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3.1 SCOPE

All work performed on *public buildings or facilities* (see **521 CMR 5.00: DEFINITIONS**), including *construction, reconstruction, alterations, remodeling, additions, and changes of use* shall conform to 521 CMR.

3.1.1 To determine the scope of compliance, refer to **521 CMR 3.2, New Construction** and **521 CMR 3.3, Existing Buildings**. In the absence of jurisdiction by 521 CMR, 780 CMR: the State Building Code may apply.

3.3 EXISTING BUILDINGS

All *additions, reconstruction, remodeling, and alterations or repairs* of existing *public buildings or facilities*, which require a building permit or which are so defined by a state or local inspector, shall be governed by all applicable subsections in **521 CMR 3.00: JURISDICTION**.

For specific applicability of 521 CMR to existing multiple dwellings undergoing renovations, see **521 CMR 9.2.1**.

3.3.1 If the work being performed amounts to less than 30% of the *full and fair cash value* of the *building* and
a. if the work costs less than \$100,000, then only the work being performed is required to comply with 521 CMR

or

b. if the work costs \$100,000 or more, then the work being performed is required to comply with 521 CMR. In addition, an *accessible public entrance* and an *accessible* toilet room, telephone, drinking fountain (if toilets, telephones and drinking fountains are provided) shall also be provided in compliance with 521 CMR. Exception: General maintenance and on-going upkeep of existing, underground transit facilities will not trigger the requirement for an *accessible entrance* and toilet unless the cost of the work exceeds \$500,000 or unless work is being performed on the *entrance* or toilet.

Exception: Whether performed alone or in combination with each other, the following types of *alterations* are not subject to **521 CMR 3.3.1**, unless the cost of the work exceeds \$500,000 or unless work is being performed on the entrance or toilet. (When performing exempted work, a memo stating the exempted work and its costs must be filed with the permit application or a separate building permit must be obtained.)

a. Curb Cuts: The construction of *curb cuts* shall comply with **521 CMR 21.00: CURB CUTS**. 521 CMR: ARCHITECTURAL ACCESS BOARD 1/27/06 521 CMR - 10

3.00: JURISDICTION

b. *Alteration* work which is limited solely to electrical mechanical, or plumbing systems; to abatement of hazardous materials; or retrofit of automatic sprinklers **and** does not involve the *alteration* of any *elements* or *spaces* required to be *accessible* under 521 CMR. Where electrical outlets and controls

are altered, they must comply with 521 CMR.

c. Roof repair or replacement, window repair or replacement, repointing and masonry repair work.

d. Work relating to septic system repairs, (including Title V, 310 CMR 15.00, improvements) site utilities and landscaping.

3.3.2 If the work performed, including the exempted work, amounts to 30% or more of the *full and fair cash value* (see **521 CMR 5.00**) of the *building* the entire *building* is required to comply with 521 CMR.

a. Where the cost of constructing an *addition* to a building amounts to 30% or more of the *full and fair cash value* of the existing *building*, both the *addition* and the existing *building* must be fully *accessible*.

3.4 CHANGE IN USE

When the use of a *building* changes from a private use to one that is open to and used by the public, an *accessible entrance* must be provided, even if no work is being performed. When a portion of a *building* changes use from a private use to one that is open to and used by the public, then an *accessible route* must be provided from an *accessible entrance* even if no work is being performed.

3.5 WORK PERFORMED OVER TIME

When the work performed on a *building* is divided into separate phases or projects or is under separate *building* permits, the total cost of such work in any 36 month period shall be added together in applying **521 CMR 3.3, Existing Buildings**.

The ADA treats facilities that were built before it went into effect differently from those built or renovated afterwards. **The key date to remember is January 26, 1992**, when Title II's accessibility requirements for new construction and alterations took effect. [24](#)

Before January 26, 1992

Facilities built before January 26, 1992, are referred to as "pre-ADA" facilities. [25](#) If there is an architectural barrier to accessibility in a pre-ADA facility, you may remove the barrier using the ADA Standards for Accessible Design or UFAS as a guide, or you may choose to make the program, service, or activity located in the building accessible by providing "program access." [26](#) Program access allows you to move the program to an accessible location, or use some way other than making all architectural changes to make the program, service, or activity readily accessible to and usable by individuals with disabilities.

Example: A small town with few public buildings operates a museum featuring the history of the area. The museum is in a two story building built in 1970, which has no elevator. The town may either install an elevator or find other ways to make the exhibits accessible to people with mobility disabilities. One program access solution in this case might be to make a video of the second floor exhibits for people to watch on the first floor.

There are many ways to make a program, service, or activity accessible other than through architectural modifications. Keep in mind, however, that sometimes making architectural changes is the best solution financially or administratively, or because it furthers the ADA's goal of integration.