Request for Disproportionate Cost Exception or Unreasonable Hardship Exception to CA Building Code Disabled Access Regulations

Handout No: 3 Revised 8/23/21

Chapter 11B of the **2019 California Building Code** (CBC) requires that when alterations, structural repairs or additions are made to existing privately-funded public accommodations and commercial facilities, the specific area of addition or alteration and the accessible path of travel to the addition or alteration must comply with disabled access requirements. Additionally, the following path of travel elements shall be included in and made accessible to the physically disabled in accordance with of the State of California Title 24 accessibility requirements [see CBC 11B-202.4]:

Path of Travel Elements

- 1. A primary entrance to the building or facility (including walkways, ramps, landings, doors, etc.);
- 2. Toilet and bathing facilities serving the area of addition or alteration for each sex. (If only one unisex restroom exists, that restroom must be made accessible);
- 3. Public telephones serving the area of addition or alteration, if provided;
- 4. Public drinking fountains serving the area of addition or alteration, if provided; and
- 5. Signs

<u>Disproportionate Cost Exception.</u> When the adjusted construction cost (see Section III – Line C) is <u>less than or equal to</u> the current valuation threshold of <u>\$172,418.00</u> the cost of compliance with the path of travel elements listed above may be limited to 20 percent (20%) of the adjusted construction cost of alterations, structural repairs or additions. The **adjusted construction cost** is the total project cost, excluding the costs for any of the non-planned "Path of Travel Elements" listed above.

Where the cost of alterations **necessary** to make the path of travel elements fully accessible is disproportionate (meaning that the cost of the needed path of travel exceeds 20% of the adjusted construction cost), access shall be performed to the extent possible without incurring a disproportionate cost.

<u>Unreasonable Hardship.</u> An "Unreasonable Hardship" is 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.

CBC 11B-202.4 Exception 8 - Unreasonable Hardship Exception. When the adjusted construction cost (see Section III – Line C), **exceeds** the current valuation threshold of **\$172,418.00**, **and** the enforcing agency determines the cost of compliance with Section 11B-202.4 is an **unreasonable hardship**, full compliance with Section 11B-202.4 shall not be required provided that the unreasonable hardship is ratified through an **appeals action ratification process**. Compliance shall be provided by equivalent facilitation or to the greatest extent possible without creating an unreasonable hardship. In no case shall the cost of required accessibility path of travel improvements be less than or more than 20 percent of the adjusted construction cost of alterations, structural repairs or additions.

When a finding and ratification of an unreasonable hardship is made pursuant to CBC 11B-202.4 Exception 8, the details of the finding of unreasonable hardship shall be recorded and entered into the files of the enforcing agency.

Instructions

- A. Complete **Section I** (Project Address/Applicant Information), **Section II** (Permits within the Last Three Years) and **Section III** (Project Cost Information).
- B. Go to Section IV (Accessibility Features Itemized Cost Worksheet) and answer Yes (Y) or No (N) to <u>all</u> questions in Column 1. Answering Yes (Y) to any question in Column 1 should only be done after an accessibility survey of the existing facility has been conducted by a *Certified Access Specialist* or an architect knowledgeable in all of the accessibility requirements prescribed in the California Building Code. A determination must be made to determine what existing accessibility features exist, which features are in full compliance, and which features do not comply with the applicable accessibility requirements of the code.
- C. Once the non-complying accessibility elements have been identified, complete Columns 2 and 3 in Section IV (Accessibility Features Itemized Cost Worksheet) to indicate which accessibility features will be accomplished in the proposed project and what the costs for providing those features are. In choosing which accessible features to provide, priority should be given to those features that will provide greatest access in the order of priority as listed in Section IV. All accessibility features that will be accomplished in the proposed project must be fully detailed and specified on the construction plans for the project. [Remember that the required compliance costs that you need to document are limited to the amount listed on Line F) Section III.]
- D. Complete, sign and date **Section V** (Summary of Costs for Proposed Accessibility Features to be Included in the Project) and submit the completed Request for Disproportionate Cost Exception form to the Building Department along with your plans and permit application.

To review Chapter 11B of the CA Building Code on line, go to http://www.bsc.ca.gov/Codes.aspx

SECTION I - Project Address/Applicant Information

(Please type or print)

Job Address:	Unit or Suite #:	
Business Name:		
Project Description:		
Applicant's Name:		
Applicant's Phone:		

SECTION II - Permit Valuation within the Last Three Years (optional)

List the information from all permits for alteration, structural repair and addition projects performed over the last three (3) years in this tenant space or building.

	Permit	Date	Description	Permit Valuation	Cost of
	Number				Accessibility
					Improvements
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
1)		Cur	mulative 3-Year Total of Permit Valuations	\$	
			of all permits over the last 3 years:	Ψ	
2)			Cumulative 3-Yr. Cost of		\$
			Path of Travel Accessibility Improvements		Ψ
			rmits over the last 3 years that are shown on other		
			Unreasonable Hardship forms previously approved		
	for this	s building and	the site. [Include copies of all previously approved		
		Dispr	oportionate Cost or Unreasonable Hardship forms.]		
	If no other	Disproportion	ate Cost or Unreasonable Hardship exist, enter \$0.		
3)			Subtract line 2) from line 1) above for	\$	
			3-Year Total Adjusted Construction Cost:	Ψ	

[The Last 3-Year Total Adjusted Construction Cost effectively excludes previous path of travel work.]

"Adjusted Construction Cost" Defined. All costs directly related to the construction of a project, including labor, material, equipment, services, utilities, contractor financing, contractor overhead and profit, and construction management costs. The costs shall not be reduced by the value of components, assemblies, building equipment or construction not directly associated with accessibility or usability. The adjusted construction cost shall not include: project management fees and expenses, architectural and engineering fees, testing and inspection fees, and utility connection or service district fees.

SECTION III - Project Cost Information

A)	What is the Adjusted Construction Cost for this project? [DO NOT include the cost of any "Path of Travel" accessibility elements listed in items #1 through #5 on page 1 unless work is part of the specific area of addition or alteration.]	\$
B)	Enter the Last 3-Year Total Adjusted Construction Cost [From line 3) above.]	\$
C)	Add line A) plus line B) for the Current Total Adjusted Construction Cost [includes this project]	\$
D)	Enter 20% of C) above.	\$
E)	Enter the Cumulative 3-Yr. Cost of Path of Travel Accessibility Improvements [From line 2 of Section II) above.]	\$
F)	Subtract line E) from D) Amount that must be spent towards disability features for this project.	\$

SECTION IV - Accessibility Features - Itemized Cost Worksheet

The accessibility features listed below are some of the features that are commonly needed to meet the State of California accessibility requirements. The accessibility features below are grouped in order of priority for determining which features should be included in your project first. Additional features may need to be added depending on the scope of the proposed project. Only specify the costs for the additional accessibility items you are proposing to provide for this project. Do not include the cost of providing accessible features for the actual or specific area of alteration, repair or addition which are otherwise already required.

Be advised that the Building Department may request additional review or supporting documentation to verify the answers provided.

Remember that when the cost of full compliance will exceed 20 percent (20%) of the adjusted construction cost [see line F) on page 2], compliance must be provided to the greatest extent possible without exceeding the 20 percent (20%) threshold.

Priority 1 Items. An accessible entrance to the building or facility (including walkways, ramps, landings, entry doors, gates, etc.) [see CBC 11B-206 and 11B-402]

Priority 1 - Accessibility Feature(s) Related to an accessible entrance to the building or facility (including walkways, ramps, landings, entry doors, gates, parking serving accessible entrance, etc.)	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B? Y/N	COLUMN 2 Will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature is illustrated.	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility feature(s)?
Entrance and site directional signage. [CBC 11B-216 and 11B-Div.7]			\$
Walkways to an accessible entrance. [CBC 11B-403]			
(Surfaces, walkway width, clear width at turns, passing spaces, cross-slope, running slope, warning curbs, and changes in levels, etc.)			\$
Floor or ground surfaces. [CBC 11B-302]			
(Slip resistance, stability, carpet, openings, etc.)			\$
Changes in level. [CBC 11B-303]			
(Vertical, beveled, ramps, warning curbs, etc.)			\$

Priority 1 - Accessibility Feature(s) Related to an accessible entrance to the building or facility (including walkways, ramps, landings, entry doors, gates, parking serving accessible entrance, etc.)	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B? Y/N	COLUMN 2 Will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature is illustrated.	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility feature(s)?
Turning space. [CBC 11B-304]			
(Surface, size, circular shape, T-shape, door swing, etc.)			\$
Clear floor space. [CBC 11B-305] (Surface, knee and toe clearance, position, approach, maneuvering clearance, size, circular shape, T-shape, door swing, etc.)			\$
Knee and toe clearance. [CBC 11B-306]			Ψ
(Depth, width, additional clearance, clearance reduction, etc.)			\$
Protruding objects. [CBC 11B-307]			*
(Protrusion limits, post-mounted objects, edges and corners, vertical clearance, clear width, etc.)			\$
Ramps and landings to an accessible entrance. [CBC 11B-405].			
(Ramp width, cross-slope, running slope, max. rise, max. length, bottom landings at ramp, top landings, landings at change of direction, doorways at landings, ramp edge protection, etc.)			\$
Ramp handrails and handrail extensions. [CBC 11B-505]			*
(Continuity, height, clearance, gripping surface, cross-section, surfaces, fittings, top and bottom extensions, etc.)			\$
Curb ramps, blended transitions and islands serving an accessible entrance. [CBC 11B-406].			
(Slope, flared sides, turning space, location, width, landings, surface, wet conditions, grade breaks, cross-slope, counter slope, grooved border, detectable warnings, etc.)			\$
Entrance doors, gates and doorways. [CBC 11B-404]			,
(Door opening clear width, lever or push/pull door hardware, maneuvering clearance at doors, floor level at doors, thresholds, bottom 10 inches is smooth, closing speed, opening force, glazing view panels, etc.)			\$
Automatic and power assisted doors [CBC 11B-404.3]			\$
Other:			\$
Other:			\$
Other:			\$
0			Ψ
Other:			\$
Other:			\$

Enter Total of Priority 1 Items here and on page 10 ____\$

Priority 2 Items. An accessible route from the accessible entrance to the altered area. [see CBC 11B-206 and 11B-402]

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Priority 2 - Accessibility Feature(s) Related to interior and exterior accessible routes (including corridors, hallways, floors, ramps, elevators and lifts, parking access aisles, curb ramps, crosswalks at vehicular ways, walks and ramps).	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B?	If not, will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature is illustrated.	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility feature(s)?
Walking surface on the route to the altered area. [CBC 11B-403]			
(Corridor width, surfaces, clear height, turns in accessible route, changes in level, maneuvering clearance, etc.)			\$
Floor or ground surfaces. [CBC 11B-302]			
(Slip resistance, stability, carpet, openings, etc.)			\$
Changes in level. [CBC 11B-303] (Vertical, beveled, ramps, warning curbs, etc.)			\$
Turning space. [CBC 11B-304]			
(Surface, size, circular shape, T-shape, door swing, etc.)			\$
Clear floor space. [CBC 11B-305]			
(Surface, knee and toe clearance, position, approach, maneuvering clearance, size, circular shape, T-shape, door swing, etc.)			\$
Knee and toe clearance. [CBC 11B-306]			
(Depth, width, additional clearance, clearance reduction, etc.)			\$
Protruding objects. [CBC 11B-307]			
(Protrusion limits, post-mounted objects, edges and corners, vertical clearance, clear width, etc.)			\$
Doors and doorways on the route to the altered area. [CBC 11B-404]. (Door opening clear width, lever or push/pull door hardware, maneuvering clearance at doors, floor level at doors, bottom 10 inches is smooth, closing speed, opening force, glazing view panels, etc.)			\$
Ramps and landings to an accessible entrance. [CBC 11B-405].			
(Ramp width, cross-slope, running slope, max. rise, max. length, bottom landings at ramp, top landings, landings at change of direction, doorways at landings, ramp edge protection, etc.)			\$
Ramp handrails and handrail extensions. [CBC 11B-505]			T
(Continuity, height, clearance, gripping surface, cross-section, surfaces, fittings, top and bottom extensions, etc.)			\$
Ramp edge protection. [CBC 11B-405.9.5.2]			\$
Elevators or lifts to the altered area. [CBC 11B-407, CBC 11B-408 or 11B-409 as applicable]			\$
Signage. [CBC 11B-216 and 11B-Division 7]			
(Room designations, accessible exit signs, directional signs, TTYs, elevators, assistive listening, check-out aisles, amusement rides, cleaner air symbol, etc. as applicable.)			\$
Parking Access Aisle. [CBC 11B-208 and 11B-502] (see definition for Accessible Route)			-
(location, size, slope, access aisle, surface, identification, relationship to access routes and accessible parking space, signage, detectible warnings, etc.)			\$
Other:			\$
Other:			\$

Priority 3 Items. At least one accessible restroom for each sex. (If only one unisex restroom exists, that restroom must be made accessible. [see CBC 11B-213]

Priority 3 - Accessibility Feature(s) Related to at accessible restrooms.	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B? Y/N	COLUMN 2 If not, will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature is illustrated.	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility feature(s)?
Doors and doorways on the route to the altered area. [CBC 11B-404].			
(Door opening clear width, lever or push/pull door hardware, maneuvering clearance at doors, floor level at doors, bottom 10 inches is smooth, closing speed, opening force, etc.)			\$
Toilet and bathing room clearances. [CBC 11B-603.2]			
(Turning space, door swing, etc.)			\$
Toilet room accessories location. [CBC 11B-603.3, 11B-603.4, 11B-603.5]			
(Mirrors, coat hooks, towel and napkin dispensers, waste receptacles, etc.)			\$
Water closets rooms and toilet compartments. [CBC 11B-604]			
(Location, size, clearances, maneuvering space, seat height, grab bars, flush controls, dispensers, toilet compartment and room doors, approach, toe clearance, hooks, reach ranges, etc.)			\$
Urinals. [CBC 11B-605]			
(Height, depth, clear floor space, flush controls etc.)			\$
Lavatories and sinks. [CBC 11B-606]			
(Clear floor space, height, faucets, exposed pipe surfaces, adjacent side wall clearance, depth, etc.)			\$
Bathtubs. [CBC 11B-607]			
(Clearances, seats, grab bars, controls, shower spray unit and water, bathtub enclosure, etc.)			\$
Shower compartments. [CBC 11B-608]			
(Size and clearances, grab bars, seats, controls, shower spray unit and water, thresholds, shower enclosure, shower floor surface, soap dish, etc.)			\$
Grab bars. [CBC 11B-609]			
(Cross-section, spacing, positioning, surface hazards, fittings, installation, structural strength, etc.)			\$
Shower and bathtub seats. [CBC 11B-610]			
(Positioning, installation, structural strength, etc.)			\$
Toilet room signage. [CBC 11B-216.8, 11B-703.5 and 11B-703.7.2.1]			\$
Reach ranges. [CBC 11B-308]			
(Electrical switches and receptacles, operable parts, etc.)			\$
Operable parts. [CBC 11B-309]			
(Clear floor space, height, operation, etc.)			\$
Turning space. [CBC 11B-304]			
(Surface, size, circular shape, T-shape, door swing, etc.)			\$
Clear floor space. [CBC 11B-305]			
(Surface, knee and toe clearance, position, approach, maneuvering clearance, size, circular shape, T-shape, door swing, etc.)			\$
Knee and toe clearance. [CBC 11B-306]			
(Depth, width, additional clearance, clearance reduction, etc.)			\$
Protruding objects. [CBC 11B-307] (Protrusion limits, post-mounted objects, edges and corners, vertical clearance, clear width, etc.)			\$

Priority 3 - Accessibility Feature(s) Related to at accessible restrooms.	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B? Y/N	COLUMN 2 If not, will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature is illustrated.	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility feature(s)?
Other:			\$

Enter Total of Priority 3 Items here and on page 10 \$

Priority 4 Items. Accessible telephones and drinking fountains, if provided. [see CBC 11B-217 and 11B-602]

Priority 4 - Accessibility Feature(s)	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B? Y/N	If not, will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility
Related to Accessible telephones and drinking fountains		is illustrated.	feature(s)?
WATER FOUNTAINS: [CBC 11B-602] (Clear floor space, operable parts, spout height, spout location, water flow. Spout height for standing persons, depth, pedestrian protection, etc.) TELEPHONES: [CBC 11B-217]			\$
(Wheelchair accessible, volume controls, TTYs, shelves for portable TTYs, etc.)			\$
Reach ranges. [CBC 11B-308]			
(Electrical switches and receptacles, operable parts, etc.)			\$
Operable parts. [CBC 11B-309]			
(Clear floor space, height, operation, etc.)			\$
Turning space. [CBC11B-304]			
(Surface, size, circular shape, T-shape, door swing, etc.)			\$
Clear floor space. [CBC11B-305]			
(Surface, knee and toe clearance, position, approach, maneuvering clearance, size, circular shape, T-shape, door swing, etc.)			\$
Knee and toe clearance. [CBC11B-306]			
(Depth, width, additional clearance, clearance reduction, etc.)			\$
Protruding objects. [CBC 11B-307]			
(Protrusion limits, post-mounted objects, edges and corners, vertical clearance, clear width, etc.)			\$
Other:			\$
Other:			\$

Priority 5 Items. Additional accessible features such as parking, storage and alarms. [see CBC 11B-208, 11B-502, 11B-225, 11B-811 and 11B-215, etc.]

Priority 5 - Accessibility Feature(s) Additional miscellaneous accessible features such as accessible general parking, storage, alarms, etc.	COLUMN 1 Existing feature(s) complies with CBC Chapter 11B? Y/N	COLUMN 2 If not, will feature(s) be provided as part of this permit? Y/N Please also indicate the plan sheet # where this feature is illustrated.	COLUMN 3 If the feature(s) will be provided as part of this permit, what is the cost of installing the accessibility feature(s)?
PARKING: [CBC 11B-208 and 11B-502]			
(Minimum number, location, size, slope, access aisle, surface, vertical clearance, identification, relationship to access routes, signage, detectible warnings, etc.)			\$
STORAGE: [CBC 11B-225 and 11B-811]			
(Lockers, self-service shelving, self-service facilities, clear space, height, operable parts, etc.)			\$
FIRE ALARMS: [CBC 11B-215, 11B-806.3.1, 11B-809.5 and CBC 907]			
(Public and common use areas, employee work areas, transient lodging, residential facilities, etc.)			\$
Reach ranges. [CBC 11B-308]			
(Electrical switches and receptacles, operable parts, etc.)			\$
Operable parts. [CBC 11B-309]			
(Clear floor space, height, operation, etc.)			\$
Clear floor space. [CBC11B-305]			
(Surface, knee and toe clearance, position, approach, maneuvering clearance, size, circular shape, T-shape, door swing, etc.)			\$
Protruding objects. [CBC 11B-307]			
(Protrusion limits, post-mounted objects, edges and corners, vertical clearance, clear width, etc.)			\$
Other:			\$
Other:			\$
Other:			\$
			Ŧ
Other:			\$

Enter Total of Priority 5 Items here and on page 10 \$

SECTION V - Summary of Costs for Proposed Accessibility Features to be Included in the Project

Identify the costs for the <u>additional</u> access features to be provided for this project. <u>Do not</u> include the cost of providing accessible features for the actual or specific area of alteration, repair or addition. Accessible features for the actual or specific area of alteration, repair or addition are required regardless of the cost and do not qualify for the disproportionate cost exception.

Use the worksheet beginning on Page 3 first to itemize the estimated cost for each accessibility feature or element to be provided. Enter the totals in this section.

Total of Priority 1 Items	Cost of providing an accessible entrance to the building or facility including entry walkways, entry ramps, landings, door widths, door hardware, strike-side clearances, signage, railings, etc.	\$
Total of Priority 2 Items	Cost of providing an accessible route to the area of alterations, structural repairs or additions, including parking access aisles, curb ramps, walkways, ramps, lifts, elevators, landings, door and hallway widths, door hardware, railings, etc.	\$
Total of Priority 3 Items	Cost of providing at least one accessible restroom for each sex, including clear spaces, fixture and accessories heights and clearances, door widths and hardware, signage, etc.	\$
Total of Priority 4 Items	Cost of providing accessible drinking fountains and/or telephones (if provided)	\$
Total of Priority 5 Items	Cost of providing, additional accessible features such as parking, storage and alarms.	\$

TOTAL [Must be equal to or greater than the amount on line F) of Section III above.]
I request that this project be granted one of the following exceptions pursuant to the California Building Code accessibility requirements:
☐ Disproportionate Cost Exception
☐ CBC 11B-202.4 Exception 8 - Unreasonable Hardship Exception (requires Board of Appeals Ratification)
Unreasonable Hardship Exception: Specify code section allowing the Specific Unreasonable Hardship Exception:
I hereby declare that the information I have provided herein is, to the best of my knowledge, true and correct.
Applicant's Signature Date

Building Department Finding			
Findings of the Enforcing Official:			
A Disproportionate Cost Exception is granted. Access features listed under Column 2 of Section IV of this form shall be provided as part of this permit and included on building plans. Accessibility and access features is required for the actual area of alteration, repair or addition and for those items listed under Column 2 of Section IV above.			
A CBC 11B-202.4 Exception 8 - Unreasonable Hardship Exception request is granted. The justification and findings for granting of the exception are provided above. Access features listed under Column 2 of Section IV of this form shall be provided as part of this permit and included on building plans. Accessibility and access features is required for the actual area of alteration, repair or addition and for those items listed under Column 2 of Section IV above. Ratification is required. This decision and finding must be ratified by the Building Board of Appeals. An application must be completed and a filing fee paid before the board can hear the request.			
Unreasonable Hardship Exception request is approved based on CA Building Code Section The justification and findings for granting of the exception are provided above. All other applicable accessibility features shall be provided as specified in the CA Building Code.			
Request denied. The request made herein is denied for the reasons provided in the findings and decisions provided above. A final decision made by the Building Official may be appealed to the Building Board of Appeals within 15 calendar days of the date of the final decision. An appeal application must be completed and a filing fee paid before the board can hear the request.			
Name of Enforcing Official making determination (please print)	Signature of E	inforcing Official	Date of Enforcing Official Decision
Appeals Action Ratification Ruling (if required) App		Appeals Action Rati	fication Hearing Date:
Approved		rippedie rioteri ridii	nodion froding Dator
☐ Not Approved			