

Implementation Subcommittee Report

ADA Implications for Renovations of Existing Government Buildings
Library Capital Reserve Fund

April 19, 2022

Part I

ADA Implications for Renovations of Existing Government Buildings

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Cornish Town Offices

Equity in access is a pillar of local government.

ADA Implications for Renovations of Existing Government Buildings

Americans with Disability Act (ADA), passed in 1990 and updated in 2010, prohibits discrimination against people with disabilities in several areas, including access to state and local government' programs and services.

- The ADA contains no “grandfather clause” that exempts existing facilities.
- Passage of the ADA did not require that existing buildings be immediately brought into compliance with ADA standards.
- Standards for alterations, additions, and new construction were intended to improve accessibility in existing buildings over time.

The law strikes a careful balance between increasing access for people with disabilities and recognizing the constraints many public entities face. It allows entities confronted with limited financial resources to improve accessibility without excessive expense.

ADA Implications for Renovations of Existing Government Buildings

Code of Federal Regulations §35.151(b)(1)

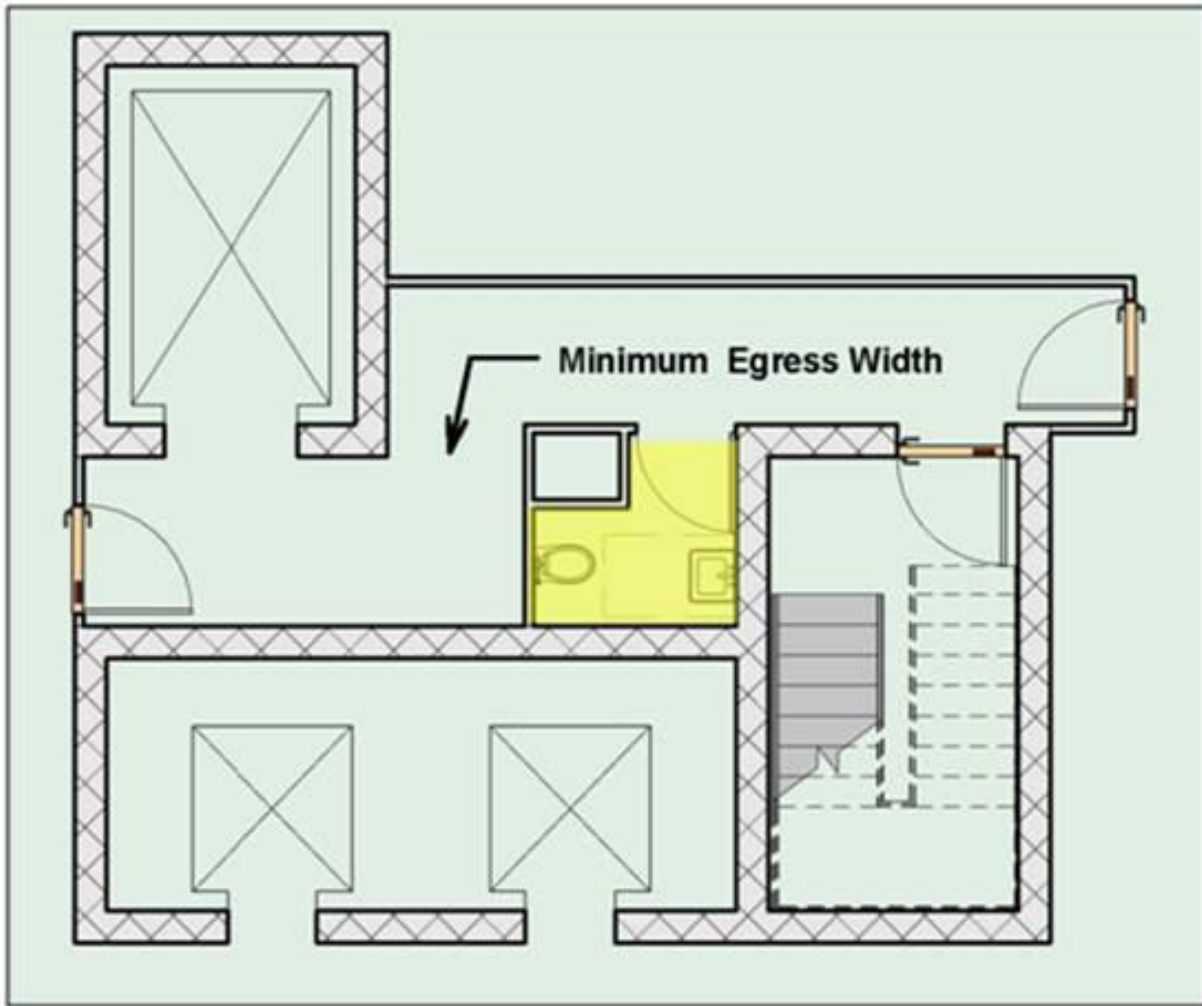
Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

The law recognizes the hardship that would be placed on local governments should alterations to a portion of a building trigger an immediate retrofit of the entire building.

ADA: Technical Infeasibility

- ▶ Compliance in an alteration is not required where it is “technically infeasible.” The term is defined as “something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.”
- ▶ Where technical infeasibility is encountered, compliance is still required to the maximum extent technically feasible.

*Source: Guide to the ADA
Accessibility Standards*



It may be technically infeasible to enlarge a toilet room confined in size by structural supports, elevator shafts, mechanical rooms and chases, stairways, or required egress routes not affected by the project.

Source: Guide to the ADA Accessibility Standards

ADA: Primary Function Areas

Primary Function: The major activity for which a facility is intended.
CFR §35.151(b)(4)

Primary function areas: library

- ▶ Stacks
- ▶ Children's room
- ▶ Public computer areas
- ▶ Historic room
- ▶ Employee work areas

Non-primary function areas: library

- ▶ Mechanical rooms
- ▶ Storage rooms
- ▶ Closets
- ▶ Restrooms
- ▶ Alterations to windows, hardware, controls, electrical outlets, and signage.

ADA: Path of Travel and the 20% Rule

Path of travel. An alteration that affects or could affect the usability of or 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. (CFR §35.151(b)(4))

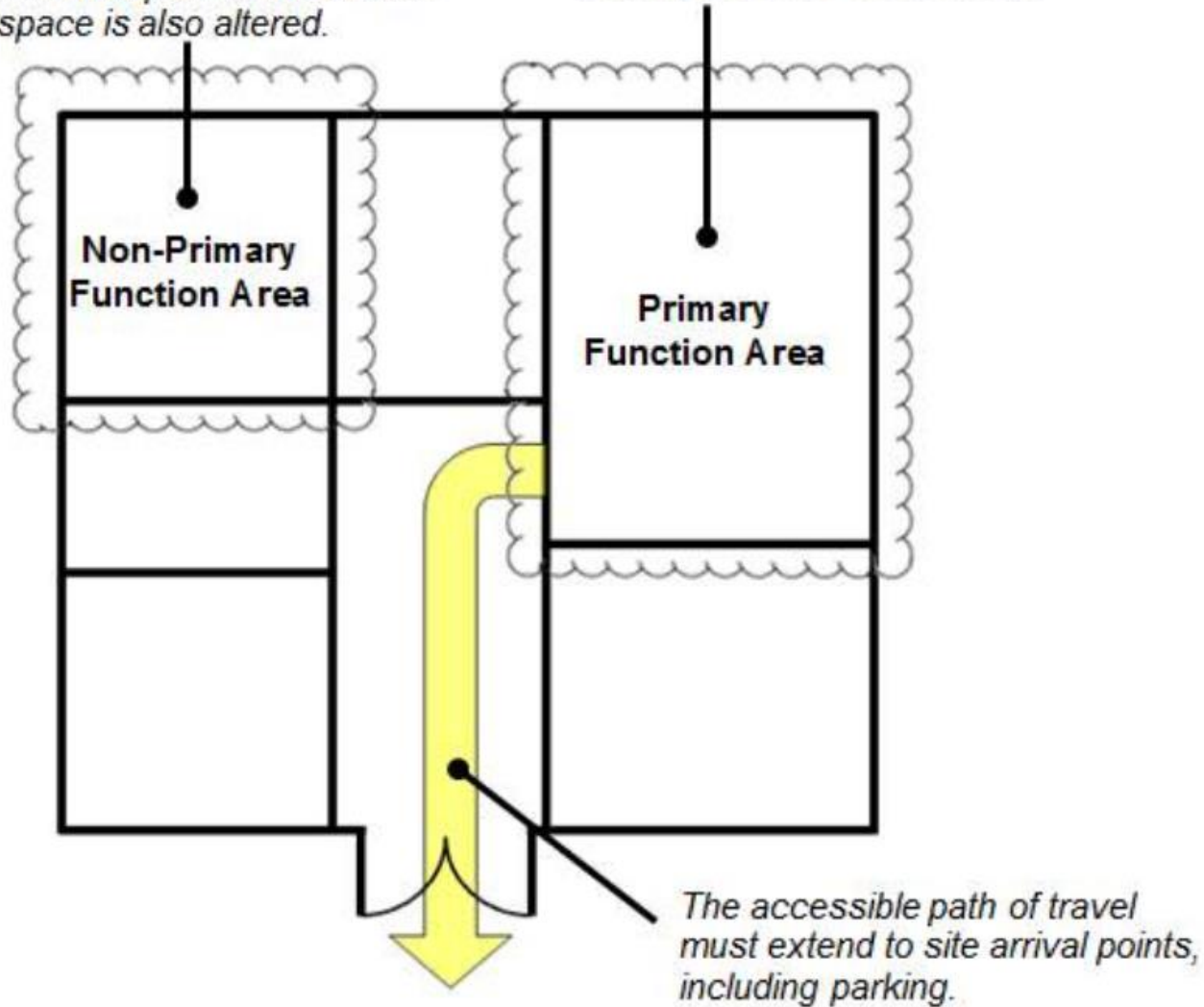
- ▶ Path of travel obligation only applies to primary function areas.
- ▶ Path of travel costs that are greater than 20% of the alteration cost are considered disproportional.

Application of the Standards in Alterations

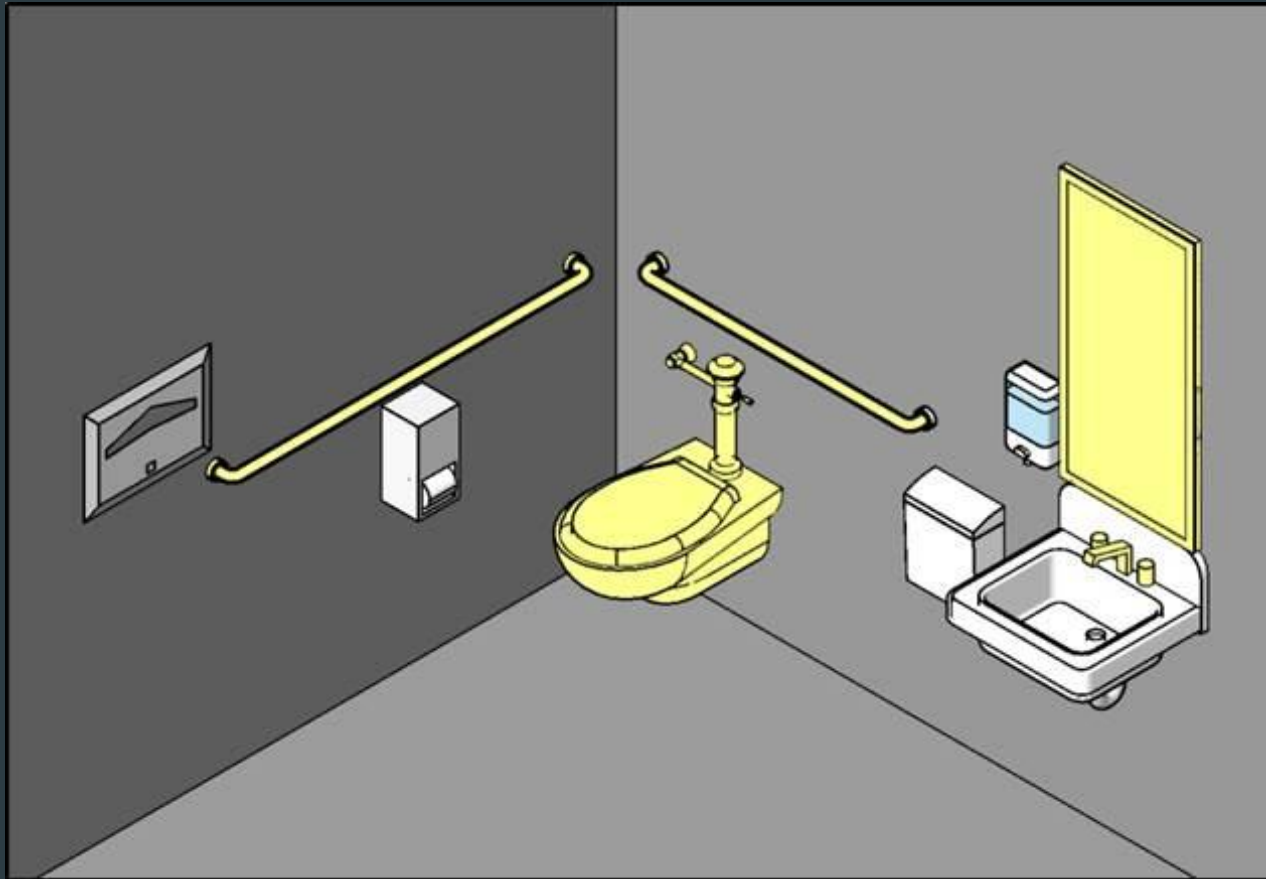


Altered elements and spaces are required to comply. In areas not containing a primary function, an accessible route to an altered element or space is required only when the circulation path to the altered element or space is also altered.

Alterations made to areas containing a primary function also require an accessible path of travel to the extent that it is not "disproportionate" to the cost.



Alteration to non-primary function area

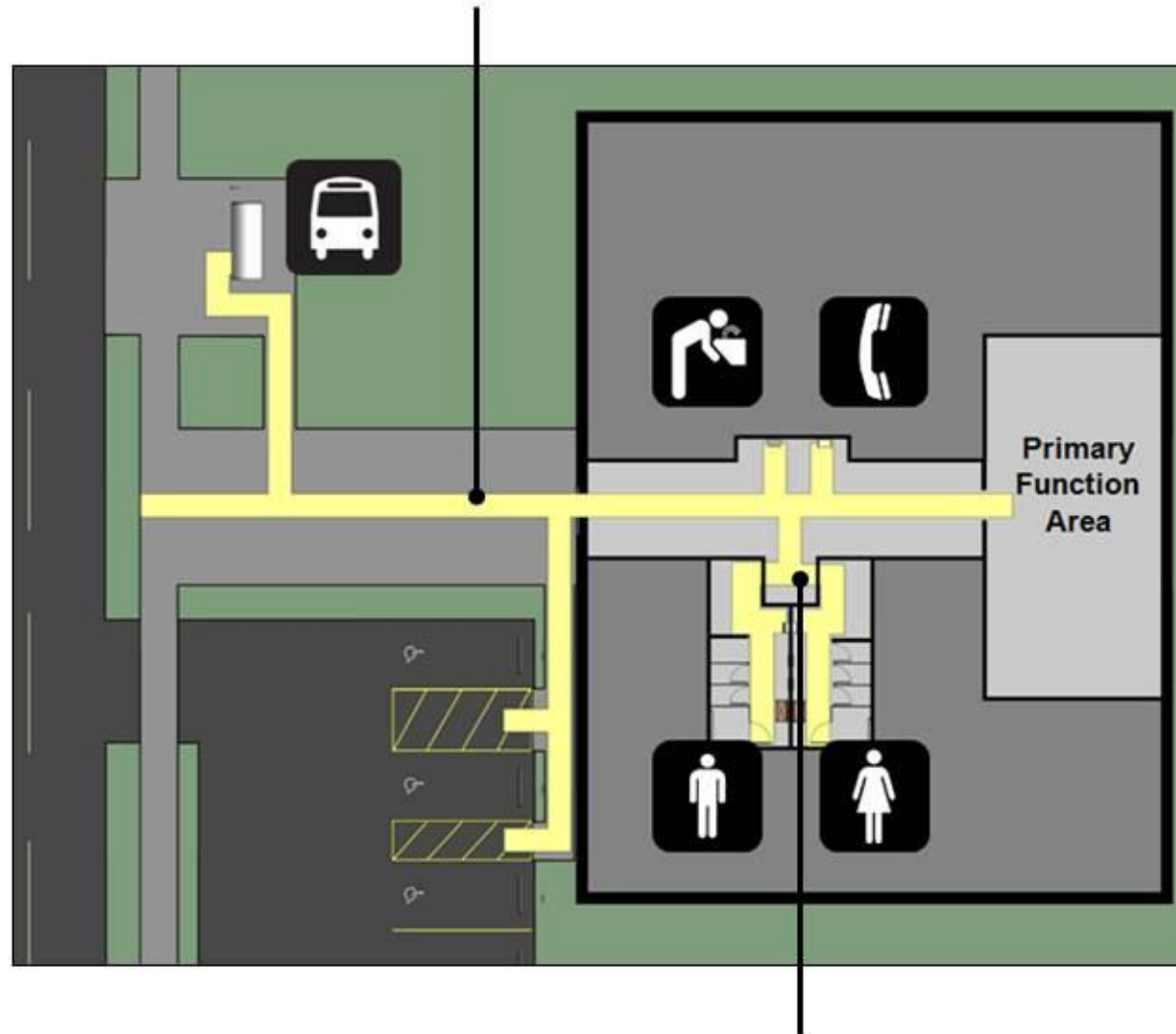


As a non-primary function area, only the altered elements (in yellow) are required to comply with ADA standards.

Note: The goal is not to minimize accessibility alterations. Such projects should maximize opportunities for accessibility in alterations to the greatest feasible extent.

Alteration to a primary function area

The accessible path of travel extends from the altered primary function area to site arrival points (public sidewalks, parking, passenger loading zones, public transit stops located on the site).



The path of travel also includes an accessible restroom (for each sex unless only unisex restrooms are provided), telephone, and drinking fountain serving the primary function area, where such elements are provided.

20% Obligation: path of travel prioritization

When path of travel costs are disproportional, ADA standards recommend prioritizing expenditures to improve path of travel as follows (CFR §35.151(b)(4)):

1. An accessible entrance;
2. An accessible route to the altered area;
3. At least one accessible restroom for each sex or a single unisex restroom;
4. Accessible telephones;
5. Accessible drinking fountains; and
6. When possible, additional accessible elements such as parking, storage, and alarms.

ADA: Alteration example with 20% Rule

Alteration: New restroom with water and septic service.

- Cost of new restroom & in-building improvements: \$15,000
- Primary function area? NO
- Path of travel obligation? NO
- Path of travel cost: N/A
- 20% of alteration cost: N/A
- Path of travel disproportional? N/A

ADA: Alteration example with 20% Rule

Alteration: Widen doorway into stacks.

- Cost of widening doorway: \$2,000
- Primary function area? YES
- Path of travel obligation? YES
- Path of travel cost: \$150,000
- 20% of alteration cost: \$400
- Path of travel disproportional? YES

A \$2,000 improvement to the doorway will not trigger a \$150,000 to upgrade path of travel from parking area to altered area. Path of travel costs are limited to 20% of the alteration cost.

ADA Implications for Renovations of Existing Government Buildings

- ▶ This presentation is in no way intended to be a justification for not bringing town buildings into compliance with ADA standards. The question is one of timing. Mindful of the significant expense that major building improvements represent, bringing our town buildings into compliance will be a multi-year project.
- ▶ Licensed professionals in the state are well aware of these regulations, as well as ADA standards, and may be relied upon for design compliance.
- ▶ Opportunities for further exploration and study include readily achievable barrier removal, maintenance of accessibility features, and ADA Accessibility Guidelines specific to libraries.

ADA Resources

2010 ADA Standards for Accessible Design

<https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm#c1>

2010 Standards for ADA Accessible Design

<https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm#c2>

ADA Update: A Primer for State and Local Governments

<https://www.access-board.gov/ada/guides/chapter-2-alterations-and-additions/#application-of-the-standards-in-alterations>

Americans with Disabilities Act: ADA Guide for Small Towns {highly recommended}

[https://www.ada.gov/smtown.htm \](https://www.ada.gov/smtown.htm)

Americans with Disabilities Title II Act Regulation

https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35151



Part II
Library Capital Reserve Fund

Library Capital Reserve Fund

- ▶ Cornish Trustees of the Trust Funds were contacted in August of 2021 about purpose of Stowell Trust and Library Capital Reserve Fund.
- ▶ Answers from trustees and background information was sent to Town Counsel September of 2021.
- ▶ Preliminary October 2021 answer from counsel: not clear if Library Capital Reserve fund is limited to expenses related to the Stowell Library. Nothing in wording of the warrant article limits fund to a particular building, but further information is needed.

Library Capital Reserve Fund

- ▶ Charitable Trusts reviewed the capital reserve fund March 2022 at the request of the Trustees of the Trust Funds.
- ▶ Charitable Trusts found that the capital reserve fund should be read conservatively as intended to be connected to the G.H. Stowell Free Library.
- ▶ Because capital reserve funds are created by a town meeting vote, their purpose may be changed by a town meeting vote.
- ▶ Per RSA 35:16, a 2/3 majority is required to change the purpose of a capital reserve fund.