

CODE APPLICATION NOTICE

FILE NO.: 2-11B

Subject: Accessibility in Health Facilities**EFFECTIVE:** 8-22-08

CODE SECTIONS

- A. Chapter 2, 2007 California Building Code (CBC): Section 202
- B. Chapter 11B, 2007 CBC: Sections 1109B.2, 1109B.3, 1109B.5, 1109B.6, 1123B.1, 1115B.4, 1123B.2, 1134B.1, 1134B.2, 1134B.2.1 Exception 1, 1134B.2.1 Exception 4, and 1134B.2.2.

BACKGROUND

The Division of the State Architect – Access Compliance (DSA – AC) adopts code requirements relating to accessibility for persons with disabilities. The purpose of these code requirements is to ensure that barrier-free design is incorporated in all buildings, facilities, site work, additions, alterations, and structural repairs. The Office of Statewide Health Planning and Development (OSHPD) enforces the DSA – AC accessibility code requirements for hospitals, skilled nursing facilities, and intermediate care facilities. OSHPD does not have authority to enforce the provisions of the Americans with Disabilities Act (ADA), which is enforced by the federal government. Health facilities are responsible for compliance with the ADA and any local jurisdiction requirements.

PURPOSE

The purpose of this Code Application Notice (CAN) is to clarify and interpret code sections in the 2007 California Building Code (CBC) to provide consistent interpretation and application of regulations for accessibility as they relate to the construction and alteration of health facilities under the jurisdiction of OSHPD.

NOTE

Unless otherwise noted, all code sections cited in this CAN are from the 2007 CBC. Code section language requiring interpretation is shown in *italics* followed by OSHPD's interpretation. In some instances, an entire code section is interpreted. In other instances, specific language within the code section is interpreted. For these instances, the specific language within the code section is identified in **bold underlined italics** followed by the interpretation.

The interpretations contained in this CAN shall not be applied to the 2001 CBC.

**CHAPTER 2
DEFINITIONS****CODE SECTION: 202 DEFINITIONS – ALTERATION or ALTER**

ALTERATION or ALTER. Any construction or renovation to an existing structure other than repair or addition.

[DSA-AC] “ALTERATION or alter” is any change, addition or modification in construction or occupancy or **structural repair** or **change in primary function** to an existing structure made by, on behalf of or for the use of a public accommodation or commercial facility that affects or could affect the usability of the building or facility or part thereof. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement of the structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions.

INTERPRETATION**Structural repair**

See Section 1134B.1 of this CAN.

Change in primary function

A change in primary function is a change in the major activity for which the room, space, unit, or facility is intended. A change in primary function can occur regardless of whether or not construction is performed. Examples of a change in primary function include the following: changing a patient bedroom to a storage room; changing a nursing service space to an administrative space; changing an intensive care unit to a perinatal unit; and changing a general acute-care hospital to a skilled nursing facility. Changing patient bedrooms in a nursing service space from nursing to antepartum and postpartum bedrooms is not a change in primary function.

Placing patient bedrooms in suspense without performing construction and not using the space during the period they are in suspense is not a change in primary function and does not initiate compliance with accessibility requirements. Placing patient bedrooms in suspense without construction and using the space for another purpose during the period they are in suspense may be a change in primary function and may initiate compliance with accessibility requirements. For example, if the suspended patient bedroom contains an adjoining toilet room and the bedroom is used as a waiting room, the adjoining toilet room must be accessible. If the suspended patient bedroom is used as an office, the adjoining toilet room is not required to be accessible. Removing patient bedrooms from suspense without performing construction is not a change in primary function and does not initiate compliance with accessibility requirements. Compliance with Section 1134B is required if construction is performed in placing patient bedrooms in suspense or removing them from suspense.

CODE SECTION: 202 DEFINITIONS – UNREASONABLE HARDSHIP

UNREASONABLE HARDSHIP [DSA-AC] exists when the enforcing agency finds that compliance with the building standard would make the specific work of the project affected by the building standard infeasible, based on an overall evaluation of the following factors:

1. *The cost of providing access.*
2. *The cost of all construction contemplated.*
3. *The impact of proposed improvements on financial feasibility of the project.*
4. *The nature of the accessibility which would be gained or lost.*
5. *The nature of the use of the facility under construction and its availability to persons with disabilities.*

The details of any finding of unreasonable hardship shall be recorded and entered in the files of the enforcing agency.

INTERPRETATION

Two types of unreasonable hardship exist in the 2007 CBC. One type, as defined in Section 202, applies to all projects regardless of the construction cost of the project. The second type applies to alterations, structural repairs, or additions that do not exceed a valuation threshold specified in Section 1134B.2.1, Exception 1.

1. All Projects

All projects, regardless of construction cost, are eligible for unreasonable hardship as defined in Section 202. Requests for unreasonable hardship for accessibility requirements must be submitted by the applicant to the OSHPD Region Supervisor on OSHPD Form OSH-FD-800 "Application for Unreasonable Hardship Exception to Accessibility Requirements." Such finding of unreasonable hardship does not constitute a waiver from other applicable accessibility code requirements.

Unless otherwise specified in the code, equivalent facilitation must be provided when unreasonable hardship is requested and granted. Section 1102B defines equivalent facilitation as "an alternate means of complying with the literal requirements of these standards and specifications that provides access in terms of the purpose of these standards and specifications." In some instances, the code specifies the equivalent facilitation requirements. In instances where the code does not specify the equivalent facilitation requirement, the applicant requesting the unreasonable hardship must propose the means by which equivalent facilitation will be achieved. The proposed equivalent facilitation must be submitted with the request for unreasonable hardship.

2. Alterations, Structural Repairs, or Additions Below Valuation Threshold

See Section 1134B.2.1, Exception 1 of this CAN.

**SECTION 1109B
ACCESSIBILITY FOR GROUP "I" OCCUPANCIES****CODE SECTION: 1109B.2 Entrance**

1109B.2 Entrance. *At least one accessible entrance shall be protected from the weather by canopy or roof overhang. Such entrances shall incorporate a passenger loading zone. Passenger loading zones shall provide an access aisle at least 60 inches (1524mm) wide and 20 feet (6096mm) long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with Chapter 11B shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding one unit vertical in 50 units horizontal (2-percent slope) in all directions. Minimum vertical clearance of 114 inches (2896 mm) at accessible passenger loading zones and along vehicle access routes to such areas from site entrances shall be provided.*

INTERPRETATION

1. Section 1109B.2 requires at least one accessible entrance to be provided with weather protection, passenger loading zone, and vehicle pull-up space. The code does not require more than one entrance with these features.
2. The protected accessible entrance is not required to be the primary entrance to the facility.
3. Only the passenger loading zone is required to be protected from the weather. The vehicle pull-up space is not required to be protected from the weather.
4. For existing buildings that do not have a protected accessible entrance, projects subject to Section 1134B, are not required to provide one. A protected accessible entrance is required when an addition is proposed for a facility that does not have an existing protected accessible entrance. The protected accessible entrance may be provided at the addition or at an appropriate location in the existing building.

CODE SECTION: 1109B.3 Patient Bedrooms and Toilet Rooms

1109B.3 Patient bedrooms and toilet rooms. *Patient bedrooms and associated toilet facilities shall be made accessible as follows:*

1. *Long-term-care facilities, including skilled nursing facilities, intermediate care facilities, bed and care, and nursing homes shall have at least 50 percent of patient bedrooms and toilet rooms, and all public use and common use areas, accessible.*

2. *General-purpose hospitals, psychiatric facilities, and detoxification facilities shall have at least 10 percent of patient bedrooms and toilets, and all public use and common use areas accessible.*
3. *Hospitals and rehabilitation facilities that specialize in treating conditions that affect mobility, or units within either that specialize in treating conditions that affect mobility, shall have all patient bedrooms and toilet and all public use and common use areas accessible.*

INTERPRETATION

1. The following hospital patient bedrooms and their associated toilet rooms are subject to the 10 percent requirement indicated in Section 1109B.3, item 2 above:
 - A. Nursing Service Space patient bedrooms (general acute care bedrooms)
 - B. Labor/delivery/recovery/postpartum rooms (LDRP)
 - C. Individually enclosed Intensive-care rooms with or without adjoining accessible toilet rooms
2. The CBC does not specify where or how accessible patient bedrooms must be distributed throughout the facility. The hospital owner and design professional must decide where and how accessible patient bedrooms should be distributed.
3. Only the patient bedrooms designated as accessible are required to comply with accessibility requirements (Sections 1109B.4, 1109B.5, 1133B.2.4.2, and 1133B.2.4.3)
4. When patient bedrooms are added or altered, the requirements of 1109B.3 shall apply to only the patient bedrooms being added or altered and shall be consistent with the percentages required by 1109B.3.

Example: In a hospital with 100 acute care bedrooms, of which only 5 are currently accessible, 20 acute-care patient bedrooms are proposed to be altered in the obstetrics department.

As required by 1109B.3, two of the altered acute-care bedrooms must be made accessible (10% of 20). As a result, the facility would then have 7% of the acute care patient bedrooms accessible. Future remodel projects would continue to be subject to the 10% requirement, until the 10% requirement for the entire facility has been met.

5. If a facility is already in compliance with the percentages required by 1109B.3 as calculated for the entire building, then future remodel projects are not required to provide accessibility beyond the percentages required in 1109B.3.

Example: In a hospital with 100 acute-care bedrooms of which 10 are currently accessible, 20 existing acute-care obstetrics patient bedrooms are proposed to be altered.

None of the altered obstetrics patient bedrooms need to be made accessible, because the facility can already demonstrate facility-wide compliance. Note that the project may not remove accessible patient bedrooms from service if the result would be to drop below the 10% requirement.

6. The requirements in Section 1109B.3 are to be calculated independently of each other. For example, an excess of long-term care bedrooms (50% required to be accessible) shall not be used to compensate for a lack of general acute-care bedrooms (10% required to be accessible).

Example: In a hospital with 100 bedrooms, 80 bedrooms are acute-care, of which 5 are accessible, and 20 bedrooms are in a distinct part skilled nursing facility (SNF) of which all 20 are currently accessible. The facility proposes to remodel 20 of the acute-care patient bedrooms, none of which are currently accessible.

Two of the 20 remodeled bedrooms must be made accessible to meet the 10% requirement (10% of acute-care bedrooms being remodeled). The fact that the facility has exceeded the 50% requirement for long-term care patient bedrooms, does not allow the facility to provide less than 10% of accessible patient bedrooms in acute-care. As a result, the facility would then have 7 accessible acute-care bedrooms out of 80, still short of the 10% requirement. Future remodel projects would continue to be subject to the 10% requirement, until the 10% acute care standard has been met.

7. The requirements in Section 1109B.3 are based on patient bedrooms, not patient beds. Placing more than one bed in a patient bedroom does not affect the requirements of 1109B.3.

CODE SECTION: 1109B.5 Patient Toilet Rooms and Bathing Facilities

1109B.5 Patient toilet rooms and bathing facilities. *Patient toilet rooms and bathing facilities required to be accessible shall comply with Section 1115B.*

INTERPRETATION

Required to be accessible

Patient toilet rooms and bathing facilities that are accessed from patient bedrooms that are not required to be accessible are not subject to the accessibility requirements of Section 1115B.

Patient toilet rooms adjoining intensive care patient sleeping rooms are not required to be accessible.

CODE SECTION: 1109B.6 Diagnostic and Treatment Areas

1109B.6 Diagnostic and treatment areas. Diagnostic and treatment areas and, where applicable, at least one dressing room, sanitary facility, etc., for each unit or suite, shall be made accessible.

INTERPRETATION

Diagnostic and treatment areas include but are not limited to: exam rooms, treatment rooms, imaging rooms, operating rooms, emergency rooms, post anesthesia recovery rooms/units, dialysis rooms/units, infusion rooms/units, labor/delivery/recovery rooms and observation rooms/units. All (100%) diagnostic and treatment rooms shall be accessible. Toilet rooms that are accessed from a diagnostic and treatment room shall also be accessible.

Where applicable refers to dressing rooms, sanitary facilities etc. that are required by the code **and** to those that are provided voluntarily. For example, Section 1224.18.1, item 7, requires dressing rooms be provided in a radiology unit. If multiple dressing rooms are provided, at least one shall be made accessible. If the facility voluntarily provides two dressing rooms in a unit that is not required to have dressing rooms, at least one shall be made accessible.

For each unit or suite means the dressing room, sanitary facility, etc. must be located within the unit and be readily available to the patient, staff, or public, as applicable. The dressing room, sanitary facility, etc. shall not be in a location that will limit its use to a single diagnostic or treatment room. For example, the toilet room adjoining the fluoroscopy room cannot be used to serve the entire unit or suite.

SECTION 1115B BATHING AND TOILET FACILITIES (SANITARY FACILITIES)

CODE SECTION: 1115B.4.3 Accessible Lavatories

1115B.4.3 Accessible lavatories. Lavatories required to be accessible shall comply with this subsection. The requirements of this subsection shall apply to lavatory fixtures, vanities and built-in lavatories.

INTERPRETATION

1. Application: The requirements of Section 1115B.4.3 applies to all lavatories, sinks, and handwashing fixtures for public use, patient use, and employee use, unless otherwise specifically exempted by the code. Lavatories, sinks, and handwashing fixtures are, by their nature, “common use” areas, and therefore, require accessibility.

Exceptions:

- A. Kitchen sinks.
(See Section 1115B.4.7 item 1 for requirements)
- B. Non-commercial kitchen and counter bar sinks.
(See Section 1115B.4.7 item 2 for requirements)
- C. Scrub Sinks
(Due to impracticality)
- D. Specific Work Stations
(See Section 1123B.2 for requirements)
This applies only where the sink is the actual work station.

Example: A sink used exclusively for cleaning endoscopes. The sink is the actual area where the work is performed; as opposed to a place where the employee cleans up before and after performing their work elsewhere in the room.

2. Knee space required: All accessibility requirements of Section 1115B.4.3 applies to lavatories, sinks, and hand washing fixtures required to be accessible, specifically including Section 1115B.4.3 item 2 as noted below:

“...All lavatories that are designated to be accessible shall be a minimum 17 inches (432 mm) in horizontal depth and mounted with the rim or counter edge no higher than 34 inches (864 mm) above the finished floor and with vertical clearance measured from the bottom of the apron or outside edge of the lavatory of 29 inches (737 mm) reducing to 27 inches (686 mm) at a point located 8 inches (203 mm) back from the front edge. In addition, a minimum 9- inch- high (203 mm) toe clearance must be provided extending back toward the wall to a distance no more than 6 inches (150 mm) from the back wall. Toe clearance space must be free of equipment or obstructions.”

**SECTION 1123B
ACCESS TO EMPLOYEE AREAS****CODE SECTION: 1123B.1 General**

1123B.1 General. Employee areas shall conform to all requirements of Division of the State Architect – Access Compliance in the California Building Code, Plumbing Code and Electrical Code.

INTERPRETATION**Employee areas**

Doctor's sleep rooms or "on call" rooms are a unique form of employee areas. Section 1109B specifies accessibility requirements for various areas within hospitals but does not specify requirements for doctor's sleep rooms. Section 1103B.1 states that when a facility contains more than one use, the occupancy specific accessibility provisions for each portion of the facility shall apply. Doctor's sleep rooms most closely resemble transient lodging described in Section 1111B.4. Transient means temporary, or brief and best describes the manner in which these sleeping rooms are used. For the purpose of determining accessibility requirements, doctor's sleep rooms and their associated sanitary facilities shall comply with Section 1111B.4.2 and Table 11B-3.

CODE SECTION: 1123B.2 Work Stations

1123B.2 Work stations. Specific work stations need only comply with aisle width (Sections 1133B.6.1 and 1133B.6.2) and floors and levels (Section 1120B), and entryways shall be 32 inches (813 mm) in clear width.

INTERPRETATION

Specific work stations in health facilities include, but are not limited to: nurses' stations, operating room tables, counters in clinical laboratories, imaging equipment, and control/work stations in imaging rooms. For imaging equipment, the aisle width requirements shall apply to only those sides of the equipment where staff typically work to provide medical care to patients.

Work Station definition in Section 1102B states that a Work Station is "...generally for one or a small number of employees." Therefore, a specific work station is not typically interpreted as an entire room.

**SECTION 1134B
ACCESSIBILITY FOR EXISTING BUILDINGS****CODE SECTION: 1134B.1 Scope**

1134B.1 Scope. *The provisions of this division apply to renovation, structural repair, alteration and additions to existing buildings, including those identified as historic buildings. This division identifies minimum standards for removing architectural barriers, and providing and maintaining accessibility to existing buildings and their related facilities.*

INTERPRETATION**Structural repair**

For the purposes of this CAN, structural repair is divided into two categories – structural work and nonstructural work.

1. Structural Work:

In Attorney General's Opinion Number 94-1109, dated May 10, 1995, the Attorney General for the State of California concluded that seismic strengthening work in an existing building constitutes a "building alteration, structural repair or addition" for purposes of providing access to the building for disabled persons. Therefore, seismic retrofit projects, structural repair projects, and seismic retrofit projects for the purpose of compliance with the Structural Performance Category (SPC) requirements of the 2007 California Administrative Code (CAC) and the 2007 CBC **are** subject to the access requirements of Section 1134B.

Compliance with 1134B shall be provided as follows:

- A. The requirements in Section 1134B.2 to provide an accessible primary entrance, sanitary facilities, drinking fountains, signs, public telephones, and an accessible path of travel connecting these elements throughout the building must be met.
- B. The specific area of alteration shall comply with all accessibility requirements as noted in Section 1134B.2. Note that for some structural repair or retrofit work, the specific area of alteration may not occur in a room or space intended for human occupancy. In such cases, the requirements of 1134B.2, while enforceable, have no practical application. Similarly, providing a "path of travel" (see 1134B.2.1 below) to such area has no practical application.
- C. The requirements of Section 1134B shall not be construed to require an entire building to be subject to accessibility upgrades due to a structural repair or retrofit project. Authority for Section 1134B derives from Section

19959 of the Health and Safety Code, which states: "Every existing public accommodation constructed prior to July 1, 1970, which is not exempted by Section 19956, shall be subject to the requirements of this chapter when any alterations, structural repairs or additions are made to such public accommodation. This requirement shall only apply to the area of specific alteration, structural repair or addition and shall not be construed to mean that the entire building or facility is subject to this chapter." Clearly, it is not the intent of Section 1134B that a structural repair, structural retrofit, or an addition, be construed to mean that the entire building or facility be subject to a complete accessibility upgrade.

2. Nonstructural Work:

Projects consisting **entirely** of anchorage and bracing of equipment and components will **not** be considered a building alteration, renovation, structural repair, or retrofit project subject to the Attorney General's Opinion 94-1109 noted above, and therefore are **not** subject to the accessibility requirements of Section 1134B. Similarly, seismic retrofit projects for the purpose of compliance with the Nonstructural Performance Category (NPC) requirements of the 2007 CAC and the 2007 CBC are **not** subject to the accessibility requirements of Section 1134B.

CODE SECTION: 1134B.2 General

1134B.2 General. *All existing buildings and facilities, when alterations, structural repairs or additions are made to such buildings or facilities, shall comply with all provisions of Division I - New Buildings, except as modified by this division. These requirements shall apply only to the area of specific alteration, structural repair or addition and shall include those areas listed below:*

1134B.2.1 *A primary entrance to the building or facility and the primary path of travel to the specific area of alteration, structural repair or addition, and sanitary facilities, drinking fountains, signs and public telephones serving the area.*

INTERPRETATION

1. **Area of specific alteration**

The area of specific alteration is relevant to A) projects occurring within the confines of a space(s) or room(s) or B) projects not occurring within the confines of a space(s) or room(s).

A. Projects occurring within the confines of a space(s) or room(s):

For projects that occur within the confines of a space(s) or room(s), the area of specific alteration is the **entire** altered space(s) or room(s).

Example: A project proposes to replace the ceiling in the entrance lobby of a hospital. The area of specific alteration is the **entire** entrance lobby. As required by 1134B.2, the entire lobby must meet the requirements of Chapter 11B, Division 1 – New Buildings.

A room or area outside of the area of specific alteration is **not** required to be made accessible, even if it is a required element of the unit in which the work is proposed.

Example: A project proposes to alter two CT scan rooms. The work will include equipment replacement, new flooring, new ceiling work, and modifications to the mechanical and electrical systems. The area of specific alteration is the two CT scan **rooms**. A dressing room elsewhere in the same radiological / imaging service space is not within the area of specific alteration; and, therefore accessibility of the dressing room is not required as part of the proposed project. Note that a dressing room is not a “sanitary facility” that “serves” the area of alteration. See item 5 below.

B. Projects not occurring within the confines of a space(s) or room(s):

For projects not occurring within the confines of a space(s) or room(s), the area of specific alteration shall be defined by the physical area in which work is to occur. It is understood that in some cases the area of specific alteration is best defined as a series of specific areas that may or may not be physically connected.

Example 1: A facility proposes to replace several of the windows and doors in a hospital. This type of replacement project affects a small portion of many rooms within a building. The area of specific alteration may be defined as the immediate area of construction at each individual window and each individual door. Therefore, in this example, the area of specific alteration is a small portion of several different rooms. The requirements of Division I – New Buildings apply to each door, door hardware, and each window. Section 1134B.2.1 requires an accessible path of travel to each individual door and window being replaced; an accessible primary entrance; and sanitary facilities, drinking fountains, signs and telephones serving the area.

Example 2: A facility proposes to repair various fire / life safety deficiencies in a hospital. The scope of the project includes many locations throughout the hospital where fire dampers are added and wall penetrations are sealed. Much of the proposed work occurs above the ceiling, but some work occurs below the ceiling. In this example, the area of specific alteration shall be defined as the immediate area of construction work, whether above the ceiling or below. The area of specific alteration does not automatically become the entire room in which

a small repair occurs. In this case, a small portion of the rooms are being altered, and the area of specific alteration shall be defined as the immediate area in which alteration work occurs. If any of the proposed work affects any accessibility requirements of Division 1 – New Buildings, it shall be made to comply with those requirements. In this example, it is probable that there would be no Division 1 – New Building requirements that would be affected by fire damper and penetration sealing work. However, as required by 1134B.2.1, this project shall provide an accessible primary entrance; and sanitary facilities, drinking fountains, signs and public telephones serving the area.

Note: For projects without a well-defined area of specific alteration, the facility may provide the required accessibility features (path of travel, accessible sanitary facilities, drinking fountains, signs and public telephones) in a central location.

2. **...and shall include those areas listed below**

The language “...and shall include those areas listed below:” indicates that accessibility must be demonstrated and/or provided **outside** of the area of specific alteration as required by 1134B.2.1. Every project subject to the requirements of 1134B.2 shall demonstrate compliance for a primary entrance; primary path of travel to the specific area; and sanitary facilities, drinking fountains, signs, and public telephones serving the area. These elements are required pursuant to 1134B.2 and yet are expressly outside of the area of specific alteration.

3. **A primary entrance**

Primary Entry is defined in Section 202, which references Section 1107A.16-P. Section 1107A.16-P states:

“PRIMARY ENTRY is the principal entrance through which most people enter the building, as designated by the building official.”

For the purposes of this CAN, the primary entrance is equivalent to the primary entry.

4. **The primary path of travel to the specific area of alteration, structural repair or addition**

“Path of travel” is defined in Section 1102B.

Primary path of travel means the common route that is used to arrive at the specific area of alteration. For example, in a multi-story building, the path starts at the accessible parking stall, continues to the primary entrance, through accessible elevators, up to the floor of the alteration, and finally to the area of specific alteration, structural repair or addition. If the elevators are not

accessible, one of them must be made accessible as part of the primary path of travel.

The “path of travel” shall also extend to the sanitary facilities, drinking fountains, signs and public telephones serving the altered area.

5. **Sanitary facilities, drinking fountains, signs and public telephones serving the area**

- A. “Sanitary facilities” are defined in Section 202 as “...any single water closet, urinal, lavatory, bathtub or shower, or a combination thereof, together with the room or space in which they are housed.” “*Serving the area*” is specific to those “*sanitary facilities, drinking fountains, signs and public telephones*” that are most directly related to the area of alteration. Sanitary facilities, drinking fountains and public telephones are not required to be on the immediate path of travel to the area to be considered as “servicing the area”, but they must be within a reasonable distance of the area. In no case shall the distance exceed 200 feet of travel, nor more than one floor above or below the area.

Example 1: A nurse’s station is remodeled on the first floor of a hospital, but the sanitary facilities for those nurses are not accessible and are located on the second floor. As a result of this remodel project, the inaccessible sanitary facilities must be made accessible, because they are the only staff sanitary facilities within a reasonable distance that serve the area.

Example 2: Alternately, given the same situation as in Example 1 above, the facility could choose to provide new accessible toilet rooms to serve that specific nurses’ station on the same floor and in close proximity to the remodeled nurses’ station. In this case, they would not be required to upgrade the toilet rooms on the second floor, because they would be providing new toilet rooms to serve the area.

- B. When there is more than one sanitary facility that is within a reasonable distance from the area of specific alteration and it can be considered as serving the area, only one of each required sanitary facility must be made accessible. The facility may designate the sanitary facilities that will be considered as serving the area as long as they are within a reasonable distance, even if they are located further from the area of specific alteration than other sanitary facilities.

Example: A pharmacy remodel project on the second floor of a hospital requires that accessible toilet rooms be provided (both male and female) for the public, as well as separate accessible toilet rooms for staff. Accessible public toilet rooms (both male and female) are already

available approximately 80 feet away, which satisfies 1134B.2.1 for public use. There are existing staff toilet rooms that are not accessible, approximately 40 feet from the pharmacy, but there are also accessible separate male and female staff toilet rooms on the first floor, with a total distance to the area of specific alteration of 120 feet (including elevator travel). The facility may designate the first floor staff toilet rooms as “serving the area of specific alteration” for the purpose of this remodel project and additional construction work will not be required.

- C. Section 412.3 of the 2007 California Plumbing Code requires separate sanitary facilities for patients, staff, and the public. When an alteration project interacts with all three types of users, the project must show or provide for accessible sanitary facilities for each user.

CODE SECTION: 1134B.2.1, Exception 1

1134B.2.1 Exceptions:

1. When the **total construction cost** of alterations, structural repairs or additions does not exceed a valuation threshold of \$50,000, based on January 1981, "ENR US20 Cities" average construction cost index of 3372.02 (Engineering News Record, McGraw Hill Publishing Company), and the enforcing agency finds that compliance with this code **creates an unreasonable hardship**, compliance shall be limited to the actual work of the project. The enforcing agency shall annually update the valuation threshold to a current amount based on the increase in the index since the last figure used. (For example, the January 2008 amount is \$119,958.65.) (OSHPD Note: For current and past valuation thresholds, visit <http://www.dsa.dgs.ca.gov/Access>) For purposes of this exception, an unreasonable hardship exists where the cost of providing an accessible entrance, path of travel, sanitary facilities, public phones and drinking fountains, is disproportionate to the cost of the project; that is, where it exceeds 20 percent of the cost of the project without these features. Where the cost of alterations necessary to make these features fully accessible is disproportionate, access shall be provided to the extent that it can be without incurring disproportionate cost. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access in the following order:

- 1.1 An accessible entrance,
- 1.2 An accessible route to the altered area,
- 1.3 At least one accessible restroom for each sex,
- 1.4 Accessible telephones,
- 1.5 Accessible drinking fountains, and

1.6 When possible, additional accessible elements such as parking, storage and alarms.

INTERPRETATION

Total construction cost

The total construction cost shall be provided by the applicant as either an estimate of construction costs or as an actual contract amount and shall include the cost of fixed equipment, radiology equipment, and the fair market value of any labor or materials provided by the owner. The construction cost shall exclude design fees, inspection fees, and off site work.

Creates an unreasonable hardship

Applicants may file a request for unreasonable hardship if the cost of upgrading all the elements listed above exceeds 20% of the project cost without these elements. The request must be submitted on OSHPD Form OSH-FD-800 "Application for Unreasonable Hardship Exception to Accessibility Requirements." The applicant must submit the request to the Regional Supervisor and must substantiate the hardship with detailed construction cost estimates. If the unreasonable hardship request is approved, a maximum of 20% of the project cost without accessible features is required to be spent on accessible features. Applicants may use the Comment and Process Review (CPR) procedure when OSHPD denies a hardship request.

CODE SECTION: Section 1134B.2.1, Exception 4

Section 1134B.2.1, Exception 4

Projects which consist only of heating, ventilation, air conditioning, re-roofing, electrical work not involving placement of switches and receptacles, cosmetic work that does not affect items regulated by this code, such as painting, equipment not considered to be a **part of the architecture of the building** or area, such as computer terminals, office equipment, etc., are not considered alteration projects for the purposes of accessibility for persons with disabilities and shall not be subject to this code. For the purposes of this section, the term "construction cost" does not include building permit fees or discretionary permit fees.

The only purpose of this exception is to exclude projects from activating the provisions of this section. The exceptions are not intended to relieve projects from complying with other applicable provisions of this code (e.g., replacement of carpet does not activate the provisions of this section; however, it still must comply with Section 1124B.3).

INTERPRETATION

1. **Projects which consist only of**

The phrase, projects which consist only of, shall be understood to allow work that is incidental to projects covered under Exception 4. For example, an HVAC

replacement project may require incidental electrical work as well as incidental support and anchorage work associated with the HVAC equipment. This incidental work shall be considered part of the equipment replacement project and will not initiate compliance with accessibility requirements.

2. **Part of the architecture of the building**

A. Replacement of Imaging Equipment

Permanently secured imaging equipment is considered part of the architecture of the building; and therefore, projects consisting solely of the replacement of imaging equipment are not eligible for Exception 4.

B. Mobile Equipment

Equipment that is designed to be mobile and can be easily moved from one room to another is not considered part of the architecture of the building; and therefore, is eligible for Exception 4.

CODE SECTION: 1134B.2.2

1134B.2.2 *Where it is **technically infeasible** in the area of an alteration to make existing restroom facilities code compliant and to install separate sanitary facilities for each sex, then the installation of at least one unisex toilet/bathroom per floor being altered, located in the same area as existing toilet facilities, will be permitted. Such a facility shall meet the requirements of Section 1115B.7.2.*

INTERPRETATION:

Technically infeasible

Technically infeasible does not mean a financial or operational inconvenience. As defined in Section 202 of the 2007 CBC:

“Technically infeasible means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which 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 which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.”

Original Signed _____ 8-22-08
John D. Gillengerten Date