



Office of the City Manager

ACTION CALENDAR

July 11, 2017

(Continued from May 30, 2017)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Companion Report: Automatic Door Openers in Multi-Unit Residential Buildings

RECOMMENDATION

The City Manager recommends the City Council evaluate the resolution requested by the Commission on Disability as an amendment to BMC § 19.28.010. If Council agrees with the substantive recommendations in the Commission on Disability (CoD) report entitled “Recommendations to Require Inclusion of Automatic Door Openers in Residential Buildings with Four or More Units and a Common Entryway,” the City Manager recommends Council consider a stand-alone ordinance (similar to BMC § 19.80) that would (1) limit the scope to privately owned buildings with four or more units and a common entryway; (2) not subsidize installation of automatic door openers by building owners/builders; (3) include language that limits the City’s responsibility to conduct inspections to ensure compliance; and (4) limit the City’s liability for torts related to automatic door openers that are installed.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation as drafted by the Commission on Disability (CoD) would apply to City owned/leased housing, too. The CoD currently estimates a \$5,000 cost for installation of one automatic door opener with secure mechanism, and key fob activation.

Making the resolution’s recommendations enforceable would require an amendment to the Berkeley Building Code, or the addition of a stand-alone ordinance. Fiscal implications of an amendment would include extensive staff time for researching and drafting the document. Additionally, after its adoption, a new ordinance would have to be filed with the appropriate California state agencies. Finally, there would be unknown costs associated with providing notice of such a new requirement to private property owners and City staff, and including suitable provisions within the existing plan-checking and inspection processes. Staff time would be also be required to enforce the new amendment.

Alternatively, if a stand-alone resolution were adopted¹, costs associated with filing the ordinance with state agencies, and accompanying plan-check, inspection and enforcement could be eliminated. Yet, any enforcement activities associated with installation and maintenance of these openers (even if triggered only by complaint) will require an unknown level of staff time and resources.

CURRENT SITUATION AND ITS EFFECTS

No state, federal or local legislation requires installation of automatic door openers at this time. Further, such automatic door openers are not required by either the Americans With Disabilities Act 1990 (ADA) or the Fair Housing Act (FHA), for either public or private housing, but must comply with guidelines when they are provided. As a result, they are rarely found in residential buildings in Berkeley. This could make locating housing more challenging for those for whom automatic door openers are a useful accommodation.

BACKGROUND

The CoD in its report has concluded that Berkeley's commitment to accessibility and independent living should incentivize adoption of a requirement for automatic door openers in residential buildings of four or more units that share a common entryway. The CoD holds the position that such investments in accessibility and visitability of residential spaces now will help keep Berkeley at the forefront of accessibility, promote residents' ability to age in place, and provide the universal benefits of this technology to able-bodied/ non-disabled residents.

Berkeley already enforces a range of federal and state laws that impact building and accessibility. These laws include the ADA, the Rehabilitation Act of 1973, the FHA, and the California Building Code (adopted in BMC 19.28.010). None of the laws currently enforced, however, require this particular element. Thus, the CoD asks that the City address this issue at the local level.

The CoD report suggests that the City provide financial offsets to builders or owners to facilitate inclusion or installation of automatic door openers to buildings that fall within the scope of this recommendation. Yet, it also suggests developers and landlords of residential buildings containing four or more units and a common entryway will be able to absorb this cost.

ENVIRONMENTAL SUSTAINABILITY

No discernable environmental effect has been identified.

¹ Similar to BMC §19.80 "Minimum Security in the City of Berkeley," or BMC §19.60 "Rental Units—Notice Required for Occupancy by Owner."

RATIONALE FOR RECOMMENDATION

The City of Berkeley recognizes the recommendation in the CoD report would further the objectives of the Housing Element of the Berkeley General Plan. Specifically, it is an opportunity for the City to “encourage housing that is universally accessible,” “expand the supply of housing for special needs groups,” and would not qualify as a “barrier to the construction of new housing of all types.”²

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions have been considered.

CONTACT PERSON

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² Berkeley General Plan, Chapter 5 (A)(4), (A)(6), and (A)(10) <http://bit.ly/2pOsTSu>

