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This is a summary of the current status of the accessibility requirements adopted by the State of Oregon and the City of Portland, and how these requirements are applied and reviewed as part of building permits for new construction, major renovation and minor renovation projects. This is not intended as a substitute for a full code review specific to a project or circumstances for compliance with codes that change periodically.

The State of Oregon Building Codes Division issued a mid-cycle code amendment on December 7, 2011 replacing the entire chapter 11 and portions of chapter 34 and other chapters to correlate with the 2009 IBC provisions as part of a 2010 ADA update. The mid-cycle code amendment items related to accessibility became effective March 1, 2012. The State of Oregon Building Codes Division issued an addendum on February 17, 2012 revising accessible parking space width that also became effective March 1, 2012.

Unlike previous versions of chapter 11 adopted by the State of Oregon into the Oregon Structural Specialty Code (OSSC), the new chapter 11 is a lightly modified version of the 2009 International Building Code (IBC) chapter 11, and it is essentially a scoping document with nearly all of the technical requirements driven through the adoption of ICC/ANSI A117.1-2003 Edition. The scoping portion describes when an accessible feature is required and the technical portion describes the dimensions and clearances required for that feature.

ICC/ANSI A117.1 2003 Edition (A117.1) was a source document in development of the US Access Board's 2004 Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines. The 2010 ADA Standards for Accessible Design (2010 ADA) ultimately passed into Federal law is very similar to the A117.1, but they are not identical. Chapter 10 in A117.1 is entirely comprised of housing requirements. By comparison recreation facility requirements are the subject of chapter 10 in 2010 ADA, including requirements for accessible features of playgrounds. The introduction of the 2010 ADA includes scoping information not included in A117.1. There are also minor differences in the technical requirements and section numbering between the two documents. For example, A117.1 section 604.5.1 includes a requirement for a vertical grab bar in accessible bathrooms while 2010 ADA section 604.5.1 does not.

Oregon Regulatory Statutes (ORS) also include both scoping and technical requirements for some features. The OSSC version of chapter 11 includes Oregon modifications to A117.1 requirements and ORS sections for reference.

To comply with both OSSC and Federal law, new construction, additions and renovations would include accessible feature scoping and technical requirements to meet the stricter of either the OSSC or the 2010 ADA. Both chapter 34 or the OSSC and 2010 ADA 28 CFR part 35.151 (just after the contents section) include similar requirements for alterations to existing construction, including criteria for structural impracticability / infeasibility, alterations solely for the purpose of providing accessibility, maintaining historic significance of existing structures, and disproportionate costs to provide an accessible path of travel. Both require that to the greatest extent feasible alterations to existing structures be accessible unless costs to implement the alterations are disproportionate to total construction costs. 2010 defines disproportionate costs as 20% of renovation costs and includes a brief list of items that may be counted as expenditures toward path of travel, but OSSC section 3411.7 exception 1 prevails by requiring a 25% cap to disproportionate costs. The ORS

447.241 included in the OSSC for reference repeats the 25% disproportionate costs, includes a list of priorities for use when the costs are disproportionate, and a barrier removal plan option. The OSSC list of priorities matches the 1991 ADA, but the 2010 ADA has updated the priorities so that parking is now among the additional features such as storage. Neither list specifically describes the priority for exterior path of pedestrian travel to a public right-of-way also required, but exterior features are included in the accessible route by the 2010 ADA.

OSSC Priorities

- (a) Parking
- (b) An Accessible Entrance
- (c) Accessible route to the altered area
- (d) One accessible restroom per sex or unisex
- (e) Accessible telephones
- (f) Accessible drinking fountains
- (g) Additional such as storage and alarms

2010 ADA Priorities

- (1) An Accessible Entrance
- (2) Accessible route to the altered area
- (3) One accessible restroom per sex or unisex
- (4) Accessible telephones
- (5) Accessible drinking fountains
- (6) Additional such as parking, storage and alarms

The State of Oregon Building Codes Division understands that the language in the 2010 regarding priorities, Section 35.151 of 28 CFR Part 35 page 9, to be permissive rather than mandatory. The state may adopt accessibility requirements stricter than the 2010 ADA, vertical grab bars at accessible public toilets for example, where those requirements are not in conflict with Federal law.

2010 ADA section 101.2 notes the Department of Justice has discretion over existing facilities that may be subject to a barrier removal requirement, but the requirement for barrier removal in public schools remains the same. The OSSC option for a barrier removal plan, and progress towards it, is still relevant.

Section 35.151 of 28 CFR Part 35 (page 8) also includes a safe harbor provision for existing building features. Building features that met the technical requirements of the 1991 ADA prior to March 15, 2012, are not required to be retrofit to meet the 2010 ADA solely because of an alteration to a primary function area being served by that path of travel. A public restroom along an accessible route and serving a cafetorium that met 1991 ADA requirements would not be required to be modified because modifications are proposed to the cafetorium. If modifications were proposed to the same restroom voluntarily, except for maintenance and finishes, the restroom would have to be modified to comply with 2010 ADA standards. The safe harbor does not apply to features that had no technical requirements in the 1991 ADA. Swimming pools, for example, have technical requirements in the 2010 ADA but did not in the 1991 ADA. To reach compliance, the swimming pool features would need to be modified to meet the 2010 ADA technical requirements.

The ADA Children’s Standards published in January 1998, but not adopted into federal law or enforceable at that point, has been used extensively as a resource for building dimensions in facilities primarily for the use of children since it was published. The majority of the requirements in that document have been included in the 2010 ADA. The requirements have been distributed through the 2010 ADA grouped with the adult dimensions by type of feature rather than in a separate children’s section. Some of the earlier children’s dimensions were replaced by updated requirements, some advisory information was not adopted, and additional requirements such as recreational facilities were added in the 2010 ADA. Not every dimension related to children’s size and reach range differences from adult range has been included in the 2010 ADA, and questions will come up when “grey areas” become apparent.

The City of Portland building appeals related to accessibility that were received by PPS between 1997 and 2003 were based in large part on the 1998 Children’s Standards. Those appeals are still useful to fill in “grey areas” in the 2010 ADA, and to inform decisions related to egress that affect building features with accessibility requirements. The stricter of the OSSC and 2010 ADA prevail over the appeals where specific technical requirements are included in those documents.