

Disability Access Requirements

What Building and Business Owners Should Know and Do

WHAT IS ACCESSIBILITY?

Accessibility refers to the features of a building and site that enable persons with disabilities to access and use the building and its facilities.

Accessibility features help people who use wheelchairs; who have impaired hearing or vision; or who have limited physical strength.

Congress passed the Americans with Disabilities Act (ADA) in 1990. The law prohibits discrimination based on disability and requires employers to provide reasonable accommodations to employees with disabilities.

Both the ADA and California Building Code establish requirements for accessibility on commercial and public buildings, sites, and facilities.

More than 50 million Americans have disabilities. Making your building accessible helps you comply with accessibility laws and is good for business.

Development Services Permit Center

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AVOID A LAWSUIT AND UNDERSTAND YOUR ONGOING RESPONSIBILITY

Hundreds of small businesses, including in San José, are sued every year for not providing features that enable persons with disabilities to readily access their business. **Take steps to ensure that your building or business complies with the accessibility requirements of California Building Code, ADA Guidelines, and all state and federal regulations pertaining to accessibility.** Remember, too, that accessibility requirements may evolve over time, and are an ongoing responsibility. This fact sheet outlines the most common current accessibility requirements and provides resources that can help you comply.

“TO, THROUGH AND WITHIN” RULE APPLIES IN CALIFORNIA

By meeting the accessibility requirements in Title 24 of the California Building Code, a building or business owner will meet federal ADA construction guidelines. The stricter state code provides the minimum requirements to ensure that buildings and related facilities are accessible for every member of the public. The essential rule in state code is that access is to be provided “to, through, and within the buildings where the general public is concerned.” Here are the top three requirements for bringing an existing building — regardless of building use or “occupancy classification” — into compliance with California Building Code:

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| <p>Provide an ACCESSIBLE ROUTE to the entrance</p> | <p>At least one accessible route shall:</p> <ul style="list-style-type: none"> ▪ Lead to the building entrance from the site boundary, whether from public streets, sidewalks, accessible parking or passenger loading zones, or public transit stops. ▪ Coincide with the general public route to the maximum extent feasible. ▪ Connect accessible buildings, facilities, and spaces that are on the same site. |
| <p>Provide an ACCESSIBLE ENTRANCE</p> | <ul style="list-style-type: none"> ▪ Buildings with three or more stories must provide access by ramp or elevator. Two-story buildings are generally not required to have elevators (unless they are offices of health care providers), but requirements for all other accessible features still apply on the upper floors. |
| <p>Provide ACCESSIBLE TOILET FACILITIES</p> | <p>California Labor Code requires separate toilet facilities for males and females in workplaces that employ five or more persons. Toilet facilities for persons with disabilities shall be incorporated in these separate facilities <i>or</i> provided as separate male and female facilities for persons with disabilities. Where unisex facilities are allowed (less than five employees), toilet facilities for persons with disabilities may be incorporated within the unisex restroom, or provided as a unisex toilet facility for persons with disabilities; it must also be located within close proximity to the non-accessible facility.</p> |



HELPFUL RESOURCES

STATE DEPARTMENT OF GENERAL SERVICES, DIVISION OF THE STATE ARCHITECT (DSA)

Here is helpful information from the DSA:

At this webpage:

<https://www.dgs.ca.gov/DSA/Resources/Page-Content/Resources-List-Folder/Access-Compliance-Reference-Materials> you will find:

- Accessibility FAQs
- Valuation Threshold
- Access Compliance Advisory Manual

At this webpage you can find a Certified Access Specialist (CASp):

https://www.apps2.dgs.ca.gov/DSA/casp/casp_certified_list.aspx

U.S. ACCESS BOARD

Here is the Guide to the ADA Standards: <http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards>

U.S. DEPT. OF JUSTICE CIVIL RIGHTS DIVISION

Information and Technical Assistance on the Americans with Disabilities Act (ADA) www.ada.gov/business

Tax Credits and Incentives for Businesses www.ada.gov/taxincent.htm

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ADA Primer for Small Businesses <https://www.eeoc.gov/laws/guidance/ada-primer-small-business#intro>

WHO CAN HELP ME COMPLY?

You can find expert help from a **Certified Access Specialist (CASp)** — see sidebar for website information. A CASp is certified for having knowledge of state and federal construction-related accessibility standards, and will know which standards apply to your property. A licensed architect or engineer may understand how to design or build accessible features, but **ONLY** a CASp can provide services that assure you of “qualified defendant” status in a construction-related accessibility lawsuit. **This qualified defendant status is only provided if a CASp inspects your existing facility and provides a report, and you agree to abide to a schedule of improvements toward compliance before a claim is filed against you.**

ARE HISTORICAL BUILDINGS EXEMPT IN SAN JOSE?

Historical buildings are NOT exempt, although there are special allowances for preservation of historic features. The ADA contains no “grandfathering” provisions, meaning all places of public accommodation are required to comply regardless of when they were built if it is “readily achievable to do so.” Failure to comply leaves you vulnerable to a discrimination claim filed by an individual that is denied access to your business or facility due to access barriers.

HOW DOES SAN JOSE ENFORCE ACCESSIBILITY REQUIREMENTS?

In San José, when a building permit application is submitted, the Building Division will review plans and inspect projects in accordance with the California Building Code, including accessibility requirements. For more information on San José’s accessibility requirements, see the summary chart below.

**CITY OF SAN JOSE
GENERAL ACCESSIBILITY REQUIREMENTS**

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| COMMERCIAL PROPERTIES | <p>NEW: New buildings must meet all minimum access standards including:</p> <ul style="list-style-type: none"> ▪ Accessible approaches from site arrival points to the building entrance ▪ All building entrances are accessible ▪ All corridors, elevators, door widths, and other interior paths are accessible ▪ All areas and uses throughout the building are accessible ▪ Accessible toilet facilities, public telephones, and drinking fountains ▪ Parking areas and spaces allow for van parking <p>REMODELS: The remodeled area of existing buildings must include:</p> <ul style="list-style-type: none"> ▪ Accessible parking spaces that are close to accessible building entrances ▪ Posting of signs at inaccessible entrances that re-direct the people to the accessible entrance ▪ A path-of-travel to the remodeled area ▪ Accessible toilet facilities, public telephones, and drinking fountains |
| MULTI-FAMILY PROPERTIES | <p>NEW: In accordance with the Fair Housing Act, new buildings of three or more apartment units, or four or more condominium units, must be built to full accessibility requirements.</p> <p>REMODELS: In accordance with the Fair Housing Act, remodeling of common areas must be built to full accessibility requirements in privately-funded multi-family buildings. Non-common areas can generally undergo remodeling or alterations with no requirements for accessibility.</p> |
| SINGLE FAMILY AND DUPLEX PROPERTIES | <p>Single family and duplex properties are generally not required to be accessible.</p> |