

## Understanding ADA Title II Web Accessibility Exceptions

The ADA Title II web accessibility rule recognizes that not all digital content must be immediately remediated. However, exceptions are limited and specific, and municipalities remain responsible for ensuring access to programs, services and activities.

Understanding the following exceptions helps municipalities plan effectively and avoid common compliance mistakes.

1. Certain archived web content may be exempt if *all the following are true*:

- The content was created before the compliance date
- It is retained solely for recordkeeping or reference
- It is not actively used to provide services
- It is not updated or linked from current pages

If archived content is needed to access a service, meet a deadline, or understand rights or obligations, it must be made accessible upon request.

2. Content posted *before* the compliance date, that is:

- Created by a third party
- Not controlled or modified by the municipality may qualify for an exception.

If a municipality chooses to continue using third-party content to deliver services *after* its compliance date, it must ensure accessibility or provide an accessible alternative.

3. A municipality may claim an undue burden only if it can demonstrate that full compliance would result in significant difficulty or expense.

- Undue burden determinations must be made by senior leadership
- Decisions must be documented in writing
- Budget constraints alone are not sufficient
- Even when an undue burden exists, reasonable alternative access must still be provided

4. If making content accessible would fundamentally alter the nature of a service or program, an exception may apply. This is rare and must be carefully evaluated, fully documented and approved at a high administrative level

Municipalities remain legally responsible for accessibility regardless of who built or manages the website or app. The following DO NOT EXEMPT municipalities from compliance:

- Lack of staff or technical expertise
- Reliance on third-party vendors
- Budget limitations without documentation
- Waiting until a complaint is filed