the altered area.

004.06. Disproportionality.

004.06A. Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

004.06B. Costs that may be counted as expenditures required to provide an accessible path of travel may include:

004.06B1. Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

004.06B2. Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

004.06B3. Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a telecommunications device for deaf persons (TDD);

004.06B4. Costs associated with relocating an inaccessible drinking fountain.

004.07. Duty to Provided Accessible Features in the Event of Disproportionality.

004.07A. When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that is can be made accessible without incurring disproportionate costs.

004.07B. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

004.07B1. An accessible entrance;

004.07B2. An accessible route to the altered area;

004.07B3. At least one accessible restroom for each sex or a single unisex restroom;

004.07B4. Accessible telephones; 004.07B5. Accessible drinking fountains; and

004.07B6. When possible, additional accessible elements such as parking, storage, and alarms.

004.08. Series of smaller alterations.

004.08A. The obligation to provide an accessible path of travel 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.

004.08B. If an area containing a primary function 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 primary function 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.

005. Alterations: Elevator Exemption.

005.01. This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses a shopping center, a shopping mall, the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation, or an airport passenger terminal.

005.01A. For the purposes of this section, a professional office of a health care provider[@] means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a professional office of a health care provider[@] only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

005.01B. For the purposes of this section, shopping center or shopping mall means:

005.01B1. A building housing five or more sales or rental establishments; or

005.01B2. A series of buildings on a common site, connected by a common pedestrian access route above or below the ground floor, that is either under common ownership or common control or developed either as one project or as a series of related projects, housing five or more sales or rental establishments. The facility housing a shopping center or shopping mall[®] only includes floor levels housing at least one sales or rental establishment, or any floor level designed or intended for use by at least one sales or rental establishment.

005.02. The exemption provided in 005.01 above does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this chapter. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

006. Alterations: Historic Preservation.

006.01. Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 USC 470 et seq.), or are designated as historic under the State or local law, shall comply to the maximum extent feasible with section 4.1.7 of chapter 4 of this title.

006.02. If it is determined under the procedures set out in section 4.1.7 of chapter 4 that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided.

007. Standards for New Construction and Alterations.

007.01. New construction and alterations subject to this title shall comply with the standards for accessible design in chapter 4 of this title.