

BOARD of SUPERVISORS



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MEMORANDUM

TO: Nicole Bohn, Director, Mayor's Office on Disability
Tom Hui, Director, Department of Building Inspection

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

DATE: July 21, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Kim on July 18, 2017:

File No. 170837

Ordinance amending Chapter 11D of the Building Code to extend the time for compliance with the requirement that an existing building with a place of public accommodation either have all primary entries and path of travel into the building accessible by persons with disabilities or receive from the City a determination of equivalent facilitation, technical infeasibility, or unreasonable hardship, the Department of Building Inspection's report to the Board of Supervisors, and the limitation on granting extensions of time; restating the findings of local conditions under the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward the legislation to the California Building Standards Commission upon final passage.

If you have comments or reports to be included with the file, please forward them to me 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 - Extension of Time For
2 Compliance and Report to the Board of Supervisors]

3 **Ordinance amending Chapter 11D of the Building Code to extend the time for**
4 **compliance with the requirement that an existing building with a place of public**
5 **accommodation either have all primary entries and path of travel into the building**
6 **accessible by persons with disabilities or receive from the City a determination of**
7 **equivalent facilitation, technical infeasibility, or unreasonable hardship, the Department**
8 **of Building Inspection's report to the Board of Supervisors, and the limitation on**
9 **granting extensions of time; restating the findings of local conditions under the**
10 **California Health and Safety Code; and directing the Clerk of the Board of Supervisors**
11 **to forward the legislation to the California Building Standards Commission upon final**
12 **passage.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.

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

19 Section 1. Background and General Findings.

20 (a) Pursuant to Charter Section D3.750-5, the Building Inspection Commission
21 considered this ordinance at a duly noticed public hearing held on May 17, 2017.

22 (b) Chapter 11D of the Building Code was enacted on April 22, 2016 by Ordinance
23 No. 0051-16 and became effective on May 22, 2016. Its operative date was 60 days after
24 enactment. Section 1107D establishes a timeline for the owner of an existing building with a
25 place of public accommodation to (1) have the building inspected for compliance with

1 disability access requirements under specified circumstances and (2) either have a Primary
2 Entry or Entries and Accessible Entrance Route into the building that is usable by persons
3 with disabilities, or obtain a finding from the City that compliance is technically infeasible or is
4 an unreasonable hardship.

5
6 Section 2. Restatement of Local Conditions under California Health and Safety Code
7 Section 17958.7. As stated in Ordinance No. 0051-16:

8 (a) San Francisco is a 49-square mile peninsula with many hills and steep streets.
9 The sidewalks are narrow, crowded, and often sloping; much of the building stock is old and
10 often was constructed to the property line and/or adjacent to the fronting sidewalk with no or
11 minimal setbacks.

12 (b) The City also has numerous defined neighborhood commercial districts, which
13 conveniently provide retail goods and services to neighborhood residents and workers as well
14 as visitors to the area. A common feature of these older neighborhood shopping areas is
15 small-scale development and a pattern of small buildings with a narrow frontage and a
16 continuous facade line that abuts the fronting sidewalk. Another common feature is the
17 commercial-residential mixed use of the buildings and a pattern of commercial space on the
18 ground floor with residential flats on the upper floors.

19 (c) This combination of sloping streets, narrow sidewalks, and an old stock of small,
20 multi-use buildings with narrow facades that were constructed to the property lines and/or
21 abutting sidewalk has resulted in a large number of San Francisco buildings providing
22 services to the public that have steps to the front entrance and other elements that do not
23 comply with federal and state disability access requirements.

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

3
4 **Chapter 11D**
MANDATORY ACCESSIBILITY IMPROVEMENTS FOR BUILDINGS WITH A PLACE
5 **OF PUBLIC ACCOMMODATION**

6 * * * *

7 **SECTION 1107D – COMPLIANCE SCHEDULE; OPTION TO COMPLY WITH CURRENT**
8 **CODE REQUIREMENTS**

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

15 **TABLE 1107D**
16 **COMPLIANCE SCHEDULE¹**

	Submit compliance Checklist and specify compliance Option	File application for required building permit(s)	Obtain required building permit(s)²
17 Category One Buildings	12 <u>24</u>	N/A	N/A
18 Category Two Buildings	12 <u>24</u>	15 <u>27</u>	27 <u>39</u>
19 Category Three Buildings	24 <u>36</u>	27 <u>39</u>	39 <u>51</u>
20 Category Four Buildings	30 <u>42</u>	33 <u>45</u>	45 <u>57</u>

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

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

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

6 (a) For good cause shown, the Building Official may grant one extension of time for
7 up to six months from the compliance timelines in Table 1107D. For good cause shown, one
8 or more additional extensions of time may be granted by the Access Appeals Commission
9 pursuant to Section 1110D; provided, however, that in no event shall the Commission extend
10 the time to complete the mandatory work required by this Chapter 11D beyond ~~six~~ seven years
11 from the effective date of this Chapter 11D. The Commission's decision shall be final.

12 * * * *

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

15 * * * *

16 **1113D.2. Report to the Board of Supervisors.** Within ~~one~~ two years from the
17 effective date of this Chapter 11D , and following consultation and coordination with other
18 appropriate City departments and agencies, the Department shall submit a report in writing to
19 the Board of Supervisors concerning the effectiveness of this Chapter and including
20 recommendations, if any, for amendments to this Chapter. A progress report shall be
21 submitted to the Board of Supervisors once a year thereafter until completion of this Chapter's
22 disability access improvement program.

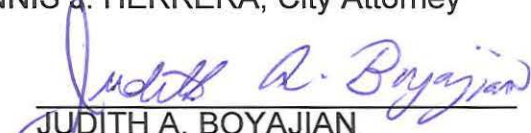
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24 Section 4. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3

4 Section 5. Directions to Clerk. The Clerk of the Board of Supervisors shall forward a
5 copy of this ordinance to the California Building Standards Commission upon its enactment.

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

8 By: 
9 JUDITH A. BOYAJIAN
Deputy City Attorney
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LEGISLATIVE DIGEST

[Building Code - Mandatory Disability Access Improvements - Extension of Time For Compliance and Report to the Board of Supervisors]

Ordinance amending Chapter 11D of the Building Code to extend the time for compliance with the requirement that an existing building with a place of public accommodation either have all primary entries and path of travel into the building accessible by persons with disabilities or receive from the City a determination of equivalent facilitation, technical infeasibility, or unreasonable hardship, the Department of Building Inspection's report to the Board of Supervisors, and the limitation on granting extensions of time; restating the findings of local conditions under the California Health and Safety Code and directing the Clerk of the Board of Supervisors to forward the legislation to the California Building Standards Commission upon final passage.

Existing Law

Chapter 11D of the Building Code was enacted on April 22, 2016 by Ordinance No. 0051-16 and became effective on May 22, 2016. Its operative date was 60 days after enactment. Section 1107D 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 under specified circumstances 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 compliance is technically infeasible or is an unreasonable hardship. Section 1108D provides that in no event shall the Access Appeals Commission grant an extension of time to comply beyond six years from Chapter 11D's effective date. Section 1113D requires the Department of Building Inspection to submit within one year 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

The time within which the owner of an existing building with a place of public accommodation has to comply with the mandatory disability access requirements for the primary entrance and path of travel into the building is extended by one year. Also extended by one year is the time for the Department of Building Inspection to submit a written report to the Board and the six-year limitation on granting extensions of time to comply.

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