

City and County of San Francisco

San Francisco Public Works



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**Public Works Order No: 200405**

**ACCESSIBLE BUSINESS ENTRANCE PROGRAM STANDARD**

ADOPTING THE ACCESSIBLE BUSINESS ENTRANCE PROGRAM STANDARD PLAN NOS. 112,442 THROUGH 112,445 AND ALLOWING THE CITY ENGINEER, PUBLIC WORKS DISABILITY ACCESS COORDINATOR (DAC), OR THEIR DESIGNEE TO GRANT APPROVAL OF SIDEWALK IMPROVEMENT PLANS IN ACCORDANCE WITH SAN FRANCISCO BOARD OF SUPERVISORS ORDINANCE NO. 51-16: MANDATORY DISABILITY ACCESS IMPROVEMENTS, ACCESSIBLE BUSINESS ENTRANCE PROGRAM STANDARD.

**I. PURPOSE**

This Public Works Order adopts the following:

- A. Requirements for the adjustment and relocation of municipal and private utilities in order to modify existing sidewalks in accordance with this Standard.
- B. Accessible Business Entrance Program Standard (ABES).
- C. Procedures for granting exceptions or accepting alternatives to this Standard under the provisions of the following:
  - 1. California Code of Regulations (CCR) Title 24, Part II; California Building Code.
  - 2. 28 CFR Part 35; Title II, and Part 36; Title III of the Americans with Disabilities Act of 1990 (ADA) as amended effective March 15, 2011, and the 2010 ADA Standards for Accessible Design, effective March 15, 2012.
- D. Guidelines for Public Works to grant exceptions or accepting alternatives to this Standard.

**II. REFERENCE STANDARDS**

- A. San Francisco Public Works Code including, but not limited to:
  - 1. Article 2.4- Excavation in the Public Right-Of-Way
  - 2. Article 4.2- Stormwater Management



3. Article 15, Section 706- Owners of Frontage Responsible for repair- liability for unsafe conditions
- B. Public Works Order No. 187,005, Regulations for Excavating and Restoring Streets in San Francisco, which applies to sidewalks and streets within Public Right-of-Way including utility boxes, vaults, and manholes that may need relocation or adjustment.
- C. Public Works Order No. 184,350, Establishing Regulations and Guidelines for the Evaluation and Construction of New Curb Ramps or Reconstruction/Upgrade of Existing Curb Ramps and Additional Pedestrian Safety Improvements When Street Excavations Occur at Angular Returns or in the Crosswalk.
- D. Public Works Order No. 185,854, Accessible Street Crossing Standard, including accessible street crossing standard plans.
- E. Public Works Standard Plans, current edition, including but not limited to the following:
  1. Accessible Street Crossing Standard Plans RX-1 through RX-11 (File No. 102,854 through 102,864).
- F. Public Works Standard Specifications, current edition, including but not limited to the following:
  1. Part 2: Streets and Highways including but not limited to Section 202- Concrete Curb, Section 203- Concrete Curb and Gutter, Section 204- Concrete Sidewalk
  2. Part 8: Concrete, Metalwork, Painting and Miscellaneous, Section 800 Portland Cement Concrete and Related Materials and Work
- G. Public Works Standard Specifications and Plans are available through the following link:
  1. <https://sfpublicworks.org/services/standards-specifications-and-plans>
- H. California Code of Regulations (CCR) Title 24, Part II; California Building Code.
- I. 28 CFR Part 35; Title II of the Americans with Disabilities Act of 1990 (ADA) as amended effective March 15, 2011, and the 2010 ADA Standards for Accessible Design, effective March 15, 2012.
- J. 28 CFR Part 36; Title III of the Americans with Disabilities Act of 1990 (ADA) as amended effective March 15, 2011, and the 2010 ADA Standards for Accessible Design, effective March 15, 2012.

### III. PERMITS

- A. Applicable permits required through the Bureau of Street Use and Mapping (BSM) and Department of Building Inspection (DBI) include, but are not limited to, the following available on the Public Works website <https://sfpublicworks.org/services/permits>:
  1. BSM Minor Encroachment Permit.
    - a. Typical examples include sub-sidewalk basements, fences, retaining walls, steps, raised planters, sidewalk warping, level landings, railings, etc. constructed in the public right-of-way (ROW).
    - b. This permit typically is recorded against the property.

2. BSM Sidewalk Repair Permit.
    - a. This responsibility includes making repairs as needed when a sidewalk is damaged.
    - b. Reference Public Works Code Section 708- Sidewalk Improvement.
  3. BSM Street Improvement Permit.
    - a. Construction work that impacts sidewalk, curb and gutter, pavement, or any other facilities in the ROW.
    - b. Performing work on or near any new or existing sub-sidewalk basement.
  4. DBI Sub-sidewalk Basement Permit.
    - a. Submit building permit application form and plans to the Department of Building Inspection, Over the Counter (OTC) intake located at 1660 Mission Street.
    - b. Public Works may require information on the extent of the basement structure including dimensions, plans, sections, and details for its permit review.
- B. Requirements for the adjustment and relocation of municipal and private utilities. Public Works shall require an applicant for all permits referenced above to coordinate directly with the utility liaison for the adjustment and relocation of municipal (Public Works, SFMTA, SFPUC, etc.) and private (PG&E, AT&T, Comcast, etc.) utilities.
1. Permittees shall bear all costs to adjust or relocate municipal utilities and infrastructure.

**IV. ACCESSIBLE BUSINESS ENTRANCE PROGRAM STANDARD PLANS**

- A. This Order hereby adopts the Accessible Business Entrance Program standard plans numbered:

File No.  
112,442  
112,443  
112,444  
112,445

- B. Permits issued after January 1, 2019 shall be designed and constructed in accordance with the Accessible Business Entrance Program Standard and BOS Ordinance No. 51-16.

**V. PROCEDURE FOR REQUESTING AN ALTERNATE METHOD OF COMPLIANCE, EXCEPTION, UNREASONABLE HARDSHIP OR EQUIVALENT FACILITATION TO ACCESSIBLE BUSINESS ENTRANCE PROGRAM STANDARD**

The City Engineer, Public Works Disability Access Coordinator (DAC), or their designee may grant approvals of an alternate method of compliance, exception, unreasonable hardship or equivalent facilitation to the Accessible Business Entrance Program Standard (ABES).

- A. An Applicant seeking an exception to the ABES as it relates to a minor encroachment permit application and any other permits that the Department requires shall submit to BSM an ABES

Exception Request addressed to the City Engineer and Public Works Disability Access Coordinator (DAC). The ABES Exception Request shall include the following:

1. A written letter explaining the reason for the alternate method of compliance, exception, unreasonable hardship or equivalent facilitation that is requested.
    - a. Explain specifically and provide documentation to illustrate how full compliance with the applicable statutes, regulations, and the ABES is technically infeasible or structurally impracticable, or how it would create an unreasonable hardship. Citations of specific sections of the 2010 ADA Standards and the California Building Code are required for each element or feature for which an alternate method of compliance, exception, unreasonable hardship or equivalent facilitation is requested.
    - b. Describe which standard features are proposed to be altered, how they will be altered, and propose an alternate method of compliance, exception, unreasonable hardship or equivalent facilitation.
    - c. The name of the person and/or organization requesting the exception and the relationship to the property owner if the requestor is not the property owner. Consent from the property owner is required if the applicant is not the property owner.
    - d. The contact person's name, phone number, physical address, and email address.
    - e. The building owner's name, phone number, physical address, and email address.
    - f. The location of the request for an exception to the ABES.
  2. A detailed dimensioned plan documenting existing physical and legal constraints; e.g. sidewalk widths, facility entrances and exits, stairs, ramps, driveways, catch basin inlets, sub-sidewalk basements, sidewalk furniture and infrastructure (utility poles, utility boxes and vaults, fire hydrants, traffic signals, street trees, etc.), curbs, property lines, spot elevations in a grid-like pattern perpendicular to the property line or path of travel to demonstrate the running and cross slopes of roads and sidewalks, etc., also including the location of the proposed alternate method of compliance, exception, unreasonable hardship or equivalent facilitation to ABES.
  3. Pictures documenting existing physical constraints at the location of the request for an alternate method of compliance, exception, unreasonable hardship or equivalent facilitation.
  4. The Applicant shall submit to Public Works as part of his or her request for alternate method of compliance, exception, unreasonable hardship or equivalent facilitation the details of the SFDBI finding that full compliance with San Francisco Building Code requirements is technically infeasible, structurally impracticable and documentation regarding SFDBI approved alternate method of compliance, exception, unreasonable hardship or equivalent facilitation.
- B. For work within the public right-of-way ("ROW"), Public Works will evaluate the information presented and provide a written determination on the Exception Request. Public Works may grant the Exception Request, condition the Exception Request, or deny it. The City Engineer, Public Works Disability Access Coordinator (DAC), or their designee will hear appeals of requests for alternate method of compliance, exception, unreasonable hardship or equivalent facilitation for ROW work.
- C. For purposes of this Public Works Order, "technically infeasible" shall be defined in accordance with the California Building Code, Section 202; "An alteration of a building or facility, that has little likelihood of being accomplished because the existing structural conditions require the removal or

alteration of a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.”

- D. For purposes of this Public Works Order, “structural impracticability” shall be in accordance with 28 CFR Part 35.151; Title II of the Americans with Disabilities Act, and 28 CFR Part 36; Title III of the Americans with Disabilities Act of 1990 (ADA) as amended effective March 15, 2011, and the 2010 ADA Standards for Accessible Design, effective March 15, 2012.
- E. For purposes of this Public Works Order, “unreasonable hardship” shall be defined in accordance with the California Building Code, Section 202; Unreasonable Hardship:
  - 1. “Unreasonable Hardship. [DSA-AC] When the enforcing agency finds that compliance with the building standard would make the specific work of the project affected by the building standard infeasible, based on an overall evaluation of the following factors:
    - a. The cost of providing access.
    - b. The cost of all construction contemplated.
    - c. The impact of proposed improvements on financial feasibility of the project.
    - d. The nature of the accessibility which would be gained or lost.
    - e. The nature of the use of the facility under construction and its availability to persons with disabilities.”
  - 2. “The details of any finding of unreasonable hardship shall be recorded and entered in the files of enforcing agency.”
- F. For purposes of this Public Works Order, “equivalent facilitation” shall be defined in accordance with the California Building Code, Section 202; “The use of designs, products or technologies as alternatives to those prescribed, resulting in substantially equivalent or greater accessibility and usability. Note: In determining equivalent facilitation, consideration shall be given to means that provide for the maximum independence of persons with disabilities while presenting the least risk of harm, injury or other hazard to such persons or others.” See also item G.1 below.
- G. For purposes of this Public Works Order, “alternate method of compliance” for accessibility shall be in accordance with the following:
  - 1. 2010 ADA Standards Section 103 Equivalent Facilitation: "Nothing in these requirements prevents the use of designs, products, or technologies as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility and usability.
    - a. Advisory 103 Equivalent Facilitation. “The responsibility for demonstrating equivalent facilitation in the event of a challenge rests with the covered entity. With the exception of transit facilities, which are covered by regulations issued by the Department of Transportation, there is no process for certifying that an alternative design provides equivalent facilitation.”
  - 2. California Building Code Section 1.2 "Building Standards Commission, 1.2.3 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved

where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety."

- H. The requirements for Existing Buildings and Facilities of California Building Code Section (CBC) 11B-202 and 11B-206 shall apply for alterations projects.
- I. Projects consisting of access barrier removal only shall comply with CBC 11B-202.4, exceptions 3 and 4.
- J. Public Works will consider an ABES Exception Request Package only in conjunction with a specific permit or project, including but not limited to a re-paving or excavation contract, sidewalk improvement project, a minor encroachment permit, a street improvement permit, utility excavation permit, or any other applicable permit.

**VI. GUIDELINES FOR APPROVING REQUEST FOR AN ALTERNATE METHOD OF COMPLIANCE, EXCEPTION, UNREASONABLE HARDSHIP OR EQUIVALENT FACILITATION TO THE ACCESSIBLE BUSINESS ENTRANCE PROGRAM STANDARD**

- A. When considering an Exception Request, the City Engineer, Public Works Disability Access Coordinator (DAC), or their designee may approve an alternate method of compliance, exception, unreasonable hardship or equivalent facilitation to the Accessible Business Entrance Program Standard only if he/she determines that compliance is technically infeasible or structurally impracticable, or poses an unreasonable hardship, provided, however that Public Works shall require the Applicant to provide equivalent facilitation through the use of other methods and materials to the extent that the equivalent facilitation is technically feasible or does not pose an unreasonable hardship. The City Engineer, Public Works Disability Access Coordinator (DAC), or their designee in his/her discretion, also may impose additional conditions on the grant of an exception. Such conditions may include, but shall not be limited to, relocation of City utility facilities at no cost to the City, and other measures protective of public's health, safety, welfare, or convenience.

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