

UPCOMING CHANGE

New ADA Standards + DOB Construction Permits

Design standards under the Americans with Disabilities Act (ADA) have recently been updated. Beginning March 15, 2012, new buildings and major alterations may be required to meet these new minimum requirements.

New ADA Design Standards

The US Department of Justice (DOJ) published revised regulations for Titles II and III of the ADA in the Federal Register on September 15, 2010. The revisions adopted the [2010 ADA Standards for Accessible Design](#) (2010 Standards), which set minimum requirements for structures to be readily accessible to people with disabilities. The 2010 Standards apply to newly designed, constructed or altered:

- State and local government facilities;
- Public accommodations; and
- Commercial facilities

The 2010 Standards are available at ada.gov/2010ADASTandards_index.htm, and the DOJ's [Revised ADA Requirements: Effective Date and Compliance Date](#) explains the 2010 Standards' applicability in Title II and Title III ADA entities.

For more information on Title II requirements for **state and local government facilities**, see [28 CFR §35.151\(c\)](#) and www.ada.gov/regs2010/titleII_2010/titleII_2010_withbold.htm.

For Title III requirements for **public accommodations and commercial facilities**, they are subject to the 2010 Standards based upon the last application for a building permit or permit extension. If no permit is required, applicability is governed by the date that the construction or alterations began. (Ceremonial groundbreakings or razing of structures to prepare a site are not considered construction or alterations for the purposes of the 2010 Standards applicability.) See 36 CFR §36.104 and [28 CFR §36.406\(a\)](#) at www.ada.gov/regs2010/titleIII_2010/titleIII_2010_withbold.htm.

DOB Permits + the 2010 Standards

The Department interprets "date when the last application for a building permit and permit extension" under [28 CFR §36.406\(a\)](#) to be the **issuance date** of a lawful, valid work permit covering its applicable scope of work. **All new construction and alterations of public accommodations and commercial facilities in New York City subject to the ADA must comply with the 2010 Standards if:**

1. A work permit covering the scope of work proposed is issued by the NYC Department of Buildings on or after March 15, 2012; or
2. A work permit covering the scope of work proposed is issued by the NYC Department of Buildings prior to March 15, 2012, and an amendment to change the scope of work is approved on or after March 15, 2012; or
3. Where no NYC Department of Buildings permit is required for the scope of work proposed, the start of the physical construction or alteration is on or after March 15, 2012.

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Applicants should consider complying with the 2010 Standards at the outset if it is anticipated that a permit will not be obtained or issued by Department prior to March 15, 2012, or the scope of work included in a permit will be changed. Applicants are responsible for ensuring compliance with all applicable laws, rules and regulations. The Department enforces the NYC Construction Codes; the DOJ is charged with enforcement of the ADA.

Recreation Facilities Under the 2010 Standards

One of the significant changes in the 2010 Standards includes scoping and technical requirements for [recreation facilities](#) such as amusement rides, recreational boating facilities, exercise machines and equipment, fishing piers and platforms, miniature golf and golf facilities, play areas, swimming pools, wading pools, and spas, and saunas and steam rooms. Since these facilities and elements were not covered under the technical or scoping specifications in the 1991 Standards, they are now subject to the 2010 Standards. The compliances of such facilities and elements are based on whether they are existing or newly constructed or altered. See [28 CFR § 35.150\(b\)\(2\)](#) for recreation facilities in Title II ADA entities and [28 CFR §36.304\(d\)\(2\)](#) for Title III entities. The NYC Construction Codes currently do not provide technical requirements for recreation facilities similar to those found in the 2010 Standards. Applicants involved in recreation facilities projects should consult with the applicable federal laws to ensure compliance.

Additional Resources

ADA 2010 Revised Requirements – Effective Date / Compliance Date:

http://www.ada.gov/revised_effective_dates-2010.htm (HTML)

http://www.ada.gov/revised_effective_dates-2010.pdf (PDF)

2010 ADA Standards for Accessible Design:

<http://www.ada.gov/regs2010/2010ADAStandards/2010ADASTandards.htm> (HTML)

<http://www.ada.gov/regs2010/2010ADAStandards/2010ADASTandards.pdf> (PDF)

Guidance on the 2010 Standards for Accessible Design:

<http://www.ada.gov/regs2010/2010ADAStandards/Guidance2010ADASTandards.htm> (HTML)

http://www.ada.gov/regs2010/2010ADAStandards/Guidance_2010ADASTandards.pdf (PDF)