

ACCESSIBLE BUSINESS ENTRANCE PROGRAM: A GUIDE FOR SMALL BUSINESS OWNERS

BACKGROUND

San Francisco is a city with many hills, steep streets, narrow sidewalks and stock of small, old mixed-use buildings. As a result, the build environment means many entryways are not compliant with federal and state disability access requirements. Through the Accessible Business Entrance Program (ABE)), the City and County of San Francisco is taking a step forward in helping property owners better comply with Federal and State disability access laws and ensuring the civil rights of individuals with disabilities are upheld.

An interagency group is collaborating to streamline processes for complying with the ordinance and other construction-related disability access laws. As a building code addition, the group is directed by Department of Building Inspection (DBI) in consultation with the Planning Department for historic preservation, San Francisco Public Works for sidewalk modifications, Access Appeals Commission for unreasonable hardship and technical infeasibility requests, Mayor's Office on Disability for expertise in disability access standards and Office of Small Business (OSB) for assistance to businesses on ADA and accessibility requirements.

Per Section 1113D.1 of Ordinance No. 51-16, the interagency group will, "develop and implement (1) outreach tools, (2) pre-screening procedures, (3) methods to streamline the process, (4) proposed Code revisions, and (5) administrative bulletins, brochures, checklists, and guidelines or other documents to implement the purpose and objectives" of the ordinance."

SMALL BUSINESS SUPPORT SERVICES

The ABE assigns compliance to the property owner. However, some property owners will choose to pass the responsibility to their tenants, usually due to disability access and/or code compliance provisions in the lease. If you are a small business tenant who has to comply with the ABE or a small business who owns your property, the Office of Small Business is here to help. We will assess each business' situation to determine the proper steps forward, including identifying financial and resources available and connecting with other departments involved.

Small businesses should review the information in this resource and contact OSB for assistance.

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www.sfosb.org/accessible-business-entrance-program

PROGRAM OVERVIEW AND COMPLIANCE

- The Accessible Business Entrance Program was created by [Ordinance No. 51-16](#) (Mandatory Disability Access Improvement), passed by the Board of Supervisors in April 2016, effective May 22, 2016. The program requires property owners of buildings with places of public accommodation to make primary entrances and entrance routes into the building accessible to people with disabilities.
- Property owners are required to submit one of the following forms to DBI:
 1. [Pre-Screening Form](#) for exempt buildings. There are four exemptions: (1) Buildings built on or after 2002; (2) Buildings or businesses owned and operated by religious organizations; (3) “Bona fide” private clubs; and (4) Buildings without places of public accommodation. Residential buildings with no commercial spaces should submit this form to DBI.
 2. [Waiver Form](#) for buildings that were brought into compliance through a previous building permit or will be completed prior to the compliance deadlines.
 3. [Category Checklist Compliance Form](#) in consultation with a Certified Access Specialist (CASp), licensed architect or engineer.
- A place of public accommodation is a facility whose operations affect commerce and fall within one of the following 12 categories.

Places of Public Accommodation	
1. Places of lodging (hotels).	7. Public transportation terminals, depots, or stations.
2. Establishments serving food or drink (restaurants, bars).	8. Places of public display or collection (museums, libraries).
3. Places of exhibition or entertainment (theaters, concert halls, stadiums).	9. Places of recreation (parks, zoos).
4. Places of public gathering (auditoriums, convention centers).	10. Places of education (schools).
5. Sales or rental establishments (bakeries, hardware stores).	11. Social service center establishments (day care centers, food banks).
6. Service establishments (laundromats, beauty salons, gas stations).	12. Places of exercise or recreation (gyms, health spas).

- For help determining whether your business is a place of public accommodation, review the [ADA Title III Technical Assistance Manual](#) or call the Department of Justice ADA line at 1-800-514-0301.

PROGRAM OVERVIEW AND COMPLIANCE (CONT.)

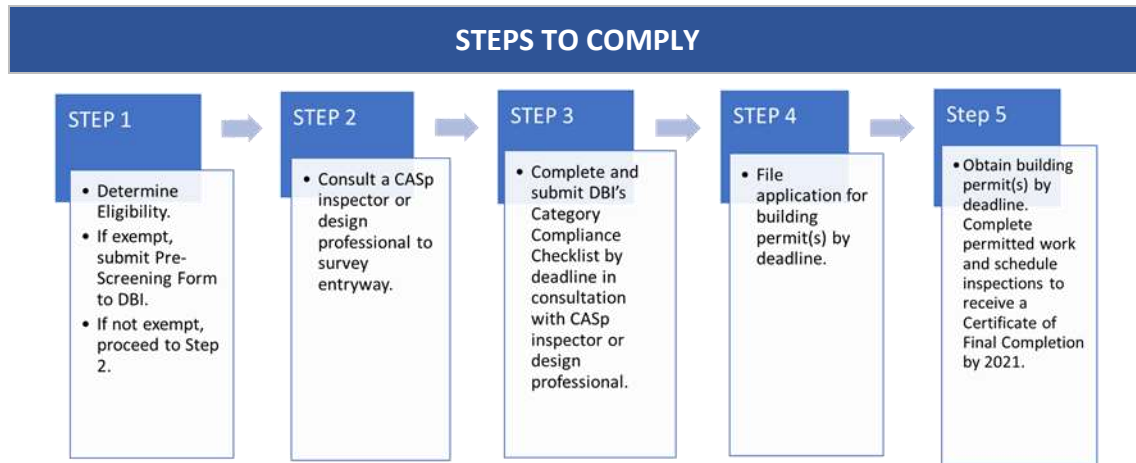
- If the property owner is unable to fix the entrance due to unreasonable hardship, a building permit may be submitted to DBI and will require approval by a Plan Reviewer and ratification by the Access Appeals Commission. Non-structural technical infeasibilities may be approved by DBI. For unreasonable hardships and technical infeasibilities, an alternate method of providing goods and services to persons with disabilities is required.
- Property owners should review DBI’s [Information Sheet DA-17](#) and webpage: <http://sfdbi.org/businessentrance> and contact DBI directly for assistance: in-person at 1660 Mission Street, 1st Floor, Window #8, by phone (415) 558-6128 or email dbi.businessentrance@sfgov.org.
- Buildings fall into one of four categories ranging from fully accessible to major barriers to entry. Property owners are responsible for meeting the following compliance schedule and steps to comply.

CATEGORY COMPLIANCE LEVEL	
Category I	Building entrance has no steps, no barriers and is in compliance.
Category II	Building entrance has no steps, but has minor barriers. <ul style="list-style-type: none"> • Businesses are encouraged to conduct a self-assessment of the primary entryway: Doorway size is at least 36” wide and 6’8” in height; Door hardware operable with one hand, single motion, no grasping or twisting of the wrist; Door hardware is between 30” and 44” above the floor on both sides of the door; Level landings on both sides of the door.
Category III	Building entrance has one step.
Category IV	Building entrance with more than one step and other major barriers to the entry.

CATEGORY COMPLIANCE SCHEDULE*			
Category	Submit compliance checklist and specify option	File application for required building permit(s)	Obtain required building permit(s)
Category I	January 1, 2019	N/A	N/A
Category II	January 1, 2019	April 1, 2019	April 1, 2020
Category III	June 1, 2019	September 1, 2019	September 1, 2020
Category IV	December 1, 2019	March 1, 2020	March 1, 2021

**This schedule has been revised to reflect legislation the compliance deadlines.*

PROGRAM OVERVIEW AND COMPLIANCE (CONT.)



- Property owners must provide 30 days' written notice to the business tenant if a building permit is required to alter the entryway or sidewalk.
- Historical Buildings: For information regarding alterations to commercial storefronts, including those over fifty years old, please consult SF Planning's [Checklist to Alterations to Commercial Storefront for Accessibility](#). For questions, contact Preservation Planner Michelle Langlie at michelle.langlie@sfgov.org or 415-575-8765.
- Sidewalk Improvements: Property owners must consult with San Francisco Public Works, Bureau of Street Use and Mapping for guidance regarding sidewalk modifications and encroachments to the public right-of-way. Contact [SF Public Works](#) at 1155 Market Street, 3rd Floor or call 415-554-5810.
- Certified Access Specialists: For a list of CASp inspectors serving San Francisco, visit OSB's resource, "[Database of CASp inspectors Serving San Francisco](#)." It is important to shop around to find one that fits your needs and budget. Further, this person must be knowledgeable with San Francisco Building Code (DBI) historic preservation (Planning Department) and sidewalks modifications (SF Public Works). Many licensed design professionals skilled in other areas may not be familiar with the intricacies of complying with disability access laws. *Note: View OSB's "Selecting a CASp Inspector" resource on our ADA Resources webpage.*

OUTREACH AND EDUCATION

- Department of Building Inspection mailed notices beginning November 2017 to owners of commercial and residential buildings. A final notice of compliance was mailed in early September 2019 for compliance by

the final deadline, December 1, 2019.

- The ABE interagency working group is conducting ongoing workshops for property owners, small businesses, design professionals and other stakeholders. Visit DBI's [webpage](#) to learn about upcoming workshops.
- The Office of Small Business is hosting workshops for small businesses on the small business perspective of the ordinance, legal implications of local, state and federal disability laws and financial and legal resources available to small businesses. Visit OSB's [website](#) for information about upcoming workshops.

SMALL BUSINESSES AND TENANTS

- This ordinance was created, in part, to help curb the issue of “drive-by” ADA lawsuits brought to San Francisco small businesses with barriers, such as steps to the entryway. By hiring a Certified Access Specialist (CASP) to do a CASp report of barriers at your business and take steps to CASP's remove barriers, businesses can reduce exposure to access lawsuits and gain protections during litigation.
- Small businesses owners and tenants should contact the Office of Small Business for assistance regarding financial and legal resources: in-person at City Hall Room 110, by phone 415-554-6134 or by email sbac@sfgov.org. Visit OSB's program webpage: <http://sfosb.org/accessible-business-entrance-program>.

Small Business Support Services Offered at Office of Small Business

- Individualized case management to navigate compliance.
- Clarity on compliance procedures, timelines and forms.
- Explain property owner vs. business tenant responsibilities.
- Financial and legal resources (e.g. ADA tax credits, lease review services).
- Identify a Certified Access Specialist or design professional to survey entrance and fill out forms.
- Navigate overlay of ABE with Federal and State accessibility laws.

- Small businesses are advised to review their lease agreements for accessibility and code compliance provisions. Consult with a commercial lease advisor or ADA attorney for help.
- Although this ordinance is the responsibility of the property, ADA access is ultimately a shared responsibility between the property owner and tenant. Small businesses can go a long way to minimize risk and limit exposure to lawsuits by taking proactive steps to hire a CASp to identify barriers. The majority of who sue for ADA non-compliance are serial litigants who generally sue for readily achievable upgrades. Visit OSB's ADA resources webpage for information: <http://sfosb.org/ada-resources-your-small-business>.

CONTACT INFORMATION

<p><u>Department of Building Inspection</u> ABE Webpage: http://sfdbi.org/businessentrance Information Sheet DA-17: http://sfdbi.org/sites/default/files/IS%20DA-17.pdf 1660 Mission Street, 1st Floor, Window #8 San Francisco, CA 94103 Phone: (415) 558-6128 Email: dbi.businessentrance@sfgov.org</p>	<p><u>Planning Department</u> Planning Information Center (PIC) 1660 Mission Street, 1st Floor San Francisco, CA 94103 Phone: (415) 575-8765 Email: michelle.langlie@sfgov.org Website: http://sf-planning.org</p>
<p><u>Access Appeals Commission</u> Department of Building Inspection 1660 Mission, 1st Floor San Francisco, CA 94103 Phone: (415) 558-6110 Website: http://sfdbi.org/access-appeals-commission</p>	<p><u>San Francisco Public Works</u> Bureau of Street-Use & Mapping Permit Section 1155 Market Street, 3rd Floor San Francisco, CA 94103 Permit processing hours: 7:30am-4:00pm Office hours: 8:00am-5:00pm Phone: (415) 554-5810 Website: http://sfpublicworks.org/services/permits</p>
<p><u>U.S. Department of Justice (Federal)</u> ADA Business Connection ADA Guide for Small Businesses Phone: Talk to an ADA Specialist: 800-514-0301 Website: http://www.justice.gov</p>	<p><u>Mayor's Office on Disability</u> 1155 Market Street, 1st Floor San Francisco, CA 94103 Phone: (415) 554-6789 Email: mod@sfgov.org Website: http://sfgov.org/mod</p>
<p><u>Office of Small Business</u> ABE Webpage: http://sfosb.org/accessible-business-entrance-program ADA Resources: http://sfosb.org/ada-resources-your-small-business</p> <ul style="list-style-type: none"> • Database of CASp inspectors Serving SF. • Selecting a CASp Inspector. • Laws that Govern Access Requirements--Federal, State, Local. <p>City Hall, Room 140 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Phone: 415-554-6408 Email: rhea.aguinaldo@sfgov.org *Consultation by walk-in, appointment or by phone 8:00am-5:00pm, Monday-Friday.</p>	

9/11/2019