



FACT SHEET #7: HISTORIC PROPERTIES AND THE ADA

What is the ADA and who must comply?

The Americans with Disabilities Act (ADA), Public Law 101-336, prohibits discrimination on the basis of disability in places of public accommodation and requires that all new places of public accommodation and commercial facilities be designed and constructed to be readily accessible by persons with disabilities. Public agencies and private entities must comply.

Where do you find information about the ADA?

The Department of Justice, Office of the Attorney General, published regulations concerning compliance with the ADA in the Federal Register on Friday, July 26, 1991. These regulations are titled “Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities: Final Rule (28 CFR Part 36)” [www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title28/28cfr36_main_02.tpl].

Are historic buildings exempt from the ADA?

No. Measures that are readily achievable should be taken immediately. When qualified historic buildings or facilities are altered, the alterations must comply with the same accessibility requirements as any other building or facility unless it is determined through the process described below that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility in which case alternative requirements may be used for the feature (see regulations cited and linked in #2 above).

What is a qualified historic building or facility?

A qualified historic building or facility is either (1) listed in or eligible for listing in the National Register of Historic Places (www.okhistory.org/shpo/nrhandbook.htm) or (2) designated as historic under an appropriate state or local law. In the latter case in Oklahoma, buildings or facilities listed in the Oklahoma State Register of Historic Places are qualified (with a few exceptions, these properties are also listed in the National Register). Many Oklahoma municipalities enforce local preservation ordinances, and designation under such an ordinance causes the building or facility to be considered qualified. Contact the State Historic Preservation Office (SHPO) for assistance to determine the status of a building or facility.

When should you consult the SHPO?

Department of Justice regulations stipulate that the SHPO must be consulted in accordance with Section 106 of the National Historic Preservation Act for federally funded, licensed, or permitted

projects (federal undertakings) [www.okhistory.org/shpo/section106]. When an alteration of a qualified historic building or facility is not a federal undertaking, consultation with the SHPO is recommended when the alternative requirements may apply because compliance with accessibility requirements may threaten or destroy the historic significance of the building or facility.

How do you consult with the SHPO?

If an alteration is a federal undertaking, follow the Advisory Council on Historic Preservation's regulations, 36 CFR Part 800. These regulations and specific guidance for the Section 106 process in Oklahoma are available in the SHPO's "Review and Compliance Manual (Section 106 Process)" [www.okhistory.org/shpo/section106].

- If the alteration to the qualified historic building or facility is not a federal undertaking, submit a written request to the SHPO that includes the name and location of the building or facility, a statement explaining why the property is a qualified historic building or facility, and documentation that demonstrates why the alternative accessibility requirements set forth in 28 CFR Part 36.4.1.7(3) apply. If whether or not the property is a qualified historic building or facility is unknown, the SHPO will assist with the determination.
- If you are pursuing the federal historic tax credits for the certified rehabilitation of a certified historic structure, the "Historic Preservation Certification Application Part 2 – Description of Rehabilitation Work" shall clearly describe how the project complies with the ADA. The SHPO will review the entire project scope for compliance with the Secretary of the Interior's Standards for Rehabilitation (www.okhistory.org/shpo/taxcredits).

What other resources may assist in project planning?

The Department of Justice published the 2010 ADA Standards for Accessible Design, which outline the requirements for State and Local Government Facilities (Title II) and Public Accommodations and Commercial Facilities (Title III) (www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm).

- Section 35.151(b)(3) of Title II and Section 36.405 of Title III address qualified historic buildings and facilities and stipulates that the work must comply with ADA to the maximum extent feasible without destroying the historic significance of the building.
- Exceptions or alterations to qualified historic buildings and facilities include: routes (including vertical access), entrances, and toilet facilities.
- The United States Access Board has published the Americans with Disabilities Act Accessibility Guidelines. The Alterations and Additions section of Chapter 2: Scoping Requirements provides the general considerations for applying ADA to qualified historic facilities and provides a useful graphic illustrating the exceptions (www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards).

The Technical Preservation Services Division, National Park Service, also issues guidance for meeting the ADA. This guidance is found at www.nps.gov/tps/how-to-preserve/by-topic.htm. Review TPS/ NPS's "Preservation Brief #32: Making Historic Properties Accessible," as it helps property owners plan and execute projects that comply with the ADA and the Secretary of the Interior's Standards for Rehabilitation (www.nps.gov/orgs/1739/upload/preservation-brief-32-accessibility.pdf).

How do you contact the Oklahoma SHPO?

For questions about the ADA and qualified historic buildings and facilities, contact the State Historic Preservation Office, Oklahoma Historical Society, 800 Nazih Zuhdi Drive, Oklahoma City, OK 73105-7917 • 405-521-6249 • www.okhistory.org/shpo.



Cherokee Terrace Apartments, Enid, Garfield County