

# The Business & Disability Bulletin

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*disability is our business*

## The Case of the Mysterious ADA Grandfather Clause

**MYTH:** Because my place of business is old, it is “grandfathered” and exempt from the ADA Title III requirements.

**FACT:** The largest misconception by business owners under Title III of the Americans with Disabilities Act (ADA) is the standard for existing facilities. There is no “grandfather clause” exempting older facilities.

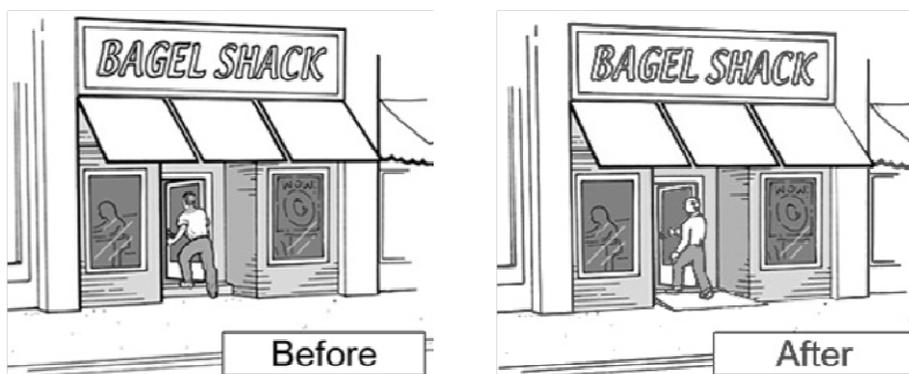


Instead, older facilities are obligated to make changes that are “*readily achievable*”—or which can be made without great expense or effort.

Readily achievable barrier removal may include providing an accessible route from a parking lot to the business’s entrance, installing an entrance ramp, widening a doorway, installing accessible door hardware, repositioning shelves, or moving tables, chairs, display racks, vending machines, or other furniture.

When removing barriers, businesses are required to comply with the Standards to the extent possible.

For example, where there is not enough space to install a ramp with a slope that complies with the Standards, a business may install a ramp with a slightly steeper slope. However, any deviation from the Standards must not pose a significant safety risk.



## ADA Grandfather Clause, CONTINUED

\*It should be noted that under Michigan Barrier Free Code, there may be 'grandfather' exceptions. HOWEVER, the ADA does not recognize these exemptions and businesses are still held to the ADA standards of readily achievable barrier removal. Unfortunately, local building inspectors do not always inform business owners that even if they comply with State and local codes, they are still responsible for compliance with the Americans with Disabilities Act (ADA).

If you have questions about your rights and responsibilities under the ADA, please call our ADA specialist Paul Ecklund at (269) 345-1516 x117.

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## Paying for Readily Achievable Barrier Removal

**You may be able to recoup the cost of complying with the ADA through tax credits and deductions:**

### Tax Credit and Deduction

To assist small businesses to comply with the ADA, the Internal Revenue Service (IRS) Code includes a **Disabled Access Credit** (Section 44) for businesses with 30 or fewer full-time employees or with total revenues of \$1 million or less in the previous tax year.

Eligible expenses may include the cost of undertaking barrier removal and alterations to improve accessibility, providing sign-language interpreters, or making material available in accessible formats such as Braille, audiotape, or large print.

Section 190 of the IRS Code provides a **tax deduction for businesses of all sizes** for costs incurred in removing architectural barriers in existing facilities or alterations. The maximum deduction is \$15,000 per year.

### Internal Revenue Service

For information on the Disabled Access Tax Credit (Form 8826) and the Section 190 tax deduction (Publication 535 "Business Expenses"): 800-829-3676 (Voice) or 800-829-4059 (TTY) or [www.irs.gov](http://www.irs.gov).

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## Understanding and Accommodating Autism Spectrum Disorders in the Workplace A FREE 1 Hour Accommodation Training Webinar

Link to archived webcast:

<http://webcast.askjan.org/p8c8ifvl2xd/?launcher=false&fcsContent=true&pbMode=normal>

Link to Powerpoint slides only: <http://askjan.org/webcast/archive/index.htm> and scroll down to December 2011.