



Council Agenda Report

Date: March 17, 2015

Item No: 15.

FROM: Dino Pick, Deputy City Manager, Plans and Public Works
Prepared By: John Kuehl, Chief of Inspection Services/Building Official

SUBJECT: Adopt an ADA Curb Ramp and Sidewalk Design Exception Policy

RECOMMENDATION:

That the City Council adopt the proposed Americans with Disabilities Act (“ADA”) Curb Ramp and Sidewalk Design Exception Policy as recommended by the Disabled Access Appeals Board.

POLICY IMPLICATIONS:

Currently the City does not have a policy or procedure in place for curb ramp and sidewalk design exceptions. This action, if approved, will create a policy to be included in the existing Americans with Disabilities Act (ADA) Transition Plan.

FISCAL IMPLICATIONS:

There are no financial implications

ENVIRONMENTAL DETERMINATION:

The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 (“CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

ALTERNATIVES CONSIDERED:

The Council may choose to include different elements in the policy, but staff recommends that a policy be created at this time as the City will soon start to upgrade many curb ramps and sidewalks as a result of the passage of Measure P.

DISCUSSION:

In 2013, the City Council adopted an ADA Transition Plan. The Plan included an element to improve the accessibility of existing curb ramps and sidewalks at intersections throughout the City. The City Council's Disabled Access Appeals Board reinforced the Plan by adopting a policy, consistent with the U.S. Department of Justice direction, which requires the City to reconstruct curb ramps in accordance with current ADA requirements and standards for certain street resurfacing projects as part of the overall resurfacing project.

In November of 2014, City of Monterey voters passed Measure P - a ballot measure increasing the sales tax within the City by one percent (1%) for a period of four years - to make needed repairs to streets and sidewalks, and upgrade some of the City's ramps to be consistent with ADA requirements and standards. Staff is now implementing Measure P with the understanding that there may be situations due to existing conditions, such as the street slope or an existing fire hydrant or pole, that make full compliance with ADA design requirements and standards not possible. Accordingly, on January 29, 2015, the Disabled Access Appeals Board held a meeting on this matter and recommended that the City Council adopt such a policy.

Because the City of Monterey has existing conditions that mirror those in the City of San Francisco, staff used San Francisco's exemption process and policy as a guide to developing recommendations for the City of Monterey. The City's Disabled Access Appeals Board supported this approach.

Accordingly, staff recommends that the City Council adopt the proposed Americans with Disabilities Act ("ADA") Curb Ramp and Sidewalk Design Exception Policy as recommended by the Disabled Access Appeals Board.

Attachments:

1. Draft Resolution
2. Draft ADA curb ramp and sidewalk design exception policy

RESOLUTION NO. __ - ____ C.S.

Date: March 17, 2015
Item No: 15.

A RESOLUTION OF THE COUNCIL OF THE CITY OF MONTEREY

**RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ADA CURB RAMP AND
SIDEWALK DESIGN EXCEPTION POLICY**

WHEREAS, as a public entity defined under Title II of the federal Americans with Disabilities Act (ADA), all City of Monterey owned or funded construction projects must comply with federal, state, and local accessibility requirements; and

WHEREAS, there are situations where due to existing conditions, such as the street slope or an existing fire hydrant or pole, full compliance with ADA design standards will not be achievable. In such situation, exceptions to accessibility design standards must be thoroughly documented; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTEREY that it hereby adopts the proposed ADA Curb Ramp and Sidewalk Design Exception Policy, attached as Exhibit A.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this _____ day of _____, 201_, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

APPROVED:

ATTEST:

Mayor of said City

City Clerk thereof

Exhibit A

**CITY OF MONTEREY
ADA POLICIES AND PROCEDURES**

TITLE: ADA Curb Ramp and Sidewalk Design Exception Policy

Requests for exceptions to accessibility design standards for sidewalks and curb ramps shall be made in writing, on a form approved by the City's ADA Coordinator. Requests shall be reviewed by the ADA Coordinator's office and a written authorization or denial of the exception shall be issued.