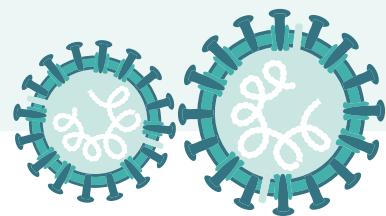


# REOPENING YOUR BUSINESS IN A COVID WORLD: SAFEGUARDING ACCESSIBILITY/ADA COMPLIANCE





## ABOUT UNITED SPINAL ASSOCIATION

United Spinal Association is the largest non-profit organization dedicated to enhancing the quality of life of all people living with spinal cord injuries and disorders (SCI/D), including veterans, and providing support and information to loved ones, care providers, and professionals. United Spinal has nearly 75 years of experience educating and empowering individuals with SCI/D to achieve and maintain the highest levels of independence, health, and personal fulfillment. This year, United Spinal has touched over 1.8 million lives impacted by disability, with access to over 100,000 wheelchair users, 50 chapters, 180+ support groups, and 100+ rehabs and hospital partners nationwide.

## ACKNOWLEDGEMENTS

This project would not be possible without the invaluable contributions and insights of our members, especially David Kellam, Bob Melia, and Melissa Vander Vennet. Special thanks to Mary Lamielle, Executive Director, National Center for Environmental Health Strategies.

## DISCLAIMER

This is our best practices guideline, based on what we believe are the needs of people with disabilities and businesses and other public accommodations. We have expressed our views of how the mandates and principles of inclusion and accommodation of the Americans with Disabilities Act apply to the public response to COVID-19.

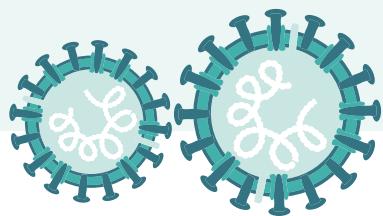
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## INTRODUCTION

COVID-19 has interrupted our lives in ways that we never could have predicted. From closing schools to shuttering businesses, no one could have foreseen how much our lives would change in such a short period of time. As the economy begins to reopen, businesses and organizations are largely left to wade through the constantly evolving guidance on their own, trying their best to protect their employees, customers, and the general public from COVID-19 exposure. During this unprecedented time, we want to ensure that people with disabilities are not excluded from opportunities as we all venture back into our communities.

As there is currently no vaccine against COVID-19, the Centers for Disease Control and Prevention (CDC) recommends the following behaviors to limit its potential spread:

- Avoid close contact
- Limit interactions with people not in your household
- Cover your nose and mouth with a mask, and
- Clean and disinfect frequently touched surfaces, and
- Wash your hands often<sup>1</sup>

Implementing this guidance can take many forms, however. While each of these behaviors is designed for individuals to follow themselves, most businesses have updated their company policies and procedures to incorporate them. The following guide is designed to help you maintain your property's required accessible features and avoid the introduction of new COVID-related barriers that result in the unintended exclusion of people with disabilities. We are monitoring new developments and will update the information in this guide as necessary.

The following guide is designed to help you navigate how to maintain your property's required accessible features and avoid the introduction of new COVID-related barriers that exclude people with disabilities, however unintended. While it was meant to be thorough, it is by no means exhaustive. It is important to remain flexible so that as we learn more information, we can incorporate any updated guidance and reflect upon its impact on people with disabilities.

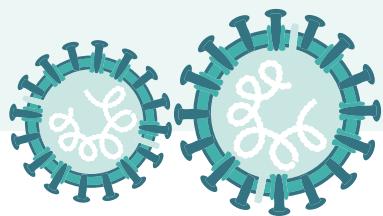
As we celebrate and acknowledge the 30th anniversary of the Americans with Disabilities Act this year, it is important that our commitment to the inclusion of people with disabilities does not waver, even as we are left to struggle with how to balance public health measures with individual and civil rights.

## AMERICANS WITH DISABILITIES ACT: AN ONGOING COMMITMENT

On July 26th, 1990, approximately 1,000 people with disabilities assembled on the White House lawn to watch President George H. W. Bush sign the Americans with Disabilities Act (ADA). As he signed the bill, President Bush said, "Let the shameful wall of exclusion finally come tumbling down." It was a profound moment, and people with disabilities, not just on that lawn, but throughout the country, celebrated its passage by envisioning a future where they were embraced, included, and able to contribute.

The ADA serves as a guide for individuals, businesses, and government about how to address disability-related issues. Unnecessary separate or special treatment is a discriminatory practice, regardless of motivation. In fact, most disability discrimination is not rooted in ill will. Instead, it is based on unfamiliarity and outdated, ableist beliefs about disability—often masquerading as kindness. The ADA gives proactive instructions on how to include, hire, and serve people with disabilities without offense.

<sup>1</sup><https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>



The ADA's protections are expansive, but not unreasonable. It applies to the past, present, and future; from barriers that are familiar to ones not yet faced. The Internet and autonomous vehicles used in transit, for example, must comply with the ADA, despite the fact that neither the ADA's drafters nor the overwhelming majority of Americans could imagine either at the time. While it is an all too common phrase to claim older buildings are "grandfathered in," it is not accurate. Businesses, state and local governments must serve all people—and not just those without disabilities—and make modifications and accommodations to their programs, as needed. The ADA's barrier removal requirements apply to accessibility concerns that can be removed in a "readily achievable" manner, i.e. without great difficulty or expense. That responsibility is ongoing, and if not removed between 1990 and today, they should be now.

The ADA diverges from previous civil rights laws by making it a discriminatory practice to not reasonably accommodate disability, that is, it changed nondiscrimination from a passive act to one that requires action, i.e. barrier removal, reasonable accommodation, etc. Merely refraining from treating people with disabilities badly is not all that is required.

As we face COVID-19 together, our focus must remain on protecting the health and safety of our communities, but it must not come at the cost of excluding people with disabilities or eliminating the gains made over the last 30 years due to the ADA.

## HOW COVID-RELATED CHANGES HAVE IMPACTED PEOPLE WITH DISABILITIES

Even though COVID-19 required businesses to react without warning or ability to prepare, it is important to not forget our ongoing obligation to provide equitable services for people with disabilities. Unfortunately, as soon as businesses began incorporating new policies and procedures to respond to COVID-19, our members as well as those from the greater disability community began noticing new barriers to accessibility that did not exist at those locations before.

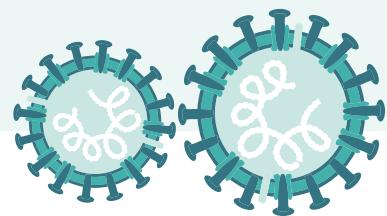
In order to capture how COVID-19 policies have affected the disability community, either positively or negatively, United Spinal released a survey designed for people with disabilities or those who share their lives with people with disabilities<sup>2</sup>.

When asked "What, if any, COVID-related barriers have you experienced while out in the community?"<sup>3</sup>

- **56.9%** of respondents experienced accessible parking being converted to other uses, such as outdoor seating, takeout only, etc.
- **39.2%** of respondents experienced accessible features not being open to public while inaccessible options remain available, such as accessible sales and/or service counters, bathrooms, dining tables, etc.
- **25.5%** of respondents experienced difficulty complying with COVID-related policies due to a disability
- **25.5%** of respondents were unable to receive disability-related assistance, such as assistance with pumping gas or reaching items on high shelves, etc.
- **19.6%** of respondents were refused a disability-related request, such as providing alternatives to waiting in long lines prior to entering businesses
- **13.7%** of respondents encountered a business whose COVID-related policies were not effectively communicated to them, such as printed signs with small fonts, etc., and
- **31.4%** of respondents experienced other barriers not listed, such as the inability to find and/or afford the increasing costs of disability-related items like disposable gloves or alcohol swabs or the inability to schedule a delivery window due to increased demand by everyone.

<sup>2</sup><https://forms.gle/B75CHifKPkVBds3F8>

<sup>3</sup>As of August 12, 2020



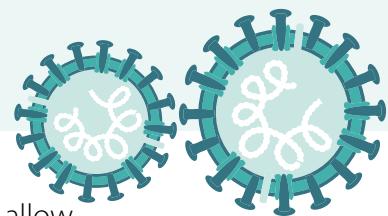
Not all changes have resulted in negative outcomes, however. Several respondents praised the increased availability of curbside pickup since it allows them to be more independent and less reliant on friends, family, or caregivers for assistance when completing errands. Also, as establishments removed furniture in order to promote social distancing indoors, many commented on how much easier it was to move throughout a space. Overwhelmingly, however, comments focused on the increased flexibility in service options, whether it is offering different pickup or delivery options, or how they conduct business (in person, over the phone, or by video), the biggest theme is that by having more options, the experience of people with disabilities has greatly improved.

## HOW SOCIAL DISTANCING POLICIES AFFECT PEOPLE WITH DISABILITIES

Currently, the most widely accepted research suggests that maintaining a distance of at least 6 feet between people not within the same household helps limit COVID-19 transmission. While people should be responsible for keeping their own distance from others, businesses are making alterations to their spaces as well as implementing new practices and procedures to help nudge employees and visitors into more healthful behaviors. As you evaluate how best to keep everyone safe, it is important to consider how these changes might affect people with disabilities.

Since the ADA does not require every feature to be accessible when there are multiples of the same type, it is possible for a business to inadvertently remove a required accessible feature. Some features are more easily identifiable than others, however. For example, the accessible stall in a multi-user bathroom is something almost everyone can identify. In contrast, it might be more difficult to pick out an accessible sink in a row of sinks. Please refer to the Appendix: How to Identify Accessible Features to learn more about the most common accessible features of a business, such as accessible routes, accessible tables, door maneuvering clearances, and accessible sinks.

- Identify the accessible features of your business and make them available during all business hours. While this may appear to be common sense, the number one concern of people with disabilities who responded to our survey was that accessible building features, such as accessible parking, entrances, and service counters were taken out of service while inaccessible features remained available.
- As outdoor seating has become increasingly popular, some businesses have expanded their seating into required accessible areas that cannot be obstructed. For example, some businesses are unlawfully converting their accessible parking to temporary patio seating. Also, in an effort to increase the distance between tables, some new layouts have prevented people with disabilities from being able to navigate public sidewalks. When organizing your outdoor seating, do not remove accessible parking spaces or their access aisles from their intended use, and ensure that there is a 3-foot-wide clear pathway around your seating area
- When implementing measures to increase distance between customers and employees, ensure those areas remain accessible. For example, some businesses are placing unused furniture, such as tables, in front of sales or service counters. While this forces greater distance during an interaction, it may also prevent someone using a wheelchair from having access to those services if the approach narrows to less than 3 feet wide or prevents access to point of sale devices for people with limited reach.
- Controlling the direction of pedestrians travel throughout a business can limit the potential for people to cross paths. However, it also can create inefficiencies and unnecessary steps for people who have difficulty walking long distances. If you require people to enter using one door and leave from another, make sure they are both accessible and connect to accessible parking, bus stops, and public sidewalks. If not all entrances and exits are accessible, then people with disabilities may find themselves in spaces that are not usable, which will require



them to backtrack against the traffic pattern you have established. Update policies to allow for voluntary compliance, and remain flexible if someone cannot comply because of their accessibility needs.

## HOW LIMITED CAPACITY POLICIES AFFECT PEOPLE WITH DISABILITIES

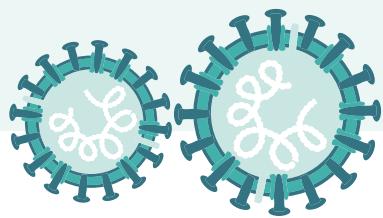
In order to limit exposure and prevent COVID-19 transmission, most jurisdictions have implemented restrictions on how many people can congregate inside at one time. While limited capacities are based on reduced percentages of existing occupancy standards, some businesses have expanded that mandate to include offering dedicated shopping hours to restricted populations (seniors and people with disabilities), limiting how many people from a single family can shop together, and providing pick-up only zones in the parking lot or at the curb to reduce the need to enter a store.

- ◉ When limiting capacity results in a long line outside, provide alternatives. For example, for people who are unable to stand for long periods of time, allow them to call ahead to make an appointment or place them in a virtual queue and text them when they can enter.
- ◉ Some people need assistance while shopping, however they may not want an employee to help. Allow people with disabilities to determine who can best assist them even if it requires more than one person from each household in your business.
- ◉ To shorten the distance employees must travel to serve customers in their cars, some businesses are converting accessible parking spaces and their access aisles to pick-up zones due to their proximity to the front entrance. This practice violates the ADA's requirement to maintain accessible features. Relocate the pick-up areas to inaccessible parking spaces.

## HOW INCREASED SANITATION POLICIES AFFECT PEOPLE WITH DISABILITIES

In addition to encouraging increased physical distance and limiting capacity within enclosed spaces, it is also a common practice for businesses to disinfect their properties, furnishings, and equipment more frequently with specific COVID-19 approved cleaning agents. However, not all cleaning agents are nonhazardous for people with disabilities.

- ◉ Use safer cleaning agents such as fragrance-free soap and water whenever possible (See EPA Safer Choice<sup>3</sup>). If disinfectants are deemed necessary, use less harmful, less toxic fragrance-free products such as hydrogen peroxide or isopropanol alcohol. Avoid more toxic disinfectants such as quaternary ammonium compounds, sodium hypochlorite (chlorine bleach), or phenolic compounds such as Lysol. These products are hazardous and cause debilitating reactions for people disabled by chemical exposures.
- ◉ If providing public access to hand sanitizer or hand wipes, ensure that their ingredients are prominently displayed so people can make informed decisions about their personal usage. Also, provide them at a height that is easily reachable (4 feet or lower) and along an accessible route. Ideally, they should be located before and after high touch areas like door handles, handrails, and checkout or service counters.
- ◉ Include specific disability-related high touch features of a space as part of your sanitation routine, such as braille and tactile signage, handrails on ramps or grab bars in bathrooms, and the keypads of a touchscreen ATM or vending machine.
- ◉ While it is common practice for individuals to open bathroom doors with paper towels after washing their hands, it is important that trashcans are not placed within the required door maneuvering clearance (18 inches beyond the latch-side of the door).



- Due to COVID-19, there is a renewed interest in promoting handsfree alternatives for common tasks like dispensing soap, using faucets, and operating doors to reduce the amount of high touch areas in a space. When evaluating these substitutes, avoid selecting options that are only foot-operated as they do not meet the requirements of the ADA Standards for Accessible Design.

## HOW MASK POLICIES AFFECT PEOPLE WITH DISABILITIES

Depending on where you are located, face masks may be required, encouraged, or simply left to the individual business to determine its own policy. The compulsory use of masks remains controversial, and while some people may want to fraudulently take advantage of the ADA's broad protections, there are certain disabilities that preclude the use of face masks. For example, the CDC recommends that "masks should not be worn by children under the age of two, or anyone who has trouble breathing, is unconscious, incapacitated, or otherwise unable to remove the mask without assistance<sup>4</sup>. The Southeast ADA Center, in partnership with the Burton Blatt Institute at Syracuse University, expands that list to include people with:

- asthma, chronic obstructive pulmonary disease (COPD), or other respiratory disabilities
- post-traumatic stress disorder (PTSD), severe anxiety, or claustrophobia
- autism or those who are sensitive to touch and texture
- mouth control devices such as sip and puff controls or assistive ventilators<sup>5</sup>

Because it may be difficult to discern whether someone has a bona fide need to avoid using a mask, it is important to develop policies that acknowledge the existence of invisible or non-obvious disabilities and describe how employees should respond to a customer's refusal to wear a mask.

- Should someone be unable to wear a mask, discuss options that allow for the person to continue working or receiving services without wearing one. Some options include: wearing a face shield, offering contactless curb-side pickup or delivery, providing services remotely, or allowing someone else to act on their behalf.

### FACE MASK EXEMPT CARD

**I AM EXEMPT FROM ANY ORDINANCE REQUIRING FACE MASK USAGE IN PUBLIC.**

Wearing a face mask poses a mental and/or physical risk to me. Under the Americans with Disability Act (ADA), I am not required to disclose my condition to you.

**Department of Justice ADA Violation reporting number: (800) 514-0301**

If found in violation of the ADA you could face steep penalties. Organizations and businesses can be fined up to **\$75,000** for your first violation and **\$150,000** for any subsequent violations.

**DENYING ACCESS TO YOUR BUSINESS/ORGANIZATION WILL BE ALSO REPORTED TO FTBA FOR FURTHER ACTIONS**

 **FTBA**  
FREEDOM TO BREATHE AGENCY  
[www.ftbagency.com](http://www.ftbagency.com)

Beware! Department of Justice (DOJ) cautions that "inaccurate" materials have been circulating that appear to be endorsed by the federal government regarding businesses requiring face masks, including penalties for enforcing their usage. In the same announcement, the DOJ states that "the ADA does not provide a blanket exemption to people with disabilities from complying with legitimate safety requirements necessary for safe operations<sup>6</sup>.

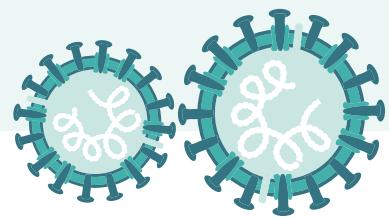
Another disability-related concern regarding masks is how they might affect people who are d/Deaf and/or hard of hearing, who compromise roughly 15% of the American population aged 18 and older, or 37.5 million adults<sup>7</sup>. While having trouble hearing may not prevent someone from wearing a mask themselves, they will likely interfere with communication for those who rely on lip reading, have soft speech, or have difficulty hearing voices that are muffled by their usage.

<sup>4</sup><https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>

<sup>5</sup><https://www.adasoutheast.org/ada/publications/legal/ada-and-face-mask-policies.php>

<sup>7</sup><https://www.justice.gov/opa/pr/department-justice-warns-inaccurate-flyers-and-postings-regarding-use-face-masks-and>

<sup>8</sup><https://www.nidcd.nih.gov/health/statistics/quick-statistics-hearing>



- If it is not possible for an employee to safely lower their mask when interacting with a person who is having difficulty communicating, train staff to use alternative means of communication to support visitors with hearing disabilities. This might include something as simple as exchanging notes – but remember, do not share your pen.

## HOW TO PROVIDE EFFECTIVE COMMUNICATION

The Americans with Disabilities Act requires businesses to communicate with people with disabilities in a way that is as effective for them as it is for others without disabilities. People who have difficulty seeing, hearing, speaking, comprehending, or reading may not be able to understand the rapidly evolving COVID-related changes undertaken by a business if information is provided only one way. In order to communicate with as many people as possible, it is best for businesses to provide critical information in as many formats as possible.

- The American Council of the Blind recommends printed documents should exhibit the following characteristics in order to be usable by the low vision community<sup>8</sup>:

- Minimum 18 point font (preferably 20 point)
- Line spacing of at least 1.5
- Sans serif fonts such as Verdana, Helvetica, Tahoma, and Arial

- All COVID-19 related information should be posted on a business' website and social media accounts. If you have concerns about your digital accessibility or would like confirmation that your content is accessible to people with disabilities, visit [www.digital.gov](http://www.digital.gov), a program of the U.S. General Services Administration.

- If possible, provide routine audible announcements regarding COVID-19 policies and be prepared to read signs to people who ask for assistance.

- Businesses should also provide a contact number for anyone needing to discuss the COVID-related policies and practices in greater detail.

## ADDITIONAL RESOURCES

### United Spinal Association

United Spinal Association is dedicated to enhancing the quality of life of all people living with spinal cord injuries and disorders (SCI/D), including veterans, and providing support and information to loved ones, care providers and professionals.

[www.unitedspinal.org](http://www.unitedspinal.org)

### Accessibility Services

Accessibility Services, a program of United Spinal, provides professional consulting services devoted exclusively to making our built environment accessible to people with disabilities.

[www.accessibility-services.com](http://www.accessibility-services.com)

### US Access Board

The U.S. Access Board is a federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology.

[www.access-board.gov](http://www.access-board.gov)

### US Department of Justice ADA Information

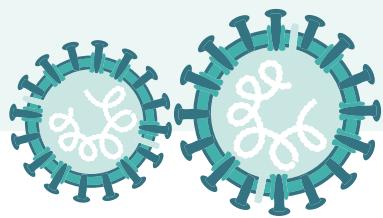
The ADA requires the Department of Justice to provide technical assistance to businesses, State and local governments, and individuals with rights or responsibilities under the law. The Department provides education and technical assistance through a variety of means to encourage voluntary compliance.

[www.ada.gov](http://www.ada.gov)

### ADA National Network

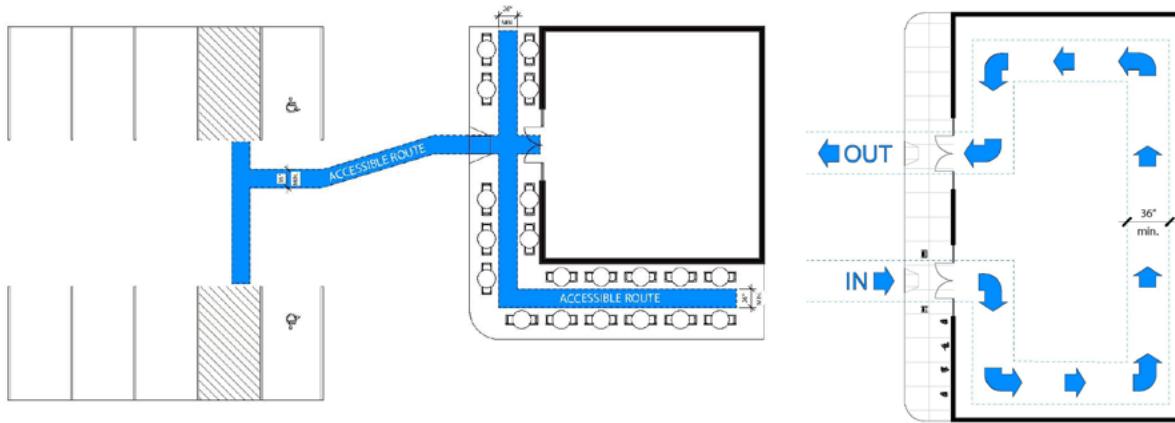
The ADA National Network provides information, guidance and training on how to implement the Americans with Disabilities Act (ADA) in order to support the mission of the ADA to "assure equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities."

[www.adata.org](http://www.adata.org)



## APPENDIX: HOW TO IDENTIFY ACCESSIBLE FEATURES

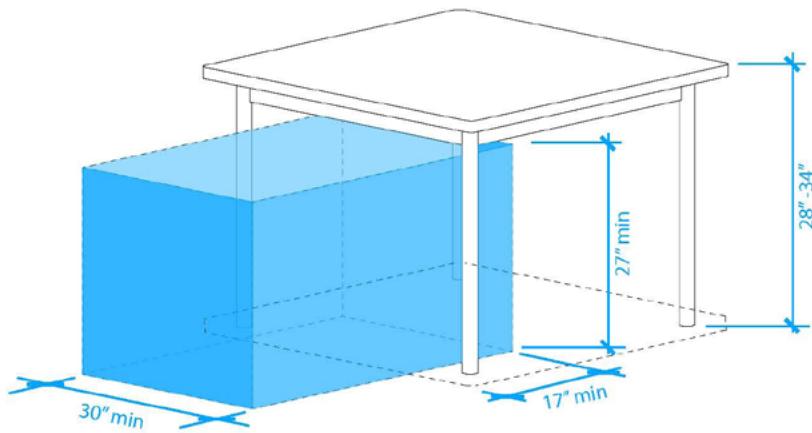
For people who rely on accessibility, being able to identify which elements of a place are designed for people with disabilities becomes second nature. For business owners and their decision-makers, on the other hand, it might not be as obvious. This appendix is designed to provide a brief layperson's understanding of



**Figure A.1: Accessible Route**

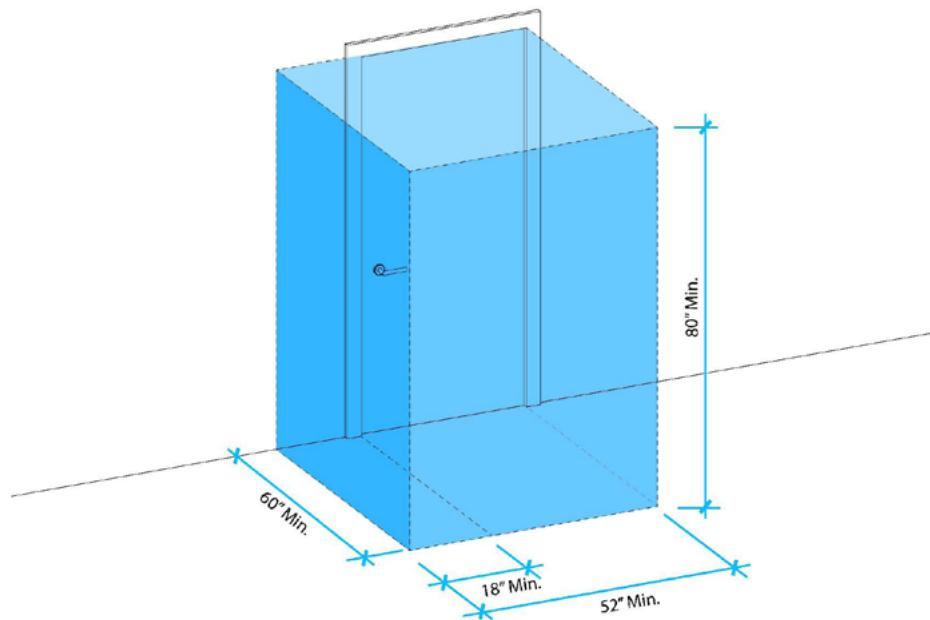
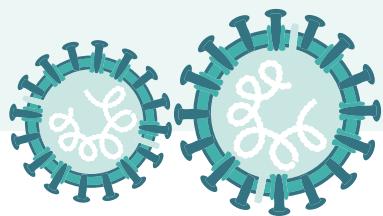
An accessible route describes the continuous, unobstructed path connecting all interior and exterior accessible features of a location, such as arrival point (whether it is from public transportation, parking, or pedestrian access), entrances and exits, and if provided, public restrooms, sales and service counters, tables and seating, etc.

An accessible route is typically 3 feet in width and should not have abrupt changes in level.



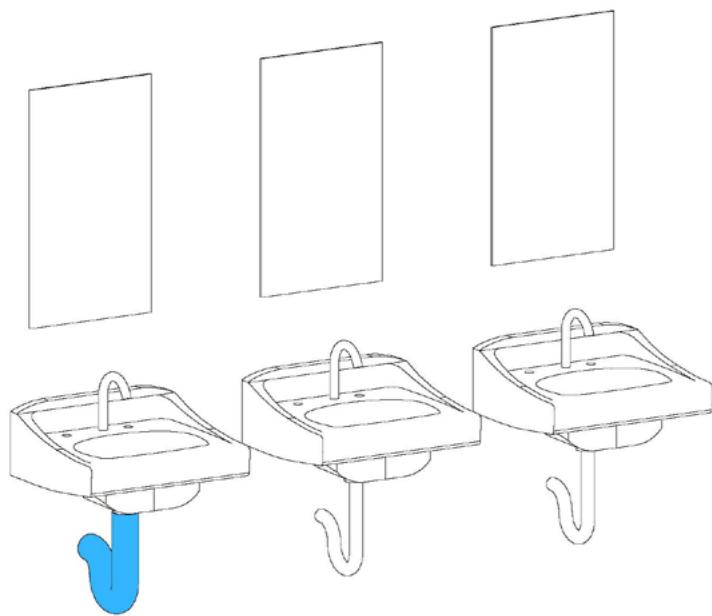
**Figure A.2: Accessible Tables**

An accessible table has a surface height of 28 - 34 inches above the floor. It must also have at least 27 inches of knee clearance between the floor and the underside of the table with at least 17 inches of depth (lap coverage). Remember, accessible tables and seating must be dispersed throughout in order to reflect each type provided (bar seating, patio seating, dining room, etc.).



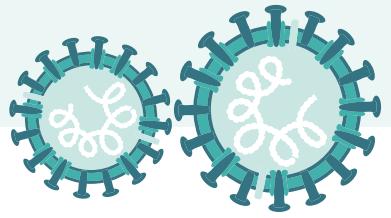
**Figure A.3: Door Maneuvering Clearance**

Door maneuvering clearance describes the unobstructed space necessary for someone with a disability to open a door. There must be 18 inches of clear floor space beyond the latch-side of the door and the approach must allow for 60 inches (5 feet) in depth.



**Figure A.4 Accessible Sinks**

An accessible sink has a maximum rim height of 34 inches above the floor and must provide adequate knee and toe clearance for a forward approach by someone using a wheelchair. Any exposed pipes must be protected from contact, which can be provided via wood panel or padded pipe insulation.



## Re-Opening your Business in a COVID World: Safeguarding Accessibility/ADA Compliance

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