



City of Sausalito

Disability Access Complaint Procedures

What is the purpose of these procedures?

The purpose of these procedures is to provide affected parties with a convenient method to report alleged violations of disability access regulations in Sausalito, and to establish a process for promptly investigating and resolving alleged violations of state disabled access regulations in:

- Public Projects – Buildings, structures, sidewalks, curbs and related facilities which are owned or leased by the City of Sausalito or that are constructed or altered with City funds; and
- Private Projects – Privately-owned public accommodations or commercial facilities (open to the public) which are not publicly funded or multi-family housing.

What state laws and regulations govern accessibility?

State law requires all Public Projects and Private Projects to be accessible to and usable by persons with disabilities. (See Cal. Government Code 4450 et seq. for Public Projects and Cal. Health and Safety Code 19955 et seq. for Private Projects.) The State Architect has issued specifications for the construction or alteration of buildings and structures in the State Building Code, which is published as part of the California Building Code and which is referred to as “Title 24” California Code of Regulations. Under state law, the City is responsible for complying with Title 24 in its Public Projects and for enforcing the Title 24 requirements in Private Projects that are subject to the City’s jurisdiction through the City’s building permit, building inspection, and code enforcement programs. For certain projects built before the first version of Title 24 was adopted in 1981, the applicable standards are the 1961 American Standards Association Standard (the “ASA Standards”). In addition, California Civil Code Sections 54 and 54.1 require that persons with disabilities have equal access to accommodations available to the public and make a violation of the federal Americans with Disability Act (ADA) also a violation of state law. The Americans with Disabilities Act, Title II, and its implementing Standards for Accessible Design apply to state and local government owned and operated facilities. ADA, Title III applies to public accommodation and commercial facilities. However, because ADA is a federal law, it is not enforceable by local jurisdictions. For the purposes of these Procedures, the above laws and regulations are referred to as the “Law.”

Who may file a complaint?

Anyone who believes that a Public Project or Private Project does not comply with the Law because the project contains one or more deviations from the specifications set forth in the Law may file a complaint under these procedures. An authorized representative of such a person may also file a complaint on the complainant’s behalf. To the extent authorized by law, the identity of the complainant will be kept confidential.

When should a complaint be filed?

Complaints should be filed as soon as possible when an alleged deviation is discovered so that they can be investigated and resolved prior to completion of any ongoing construction work, if possible.

How can complaints be filed?

Complaints must be filed on a *Americans with Disabilities Act Title II Grievance and Complaint* form, which is available at the Community Development/Public Works Department public counter at City Hall and on the City's web site (www.sausalito.gov). Persons may also use the 711 Relay System to request the complaint form. When describing the alleged violation, additional documentation (e.g., photographs) is helpful. Complaint forms must be filed with the ADA Coordinator:

Kevin McGowan

Director of Public Works

420 Litho Street

Sausalito, California 94965-1933

Direct & Fax: 415-289-4176

Email: kmcgowan@sausalito.gov

<https://www.sausalito.gov/departments/public-works/disabled-access-complaints>

Complaint forms may be delivered in person, emailed, sent by US mail, or sent by facsimile to 415-289-4176. The ADA Coordinator's telephone number is 415-289-4176 if you have questions.

Is assistance available in filing a complaint?

Persons with disabilities or others needing assistance should contact the ADA Coordinator listed above to request an appointment. The complaint form in an alternative format may be requested.

What happens after a complaint is filed?

After receiving the completed complaint form, the ADA Coordinator refers the complaint form to the Building Official for investigation. The Building Official or his/her designee will investigate all allegations within fifteen (15) calendar days following the City's receipt of the complaint form. If more than 30 days are required to respond to the complaint, the ADA Coordinator will promptly notify the complainant of the expected date when a written response will be provided. The investigation may include interviews with: (a) the complainant; (b) the business owner or property owner (if a Private Project), or the responsible City department or other public agency (if a Public Project); and (c) any other person the Building Official considers to have relevant knowledge concerning the complaint. The Building Official also may consider any written or photographic evidence.

After completing the investigation, the Building Official will review the factual information to determine whether the allegation is in fact a deviation from the Law.

For Private Projects where lawful authority to enforce California Building Code has been determined, the City will initiate code enforcement proceedings in accordance with the Municipal Code. This may include, but not necessarily be limited to sending the responsible party and/or owner a written notice of violation demanding that the deviation be corrected within ninety (90) calendar days of the confirmation of such deviation, unless the deviation is so substantial that that they cannot be corrected within ninety (90) calendar days of confirmation. In such circumstances, a specific timetable will be prepared to assure that the deviation will be corrected within a reasonable period of time. If the responsible party and/or owner does not correct the deviation to the satisfaction of the Building Official within ninety (90) calendar days,

commence to correct it if it is of such magnitude that it cannot be corrected within ninety (90) calendar days, or comply with the timetable prepared by the City for correcting the deviation, the Building Official may refer the matter to the City Attorney for appropriate legal action.

For Public Projects undertaken by the City, the City will take all actions necessary to correct any deviation from the Law which it confirms as a result of any investigation within ninety (90) calendar days of the confirmation of such deviation, unless the deviation is so substantial that that it cannot be corrected within ninety (90) calendar days of confirmation. In such circumstances, a specific timetable will be prepared to assure that the deviation will be corrected within a reasonable period of time.

For Public Projects of other public entities, the City will forward the complaint to the appropriate agency. Those agencies will process the complaint in accordance with their own regulations and procedures.

How will the complainant be informed of the status of the complaint?

Within 15 calendar days of receipt of each complaint form, the City will respond in writing to the complainant confirming receipt of the complaint, along with a timetable and a description of the process that will be used by the City in investigating the complaint and preparing a response. After completion of the investigation, the City will provide the complainant with another written response advising the complainant of the resolution of the complaint, including informing the complainant about his or her right of appeal. Where the City determines that any or all of the violations alleged in a complaint are unfounded, the City's response will include the factual and legal basis for the determination. In addition, upon completion of the correction of the deviation where required, the Building Official will then notify the complainant in writing of the completion of the remedial work. The complainant will also be notified if the matter is referred to the City Attorney for appropriate legal action.

Appeal

An appeal of the Building Official's, ADA Coordinator's findings may be filed in a letter accompanied by all relevant backup documentation including but not limited to the original complaint, emails, pictures, videos and response documentation for review by the City Manager. The City Manager shall render a final decision on the matter within 60 days of receipt of such appeal. The final decision shall be in writing.

