



Attachment A

**Compliance Affidavit**  
**Mandatory Disability Access Improvement Program**  
**PRE-SCREENING FORM**  
NO FEE

**Note to the Owner or Tenant:** Ordinance No. 51-16, effective May 22, 2016, requires all non-exempt "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 complete this *Pre-Screening 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 Pre-Screening Form either:

- As a pdf attachment to [dbi.businessentrance@sfgov.org](mailto:dbi.businessentrance@sfgov.org), with "Pre-Screening Submittal" in subject line; or,
- As a hardcopy in person or by U.S. mail to Disability Access Compliance Unit, Department of Building Inspection, 1660 Mission Street, 1<sup>st</sup> Floor, San Francisco, CA 94103.

**SECTION 1 – ADMINISTRATIVE INFORMATION**

BLOCK / LOT NUMBER \_\_\_\_\_

BUILDING ADDRESS \_\_\_\_\_

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.**

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.

<b>Permit Application #:</b> _____ - _____ - _____ - _____
<b>Building Address:</b> _____

**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:**

<b>Name :</b> _____	
<b>Tax Exempt ID # :</b> _____	
<input type="checkbox"/> <b>Owns</b>	<b>the building</b>
<input type="checkbox"/> <b>Operates</b>	<b>located at :</b>
_____ <i>address</i>	

**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:**

<b>Name :</b>	
<b>Tax Exempt ID # :</b>	
<input type="checkbox"/> <b>Owns</b>	<b>the building located at :</b>
<input type="checkbox"/> <b>Operates</b>	
_____ address	

