

# Codes & Guidelines

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## NAVIGATING the ADA WATERS

ADA and accessibility are related, but they are not the same

How often have you seen products listed as ADA approved or ADA compliant? Who is this mysterious body that approves things?

In fact, no organization “approves” the accessibility of a product or gives it an ADA-approved label. Actually, the correct term is “accessible.” A product may promote accessibility under the ADA law if it meets the ADA Standards for Accessible Design when properly installed and maintained.

### ADA Basics

ADA and accessibility are related, but they are not the same. ADA is the common abbreviation of the Americans with Disabilities Act of 1990. This is the civil rights law requiring accessibility for all Americans. Accessibility refers to the design of products, devices, services and environments for people with disabilities. This law covers nearly every part of American society, from communication to retail facilities.

Accessible facilities are those built to the ADA Standards for Accessible Design (“ADA standards”). However, accessibility is more than just the physical facility, and a facility’s accessibility is not only the responsibility of the construction manager or facility manager. If a facility is not operated or maintained properly, it may not fully meet the ADA law, and it is arguably not accessible. The fact that it was built fully in conformance with the ADA Standards for Accessible Design no longer applies.

The ADA has been around for more than 25 years, yet it is a monumental task to understand all aspects of this law. This summary may help you get started:

- The ADA is a civil rights law and not a building code.
- The ADA is not enforced by building departments. Building departments enforce building codes, which may include specific accessibility requirements.
- Obtaining a building permit and a certificate of occupancy does not constitute evidence that the facility meets ADA standards.
- While many states have their own accessibility laws and standards, they cannot be less stringent than the ADA.

### Improving Accessibility

So, where should an organization focus to improve the accessibility of its facilities and take steps to ensure the facilities are accessible under the ADA? A great starting point is education. Help your team understand their role in promoting accessibility as part of their normal job function. Accessibility means that all parts of the organization— operations, design, construction and facility management—take steps every day to improve and maintain access to goods and services for all customers.

An easy way to tackle the issue is to consider the phases of a retail facility: design, construction, operations and facility management. Accessibility needs to be planned for and validated in each phase. Here are a few suggestions:

**Design:** Emphasize to the architect, civil engineer and the entire team that the facility must meet the ADA Standards for Accessible Design and the ADA law—not just the state and local building and fire codes. A great reference to review and share with your architect and team is the U.S. Department of Justice article titled "Common Errors During Construction." Many of these construction errors are often the result of unclear design documents.

**Build:** Emphasize to the general contractor at the start of the project that meeting the ADA standards is critical. This starts with the initial grading plan and continues to the final equipment installation. A great reference document is the U.S. Department of Justice article titled "Five Steps to Make New Lodging Facilities Comply with the ADA." Many of the same concepts regarding lodging facilities apply to retail spaces.

Developing your own five-step program may assist in preventing accessibility problems and possible complaints later.

Set the general contractor up for success by requiring the architect to design to midranges versus maximum heights. A great example is grab bars in the restroom. The ADA standards allow grab bars to be installed between 33 and 36 inches. Requesting the architect to design to the midrange helps reduce the chance for error during construction. Even small deficiencies may result in lawsuits and possibly significant fines.

**Operate:** Work with the operator or operations team to determine if the policies and procedures fully support accessibility. Strong operations build accessibility and preserve accessibility into their plans. If teams are not sure of what is required, a great resource is the U.S. Department of Justice's "ADA Guide for Small Businesses."

**Maintain:** Maintaining the accessibility elements of a facility is paramount. This applies to everything from maintenance to improving accessible parking during restriping, to ensuring that snow is not piled up in the access lane for the accessible parking area. A great reference for maintaining accessibility is the U.S. Department of Justice's "Maintaining Accessible Features in Retail Establishments."

A Team Effort

Construction and facility managers play a huge role in providing accessible facilities, but it is a team effort. Understanding the requirements of the ADA is critical to success. Knowing the difference between an alteration, as defined under the ADA, and general maintenance may prevent issues later. An easy reminder is that if a barrier can easily be rectified during a remodel, upgrade, image makeover or general maintenance repair, it more than likely should be included in the scope. Taking courses and developing your knowledge base about the ADA makes you more valuable to the organization.

Finally, there is no substitute for engaging and leveraging your legal team and ADA experts in developing your company-wide approach to promoting accessibility and incorporating the ADA law and ADA standards into your standard operating procedures.

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