

Section 3: Primary Function, Employee Work Areas, & Kitchens

1

TEXAS
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Barriers Program



Primary Function



2

106.5.45 Primary Function

"A major activity for which the facility is intended"

Examples:

- The customer service lobby of a bank
- The dining area of a cafeteria
- The meeting rooms in a conference center
- The examination rooms of a doctor's office
- Offices and other work areas in which the activities of the public accommodation or other private entity using the facility are carried out

3

Location of Major Activities

Primary function areas of a courthouse include:

- Courtrooms
- Jury rooms
- Offices
- Libraries



5

NOT a Primary Function Area

A coffee shop or restaurant is **not** a primary function area of a courthouse.



The coffee shop makes the building usable for the occupants but it is not a major activity for which the courthouse is intended.

6

Areas **not** containing a primary function*:

- Mechanical rooms
- Boiler rooms
- Supply storage rooms
- Employee lounges or locker rooms
- Janitorial closets
- Entrances
- Corridors
- Restrooms*

**Unless they are a major activity for which the building is intended.*

7

Exceptions to Definition

Restrooms are the major activity for which rest and safety stops are intended.



Restrooms are a primary function area in this case.

8

This is also true of a self-storage facility since storage is the major activity for the space is intended.



9

Example: Restaurant

The kitchen (employee work area) and dining areas are primary function areas of a restaurant.



10

Example: School

Classrooms and administrative offices (work areas) are primary function areas of a school.



11



12

Is the breakfast buffet and dining area of a hotel a primary function area?



Is dining a major activity for which a hotel is intended ?

13

Is a teachers lounge a primary function area of a school?



Is a lounge a major activity for which a school is intended?

14

Is a cafeteria used only for dining a primary function area of a school?



Is a cafeteria a major activity for which a school is intended ?

15

What if the cafeteria contains an auditorium and the room is also used as a study hall or for classroom activities?



Student education and social development are major activities for which a school is intended.

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202.4

Alterations Affecting PFAs



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202.3 Alterations

Where existing elements, spaces, or common use areas are altered, **each altered element**, space, or common use area shall comply with the applicable requirements of Chapter 2.

“Element by Element” = each element stands alone.


New work cannot be installed at less than the current requirement.

18

So...

Just replacing a lavatory, mirror, dispenser, or flooring would not trigger a requirement to bring an entire toilet room into compliance.

But every element that is altered in the room is required to comply.



20

But...

If the toilet rooms are required to be brought into compliance by [202.4 Alterations Affecting Primary Function Areas](#), the entire toilet room (and other Path of Travel Elements) must be made compliant.

because...

21

202.4 Alterations Affecting PFA

“An alteration that affects or could affect the usability of or access to an area containing a Primary Function shall be made so as to ensure that, to the maximum extent feasible, the [Path of Travel](#) to the altered area, including the [parking areas, restroom, telephone, and drinking fountains](#), are readily accessible to and usable by individuals with disabilities.”

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106.5.41 Path of Travel

- A continuous, unobstructed way of pedestrian passage
- The way an altered area is [approached, entered, and exited](#)
- [Connects the altered area](#) with:
 - An [exterior approach](#) (including sidewalks, streets, and parking areas)
 - An [entrance](#) to the facility
 - [Other parts](#) of the facility

24

106.5.41 Path of Travel

The **Path of Travel Elements** that serve a Primary Function Area are the:

- Accessible Route
- Parking
- Restrooms
- Telephones
- Drinking fountains

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Tenant Funding



28

202.4 Alterations Affecting PFA Exception 2

202.4 Exception 2 applies to alteration projects for private buildings and facilities (as defined by 106.5.46) which are **funded in their entirety by the tenant** with private funds...



...and do not have funding or monetary allowances / reimbursements / improvement funds **of any kind** provided by the landlord.

29

202.4 Alterations Affecting PFA

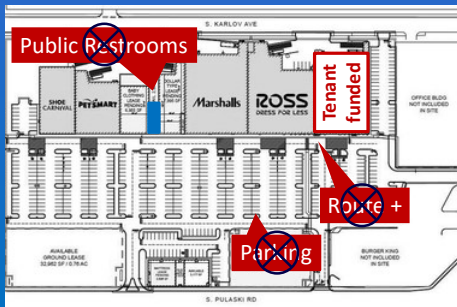
Exception 2

If a **tenant** is making alterations that would trigger the requirements of 202.4 (PFA):

The alterations by the tenant in areas that only the tenant occupies **do not trigger a path of travel obligation upon the landlord** with respect to areas of the facility under the landlord's authority (if those areas are not otherwise being altered).

30

Tenant Funded Project in Shopping Center



31

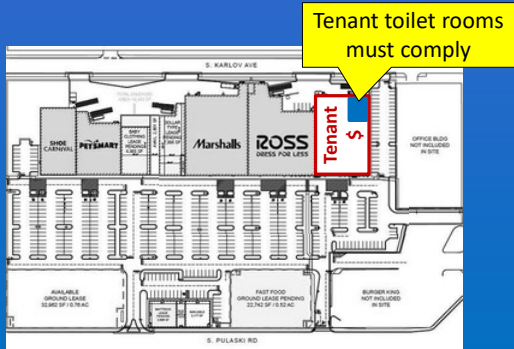
The tenant's construction project **does** remain subject to compliance with 202.4.

Therefore, any toilet rooms or other path of travel elements and spaces provided in areas that **the tenant occupies** or **under the tenant's authority** shall comply with all applicable provisions of the 2012 TAS.



32

Tenant Funded Project



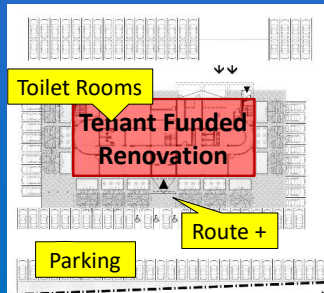
33

202.4 Alterations Affecting PFA Exception 2

Tenant funded
renovation of building.

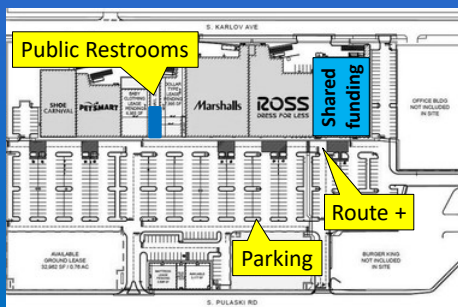
Entire facility under
tenant control.

Path of Travel Elements
must be made
compliant.

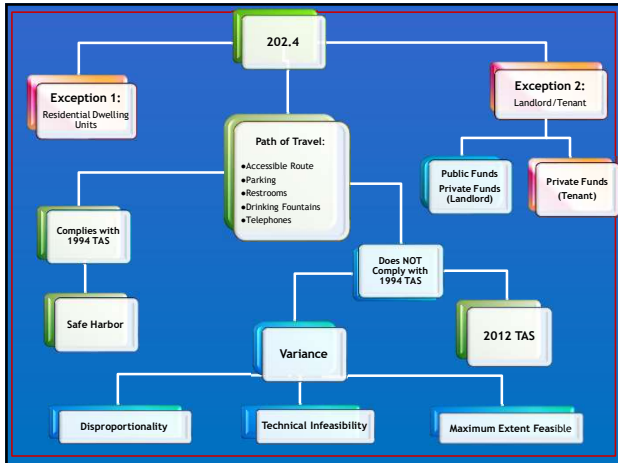


34

Shared Funding



35



36

The Project Registration Form (PRF) includes the question, **“Are the private funds provided by a tenant?”**

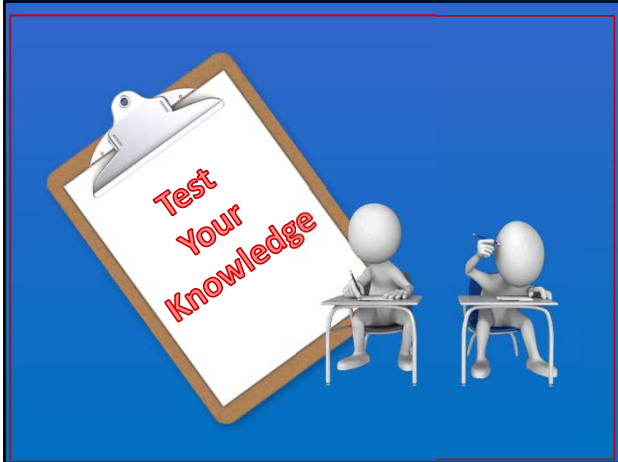
The answer provided by the individual completing the PRF is adequate documentation that the project is tenant-funded and eligible for Exception 2.

RAS are not responsible for investigating or enforcing the validity of information provided on the PRF.

37

Remember, the **owner** remains ultimately responsible to the Department for compliance with the Act, Rules, and 2012 TAS for the tenant's construction activities in accordance with Chapter 469.058(a).

38



39

Exercise: 202.3 New Toilet Room

Scope of Work:

A new common use toilet room is constructed in an existing office building.

The corridor to the bathroom is not altered.



40

202.3 New Toilet Room

Analysis:

The toilet room is not a primary function area of an office building, so it does not trigger Path of Travel elements compliance (202.4.)



41

202.3 Conclusion:

- The toilet room is required to be accessible (213.2)
- The new toilet room is not required to be on an accessible route since the circulation path to the toilet room was not altered.



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**Safe
Harbor**
(not "Grandfathered")



43

106.5.57 Safe Harbor

Both TDLR and DOJ have "**safe harbor**" provisions as it relates to compliance with the 2010 ADA and 2012 TAS.

Safe harbor is defined in TAS
106.5.57

44

106.5.57 Safe Harbor

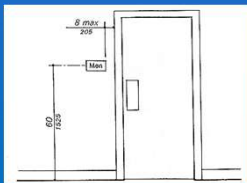
Elements of a path of travel at a subject building or facility that have been **previously constructed or altered in accordance with the April 1, 1994 TAS** are not required to be retrofitted to reflect the incremental changes in the 2012 TAS solely because of an alteration to a primary function area served by that path of travel.

Those elements would be subject to compliance with the 2012 TAS only **when the elements of a path of travel are being altered**.

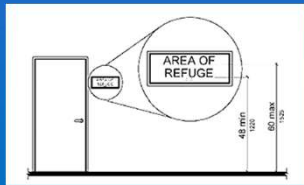
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Example: Safe Harbor

The 1994 TAS required that signs be mounted no higher than 60" to the centerline of the sign. The 2012 TAS, however, has much more specific and stricter requirements.



1994 TAS: Figure 43(e)



2012 TAS: Figure 703.4.1

46

If the existing sign is in full compliance with **mounting location and height** requirements of section 4.30.6 of the 1994 TAS and is not altered, the sign would not be required to comply with the location requirements of the 2012 TAS in 703.4.2 based on safe harbor.



This does not mean that the sign can violate other 1994 TAS requirements.

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Important

Safe Harbor **does not mean** that buildings or facilities are “grandfathered.”



It only means that existing elements that are in full compliance with the 1994 TAS will not be required to be brought into compliance with the 2012 TAS **until they are altered**.

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Safe harbor **does not apply** to any of the following since they were not previously covered by the 1994 TAS (or 1991 ADAAG):

Residential Facilities Dwelling Units	Saunas and Steam Rooms
Amusement Rides	Swimming Pools, Wading Pools, & Spas
Recreational Boating Facilities	Shooting Facilities with Firing Positions
Exercise Machines and Equipment	Team or Player Seating
Fishing Piers and Platforms	Play Areas
Golf Facilities	Bowling Lanes (Routes)
Miniature Golf Facilities	Court Sports (Routes)

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TM 2012-05

Technical Memorandum 2012 TAS
U.S. Department of Housing and Urban Development

Safe Harbor
Effective Date: January 22, 2013
2012 TAS Reference: 106.5.2

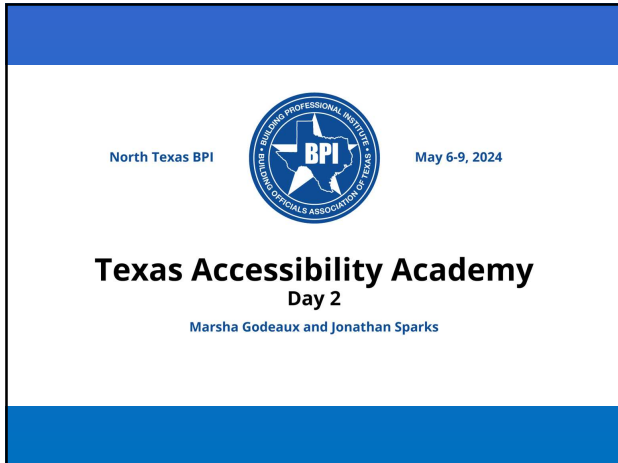
The following clarifications are provided to address variances issued for projects constructed under the 1994 TAS and that effect on safe harbor.

- 1994 TAS Variances.** Variances issued by the Department are only applicable to the EADPHU construction project for which they are issued and cannot be applied to any other construction project, including, but not limited to, any project constructed on or after March 15, 2012. In addition, information that an element or space constructed under the 1994 TAS may have been issued a variance does not mean that the element or space has been grandfathered under the 1994 TAS.
- Full Compliance with 1994 TAS.** Only elements and spaces in full compliance with the 1994 TAS are eligible for safe harbor. Thus, where an element or space was constructed, renovated, altered, or modified prior to March 15, 2012 but full compliance with the 1994 TAS was not achieved, that element or space does not fall within the scope of safe harbor.⁴⁹

⁴⁹ This information is based on a similar comment by the U.S. Department of Justice in the Guidance and Analysis for 28 CFR Part 36 Notice of Construction on the Basis of Disability in Public Accommodations and Commercial Facilities (as amended) by the final rule published September 15, 2010.

TM 2012-05 was issued on January 22, 2013 to clarify Safe Harbor.

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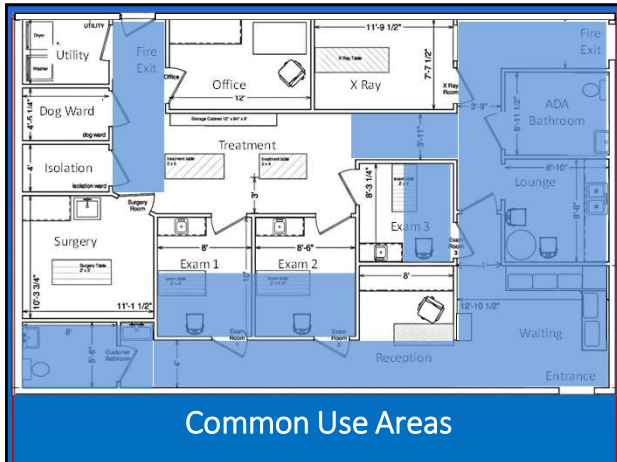
Common Use Areas

These are Common Use areas, NOT Employee Work Areas, and must be fully compliant...

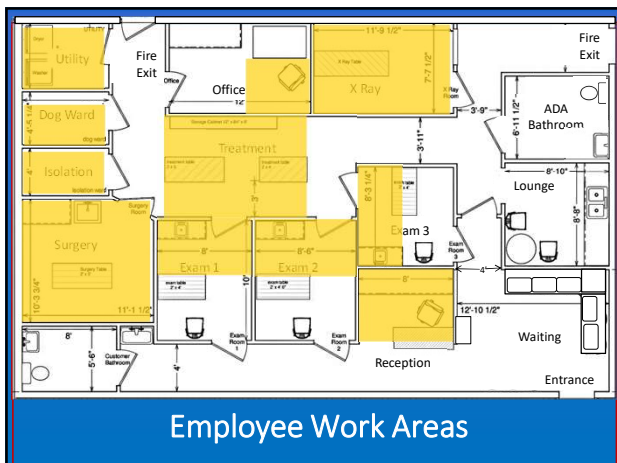
- Corridors
- Toilet rooms
- Kitchenettes
- Break rooms



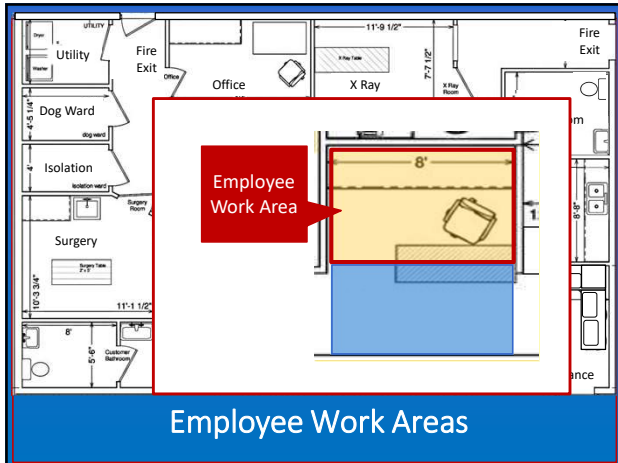
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Within Work Areas

Spaces and elements within employee work areas are required to comply with:

- 206.2.8 Circulation Paths
- 207.1 Accessible Means of Egress
- 215.3 Fire Alarm Systems

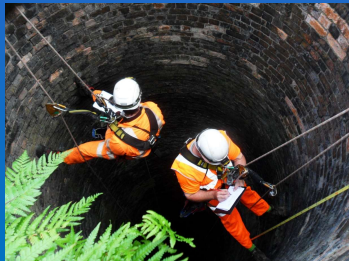
58

Employee Work Area

Along with having an accessible Common Use Circulation Path, employees must be able to:

- Approach
- Enter
- Exit

...work areas



61

Exam Sinks

This sink is not required by TAS to be accessible if used exclusively by employees for work related tasks.



63

203.9 EWA Exception

Employee Work Areas that are:

- Less than 300 square feet and
 - Elevated 7" or more a.f.f. and
 - The elevation is essential to the function of the space
- ...are not required to comply with 203.9



64

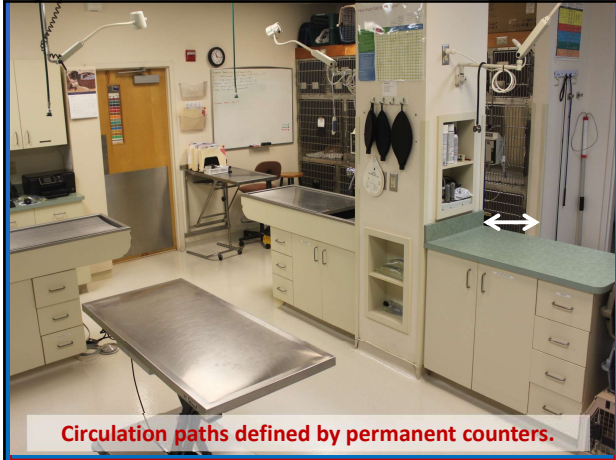
206.2.8 EWA Exception 1

Common use circulation paths located within employee work areas that are:

- less than 1000 square feet and
- defined by permanent partitions, counters, casework, furnishings...

... are not required to comply with the accessible route requirements of 402.

65



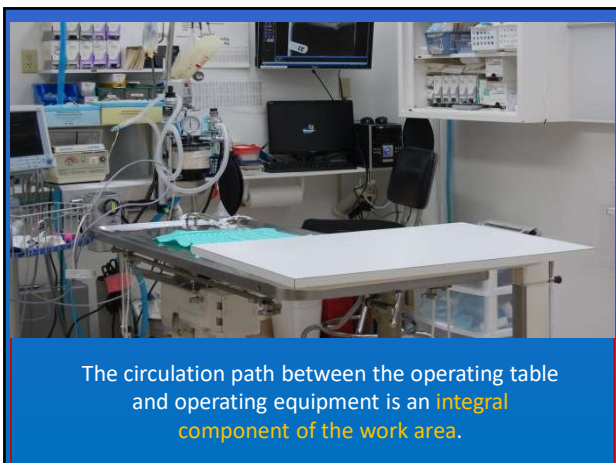
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206.2.8 EWA **Exception 2**

Common use circulation paths located within employee work areas that are an **integral component of work area equipment**

... are not required to comply with the accessible route requirements of 402.

67



68

Walking Surfaces **Exception**

403.5 Clearances

Within employee work areas, clearances on common use circulation paths shall be permitted to be decreased by work area equipment provided that...

69

...the decrease is essential to the function of the work being performed.



70

Ramps **Exception**

405.5 Clear Width

Within employee work areas, the required clear width of ramps that are a part of common use circulation paths shall be permitted to be decreased by work area equipment provided that...

...the decrease is essential to the function of the work being performed.

71

Ramps **Exception** 405.8 Handrails

On ramps that are part of a common use circulation path within an employee work area, handrails are not be required where ramps are **designed to permit the installation of handrails**.

72

TM 2013-21

Technical Memorandum 2012 TAS
U.S. Department of Homeland Security

Employee Work Areas
Effective Date: October 3, 2013
2013 TAS Reference:

Approach, Enter, and Exit
Employee work areas are required by TAS 203.9 to be designed and constructed so that individuals with disabilities can approach, enter, and exit the work area.

Based on documentation and information provided by the U.S. Access Board, "approach, enter, and exit" means that people using wheelchairs must be able to enter and back out of the space. This applies to all employee work areas except employee work areas that meet the elevation, size, and function requirements identified in TAS 203.9.

Employee work areas, doors, stairways, and gates, therefore, must comply with TAS 404 except the maneuvering clearance is limited to the "enter" side unless required for egress by TAS 203.9.

Common Use Circulation Paths
In addition to the approach, enter, and exit requirements of TAS 203.9, employee work areas must also comply with the circulation path requirements of TAS 206.2.8.

Based on TAS 206.2.8, common use circulation paths located within employee work areas must comply with the accessible route requirements of TAS 401.401 unless the circulation path meets one of the Exceptions in TAS 206.2.8. The term "circulation path" is defined in TAS 106.5.10.

This means that walks, hallways, and other exterior and interior pedestrian routes connecting other work areas, spaces, and elements within employee work areas must meet the accessible route exception. These are, however, exceptions for walking surfaces and ramps in TAS 401.3, 401.5, or 401.8.

Domestic Facilities
Domestic facilities used exclusively by employees shall be considered employee work areas based on TAS 201.1. Therefore, they must comply with TAS 203.9. The common use circulation path to the domestic facilities, however, shall not be required to comply with TAS 401.401 if the employee work area is fully exposed to the weather based on TAS 206.2.8, Exception 3.

Automotive Work Pits
An accessible route shall not be required to automotive work pits used exclusively by employees if the building or facility meets one of the Exceptions in TAS 206.2.3 based on TAS 201.10(c).

TM 2013-21 was issued on October 3, 2013 to clarify 203.9, 206.2.8, and Employee Work Areas.

73



74



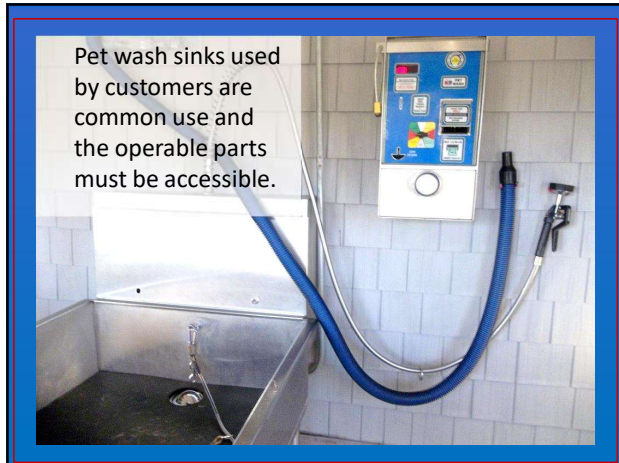
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83

TEXAS
ACCESSIBILITY
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Kitchen or Not

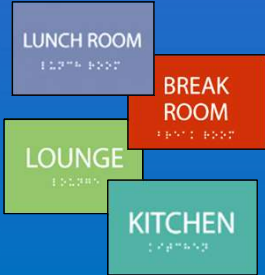


84

Objective:

Compliance with TAS 804 has nothing to do with the way the room or space is referenced or labeled. It is based on **the elements provided** in the space.

To determine when compliance with **TAS 804 Kitchens and Kitchenettes** is required.



85

For example... each of these spaces is identified by a name, but it is the **elements in these spaces** that may trigger compliance with TAS 804



Conference Room



Hotel Guest Room



Waiting Room



Break Room

86

804 Kitchens & Kitchenettes

A place with **cooking facilities** used to cook food is a kitchen and must comply with 804 (Kitchen and Kitchenettes).



87

Definition and Types

Appliances used to cook food include a:

- Range
- Oven
- Cooktop
- Microwave Oven
- Convection Oven
- Grill



88

Fixed or Built-In?

We need to determine if the cooking facility is fixed or built-in because **only fixed or built-in elements** must comply with TAS 804...



89

"Fixed or Built-In"

An appliance is fixed or built-in if it is:

- Attached to a cabinet, shelf, or wall
- Connected to plumbing or gas
- Hardwired to electricity



90

Built-In Ovens

Cabinetry design and trim creates a dedicated space for both ovens, or the ovens are attached to the cabinet.



91

Fixed/Built-in Cooktop



Appliance is attached to counter.

92

Fixed / Built-In Gas Range



Cabinetry creates a dedicated space for the range and the appliance is connected to gas.

93

In Summary

A space with at least one of the following **fixed or built-in cooking facilities** is subject to compliance with TAS 804 (Kitchens and Kitchenettes):



- Range
- Oven
- Cooktop
- Microwave Oven
- Convection Oven
- Grill

94

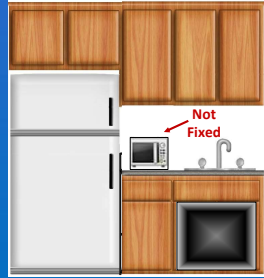
Kitchen?



95

Spaces Without Fixed or Built-In Cooking Facilities

Spaces **without** fixed or built-in cooking facilities are **not** required to comply with TAS 804.



96

Sinks: Scoping & Technical

There are two sections with requirements for sinks:

- **212.2** Sinks in Kitchens & Kitchenettes must comply with **804**
- **212.3** Sinks not in Kitchens: 5% or one of each must comply with **606**



97

212.3 Sinks (not in kitchens)

Where sinks are provided, at least **5%**, but no fewer than **one of each type** provided in each accessible room or space shall comply with **606**.



98

804.4 Sinks in Kitchens & Kitchenettes

There are no scoping limits in 212.2 Kitchens & Kitchenettes, so **ALL kitchen sinks** must comply with TAS 606.



99

212.3 Sinks Exception

Mop or service sinks are not be required to comply with 212.3 (or 606).



100

606.2 Clear Floor Space Exception 1

"A **parallel approach** complying with 305 shall be permitted to a kitchen sink in a space where a **cook top or conventional range** is NOT provided."



101

606.2 Clear Floor Space - Ex 1

REWORDED

When a kitchen has a **Cooktop** or a **Conventional Range**, a forward approach to the sink is required.

When other cooking facilities are present, either a forward or parallel approach to the sink may be used.

102

606.2 Clear Floor Space Exc. 1

A **parallel approach** complying with 305 is permitted to sinks in wet bars, but *what is a wet bar?*

"A space used only for mixing drinks that contains a bar sink with running water."



103

Summary: Kitchen Sinks

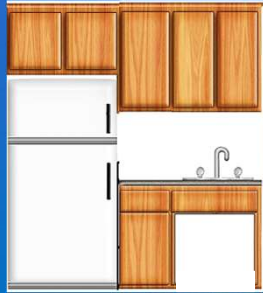
- A space with a **fixed or built-in cooking facility** is a **kitchen** and must comply with 804 (Kitchens).
- Kitchen sinks must comply with 606 (**forward approach**, sink height...) if there is a range or cooktop.
- A **parallel approach** is allowed to the kitchen sink (606.2 Exception 1) when there isn't a cooktop/range.



104

Summary: Other Sinks

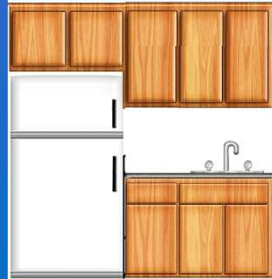
- A space with **no fixed or built-in cooking facilities** is **not a kitchen** and is not subject to compliance with 804.
- **5%** but no fewer than one of each type of sink must comply with 606 (**forward approach**, sink height, reach ranges...)



105

Summary: Other Sinks

- A **parallel approach** is allowed to a sink at a wet bar.
- Service and mop sinks are not subject to 212.3 (or 606)



106

Why we care if it's a kitchen...

Reason #2: Storage



TAS 804.5
TAS 225.2

107

Storage

804.5 Storage

Applicable to spaces subject to 804
(Kitchens and Kitchenettes)

225.2 Storage

Applicable to all other spaces with storage

108

804.5 Storage In Kitchens & Kitchenettes

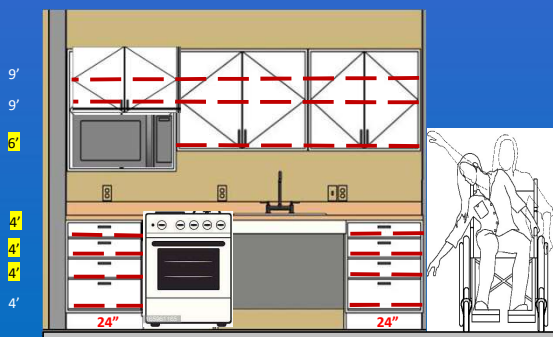


At least 50% of shelf
space in storage
facilities (in kitchens)
shall comply with 811
Storage*.

*811 Storage:
Clear Floor & Ground Space, Reach Ranges, Operable Parts

109

Calculate by Linear Feet



This kitchen has 40 l.f. of storage

110

Counter surfaces shall not be considered “shelf space” nor used to satisfy the requirements of 804.5 (Storage).



111

NOT A KITCHEN- Storage

Where storage is provided in accessible spaces, **at least one of each type** shall comply with 811.



112

NOT A KITCHEN- Storage

Where storage is provided in accessible spaces, **at least one of each type** shall comply with 811.



113

Go To Your Sinks Handout

Sinks & Storage in Kitchen, Breakrooms, and Wet Bars

Type of Facility	Kitchen or Bar	Sink	Sink Approach	Storage
Area with fixed or built-in cooking or conventional range	Kitchen	606	Only Forward 606.2	212 & 606.5
Area with fixed or built-in (Oven, Microwave, Convection Oven (no cooktop or range))	604	Lavatories and Sinks	Forward 606.2 or Parallel 606.2 Ex 1	50% of shelving must comply w/611
Area with cooking facility not fixed (e.g., microwave not fixed)	Not a kitchen	606	Only Forward 606.2	212-one of each type must comply w/611
Area with no cooking facility	Lavatories and Sinks	606	Only Forward 606.2	212 & 606.5
Bar with fixed cooking facility	Kitchen	606	Only Forward 606.2	50% of shelving must comply w/611
Bar w/sink and no cooking or dishwasher. A bar sink and grill for mixing drinks.	It is a wet bar. Not a kitchen	606	Forward 606.2 or Parallel 606.2 Ex 1	212-one of each type must comply w/611
Bar w/sink and cooking facility that is not fixed (e.g., countertop microwave)	Not a kitchen	Lavatories and Sinks	Only Forward 606.2	

606 Lavatories and Sinks

606.2 Clear Floor Space. A clear floor space complying with 305, positioned for a forward approach, and knee and toe clearance complying with 306 shall be provided.

606.2 Ex 1: A parallel approach complying with 305 shall be permitted to a kitchen sink in a space where a cook top or conventional range is not provided and to wet bars.

212.4 Kitchens and Kitchensettes

Kitchens and Kitchensettes shall comply with 604.

604 Kitchens and Kitchensettes

604.5 Storage. At least 50 percent of shelf space in storage facilities shall comply with 611.

212 Storage

212.5 Storage. Where storage is provided in accessible spaces, at least one of each type shall comply with 611.

It's around page 14 in your handout folder.

114

Your Take On It

This space has a sink, storage, and operable parts. The microwave is fixed and there is a range.



What's Required?

115

Your Take On It

This space has a sink, storage, and operable parts. The microwave is fixed but no range.



What's Required?

116

Your Take On It

What is it?

Alternate views of same room.

117

Your Take On It

What if we built in the microwave?

118

TM 2013-22 and 23

TM 2013-22 and 2013-23 were issued on October 3, 2013 to address storage in Kitchens and in areas that are not Kitchens.

119

TM 2012-09

Technical Memorandum

2012 TAS

State Department of Licensing and Regulation

Administrative Services

Employee Break Rooms

TM 2012-09

Page 2 of 2

Effective Date: January 22, 2013

2012 TAS Reference: 212 and 804

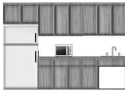
An employee break room **shall** be a room or suite in which a break room is not considered a kitchen or kitchenette. Therefore, they are not subject to compliance with the requirements of 212 and 804. The break room, however, shall comply with applicable provisions of TAS based on the elements provided.

Example

The break room shown in the illustration has a counter, sink, storage appliance (refrigerator, microwave), and storage. The following is a general analysis of the compliance requirements for these elements:

- **Storage:** Must comply with 212 and 804.
- **Sink:** Must comply with 212.3 and 804.4.
- **Counter:** Must comply with 212.3 and 804.4.
- **Appliance:** Must comply with 212.3 and 804.4.

This example and analysis is only general in nature and not intended to imply that break rooms are except other requirements of TAS.



TM 2012-09 was issued on January 22, 2013 to address Employee Break Rooms and Kitchens.

120

TM 2013-18

Technical Memorandum

2013 TAS

State Department of Licensing and Regulation

Administrative Services

Sinks

TM 2013-18

Effective Date: June 1, 2013

2013 TAS Reference: 212.3 and 804.4

Kitchens / Kitchenettes with Sinks

If a sink is provided in a space that is subject to compliance with TAS 804 (Kitchens and Kitchenettes), the sink must comply with TAS 804 based on TAS 804.4 (Sinks). Sinks provided in these spaces shall be considered "kitchen" sinks.

Other Spaces with Sinks

With the exception of prep and service sinks, sinks provided in other subject spaces must comply with TAS 804 based on TAS 212.3 (Sinks). Sinks provided in these spaces shall 2012 be considered "kitchen" sinks.

These clarifications do not constitute a substantive change to the compliance requirements of TAS 212.3 or 804.4.

TM 2013-18 was issued on June 1, 2013 to clarify TAS 212.3 and TAS 804.4, Kitchens and Other Spaces with sinks.

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