

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: April 11, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Tang on April 3, 2018:

File No. 180323

Ordinance amending the Building Code to extend the times for existing buildings with a place of public accommodation either to have all primary entries and paths of travel into the building accessible to persons with disabilities or to receive a City determination of equivalent facilitation, technical infeasibility, or unreasonable hardship; to extend the period for granting extensions from those deadlines; to extend the time to submit the Department of Building Inspection's report on the disability access improvements program to the Board of Supervisors; eliminating the administrative fee to implement the disability access improvement program; restating the findings of local conditions under the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: Erica.Major@sfgov.org

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

1 [Building Code - Mandatory Disability Access Improvements for Places of Public
2 Accommodation - Extension of Time Deadlines - Deletion of Administrative Fee]

3 **Ordinance amending the Building Code to extend the times for existing buildings with**
4 **a place of public accommodation either to have all primary entries and paths of travel**
5 **into the building accessible to persons with disabilities or to receive a City**
6 **determination of equivalent facilitation, technical infeasibility, or unreasonable**
7 **hardship; to extend the period for granting extensions from those deadlines; to extend**
8 **the time to submit the Department of Building Inspection's report on the disability**
9 **access improvements program to the Board of Supervisors; eliminating the**
10 **administrative fee to implement the disability access improvement program; restating**
11 **the findings of local conditions under the California Health and Safety Code; and**
12 **directing the Clerk of the Board of Supervisors to forward this Ordinance to the**
13 **California Building Standards Commission upon final passage.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
17 **Board amendment additions** are in double-underlined Arial font.
18 **Board amendment deletions** are in ~~strikethrough Arial font~~.
19 **Asterisks (* * * *)** indicate the omission of unchanged Code
20 subsections or parts of tables.

21 Be it ordained by the People of the City and County of San Francisco:

22 Section 1. Background and General Findings.

23 (a) Pursuant to Charter Section D3.750-5, the Building Inspection Commission
24 considered this ordinance at a duly noticed public hearing held on _____, 2018.

25 (b) Chapter 11D of the Building Code was enacted on April 22, 2016, by Ordinance
No. 51-16, which became effective on May 22, 2016. Chapter 11D establishes a timeline for

1 the owner of an existing building with a place of public accommodation to have the building
2 inspected for compliance with accessible entry and path of travel requirements and, if not in
3 compliance, to either bring the building into compliance or obtain a finding from the City of
4 equivalent facilitation, technical infeasibility, or unreasonable hardship. Extensions of time
5 may be granted by the Director of the Department of Building Inspection and the Access
6 Appeals Commission but not beyond six years from Chapter 11D's effective date. A report to
7 the Board of Supervisors from the Department of Building Inspection was due in May 2017.

8 (c) Ordinance No. 200-17 extended for one year the original time for compliance
9 with the accessible entry and path of travel requirements, the six-year limitation on extensions
10 of time, and the May 2017 deadline for submission of the Department's report to the Board of
11 Supervisors.

12 (d) This ordinance extends each of those three deadlines as extended by
13 Ordinance No. 200-17 for an additional six months.

14
15 Section 2. Restatement of Local Conditions under California Health and Safety Code
16 Section 17958.7. As stated in Ordinance No. 51-16:

17 (a) San Francisco is an approximately 47-square mile peninsula with many hills and
18 steep streets. The sidewalks are narrow, crowded, and often sloping; much of the building
19 stock is old and often was constructed to the property line and/or adjacent to the fronting
20 sidewalk with no or minimal setbacks.

21 (b) The City has numerous defined neighborhood commercial districts, which
22 conveniently provide retail goods and services to neighborhood residents and workers as well
23 as visitors to the area. A common feature of these older neighborhood shopping areas is
24 small-scale development and a pattern of small buildings with a narrow frontage and a
25 continuous facade line that abuts the fronting sidewalk. Another common feature is the

1 commercial-residential mixed use of the buildings and a pattern of commercial space on the
2 ground floor with residential flats on the upper floors.

3 (c) This combination of sloping streets, narrow sidewalks, and an old stock of small,
4 multi-use buildings with narrow facades that were constructed to the property line and/or
5 abutting sidewalk has resulted in a large number of San Francisco buildings in which services
6 are provided to the public, that have steps to the front entrance and other elements that do not
7 comply with federal and state disability access requirements.

8
9 Section 3. The Building Code is hereby amended by revising Sections 1107D, 1108D,
10 and 1113D, to read as follows:

11 **SECTION 1107D – COMPLIANCE SCHEDULE; OPTION TO COMPLY WITH CURRENT**
12 **CODE REQUIREMENTS**

13 The time_s for compliance with the requirements of this Chapter 11D are set forth in the
14 following Table 1107D. The Owner of a building within the scope of this Chapter must submit
15 all required forms, documents, and permit applications to the Department prior to the
16 deadlines set forth in Table 1107D but may comply with the requirements of this Chapter 11D,
17 or elect to comply with the requirements and procedures of the Building Code then in effect, at
18 any time prior to the deadlines set forth in Table 1107D.

19
20

TABLE 1107D COMPLIANCE SCHEDULE 1				
<u>Category</u>	<u>Category Description</u>	Submit compliance Checklist and specify compliance Option	File application for required building permit(s)	Obtain required building permit(s) <u>1</u> 2

21
22
23
24
25

1	Category One Buildings	<i>In compliance</i>	<i>24 January 1, 2019</i>	N/A	N/A
2	Category Two Buildings	<i>No steps but barriers</i>	<i>24 January 1, 2019</i>	<i>27 April 1, 2019</i>	<i>39 April 1, 2020</i>
3	Category Three Buildings	<i>One step with barriers</i>	<i>36 June 1, 2019</i>	<i>39 September 1, 2019</i>	<i>51 September 1, 2020</i>
4	Category Four Buildings	<i>1+ step with other barriers</i>	<i>42 December 1, 2019</i>	<i>45 March 1, 2020</i>	<i>57 March 1, 2021</i>

8 ¹ *Unless otherwise specified, time period is in months measured from the effective date of this Chapter 11D.*

9 ² Pursuant to Section 1106D.4, all mandated work must be completed within the time periods specified in Section 106A.4.4 of this Code for Permit Expiration unless an extension of time is granted pursuant to Section 1108D.

12 **SECTION 1108D – EXTENSIONS OF TIME**

13 (a) For good cause shown, the Building Official may grant one extension of time for
 14 up to six months from the compliance timelines in Table 1107D. For good cause shown, one
 15 or more additional extensions of time may be granted by the Access Appeals Commission
 16 pursuant to Section 1110D; provided, however, that in no event shall the Commission extend
 17 the time to complete the mandatory work required by this Chapter 11D beyond December 1,
 18 2023 *seven years from the effective date of this Chapter 11D.* The Commission’s decision shall be
 19 final.

20 * * * *

21 **SECTION 1113D – COORDINATION WITH OTHER CITY AGENCIES; REPORT TO THE**
 22 **BOARD OF SUPERVISORS**

23 * * * *

24 **1113D.2. Report to the Board of Supervisors.** *Within two years from the effective date of this*
 25 *Chapter 11D, and following After* consultation and coordination with other appropriate City

1 departments and agencies, on or before December 1, 2018 the Department shall submit a report
2 in writing to the Board of Supervisors concerning the effectiveness of this Chapter 11D and
3 including recommendations, if any, for amendments to this Chapter. A progress report shall
4 be submitted to the Board of Supervisors once a year thereafter until completion of this
5 Chapter's disability access improvement program.

6 **~~SECTION 1115D—ADMINISTRATIVE FEE~~**

7 ~~*In addition to any other permit fees that may apply, the Department shall charge the Owner of*~~
8 ~~*each property within the scope of this Chapter 11D an administrative fee to compensate the*~~
9 ~~*Department for the cost of the services necessary to implement and enforce Chapter 11D's disability*~~
10 ~~*access improvement program. The administrative fee shall be the Standard Hourly Rate for*~~
11 ~~*Administration set forth in Table 1A-D of this Code. The administrative fee is payable within 30 days of*~~
12 ~~*the Department's notice that payment is due.*~~

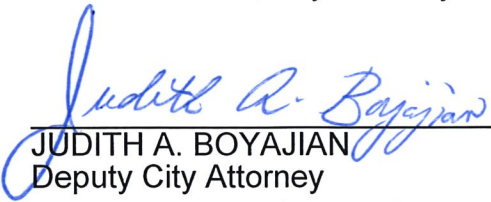
13
14 Section 4. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
23 additions, and Board amendment deletions in accordance with the "Note" that appears under
24 the official title of the ordinance.

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Section 6. Directions to Clerk. The Clerk of the Board of Supervisors shall forward a copy of this ordinance to the California Building Standards Commission upon its enactment.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
JUDITH A. BOYAJIAN
Deputy City Attorney
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LEGISLATIVE DIGEST

[Building Code - Mandatory Disability Access Improvements for Places of Public Accommodation - Extension of Time Deadlines - Deletion of Administrative Fee]

Ordinance amending the Building Code to extend the times for existing buildings with a place of public accommodation either to have all primary entries and paths of travel into the building accessible to persons with disabilities or to receive a City determination of equivalent facilitation, technical infeasibility, or unreasonable hardship; to extend the period for granting extensions from those deadlines; to extend the time to submit the Department of Building Inspection's report on the disability access improvements program to the Board of Supervisors; and eliminating the administrative fee to implement the disability access improvement program; restating the findings of local conditions under the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

Existing Law

Chapter 11D of the Building Code establishes a timeline for the owner of an existing building with a place of public accommodation to (1) have the building inspected for compliance with disability access requirements and (2) either have a Primary Entry or Entries and Accessible Entrance Route into the building that is usable by persons with disabilities or obtain a finding from the City that there is equivalent facilitation, compliance is technically infeasible, or compliance is an unreasonable hardship. Section 1108D provides that in no event shall the Access Appeals Commission grant an extension of time to comply beyond seven years from Chapter 11D's effective date. Section 1113D requires the Department of Building Inspection to submit within two years of Chapter 11D's effective date a written report to the Board of Supervisors on the effectiveness of Chapter 11D and any recommendations for amendments.

Amendments to Current Law

This ordinance extends for approximately six months the time for the owner's compliance with the disability access improvement requirements. Also extended by an additional six months is the time for the Department of Building Inspection to submit a written report to the Board and the limitation on granting extensions of time to comply. The Administrative Fee for implementation of the disability access improvement program is deleted.

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