



Attachment A1

**Compliance Affidavit
Mandatory Disability Access Improvement Program
EXEMPTION FORM
(Formerly Pre- Screening Form)**

NO FEE

Note to the Owner or Tenant: Ordinance No. 51-16, effective May 22, 2016, requires all non-exempt /non-waiver "Public Accommodations" either to have all primary entries and paths of travel into the building accessible or receive a determination of Equivalent Facilitation, Technical Infeasibility or Unreasonable Hardship from the Department of Building Inspection within a specified time period. If you are uncertain whether you are a "Public Accommodation" or if you are exempt, please review this *Exemption Form* prior to hiring a licensed design professional or Certified Access Specialist (CASP).

The purpose of this form is to document and verify that a building or business is exempt from Ordinance No. 51-16. This form is to be filled out by either the Owner of the building or the Owner of the business; whomever is deemed responsible for accessibility upgrades to the structure.

Submit the completed Exemption Form either:

- As a pdf attachment to dbi.abe@sfgov.org, with "Exemption Form Submittal" in subject line; or,
- As a hardcopy in person 49 South Van Ness Avenue Second Floor Key Program Counter or by U.S. mail to Disability Access Compliance Unit, Department of Building Inspection, 49 South Van Ness Avenue, Suite 500, San Francisco, CA 94103.

SECTION 1 – ADMINISTRATIVE INFORMATION

BLOCK / LOT NUMBER _____

BUILDING ADDRESS(ES) _____

If this property has multiple addresses, please provide here or as an attachment.

ENTRY ADDRESS _____ # of entries total: _____

OWNER INFORMATION

Owner name(s) _____

Owner mailing address _____

Owner telephone _____ Owner email _____

TENANT/AGENT INFORMATION

Tenant/Agent name(s) _____

Tenant/Agent mailing address _____

Tenant/Agent telephone _____ Tenant/Agent email _____

SECTION 2 – EXEMPTIONS

There are four exemptions to Ordinance No. 51-16.

1. The building was originally constructed with a permit application dated on or after 2002.
2. The building or business is owned and operated by a recognized religious organization.
3. The building or business is a “bona fide” private club.
4. All of the businesses contained in the structure are not “public accommodations” thus the structure is not “a Place of Public Accommodation.”

A complete explanation of each exemption is contained below.

1. The building was constructed on or after January 1, 2002. (NEW BUILDINGS ONLY)

The Ordinance exempts a building that was constructed under a building or site permit application filed on or after January 1, 2002.

In order to use this exemption, the permit application number for the construction of the building or structure must begin with the numbers 2002 or greater. The description of work on the permit application should contain language similar to “construct a XX story building” and be a Form #1/2 application.

If you have been notified that you must comply with this ordinance and you believe your building has been mistakenly included in the list of buildings subject to the Ordinance, please fill in the permit application number below along with the building address.

Permit Application #: _____ -- _____ -- _____

Building Address: _____

2. The building is owned or operated by a recognized “religious organization”

The Ordinance uses the same definition for “a Place of Public Accommodation” as is contained in the Section 55.52 of the California Construction-Related Accessibility Compliance Act (CRASCA) and 42 USC Section 12181(7) of the Americans with Disabilities Act of 1990, which exempts religious organizations from coverage under Title II of the ADA.

As such, if the structure is owned by a religious organization and the organization operates what would normally be considered a public accommodation, such as a school or day care center within the structure, they are exempt from this Ordinance.

If a religious organization operates a similar accommodation and is a tenant within a structure not owned by a religious organization, the tenant is exempt, but the Department will require the owner of the structure to comply, unless otherwise exempted.

If the religious entity owns a structure that is leased to a non-religious organization which operates a public accommodation within the structure, the Department will exempt the owner of the structure, but the tenant is not exempt.

If you believe your religious organization is exempt, please fill out the following and submit as indicated below.

The following Religious Organization:

Name : _____

Tax Exempt ID # : _____

☐ Owns the building
☐ Operates located at : _____

address

3. The building or business is a “bona fide” private club

The Ordinance uses the same definition for “a Place of Public Accommodation” as is contained in the Section 55.52 of the California Construction-Related Accessibility Compliance Act (CRASCA) and 42 USC Section 12181(7) of the Americans with Disabilities Act of 1990, which exempts religious organizations and “bona fide” private clubs from coverage under Title II of the ADA.

The 1991 Americans with Disabilities Act Accessible Guidelines (ADAAG) addressed Private Clubs as follows:

“Private club. The term “private club” is defined in accordance with section 307 of the ADA as a private club or establishment exempted from coverage under title II of the Civil Rights Act of 1964. Title II of the 1964 Act exempts any “private club or other establishment not in fact open to the public..... In determining whether a private entity qualifies as a private club under title II, courts have considered such factors as the degree of member control of club operations, the selectivity of the membership selection process, whether substantial membership fees are charged, whether the entity is operated on a nonprofit basis, the extent to which the facilities are open to the public, the degree of public funding, and whether the club was created specifically to avoid compliance with the Civil Rights Act.”

In order to qualify as a private club for purposes of exemption from this Ordinance, a club must meet the following seven (7) conditions:

1. The club should have members that share a common bond such as ancestry, or common interests. This would be the case with organizations such as the family associations or benevolent societies, heritage societies, fishing clubs, model boat or airplane clubs, elks or masonic clubs and societies, etc. In all of these, there is a basis of inclusion and commonality; such as, ancestry or interest in a sport, philosophy, benevolence or technology that is a common bond provided the organization.
2. The club screens and selects members based upon the common interest often under the control of the membership, such as with certain fraternities or sororities. The criteria must be of inclusive of those with common interest rather than the exclusion of certain groups of people.
3. The operations of the club must be for the benefit of the members only and may not be open to the public. The club should be open only to the members and their guests and the facilities may not be leased or rented to anyone other than members.
4. The members should have a voice in the operations of the club, although they may employ staff to manage the day to day affairs of the club.
5. The club should be limited in scope as to the commonality of its members and not open to anyone “except” certain groups. The club cannot have been formed to evade civil rights laws.
6. The club operates on a non-profit basis. The club will have non-profit tax status with the IRS.
7. The club must not actively advertises for membership or advertises their events to anyone outside of their members.

If you believe your private club is exempt, please fill out the following and submit as indicated below.

The following Private Club:

Name : _____	
Tax Exempt ID # : _____	
<input type="checkbox"/> Owns <input type="checkbox"/> Operates	the building located at : _____ <div style="text-align: right; font-size: small;">address</div>

4. The address is NOT for a “Place of Public Accommodation”

1. What is a Place of Public Accommodation? A Place of Public Accommodation is a facility whose operations affect commerce and fall within at least one of the following 12 categories:

- (1) Places of lodging (e.g. inns, hotels, motels) (except for owner-occupied establishments renting fewer than six rooms);
- (2) Establishments serving food or drink (e.g. restaurants and bars);
- (3) Places of exhibition or entertainment (e.g. motion picture houses, theaters, concert halls, stadiums);
- (4) Places of public gathering (e.g. auditoriums, convention centers, lecture halls);
- (5) Sales or rental establishments (e.g. bakeries, grocery stores, hardware stores, shopping centers);
- (6) Service establishments (e.g. laundromats, dry-cleaners, banks, barber shops, beauty shops, travel services, shoe repair services, funeral parlors, gas stations, offices of accountants or lawyers, pharmacies, insurance offices, professional offices of health care providers, hospitals);
- (7) Public transportation terminals, depots, or stations (not including facilities relating to air transportation);
- (8) Places of public display or collection (e.g. museums, libraries, galleries);
- (9) Places of recreation (e.g. parks, zoos, amusement parks);
- (10) Places of education (e.g. nursery schools, elementary, secondary, undergraduate, or postgraduate private schools);
- (11) Social service center establishments (e.g. day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies); and,
- (12) Places of exercise or recreation (e.g. gymnasiums, health spas, bowling alleys, golf courses).

Are only those 12 types of businesses considered “Places of Public Accommodation?”

The 12 categories are considered an exhaustive list. However, within each category the examples given are just illustrations. For example, the category "sales or rental establishments" would include many facilities other than those specifically listed, such as video stores, carpet showrooms, and athletic equipment stores. Generally speaking, any business that offers goods or services directly to the public would most likely be a public accommodation, and the building would be a “Place of Public Accommodation”. If you are not sure you may contact the U.S. Access Board at (800) 872-2253 or the U.S. Department of Justice at (800) 514-0383 for further clarification.

☐ **All the businesses at _____
is/are NOT public accommodation(s).** *address*

2. Vacant or Abandoned Commercial Storefronts

Building Address: _____

Note: Once occupied by a Place of Public Accommodation, the property is subject to this Ordinance and need to comply with all applicable deadline.

5. ☐ This address is RESIDENTIAL only. (e.g., Apartment, Condominium, 1-2 Family Dwelling)

Building Address: _____

SECTION 3 – VERIFICATION AND SIGNATURE

Under penalty of perjury, I certify that the information provided in Sections 1 and 2 of this form is correct to the best of my knowledge.

☐ Owner / Property Manager

☐ Tenant

☐ Lease agreement is attached

☐ Agent

☐ Agent Authorization Form (see Attachment C) is attached

Signature

Date

FOR DBI USE ONLY

DBI has received the materials submitted and filed under “Access Business Entrance Program” per Ordinance No. 51-16, Ordinance No. 102-18, Ordinance No. 60-20 and Ordinance No. 204-21.

Date received by DBI: