

Guide for Owners: Accessible Sit-Down Restaurant

To achieve the CCDA mission authorized by California Government Code Sections 14985-14985.11 to act as an information resource. CCDA has developed Consumer Toolkit containing the following educational resources: Myths and Misconception Guild; Your Rights (laws that govern access and support business compliance); What is a CASp? How to best utilize this service? CCDA Top Ten Alleged Access Findings and how to best use the data info; “Accessibility Frequency Hierarchy” CCDA will be providing access to this information through the DGS/CCDA website, GOBiz business portal, and download brochures for public continuous access.

Background

In this mission, the CCDA is responding in part due to the rise in “drive-by” ADA lawsuits brought to small businesses throughout the state. CCDA is developing this document to provide explanation and technical guidance to assist owners of sit down restaurants of the accessibility regulations of the State of California as it applied to places of businesses. Under the current governing regulations, places of businesses are considered public accommodations and commercial buildings.

It is not the intent of this guideline to provide any advice on the application of the building code regulations to any specific conditions or project by text or illustrations. It is highly recommended the actual governing code and regulations be consulted for accessibility requirements applicable to any specific conditions or projects.

The purpose of this guide is to provide an overview and explanation of some basic accessibility requirements of the State of California required of owners of sit-down restaurants that provide goods and services to the public in general. It is important to note that, in addition to the accessibility requirements of the State of California, compliance with accessibility regulations set forth in the current governing Americans with Disabilities Act (ADA) is also required.

The user of this guideline is hereby advised to consult with a California licensed architect or a California Certified Access Specialist (CASp) for evaluation and application of accessibility regulations to any project under consideration

Definitions

Accessibility

Accessibility is the combination of various elements in a building, facility, site, or area, or portion thereof which allows access, circulation and the full use of the building and facilities by persons with disabilities in conformance with regulations set forth in Chapter 11B of the California Building Code.

Accessible Route

Accessible Route is a continuous, unobstructed path connecting accessible elements and spaces of an accessible site, building or facility that can be negotiated by a person with a disability using a wheelchair and that is also safe for and usable by persons with other disabilities. Interior accessible routes may

include corridors, hallways, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts.

Path of Travel

Path of Travel is an identifiable accessible route within an existing site, building or facility by means of which an area may be approached, entered and exited, and which connects an area with an exterior approach (including sidewalks, streets and parking areas), an entrance to the facility and other parts of the facility. When alterations, structural repairs or additions are made to existing buildings or facilities, the term “path of travel” also includes the toilet and bathing facilities, telephones, drinking fountains and signs serving the area of work.

Accessibility Regulations

There are two separate sets of accessibility regulations which businesses must adhere to. One is the accessibility requirements of the State of California (Title 24) and the other is the Federal Americans with Disabilities Act (ADA). Although there are similarities between the sets of accessibility regulations, the small business owners are required to comply with both State and Federal regulations. Where there are different requirements for a specific situation in each of the laws, compliance with the most stringent provision shall be required.

State of California (Title 24)

The accessibility regulations of the State of California are set forth in the Title 24 of the California Code of Regulations (CCR). These regulations are also reprinted in Chapter 11B of the California Building Code (CBC). The purpose of these laws is to provide sites and all areas of newly designed and newly constructed buildings and facilities and altered portion of existing buildings and facilities (rooms and spaces) accessible and usable by persons with disabilities. For complete text of these requirements, refer to the current and governing edition of the California Building Code.

American with Disabilities Act (ADA)

The American with Disabilities Act is a Federal civil rights law, passed by Congress and signed by the President, that prohibits the exclusion of people with disabilities from everyday activities such as buying an item at the store, watching a movie in a theater, enjoying a meal at a local restaurant, exercising at the local health club or having their car serviced at a repair shop. To meet the goals of the ADA, the law established accessibility requirements for places of private businesses of all sizes, for both for-profit and non-profit organizations. These regulations are enforced by the U.S. Department of Justice, Civil Rights Division, Disability Rights Section.

The Department of Justice has revised its regulations implementing the ADA. This rule took effect on March 15, 2011, clarifies issues that have arisen over the past 20 years, and contains new requirements including the 2010 Standards for Accessible Design (2010 Standards).

For information about ADA, including the revised 2010 ADA regulations, please visit the U.S Department of Justice website at www.ADA.gov; or, for answers to specific questions, call the toll-free ADA Information Line at 800-514-0301 (voice) or 800-514- 0383 (TTY). The ADA has developed a document for small businesses in accordance with the Small Business Regulatory Enforcement Flexibility Act of 1996 called “ADA Update: A Primer for Small Business”. This document may be found on the web at www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm

Restaurant Owners

Restaurant owners are subject to accessibility regulations. A restaurant is a business that provide goods or services to the public regulated under the ADA Title III definition of a “public accommodations”. The ADA regulations establishes requirements for 12 categories of public accommodations that include restaurants.

Restaurants are required to modify their business policies and procedures when necessary to serve customers with disabilities and take steps to communicate effectively with customers with disabilities.

The accessibility regulations require businesses to remove architectural barriers in existing buildings and make sure that newly built or altered facilities are constructed in such a manner that provides access to persons with disabilities.

Examples of architectural barriers are: steps at entrance to a business, narrow entry door, no landing at doors, round door knobs, narrow route of travel, steps and steep ramps along the route of travel, small toilet facilities with inadequate maneuverability clearances, inaccessible parking spaces, lack of or inadequate signs, high service counters, narrow merchandise aisles, and narrow check-out aisles, just to name a few. It is important to note that “grandfather provisions” often found in local building codes do not exempt businesses from their obligations under ADA.

Accessibility Required of Restaurants Owners:

1. Within a site. At least one accessible route shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site. §11B-206.2.2
2. Entrances shall be provided in accordance with Section 11B-206.4. Entrance doors, doorways, and gates shall comply with Section 11B-404 and shall be on an accessible route complying with Section 11B-402. §11B-206.4
3. Toilet rooms and bathing rooms. Where toilet rooms are provided, each toilet room shall comply with Section 11B603. Where bathing rooms are provided, each bathing room shall comply with Section 11B-603. §11B-213.2
4. Scope. All areas of newly designed and newly constructed buildings and facilities and altered portions of existing buildings and facilities shall comply with these requirements. §11B-201.1
5. In restaurants, cafeterias, banquet facilities, bars, and similar facilities, an accessible route shall be provided to all functional areas, including raised or sunken areas, and outdoor areas. §11B-206.2.5

6. Where a circulation path directly connects a performance area to an assembly seating area, an accessible route shall directly connect the assembly seating area with the performance area. An accessible route shall be provided from performance areas to ancillary areas or facilities used by performers unless exempted by 11B-206.2.3 Multi-Story Buildings and Facilities, (See exceptions 1 through 7). §11B-206.2.6
7. Press boxes in assembly areas shall be on an accessible route. §11B-206.2.7 (See exceptions)
8. Common use circulation paths within employee work areas shall comply with 11B-402 Accessible Routes. §11B206.2.8 (See exceptions)
9. At dining and work surfaces required to be accessible, knee clearance shall be provided that is 30 inches in width at 27 inches above the finish floor or ground for a depth of at least 19 inches. §11B-306.3 DINING SURFACES, WORK SURFACES AND WET BAR
10. Dining surfaces and work surfaces shall comply with 11B-902.2 and 11B-902.3. §11B-902.1
11. A clear floor space complying with 11B-305 positioned for a forward approach shall be provided. Knee and toe clearance complying with 11B-306 shall be provided. §11B-902.2
12. The tops of dining surfaces and work surfaces shall be 28 inches minimum and 34 inches maximum above the finish floor or ground. §11B-902.3
13. Accessible dining surfaces and work surfaces for children's use shall comply with 11B-902.4. §11B-902.4 (See exception)
14. Where dining surfaces are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with 11B-902. In addition, where work surfaces are provided for use by other than employees, at least 5 percent shall comply with 11B-902. §11B-226.1 (See exceptions)
15. Dining surfaces and work surfaces required to comply with 11B-902 shall be dispersed throughout the space or facility containing dining surfaces and work surfaces for each type of seating in a functional area. Work surfaces required to comply with 11B-902 shall be dispersed throughout the space or facility containing work surfaces. §11B-226.2
16. Where food or drink is served for consumption at a counter exceeding 34 inches in height, a portion of the main counter 60 inches minimum in length shall be provided in compliance with 11B-902.3. §11B-226.3
17. Food service lines shall comply with 11B-904.5. Where self-service shelves are provided, at least 50 percent, but no fewer than one, of each type provided shall comply with 11B-308. §11B-227.4
18. Queues and waiting lines servicing counters or check-out aisles required to comply with 11B-904.3 or 11B-904.4 shall comply with 11B-403. §11B-227.5
19. Counters in food service lines shall comply with 11B-904.5. §11B-904.5 a. Self-service shelves and dispensing devices for tableware, dishware, condiments, food and beverages shall comply with 11B-308. §11B-904.5.1 b. The tops of tray slides shall be 28 inches minimum and 34 inches maximum above the finish floor or ground. §11B-904.5.2

20. Sales counters and service counters shall comply with Section 11B-904.4.1 or 11B-904.4.2. The accessible portion of the counter top shall extend the same depth as the sales or service counter top. §11B-904.4 (See exception)

a. A portion of the counter surface that is 36 inches long minimum and 34 inches high maximum above the finish floor shall be provided. A clear floor or ground space complying with 11B-305 shall be positioned for a parallel approach adjacent to the 36-inch minimum length of counter. §11B-904.4.1 (See exception) or

b. A portion of the counter surface that is 36 inches long minimum and 34 inches high maximum shall be provided. Knee and toe space complying with 11B-306 shall be provided under the counter. A clear floor or ground space complying with 11B-305 shall be positioned for a forward approach to the counter. §11B-904.4.2

As Restaurant Owner, What am I Required to do?

Now that you have some familiarities with the rules and regulations concerning accessibility of businesses such as: sales, dining and drinking establishments, and service providers, to persons with disabilities, there are certain issues as an owner of a restaurant you need to be concerned about. If you are considering leasing a space in an existing building for your business, or if you are thinking about making improvements and/or expanding the area of your current business to suit your or your employees' needs, consider the following:

1. Any proposed new construction will trigger the application of both the Federal (ADA) and State (CBC, Chapter 11B) accessibility regulations. This basically means that if the proposed work requires a building permit, there is a high likelihood that certain elements will be required to be upgraded to the current governing accessibility requirements of applicable regulations. The cost of these accessibility upgrades should be considered.
2. All areas of new work (additions, structural repair, or altered portions) shall comply with applicable accessibility provisions of both the Federal (ADA) and State (CBC, Chapter 11B) regulations.
3. Subject to applicable exception(s), elements along the primary path of travel to the area of alterations, structural repair, and additions shall be made accessible to persons with disabilities. These elements include: a. An entrance to the building or facility b. A route of travel to the area of alteration, structural repair, or addition c. One restroom facility for male and one restroom facility for female, serving the business. In some cases, a unisex restroom facility may be adequate to serve the business d. A public telephone (if provided) serving the business e. A drinking fountain (if provided) serving the business f. Parking space(s) serving the business g. Signs, storage and alarms serving the business
4. The total cost of all alterations undertaken to all spaces along the path of travel to the area of business within the preceding three-year period shall be considered in determining whether the cost of making that path of travel elements accessible is disproportionate.
5. For detailed text of the accessibility requirements, refer to applicable regulations referenced in section under 'Regulations' in this guideline. To determine which element(s) meet the current governing

accessibility requirements and which element(s) are required to be upgraded to the current governing accessibility requirements, we strongly recommend that a California licensed architect and/or a California Certified Access Specialist (CASP) be consulted.

Resources:

State of California

To view the state accessibility requirements as reprinted in Chapter 11B of the California Building Code (CBC) please use the following link:

www.ecodes.biz/ecodes_support/Free_Resources/2013California/13California_main.html 20.3.

The American Institute of Architects

www.aia.org

California Certified Access Specialists

www.dgs.ca.gov/dsa/Programs/programCert/casp.aspx

California Commission on Disability (CCDA)

<https://ccda.ca.gov>

Federal: ADA

ADA Information Resources For important information about compliance with the current 2010 ADA regulations by small businesses, refer to U.S. Department of Justice, "ADA UPDATE A PRIMER FOR SMALL BUSINESS" at: www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm.

This document provides guidance to assist small business owners in understanding how this new regulation applies to them.

For more information about the revised ADA regulations and 2010 ADA Standards, please visit the Department of Justice's ADA Website or call the tollfree number.

ADA Website

www.ADA.gov

ADA Information Line

24 hours a day to order publications by mail. M-W, F 9:30 a.m. 5:30 p.m., Th 12:30 p.m. 5:30 p.m. (Eastern Time) to speak to an ADA Specialist. All calls are confidential.

800-514-0301 (Voice)

800-514-0383 (TTY)

"Reaching Out to Customers with Disabilities" explains the ADA's requirements for businesses in a short 10-lesson online course (www.ada.gov/reachingout/intro1.htm).