

Commission on Disability
AGENDA
Special Meeting

Commission on Disability
1947 Center St.
Multipurpose Room
Berkeley, CA 94702

Wednesday
8/21/2019
6:30 PM

A. PRELIMINARY BUSINESS

- 1) Call to Order by Chair Ghenis
- 2) Roll Call by Secretary
- 3) Public Comment on Items Not on the Agenda. (Up to 3 minutes per speaker)
- 4) Approval of Draft Action Minutes of July 10, 2019*
- 5) Staff Update.
- 6) Approval and Order of Agenda

B. DISCUSSION/ACTION ITEMS

The public may speak at the beginning of any item.
(Comments may be limited to 3 minutes per speaker)

Commission will take a 5 minute break around 8pm

1. Meeting logistics and related concerns.

Clarify that all concerns have been addressed; note if there are any ongoing barriers, and what barriers are;

progress as needed. (5 minutes / Ghenis)

2. San Pablo Avenue Plan.** Discussion and update.
(20 minutes/COD)

3. Service Animals Welcome. (10 minutes/ Weiss)

4. Adeline Plan. Discussion and update (10
minutes/COD)

5. Access Line Item in Council Templates. Discussion
and update. (5 minutes/COD)

6. Elevator Ordinance. Discussion and update. (5
minutes/COD)*

7. Town Hall. Disability Town Hall will occur in place of
regularly-scheduled October meeting. Discussion and
Update (15 minutes / Ghenis)

**8. New Construction and Renovations – Accessibility
Guidelines and Regulations**** (10 minutes/ Ghenis)
Develop comprehensive framework for accessibility in
new construction and/or renovations. Discussion of
Council item.

9. Photos for Navigable Cities Item. Discuss photos for
Navigable Cities item. (5 minutes/COD)*

10. Announcements

C. INFORMATION ITEMS AND SUBCOMMITTEE

REPORTS

1. Peace and Justice Commission Subcommittee on the Convention on the Rights of Persons with Disabilities- Update on activity or projects of this subcommittee since last meeting. (5 minutes / Walsh & Weiss)

D. COMMUNICATIONS

1. FUTURE AGENDA ITEMS (from adopted work plan, referrals, etc.)

Navigable Cities Items

- **Construction issues**
- **Portable signs**
- **Photo survey**

Sidewalk discussion item

Events Calendar

Service Animals Welcome

Elevator ordinance

Access line item in Council templates

E. ADJOURNMENT: no later than 9:30pm

Agenda Posted: TBD


- * Indicates written material included in packet.
- ** Indicates material to be delivered at meeting.
- *** Indicates material previously mailed.

A complete agenda packet is available for public review on the web at:

<https://www.cityofberkeley.info/Clerk/Commissions/Commissions Commission on Disability Homepage.aspx>

Available also at the main library, and Public Works, Engineering Division, 1947 Center Street, 4th Floor.

ADA Disclaimer

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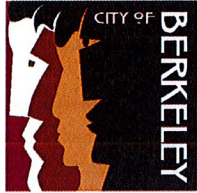
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Commission Secretary: Dominika Bednarska, Disability Services Specialist, 1947 Center St., 4th Floor, Berkeley, CA, 94704, Telephone (510) 981-6411, Fax: (510) 981-7060 TDD: (510) 981-6347.

Email: DBednarska@cityofberkeley.info



Commission on Disability
DRAFT MINUTES
Regular Meeting

Commission on Disability

Wednesday

City of Berkeley Corporation Yard

07/10/2019

1326 Allston Way

6:30 PM

Willow Room

Berkeley, CA 94702

A. PRELIMINARY BUSINESS

- 1) Call to Order by Chair Ghenis at 6:38 PM.
- 2) Roll Call by Secretary: Present: Ghenis, Singer, Walsh, Smith, LOA: Ramirez, Absent: Leeder
- 3) Public Comment on Items Not on the Agenda. (Up to 3 minutes per speaker)
None
- 4) Approval of Draft Action Minutes of May 1, 2019*
Motion to approve minutes. (Weiss/Smith, all ayes)
- 5) Staff Update
- 6) Approval and Order of Agenda
Motion to approve: (Weiss/Smith, all ayes)

B. DISCUSSION/ACTION ITEMS

The public may speak at the beginning of any item.

(Comments may be limited to 3 minutes per speaker)

Commission will take a 5 minute break around 8pm

1. Meeting logistics and related concerns.

Clarify that all concerns have been addressed; note if there are any ongoing barriers, and what barriers are; progress as needed. Discuss potential substitute meeting for cancelled June meeting. (5 minutes / Ghenis)

Discussion. Motion to hold special meeting on Wednesday, August 21. (Walsh/Weiss, all ayes)

2. San Pablo Avenue Plan.* Discussion and update. (5 minutes/COD) Discussion. Motion to prepare council items to request that accessibility be considered and that a advisory committee or panel of experts be formed for the San Pablo Corridor. (Weiss/Smith, all ayes)

3. Relocation of Commission Meetings. Discussion of alternative meeting locations (5 minutes/ Ghenis)

Discussion. Motion to move future meetings starting August 21 to Tupelo or Multipurpose Room at 1947 Center Street.

(Walsh/Smith, Ghenis, aye, Weiss, aye Singer: Abstain)

4. Town Hall. Disability Town Hall will occur in place of regularly-scheduled October meeting. Discussion and Update (5 minutes / Ghenis)

Discussion. Motion: Start Town Hall Meeting in October at

6pm instead of 6:30 PM. (Weiss/Walsh, all ayes)

5. Homeless Concerns - Access to electric charging facilities for wheelchairs.* Council item will explain problems, concerns, and outline options for next steps. Discuss informational and/or action item to be submitted to Council. (10 minutes / Ghenis)
Discussion. Motion to approve action item as amended. (Walsh/Weiss, all ayes)

6. Homeless Concerns - RV Parking.* Update and feedback from staff and commissioners. (10 minutes / Smith)
Discussion. No action taken.

7. Discussion on changes to PG&E Medical Baseline Program. Discussion and Update (5 minutes / Ghenis)
No update at this time.

8. New Construction and Renovations – Accessibility Guidelines and Regulations** (10 minutes/ Ghenis)
Develop comprehensive framework for accessibility in new construction and/or renovations. Discussion of Council item.
Postponed for future meeting.

9. Vision Zero. (Walsh/ 5 min) Discussion and update.
No update at this time.

10. Commission on Ageing and COD Representation. (Walsh/ 5 min) Discussion and update.
Discussion. No action taken.

11. Berkeley Photos for Commission work. Discuss photos to include in future materials by the Commission, e.g. of inaccessible entryways or sidewalk obstructions. Commissioners may agree to take certain photos or types of photos in future weeks. (5 min / Ghenis)
Discussion. No action taken.

12. Announcements:

ADA Anniversary this month. Various voting initiatives aimed at PWDs, Crip the Vote, ADA National Network (Walsh)

WID doing several disaster webinars on July 26 and August 1 (Ghenis)

C. INFORMATION ITEMS AND SUBCOMMITTEE

REPORTS

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- **Construction issues**
- **Portable signs**
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Sidewalk discussion item

Events Calendar

Service Animals Welcome

Elevator ordinance

Access line item in Council templates

E. ADJOURNMENT: 9:30pm (Singer, Smith, all ayes)

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7060 TDD: (510) 981-6347.

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[View entire Title as a PDF.](#)

Chapter 19.50 ELEVATORS--BUILDINGS WITH TEN OR MORE UNITS AND TWO OR MORE STORIES

Sections:

- [19.50.010](#) Purpose.
- [19.50.020](#) Applicability.
- [19.50.030](#) Duty of building operators to repair elevator and give notice.
- [19.50.040](#) Duty of building operators to maintain and repair elevator and to provide alternative housing.
- [19.50.050](#) Duty of building operators to provide notice of regular maintenance and unanticipated repair.
- [19.50.060](#) Failure to timely repair--Civil remedies.
- [19.50.070](#) Prohibition on retaliation and discrimination in renting--Private right of action, statutory damages for violation of prohibition.
- [19.50.080](#) Violation of Building Standards (BMC Chapter 19.28).
- [19.50.090](#) Remedies cumulative.
- [19.50.100](#) Contractual waiver of chapter--Void.
- [19.50.110](#) Severability.

19.50.010 Purpose.

The purpose of this chapter is to implement Section 1124A.2 of Chapter 11A of the Title 24 California Building Standards Code of the California Code of Regulations by specifying requirements for the maintenance and repair of elevators in buildings two or more stories in height containing residential rental units and by providing remedies for violation of these requirements. (Ord. 7414-NS § 1, 2015; Ord. 6245-NS § 1, 1994)

19.50.020 Applicability.

This chapter shall apply to all buildings of two or more stories in height in which ten or more units are rented or offered for rent and which contain an elevator, except for any units in any hospital, skilled nursing facility or health facility. (Ord. 6245-NS § 2, 1994)

19.50.030 Duty of building operators to repair elevator and give notice.

Any owner or lessor of the entirety of a building subject to this chapter, or any agent thereof with the responsibility for managing such building (hereafter "building operator") shall ensure that the elevator is accessible, usable and in good working order at all times as further provided in Section [19.50.050](#). Notice that any elevator is to be repaired and the time in which such repairs are to be completed shall be provided as set forth in Section [19.50.040](#). No duty is imposed under this chapter on any elevator service company which contracts with a building operator to service elevators. Any contractual provision which purports to impose such liability either directly or by way of indemnification of the building operator for violation of this chapter is hereby declared to be against public policy and void. (Ord. 6245-NS § 3, 1994)

19.50.040 Duty of building operators to maintain and repair elevator and to provide alternative housing.

Every building operator subject to this chapter shall have the following obligations:

A. Duty to conduct regular maintenance: building operators shall establish a program of regular elevator maintenance to ensure that elevators in their buildings remain usable and accessible at all times and that any repairs and servicing needed are completed within the shortest practicable time, in no event to exceed twenty-four hours, except as provided in Section 19.50.040C. Building operators shall require any elevator service company to give the building operator immediate notice of any repairs which will render the elevator inoperable for more than four hours.

B. Duty to repair malfunctions expeditiously: Where an elevator malfunctions, the elevator shall be repaired at the earliest practicable time, not to exceed twenty-

four hours of notice to the building operator of such malfunction, except as provided in Section 19.50.040C.

C. Delay beyond building operator's control--Duty to provide alternative housing pending elevator repair: If the building operator is unable to complete a repair of an elevator malfunction within twenty-four hours of notice of its malfunction, due to circumstances beyond his or her control, such building operator shall locate and provide alternative housing for any person residing in the building who needs to use the elevator to gain access to or egress from his or her unit because of such person's impaired ability to climb stairs as a result of such person's physical disability, medical condition, infirmity, illness or other similar circumstance. Such alternative housing shall be decent, safe, sanitary and provided at the building operator's expense, however, the cost to the building operator for providing such alternative housing shall not exceed one hundred eighty dollars per day or a total cost of one thousand eight hundred dollars. Access to or egress from such alternative housing shall not necessitate the tenant's use of stairs. The building operator's inability to timely repair shall be considered beyond the building operator's control only if the building operator had previously made reasonable arrangements, judged by relevant industry standards, to provide for expeditious repair of the elevator in the event of a malfunction, had regularly maintained the elevator and had taken all other reasonable steps to repair the elevator at the earliest practicable time. The duty to provide alternative housing shall not arise if the building operator is prevented from repairing the elevator within twenty-four hours or any time thereafter due to a natural disaster or an act of God, provided that the building operator shall be relieved of this duty only during the period that the inability to repair is caused by the natural disaster or act of God.

D. Effective January 1 of each year, beginning in 2018, the rates set forth above shall increase in an amount based on the Consumer Price Index-All Urban Consumers in the San Francisco-Oakland-San Jose Region averaged for the twelve-month period ending June 30 of each year, as determined and published by the United States Department of Labor. Any increase shall be published by the City on or before October 31st of each year.

E. Declaration of public nuisance: The City Council hereby finds and declares that the failure to repair an elevator or to provide alternate housing in conformity with this chapter results in irreparable injury and constitutes a public nuisance with respect to any resident in the building who is, as a result of such elevator malfunction, substantially restricted in access to or egress from his or her unit as a result of such person's impaired ability to climb stairs as a result of such person's physical disability, medical condition, infirmity, illness or other similar circumstance. (Ord. 7517-NS § 1, 2016; Ord. 6245-NS § 4, 1994)

19.50.050 Duty of building operators to provide notice of regular maintenance and unanticipated repair.

A. Notice of regular maintenance: Whenever the elevator is to be inoperable for any period of time as result of regular maintenance of such elevator, the building operator shall post written notice, adjacent to the elevator at each floor, that the elevator is inoperable and, to the extent known, the notice shall state the expected duration of such inoperability. Where the elevator is expected to be inoperable for more than four hours, the building operator shall in addition provide notice in writing to each disabled tenant in the building, and any other tenant who has requested such notice. Such notice shall state that the elevator is inoperable and when it is expected to be in operation.

B. Notice of unanticipated repair: In the event of an unanticipated malfunction of the elevator requiring shut-down and repair, the building operator, immediately upon notice of such malfunction, shall provide written notice to each disabled tenant in the building, and any other tenant who has requested such notice, and shall post notice adjacent to the elevator on each floor, that the elevator is not functioning. The notice shall also state the date, time and duration of the repair. (Ord. 6245-NS § 5, 1994)

19.50.060 Failure to timely repair--Civil remedies.

A. Where the failure to timely repair an elevator or to provide alternative housing, as required by Section [19.50.040](#) of this chapter results in any person residing in the building having substantially restricted access to or egress from his or her unit because of such person's impaired ability to climb stairs as a result of

such person's physical disability, medical condition, infirmity, illness or other similar circumstance, the person whose access to or egress from such building has been substantially restricted as set forth in this subsection may bring a civil action for:

1. Injunctive relief against the building operators of the building in which the elevator is inoperable to compel the building owner to repair the elevator and/or to provide alternative housing;
2. Actual damages including emotional distress;
3. Statutory damages of two hundred dollars per day for each day that the elevator remains out of service in violation of Section [19.50.040](#) of this chapter. The total amount of such statutory damages shall not exceed ten thousand dollars per person for any one occasion that an elevator malfunctions;
4. Reasonable attorney's fees and costs of suit.

B. The City Attorney or any interested person acting on behalf of the person whose access to or egress from such building has been substantially restricted as set forth in Section [19.50.060A](#), shall be entitled to bring an action for:

1. Injunctive relief against the building operators of the building in which the elevator is inoperable to compel the building owner to repair the elevator and/or to provide alternative housing; and
2. Reasonable attorney's fees and costs of suit. (Ord. 6245-NS § 6, 1994)

19.50.070 Prohibition on retaliation and discrimination in renting--Private right of action, statutory damages for violation of prohibition.

A. No landlord may bring or threaten to bring an action to recover possession, cause a tenant to quit the unit involuntarily, serve any notice to quit or notice of termination of tenancy, decrease any services or increase the rent where the landlord's intention is retaliation against the tenant for the tenant's assertion or

exercise of rights under this chapter. Such retaliation shall be a defense to an action to recover possession, or it may serve as a basis for an affirmative suit by the tenant for actual and punitive damages and injunctive relief.

B. It shall be illegal for any landlord to refuse to rent to any persons on the grounds that they may assert their rights under this chapter because they require an elevator for access to or egress from the building. In any action by any person arising out of a violation of this section, the prevailing plaintiff shall be entitled to all appropriate relief including but not limited to injunctive relief, actual damages including emotional distress, statutory damages not to exceed ten thousand dollars and reasonable attorney's fees. (Ord. 6245-NS § 7, 1994)

19.50.080 Violation of Building Standards (BMC Chapter [19.28](#)).

The time periods set forth in Section [19.50.040](#) to repair an elevator shall also be used to determine whether the building operator has complied with Chapter 30 and Section 3001.2 of the [California Building Code](#) relating to the maintenance of elevators. Chapter 30 of the [California Building Code](#) is incorporated by reference in Berkeley Municipal Code Section [19.28.010](#). (Ord. 7414-NS § 2, 2015; Ord. 6245-NS § 8, 1994)

19.50.090 Remedies cumulative.

The remedies provided by this chapter are in addition to all other remedies available to any party with respect to ensuring accessibility and usability of elevators. (Ord. 6245-NS § 9, 1994)

19.50.100 Contractual waiver of chapter--Void.

Any provision in any rental or other agreement, verbal or written, which waives or modifies any provision of this chapter is contrary to public policy and void. (Ord. 6245-NS § 10, 1994)

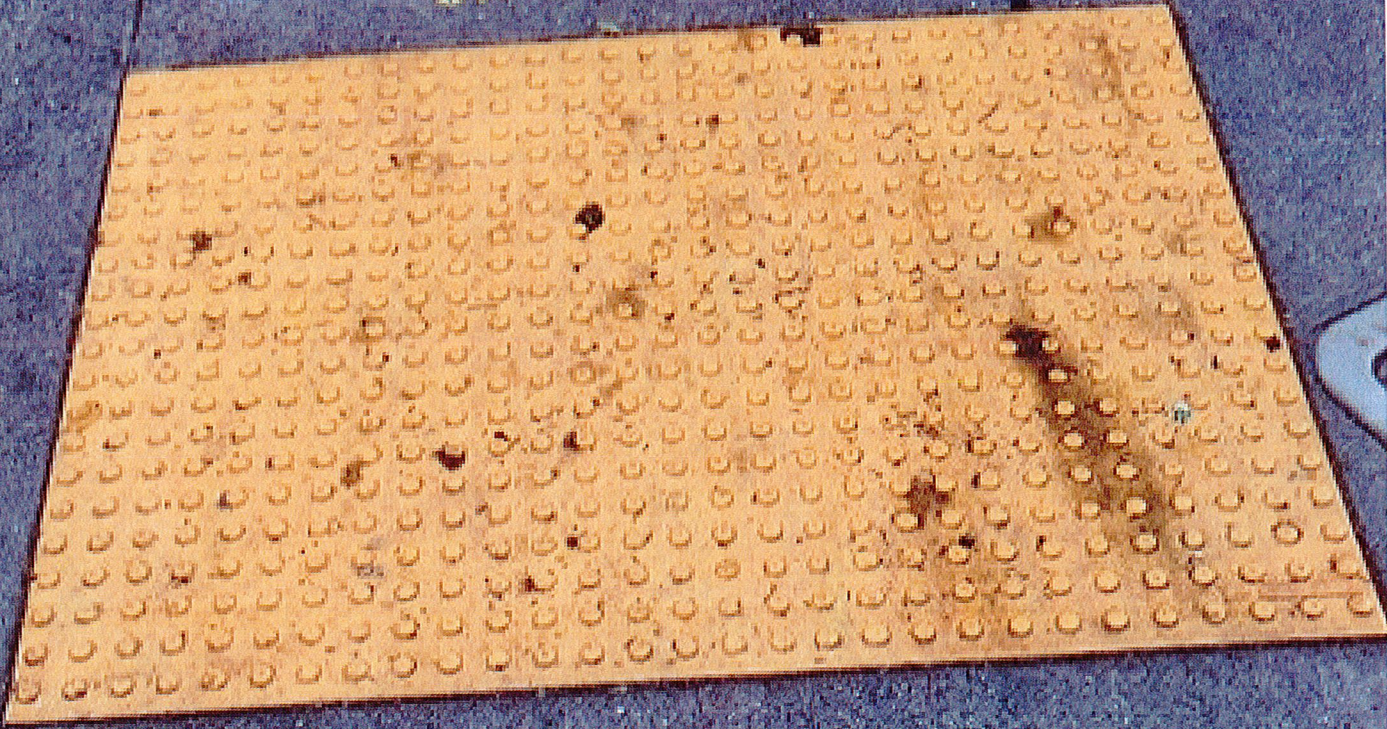
19.50.110 Severability.

If any part or provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be affected

thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable. (Ord. 6245-NS § 11, 1994)

From: SamnHazel <samnhazel@comcast.net>
Sent: Sunday, August 11, 2019 4:20 PM
To: Bednarska, Dominika
Subject: Photo Milvia and Center St
Attachments: IMG_6459.jpg; ATT00001.txt

NO BIKES
ON SIDEWALKS



From: SamnHazel <samnhazel@comcast.net>
Sent: Sunday, August 11, 2019 4:27 PM
To: Bednarska, Dominika
Subject: Center St (north side) btwn Milvia and MLK JR
Attachments: IMG_8831.jpg; ATT00001.txt



From: SamnHazel <samnhazel@comcast.net>
Sent: Sunday, August 11, 2019 4:24 PM
To: Bednarska, Dominika
Subject: Center St Btwn Shattuck and Oxford
Attachments: IMG_8945.jpg; ATT00001.txt



