



Your technical assistance and
training resource

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Readily Achievable Barrier Removal

Prevalence of Disability

**According to the U.S. Census Bureau,
American FactFinder:**

- **21% of the population 15 years of age and older has a disability**
- **11.9 % of the population 15 years of age and older have an ambulatory disability, or about 35 million people**
- **52% of the population 65 years of age and older has a disability**

ADA Requirements

Under the ADA public accommodations are private entities that own, lease, lease to or operate a place of public accommodation. This means that both a landlord who leases space in a building to a tenant and the tenant who operates a place of public accommodation have responsibilities to remove barriers.

What is a Public Accommodation?

A place of public accommodation is a facility whose operations affect commerce and fall within at least one of the following 12 categories:

- 1) **Places of lodging** (e.g., inns, hotels, motels)
- 2) **Establishments serving food or drink** (e.g., restaurants and bars)
- 3) **Places of exhibition or entertainment** (e.g., movie theaters, concert halls, stadiums)

What is a Public Accommodation (2)?

- 4) **Places of public gathering** (e.g., auditoriums, convention centers, lecture halls)
- 5) **Sales or rental establishments** (e.g., grocery stores, hardware stores, shopping centers)
- 6) **Service establishments** (e.g., dry cleaners, banks, travel services, funeral parlors, gas stations, etc.)
- 7) **Public Transportation terminals, depots or stations**
- 8) **Places of public display or collection** (e.g., museums, libraries, galleries)

What is a Public Accommodation (3)?

- 9) **Places of recreation** (e.g., parks, zoos, amusement parks)
- 10) **Places of education** (e.g., nursery schools, elementary, secondary and higher education private schools)
- 11) **Social service center establishments** (e.g., day care centers, homeless shelters, food banks, etc.)
- 12) **Places of exercise or recreation** (e.g., gyms, spas, bowling alleys, golf courses)

What is Readily Achievable?

The ADA requires that businesses remove architectural barriers in existing facilities when it is “readily achievable” to do so.

Readily achievable means “easily accomplishable and able to be carried out without much difficulty or expense.”

Readily Achievable Requirements

Since 1993, existing Title III owners/operators have been required to make their facilities accessible to a degree that is readily achievable. This does not necessarily mean full compliance with the guidelines, but steps should be taken to determine what can be done to make the space more accessible to people with disabilities.

Readily Achievable Requirements, cont.

The degree of access is going to depend on the resources of the entity. So, businesses with more resources are expected to remove more barriers than businesses with fewer resources.

Confusion

- **No grandfather provision**
 - But there is a Safe Harbor provision
- **Is not required by the state building code**
- **But use the state building code as your access standard**

Title III Safe Harbor Barrier Removal

If existing elements comply with ADA 1991 Accessibility Guidelines, they are “safe” from further barrier removal under any stricter or new requirements.

- Applies element-by-element
- **Applies only if element is not altered**

Examples of Readily Achievable Barrier Removal

Examples of readily achievable barrier removal include:

- **Providing code compliant disability parking;**
- **Constructing curb ramps at sidewalks and entrances;**
- **Installing ramps;**
- **Installing accessible door hardware;**
- **Repositioning shelves;**
- **Rearranging furniture, vending machines and displays;**

Examples of Readily Achievable Barrier Removal, cont.

- **Installing grab bars in toilet areas;**
- **Rearranging toilet partitions to increase maneuvering space;**
- **Installing a raised toilet seat;**
- **Installing a full-length mirror;**
- **Installing a pool lift;**
- **Widening doors;**
- **Adding raised markings on elevator control buttons;**
- **Etc....**

Priorities for Barrier Removal

- **Providing access to your business from public sidewalks, parking areas and public transportation;**
- **Providing access to the goods and services your business offers;**
- **Providing access to public restrooms; and**
- **Removing barriers to other amenities offered to the public, such as drinking fountains.**

Barrier Removal Obligation

- **The barrier removal obligation is ongoing but there are limits...**
 - **new construction standards when possible or alterations to the level of technically infeasible, be sure to document...**

Due to the fact that many businesses have failed to do barrier removal in the past, there is a clear and current sense of urgency.

Alternatives to Barrier Removal

Even if a public accommodation can demonstrate that providing access is not readily achievable, it must still make its goods and services available through alternative methods. Such as:

- 1) Providing curbside service or home delivery;
- 2) Retrieving merchandise from inaccessible shelves or racks;
- 3) Relocating activities to accessible location, (e.g., rotating movies to the accessible screen in a multi-screen movie theater).

Tax Credit and Deduction

- To assist businesses to comply with the ADA, the Internal Revenue Service (IRS) Code includes a Disabled Access Credit (Section 44) for businesses with 30 or fewer full-time employees or with total revenues of \$1 million or less in the previous tax year.
- Section 190 of the IRS Code provides a tax deduction for businesses of all sizes for costs incurred in removing architectural barriers in existing facilities or alterations. The maximum deduction is \$15,000 per year.

Barrier Removal Plan

- **The best way to protect your business is to remove barriers!**
- **Identify barriers, put a plan in place, and remove those barriers as quickly as possible!!**
- **Not only will barrier removal protect you from litigation – it's good business!!**

Next Steps...

Develop a plan for readily achievable barrier removal

- Identify barriers**
- Identify resources**
- Create a reasonable timeline for completion**
- Identify responsible person**
- Implement plan – demonstrate progress!**

Tools

- Building Access Survey
- Building Access Short Survey
- Disability Parking Quick Reference Design Guide
- Contact information for Accessibility Specialist

www.disability.state.mn.us/accessibility

Need Assistance – Contact an Accessibility Specialist

If you need assistance identifying barriers in your business and developing a readily achievable barrier removal plan, you may want to hire an accessibility specialist. There is a short list of accessibility specialists on our website – www.disability.state.mn.us or the following link:

<http://www.disability.state.mn.us/accessibility/protect-your-business-by-removing-barriers/>

Resource Material

- **ADA UPDATE: A PRIMER FOR SMALL BUSINESS**
<http://www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm>
- **Building Access – Building Survey**
<http://www.disability.state.mn.us/accessibility/building-access/>
- **ADA Checklist for Existing Facilities (PDF)**
<http://www.ada.gov/racheck.pdf>

Resources

- **Minnesota State Council on Disability (MSCOD)**
651-361-7800
800-945-8913
www.disability.state.mn.us
- **ADA Minnesota**
651-603-2015
www.adaminnesota.org
- **Great Lakes ADA Center**
800-949-4232
www.adagreatlakes.org

More Resources

- **US Department of Justice**

800-514-0301 (V)

800-514-0383 (TTY)

<http://www.ada.gov>

State and Local Government Tool Kit

<http://www.ada.gov/pcatoolkit/toolkitmain.htm>

- **US Access Board**

800-872-2253 (V)

800-993-2822 (TTY)

<http://www.access-board.gov>