File No. 240982 **Committee Item No.** 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Prepared by: John Carroll **Date:** February 7, 2025
Prepared by: _____ **Date:** _____
Prepared by: _____ **Date:** _____

[Building, Administrative, Public Works Codes - Disability Access Improvements for Places of Public Accommodation]

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

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

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

Section 1. Findings.

(a) Pursuant to Charter Section 4.121 and Building Code Section 104A.2.11.1.1, the Building Inspection Commission considered this ordinance at a duly noticed public hearing held on November 20, 2024.

(b) Chapter 11D of the Building Code currently requires the owner of an existing building with a place of public accommodation to have the building inspected for compliance with accessible entry and path of travel requirements. If the building is not in compliance, the owner must either bring the building into compliance or obtain a finding from the City of equivalent facilitation, technical infeasibility, or unreasonable hardship. All mandated work

must be completed within the time periods specified in the Building Code for building permits unless an extension of time is granted.

(c) Property owners are responsible for compliance with Code requirements, but leases may shift some or all of the burden of compliance onto tenants. Many of the buildings subject to the Chapter 11D requirements have multiple leased spaces, many of which are operated by small businesses without substantial financial resources.

(d) The requirements of Chapter 11D were designed to bring a broader set of property and business owners into compliance with the accessibility standards of the California Building Code and, to the greatest extent feasible, the federal Americans with Disabilities Act. As a result, as of October 2024, over 16,500 businesses in San Francisco are compliant with program accessibility requirements (including waived and exempted businesses) and another 1,190 businesses have applied for a permit to bring the properties into compliance with Chapter 11D. With a compliance rate of 75% of businesses, the City intends to pivot its focus and limited resources to facilitate compliance with State and Federal accessibility standards by providing financial support and robust education and outreach.

(e) No local findings are required for this ordinance under California Health and Safety Code Section 17958.7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures for implementing the code, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

(f) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 *et seq.*). Said determination is on file with the Clerk of the Board of

Supervisors in File No. 240982 and is incorporated herein by reference. The Board affirms this determination.

Section 2. Chapters 1A and 11D of the Building Code are hereby amended by (1) revising Sections 105A.3 (Section 105A.3.3 specifically), 1101D, and 1102D; (2) deleting existing Section 1103D and adding new Section 1103D; (3) deleting existing Sections 1104D, 1105D, 1106D, 1107D, 1108D, 1109D, 1110D, and 1111D; and (4) renumbering existing Sections 1112D, 1113D, and 1114D as new Sections 1104D, 1105D, and 1106D respectively, and revising said Sections, to read as follows:

105A.3 Access Appeals Commission.

105A.3.1 Establishment; composition; purpose. Pursuant to the provisions of Section 19957.5 of the Health and Safety Code of the State of California, there is hereby established an Appeals Board to be known as the Access Appeals Commission composed of five members to hear written appeals brought by any person regarding action taken by the Department in the enforcement of the requirements of Part 5.5 (commencing with Section 19955), Division 13 of the Health and Safety Code of the State of California, including the exceptions contained in Section 19957 thereof, as well as action taken by the Department in the enforcement of the disabled access and adaptability provisions of this code.

* * * *

105A.3.3 Powers and duties; finality. The Access Appeals Commission shall conduct hearings on written appeals made under Section 105A.3.4 hereof. In hearing such appeals, the Access Appeals Commission may approve or disapprove the Department's interpretations of Part 5.5, Division 13 of the Health and Safety Code of the State of California and of the disability access and adaptability requirements of this code and actions taken by the

Department to enforce said requirements and abate violations. The Commission shall also make determinations on equivalent facilitation, technical infeasibility, unreasonable hardship, *and* extensions of time. ~~*, and such other matters as Chapter 11D – Mandatory Accessibility Improvements for Buildings with a Place of Public Accommodation may require or authorize.*~~ All such approvals or disapprovals shall be final and conclusive as to the Department, in the absence of fraud or prejudicial abuse of discretion. See Section 110A, Table 1A-K – Penalties, Hearings, Code Enforcement Assessments – for applicable fee.

* * * *

Chapter 11D

MANDATORY ACCESSIBILITY IMPROVEMENTS FOR BUILDINGS WITH A PLACE OF PUBLIC ACCOMMODATION

SECTION 1101D – SCOPE

Any building or portion of a building with a Place of Public Accommodation subject to the requirements of Chapter 11B of this Code is within the scope of this Chapter.

Exception: A building that was constructed under a building or site permit application filed on or after January 1, 2002.

A building constructed under the Building Code in effect on or after January 1, 2002 is presumed to be accessible to persons with disabilities and will be exempt from this Chapter 11D ~~*upon receipt by the Department of a written notice of exemption from the Owner or the Owner's authorized agent that provides a construction permit application number dated on or after January 1, 2002 and contact information for the Owner and/or Owner's authorized agent*~~.

1101D.1. Compliance with Federal or State Laws. Nothing in this Chapter 11D is intended to relieve the Owner or the operator of a Place of Public Accommodation of their obligation to comply with the requirements of any Federal or State law, including but not

limited to the Americans with Disabilities Act, or to modify or extend the time for compliance with any such law.

1101D.2. Contractual Obligations. Nothing in this Chapter 11D is intended to interfere with any contractual obligations between the Owner of a building within the scope of this Chapter and any lessee of space within the building.

SECTION 1102D – DEFINITIONS

For the purposes of this Chapter 11D, the following definitions shall apply:

~~*"Accessible Entrance Route." An identifiable path of travel by means of which a Primary Entry may be approached, entered and exited, and which connects the Primary Entry with an exterior approach (including any adjacent sidewalks, streets and parking areas).*~~

"Building Official." The Director of the Department or the Director's designee.

~~*"California Construction-Related Accessibility Standards Compliance Act." Sections 55.51 through 55.53 of the California Civil Code as amended from time to time.*~~

~~*"California Historical Building Code." Part 8 of Title 24, California Code of Regulations.*~~

"CASp Inspector." A person who has been certified by the State of California as a certified access specialist authorized to inspect a Place of Public Accommodation for compliance with construction-related accessibility standards.

~~*"Checklist for Alterations to Commercial Store-front for Accessibility." A Checklist developed by or with the input of City departments or agencies with review authority over the subject buildings.*~~

"Department." The Department of Building Inspection.

~~*"Design Professional." A "Registered Design Professional" as defined in Chapter 2 of the Building Code.*~~

"Disability Access Compliance Unit" or "Compliance Unit." The Unit within the Department established under Section 11*04*~~*12*~~D of this Chapter.

~~*"Equivalent Facilitation." As defined in Chapter 2 of the Building Code.*~~

~~*"Historic Resource." A building designated pursuant to Articles 10 and 11 of the Planning Code, listed on or determined eligible for listing on the California Register of Historic Resources or the National Register of Historic Places, or that is a 'qualified historical building' as defined in the California Historical Building Code.*~~

~~*"Inspector." A CASp Inspector or a Design Professional approved by the Building Official as qualified to evaluate compliance with disability access requirements.*~~

"Owner." The owner of a building within the scope of this Chapter 11D.

"Place of Public Accommodation." As defined in Chapter 2 of the Building Code and 42 USC Section 12181(7) of the Americans with Disabilities Act of 1990, as amended from time to time.

~~*"Primary Entry." As defined in Chapter 2 of this Code, the principal entrance through which most people enter the building, as designated by the Building Official. If there are multiple commercial tenants or spaces, a building may have multiple Primary Entries.*~~

~~*"Technically Infeasible." As defined in Chapter 2 of the Building Code.*~~

~~*"Technical Infeasibility." A Code requirement is Technically Infeasible.*~~

~~*"Unreasonable Hardship." As defined in Chapter 2 of the Building Code. If the Building Official, or the Access Appeals Commission in any unreasonable hardship determination made under Section 1105D, determines that any of the factors that the Building Code requires to be considered in evaluating an Unreasonable Hardship request are not applicable because the required scope of work is limited to the disability access improvements mandated by this Chapter 11D, the Building Official or Access Appeals Commission may supplement the criteria by considering any applicable factor for determining what is an Undue Hardship or is Readily Achievable in Title III of the Americans with Disabilities Act (42 USC Sections 12181 – 12189) and its implementing regulations.*~~

~~***SECTION 1103D – COMPLIANCE CATEGORIES***~~

~~*The Department shall assign each building within the scope of this Chapter 11D to one of the following four categories. If a building does not clearly fall within one of these categories, the Building Official shall assign it to the category he or she determines is the most appropriate. The Building Official's decision is appealable to the Building Inspection Commission pursuant to Section 77.3(b) of the Administrative Code.*~~

~~***Category One**: The Primary Entry or Entries and the Accessible Entrance Route(s) comply with Code requirements. A building qualifies under Category One if any of the following descriptions applies:*~~

~~*(a) A building or portion thereof was constructed or altered under a permit application filed prior to July 1, 1992 and all Primary Entries and Accessible Entrance Routes are in compliance with the requirements of the 1998 California Building Code.*~~

~~*(b) A building or portion thereof was constructed or altered under a permit application filed on or after July 1, 1992, and prior to January 1, 2002, all Primary Entries and Accessible Entrance Routes are in compliance with the requirements of the 1998 California Building Code or a later Building Code in effect at the time of any permit application for a tenant improvement or other alteration, and the Department gave final approval of the accessible entry work under the construction permit or any alteration permits.*~~

~~*(c) A building is eligible to use the California Historical Building Code, a permit application was filed on or after January 1, 1995, all Primary Entries and Accessible Entrance Routes are in compliance with the California Historical Building Code in effect at the time of the permit application, and the Department gave final approval of the accessible entry work under the construction permit or any alteration permits.*~~

~~*(d) A building is within the scope of Chapter 4D of the Existing Building Code, which mandates earthquake retrofit of certain existing Wood-Frame Buildings, and the Owner elected*~~

~~*pursuant to Section 1107D to comply with the requirements of this Chapter prior to the compliance deadlines in Table 1107D.*~~

~~*(c) A building or portion thereof was altered, or is proposed to be altered, under a permit application filed on or after the effective date of this Chapter 11D and the Owner elected pursuant to Section 1107D to comply with the requirements of this Chapter prior to the compliance deadlines in Table 1107D.*~~

~~***Category Two:** There are no steps to the Primary Entry or Entries and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) do not comply with Code requirements. A building qualifies under Category Two if any of the following descriptions applies:*~~

~~*(a) A building or portion thereof was constructed or altered under a permit application filed prior to July 1, 1992, the building has a Primary Entry or Entries with no steps, and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) are not in compliance with the requirements of the 1998 California Building Code.*~~

~~*(b) A building or portion thereof was constructed or altered on or after July 1, 1992 and prior to January 1, 2002, the building has a Primary Entry or Entries with no steps, and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) are not in compliance with the requirements of the 1998 California Building Code or a later Building Code in effect at the time of any permit application for a tenant improvement or other alteration, or the Department did not give final approval of the accessible entry work under the construction permit or any alteration permit.*~~

~~*(c) A building is eligible to use the California Historical Building Code, a permit application was filed on or after January 1, 1995, the Primary Entry or Entries has no steps, and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) are not in compliance with the California Historical Building Code in effect at the time of permit application, or the Department did not give final approval of the accessible entry work under a construction permit or any alteration permit.*~~

~~***Category Three:*** *There is one step to the Primary Entry or Entries and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) do not comply with Code requirements. A building qualifies under Category Three if the building or portion thereof was constructed or altered under a permit application filed prior to July 1, 1992, the Department gave final approval of the work under the permit, the building has a Primary Entry or Entries with one step and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) are not in compliance with the requirements of the 1998 California Building Code.*~~

~~***Category Four:*** *The building has a Primary Entry or Entries with more than one step and one or more elements of the Primary Entry or Entries and/or the Accessible Entrance Route(s) do not comply with minimum Code requirements. A building qualifies under Category Four if the building or portion thereof was constructed or altered under a permit application filed prior to July 1, 1992, the building has a Primary Entry or Entries with more than one step, and one or more elements of the Primary Entry or Entries or the Accessible Entrance Route(s) are not in compliance with the requirements of the 1998 California Building Code, or the Department did not give final approval of the accessible entry work under the construction permit.*~~

SECTION 1103D – DEPARTMENT COORDINATION

The Department shall coordinate with the Planning Department, the Department of Public Works, Mayor's Office on Disability, and other appropriate City departments and offices to do the following:

(a) Provide information to project applicants who own or operate a Place of Public Accommodation regarding the obligations of property owners, managers, and business tenants regarding compliance with disability access requirements under the California Building Code and the Americans with Disabilities Act, upon submittal of a project application; and

(b) Develop and distribute outreach tools, such as brochures and technical information sheets, to assist project applicants who own or operate a Place of Public Accommodation in understanding said requirements.

~~***SECTION 1104D – INSPECTION AND SUBMISSION OF PRIMARY ENTRY COMPLIANCE CHECKLIST***~~

~~***1104D.1. Category One Buildings.*** *The Owner of a building classified in Section 1103D as Category One shall obtain an inspection of the elements on the Department's Category One Primary Entry Compliance Checklist by an Inspector. On or before the time for compliance specified in Section 1107D , the Owner shall submit to the Department's Disability Access Compliance Unit a copy of the Checklist completed and signed by the person who performed the inspection and including his or her business contact information and a professional stamp, CASp number, or California State License Bureau contractor's license number, whichever is applicable.*~~

~~*If any elements on the Checklist are found by the Inspector or licensed general contractor to be not in compliance with the standards for accessible entries set forth in the applicable California Building Code or California Historical Building Code, or the Department did not give final approval of the accessible entry work, the noncomplying elements shall be clearly specified in detail, the building shall be reassigned by the Building Official to the appropriate Category, and the Owner shall comply with all requirements of that Category. The Building Official's decision is appealable to the Building Inspection Commission pursuant to Section 77.3(b) of the Administrative Code.*~~

~~***Exception:*** *For Category One subcategories (d) and (e), the Building Official may waive the requirement for an inspection and submittal of the Checklist if the Building Official determines that an inspection or documents submitted under other permit applications are the equivalent of the inspection and Checklist submittal requirements of this Chapter 11D.*~~

~~***1104D.2. Category Two Buildings.*** *The Owner of a building classified in Section 1103D as Category Two shall obtain an inspection of the elements on the Department's Category Two Primary Entry Compliance Checklist by an Inspector. On or before the time for compliance specified in Section 1107D , the Owner shall submit to the Department's Disability Access Compliance Unit a copy of the Checklist completed and signed by the person who performed the inspection and including his or her business contact information and a professional stamp or CASp number.*~~

~~*Each element on the Checklist found by the Inspector to be not in compliance with the applicable standards for accessible entries set forth in the applicable Building Code or California Historical Building Code, including a failure to obtain final Department approval of the accessible entry work, shall be specified in detail and one of the following four options selected by the Owner as the method by which the Owner will address the Code deficiency within the time specified for compliance in Section 1107D:*~~

~~*(a) **Option 1**. The Owner shall submit to the Disability Access Compliance Unit:*~~

~~*(1) Plans showing how the non-complying element or elements will be brought into full compliance with the applicable standards for accessible entries set forth in either the California Building Code or the California Historical Building Code, and*~~

~~*(2) If the Owner elects to use the California Historical Building Code, documentation showing that the building is qualified to use the California Historical Building Code.*~~

~~*The Owner must subsequently apply for and obtain a building permit to do the required work within the time specified for compliance in Section 1107D.*~~

~~*(b) **Option 2.** The Owner shall submit to the Disability Access Compliance Unit:*~~

~~*(1) Plans, drawings, or other documentation required by the Compliance Unit demonstrating that bringing the non-complying element or elements into full compliance with the applicable Code standards for accessible entries is Technically Infeasible, and*~~

~~*(2) Plans, drawings, a written explanation, or other documentation required by the Compliance Unit showing what Equivalent Facilitation will be provided.*~~

~~*The Owner must subsequently apply for and obtain a building permit to do the work required within the time specified for compliance in Section 1107D.*~~

~~*(c) **Option 3.** The Owner shall submit to the Disability Access Compliance Unit a Request for Approval of an Unreasonable Hardship form together with plans, drawings, a written explanation, or other documentation required by the Compliance Unit showing what Equivalent Facilitation will be provided. The Compliance Unit will review the request and either approve or deny it, and then forward the request and equivalency submittal information to the Access Appeals Commission for a hearing pursuant to Section 1110D and Section 105A.3.3 of this Code.*~~

~~*The Owner must subsequently apply for and obtain a building permit to do the work required within the time specified for compliance in Section 1107D.*~~

~~*(d) **Option 4.** The Owner shall submit to the Disability Access Compliance Unit a statement of intent to request a hearing by the Access Appeals Commission to review the matter pursuant to Section 1110D and Section 105A.3.3 of this Code.*~~

~~*The request for a hearing by the Access Appeals Commission shall be submitted pursuant to the procedures of Section 105A.3 of this Code and in sufficient time to obtain a decision prior to the other compliance timelines in Table 1107D.*~~

~~***1104D.3. Category Three Buildings.** The Owner of a building classified in Section 1103D as Category Three shall obtain an inspection of the elements on the Department's Category Three Primary Entry Compliance Checklist by an Inspector (as defined in Section 1102D). On or before the time for compliance specified in Section 1107D , the Owner shall submit to the Department's Disability Access Compliance Unit a copy of the Checklist completed and signed by the person who performed the inspection and including his or her business contact information and a professional stamp or CASp number.*~~

~~*Each element on the Checklist found by the Inspector to be not in compliance with the applicable standards for accessible entries set forth in the applicable California Building Code or California Historical Building Code shall be specified in detail and one of the options set forth in Section 1104D.2 (a) through (d) selected by the Owner as the method by which the Owner will address the Code deficiency within the time specified for compliance in Section 1107D.*~~

~~***1104D.4. Category Four Buildings.*** *The Owner of a building classified in Section 1103D as Category Four shall obtain an inspection of the elements on the Department's Category Four Primary Entry Compliance Checklist by an Inspector. On or before the time for compliance specified in Section 1107D , the Owner shall submit to the Department's Disability Access Compliance Unit a copy of the Checklist completed and signed by the person who performed the inspection and including his or her business contact information and a professional stamp or CASp number.*~~

~~*Each element on the Checklist found by the Inspector to be not in compliance with the applicable standards for accessible entries set forth in the applicable California Building Code or California Historical Building Code shall be specified in detail and one of the options set forth in Section 1104D.2(a) through (d) selected by the Owner as the method by which the Owner will address the Code deficiency within the time specified for compliance in Section 1107D.*~~

~~***SECTION 1105D – EQUIVALENT FACILITATION; TECHNICAL INFEASIBILITY, OR UNREASONABLE HARDSHIP***~~

~~***1105D.1. Equivalent Facilitation.*** *The Department shall develop an Approved Barrier Removal Standard in consultation with the Access Appeals Commission, the Planning Department, and the Department of Public Works. The Disability Access Compliance Unit shall maintain the Approved Barrier Removal Standard and review any proposal for Equivalent Facilitation under this Chapter 11D for compliance with that Standard. Any proposal for Equivalent Facilitation that does not comply with the Approved Barrier Removal Standard must be approved by the Access Appeals Commission.*~~

~~***1105D.2. Technically Infeasible.*** *A request for a finding that compliance is Technically Infeasible can be based upon either a structural or a non-structural condition.*~~

~~*(a)* ***Structural Technical Infeasibility.*** *A structural Technical Infeasibility is an existing condition of the building where full compliance would require the removal or alteration of a load-bearing structural element that is an essential part of the structural frame.*~~

~~*(b)* ***Non-structural Technical Infeasibility.*** *A non-structural Technical Infeasibility may include conditions where full compliance would require encroaching into the required egress width, interfering with pedestrian use of the sidewalk or a permanent easement, and similar conditions that do not impact the structural elements or frame. The Disability Access Compliance Unit shall compile a list of non-structural conditions that the Department would accept as supporting a request for a finding of Technical Infeasibility and provide other written guidance, and may require that a request based on a non-structural condition be ratified by the Access Appeals Commission pursuant to Section 105A.3.3 of this Code.*~~

~~***1105D.2.1. Acceptance of previously-granted determinations of Technical Infeasibility.*** *Under the California Building Code, all findings of Technical Infeasibility must be documented by the Department and can only be made on a case-by-case basis. The Department will accept and record a previously-approved finding of Technical Infeasibility for a building within the scope of this Chapter 11D if: (1) the finding of Technical Infeasibility was approved by the Department and can be documented, (2) the finding of Technical Infeasibility is applicable to the elements covered by this Chapter 11D, and (3) an Inspector has submitted written documentation acceptable to the Department that all conditions and requirements of the Technical Infeasibility are unchanged and remain applicable.*~~

~~***1105D.3. Unreasonable Hardship.*** *The Compliance Unit, in consultation with the Access Appeals Commission, shall develop and publish guidelines specifying the conditions under which an Unreasonable Hardship would be approved by the Department. All Unreasonable Hardships must be*~~

~~*ratified by the Access Appeals Commission pursuant to Section 11B-202.4, Exception 8, and Section 1.9.1.5 of the California Building Code.*~~

~~***SECTION 1106D – BUILDING PERMIT REQUIRED; INSPECTION AND COMPLETION OF WORK; VALUATION APPLIED TO FUTURE PROJECTS; NOTICE TO TENANT(S)***~~

~~***1106D.1. Building Permit Required.*** *A building permit is required to make any and all modifications to a building either mandated or authorized by this Chapter 11D. All work required by this Chapter 11D shall be considered by the Department to be barrier removal and no additional path of travel upgrade shall be required. Only those elements that are actually altered will be required to comply with the current requirements of this Code.*~~

~~*If a permit is required to remediate the entryway or the sidewalk, the Owner shall provide written notice to the business tenant or tenants of the building a minimum of 30 days prior to filing the permit application with the Department.*~~

~~***1106D.1.1. Historic Resources.***~~

~~*(a) For a building considered to be a Historic Resource, the plans submitted with the building permit application shall be prepared in conjunction with a Design Professional and in compliance with the California Historical Building Code, requirements of the San Francisco Planning Department, and guidelines developed and published by the Compliance Unit.*~~

~~*(b) As required by Articles 10 and 11 of the Planning Code, a permit application for a Historic Resource designated pursuant to Article 10 or 11 of the Planning Code must be approved by the Historic Preservation Commission unless delegated for review and approval without a hearing to Planning Department staff.*~~

~~***1106D.2. Alteration Work That May Be Included in the Permit Application.*** *The only work that may be included in the permit required by Section 1106D.1 is: (a) the work to a Primary Entry or*~~

~~*Accessible Entrance Route mandated by Section 1104D or (b) any voluntary disability access improvements authorized by Section 1109D.*~~

~~***1106D.3. Inspection of Work.*** *All work completed by permit under Option 1 of Section 1104D .2 for Category Two, Category Three, and Category Four buildings shall be inspected by the Department's field inspector that is assigned to that district. If the work complies with requirements of this Chapter 11D, the inspector shall issue to the Owner a Certificate of Final Completion stipulating that the work complies with the requirements and shall provide a copy of the Certificate of Final Completion to the Disability Access Compliance Unit. Upon request, the Owner may obtain a final inspection and approval by a Department inspector who is certified as a CASp Inspector; the inspection fee set forth in Table IA-D of Section 110A of this Code shall apply.*~~

~~*All work completed by permit under Options 3 and 4 of Section 1104D .2 for Category Two, Category Three, and Category Four buildings shall be inspected by a Department CASp Inspector. If the work complies with requirements of this Chapter 11D, the inspector shall issue to the Owner a Certificate of Final Completion stipulating that the work complies with the requirements of this Chapter and shall list his or her CASp number where applicable on both the Certificate of Final Completion and the completed job card.*~~

~~***1106D.4. Completion of Work; Certificate of Final Completion.*** *Notwithstanding any other provision of this Code, all work mandated by this Chapter 11D 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. Any Certificate issued by the Department upon final completion of the work required by this Chapter 11D shall state that compliance is with Chapter 11D of this Code and not with the requirements of either the Americans with Disability Act or the California Building Code.*~~

~~***1106D.5. Valuation Applied to Future Projects.*** *As authorized by the Building Code, the valuation of both the mandatory and the voluntary disability access improvements performed under this*

~~*Chapter 11D may be used to comply with path of travel upgrade requirements in Building Code Section 11B-202.4 Exception #8 of this Code for any future project within the same building of portion of a building for a period of time not to exceed four years from the completion date of the work; provided, however, that only the valuation of the work described in 1106D .2(a) or (b) shall be allowed for this purpose. In order to use the valuation of voluntary disability improvements for this purpose, the Owner must follow the recommended order of priority for making accessibility improvements set forth in Section 11B-202.4 of this Code.*~~

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

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

~~*TABLE 1107D*~~
~~*COMPLIANCE SCHEDULE*~~

~~*Category*~~	~~*Category Description*~~	~~*Submit compliance Checklist and specify compliance Option*~~	~~*File application for required building permit(s)*~~	~~*Obtain required building permit(s) 1*~~

~~*Category One Buildings*~~	~~*In compliance*~~	~~*June 30, 2022*~~	~~*N/A*~~	~~*N/A*~~
~~*Category Two Buildings*~~	~~*No steps but barriers*~~	~~*June 30, 2022*~~	~~*December 31, 2022*~~	~~*September 29, 2023*~~
~~*Category Three Buildings*~~	~~*One step with barriers*~~	~~*June 30, 2022*~~	~~*December 31, 2022*~~	~~*September 29, 2023*~~
~~*Category Four Buildings*~~	~~*1+ step with other barriers*~~	~~*June 30, 2022*~~	~~*December 31, 2022*~~	~~*September 29, 2023*~~

~~*1. 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 of time is granted pursuant to Section 1108D*~~

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

~~*(a) For good cause shown, the Building Official may grant one extension of time for up to six months from the compliance timelines in Table 1107D. For good cause shown, one or more additional extensions of time may be granted by the Access Appeals Commission pursuant to Section 1110D; provided, however, that in no event shall the Commission extend the time to complete the mandatory work required by this Chapter 11D beyond June 30, 2026. The Commission's decision shall be final.*~~

~~*(b) A written request for an extension of time shall be submitted to the Department or to the Access Appeals Commission prior to the time for compliance.*~~

~~*(c) For purposes of this Chapter 11D, good cause may include but is not limited to:*~~

~~*(1) The pendency of a request for a finding of Equivalent Facilitation or Technical Infeasibility;*~~

~~*(2) The desirability of coordinating the mandatory work required by this Chapter 11D with voluntary disability access improvements;*~~

~~*(3) Financial hardship;*~~

~~*(4) A legal hardship such as an existing lease; or*~~

~~*(5) A undue procedural delay by the Department or another reviewing City agency.*~~

~~***SECTION 1109D – VOLUNTARY DISABILITY ACCESS IMPROVEMENTS***~~

~~*In addition to the mandatory requirements of this Chapter 11D, the Owner may elect to make additional corrections to the building or a portion thereof to comply with other State or Federal disability access requirements.*~~

~~***SECTION 1110D – APPEAL PROCEDURE***~~

~~*Any procedure provided under this Code to appeal accessibility issues is available in order to achieve compliance with this Chapter 11D. In addition, appeals to the Access Appeals Commission may be made in accordance with the provisions of this Chapter 11D and 105A.3 of this Code.*~~

~~***SECTION 1111D – ENFORCEMENT***~~

~~*Whenever the Owner of a building within the scope of this Chapter 11D fails to undertake or complete any action required by this Chapter within the time for compliance set forth in Table 1107D, the Owner shall be considered to be in violation of this Code and the Building Official is authorized to abate the violation in accordance with Section 102A of this Code.*~~

SECTION 11*04*~~*12*~~D – DISABILITY ACCESS COMPLIANCE UNIT**

The Building Official shall establish within the Department a Disability Access Compliance Unit to enforce this Chapter 11D and to perform such other duties as the Building

Official shall require. The Unit shall have at least one CASp Inspector from the Department and such other departmental employees as the Building Official deems appropriate. The ~~*Compliance*~~ Unit shall consult and coordinate with other City agencies with review authority over the permits necessary to comply with the requirements of this Chapter, including but not limited to the Planning Department and Department of Public Works, and any other City agencies that the Building Official determines are necessary or desirable to achieve the purposes of this Chapter.

~~*The Compliance Unit shall track and maintain records; coordinate review of checklists, documents, and permits; provide information to the owners of buildings subject to this Chapter, tenants of said buildings, and members of the public; provide guidance, training and assistance to the Department's plan review staff and field inspectors; develop the informational material described in Section 1113D; and provide such progress reports on the effectiveness of this Chapter as the Compliance Unit deems appropriate or as the Building Official or the Access Appeals Commission may require.*~~

SECTION 11*0513*D – ~~*COORDINATION WITH OTHER CITY AGENCIES;*~~ REPORT*S* TO *THE MAYOR'S OFFICE ON DISABILITY AND* THE BOARD OF SUPERVISORS

~~***1113D.1. Coordination with Other Agencies.*** *The Department shall coordinate with the Planning Department, the Department of Public Works, and other City departments with review authority over the accessibility improvements mandated or authorized by this Chapter 11D, as well as with the Office of Small Business, the Mayor's Office on Disability, and other appropriate City agencies, to develop and implement (1) outreach tools, (2) pre-screening procedures, (3) methods to streamline the process, (4) proposed Code revisions, and (5) administrative bulletins, brochures, checklists, and guidelines or other documents to implement the purpose and objectives of this Chapter. The Checklist for Alterations to Commercial Storefront for Accessibility in existence on the effective*~~

~~*date of this Chapter 11D, as amended from time to time, and other guidance documents shall be used to review and approve the disability access improvements mandated or authorized by this Chapter 11D.*~~

~~***1113D.2.*** *After consultation and coordination with other appropriate City departments and agencies, on or before January 31, 2024, the Department shall submit a report in writing to the Board of Supervisors concerning the effectiveness of this Chapter 11D and including recommendations, if any, for amendments to this Chapter. A progress report shall be submitted to the Board of Supervisors once a year thereafter until completion of this Chapter's disability access improvement program.*~~ *Within six months of the effective date of Board of Supervisors Ordinance No. _____, the Department shall report to the Mayor's Office on Disability, or any successor department or office, regarding its progress in directing resources to strengthen disability access reviews and inspections of small businesses serving the public. Within twelve months of the effective date of said ordinance, the Department shall report to the Board of Supervisors regarding its efforts to strengthen disability access reviews and inspections of small businesses serving the public, including any successes related to these efforts. Within twelve months of the effective date of said ordinance, the Office of Small Business and the Mayor's Office on Disability, or any successor department or office, shall report to the Board of Supervisors regarding their efforts to further advance accessibility for all persons with disabilities in partnership with local businesses.*

SECTION 11*06*~~*14*~~D – NOTICE**

The Department shall post on its website the requirements of this Chapter 11D. The Department shall also prepare any administrative bulletins, brochures, or other materials that the Building Official determines are necessary or desirable to notify property owners and tenants about the requirements of this Chapter~~*and shall coordinate with the Office of Small Business and, in the Building Official's discretion, other City departments concerning appropriate methods for providing notice about the requirements*~~.

Section 3. Chapter 38 of the Administrative Code is hereby amended by revising Sections 38.1 and 38.3, to read as follows:

CHAPTER 38:

COMMERCIAL LANDLORDS; ACCESS IMPROVEMENT OBLIGATIONS AND NOTICE TO SMALL BUSINESS TENANTS REGARDING DISABILITY ACCESS

SEC. 38.1. FINDINGS.

Given the significant number of small businesses in the City and County of San Francisco, the Board of Supervisors finds:

(1) The City has a strong public interest in ensuring that small businesses operating public accommodations comply with applicable disability access laws, and in ensuring clear communications between Commercial Landlords and their Small Business Tenants regarding their respective responsibilities for disability access improvements.

(2) The City has a strong public interest in ensuring clear communication between Commercial Landlords and Small Business Tenants regarding the extent to which the Commercial Landlord has or has not implemented required disability access improvements prior to the start or renewal of a lease.

(3) The City has a strong public interest in protecting Small Business Tenants from unforeseen expenses and liabilities arising out of required disability access improvements.

(4) This Chapter *38* is intended to ensure that: (i) ~~*public restrooms and ground floor entrances to and exits from real property leased to Small Business Tenants comply with applicable disability access requirements and that*~~ Commercial Landlords disclose any noncompliance with ~~*such requirements*~~ *applicable construction-related accessibility standards, including but not limited to standards for public restrooms, service counters, accessible seating, and ground floor entrances and*

exits, before a Small Business Tenant enters into or renews a lease for the property; (ii) Commercial Landlords and Small Business Tenants receive priority permit processing for work consisting primarily of disability access improvements; and (iii) every new and amended commercial lease between a Commercial Landlord and a Small Business Tenant for premises that will be used as a *Place of P*ublic *A*ccommodation clearly and expressly addresses the respective obligations of the parties regarding disability access improvements. This Chapter is further intended to help encourage and facilitate disability access improvements by Commercial Landlords and Small Business Tenants.

SEC. 38.3. DISABILITY ACCESS IMPROVEMENTS; NOTICE OF DISABILITY ACCESS OBLIGATIONS.

(a) Before entering into or amending a Lease, a Commercial Landlord shall either:

(1) Ensure that existing public restrooms, *service counters, seating,* ground floor entrances, and ground floor exits are accessible by removing all architectural barriers to disability access, to the extent that such improvements are required by and "readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense" within the meaning of any applicable provisions of Title 28, Sections 36.304 and 36.305, of the Code of Federal Regulations; or,

(2) Provide written notice to any prospective Small Business Tenant that the property may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms*, service counters, seating,* and ground floor entrances and exits.

~~*(3) Provide written notice to any prospective Small Business Tenant of the mandatory requirements of Chapter 11D of the Building Code that are applicable to all places of public accommodation.*~~

* * * *

Section 4. The Public Works Code is hereby amended by revising Section 723.2, to read as follows:

SEC. 723.2. MINOR ENCROACHMENTS.

(a) **Minor Encroachments.** The Director of ~~of~~[1] the Department of Public Works ("Department") may grant permission, revocable at the Director's will ~~will~~[1] in accordance with subsection (f), to an owner of property abutting any court, alley, or street to install and maintain minor encroachments such as fences, retaining walls, steps or stairways, sidewalk (pipe) barriers to control illegal vehicular parking or driving in sidewalk and public right-of-way areas, and other minor structures in the sidewalk fronting such property where such encroachments are desirable or convenient in conjunction with the owner's use and enjoyment of the property, or required for the safety, convenience, and comfort of the public using the sidewalk. Pipelines or other portions of an alternate water source system constructed within the public right-of-way for the purposes set forth in Article 12C of the Health Code and in accordance with Health Code Section 12C.6 are minor encroachments subject to the requirements of this Section 723.2. Tier 1 Projects and Tier 2 Projects, as defined in Section 723.1(a), are minor encroachments subject to the requirements of Section 723.2.

* * * *

(n) Unless otherwise provided in th~~e~~*is* Section 723.2, the Department shall collect a public right-of-way occupancy assessment fee for the use of the sidewalk or other public right-of-way space permitted under the provisions of this Section 723.2.

(1) In accordance with this subsection (n), the public right-of-way occupancy assessment fee for minor encroachments, whether permitted or unpermitted and as specified in subsection (n)(2), shall be an annual fee of $3 per square foot of occupancy of the sidewalk

or other public right-of-way space. For purposes of calculating the assessment fee, the Department shall charge no less than $100 per year even though the calculated square footage charge for the encroachment may result in a smaller assessment fee.

(2) The following categories of minor encroachments are subject to the public right-of-way occupancy assessment fee:

(A) Encroachments in, on, above, or below the public right-of-way that are affixed or appurtenant to any building whose owner obtained a site permit for new construction on or after August 29, 2005. This subsection (n)(2)(A) also shall apply to any commercial, industrial, or mixed-use building whose owner obtained a site permit for new construction prior to August 29, 2005; provided, however, that such building is not located in any Neighborhood Commercial District as designated in Planning Code Article 7 and that the encroachment associated with such building was installed or encroachment permit obtained prior to August 29, 2005. This subsection (n)(2)(A) shall specifically include, but not be limited to, doors that open over the public right-of-way and subsidewalk basements; provided, however, that this subsection shall exclude encroachments for shoring and tiebacks. This subsection (n)(2)(A) shall not apply to a building that has been converted from a commercial, industrial, or mixed-use building into a building containing only residential use.

~~*(B) Encroachments associated with a commercial, industrial, or mixed-use building that change the vertical or horizontal plane of an existing sidewalk and modify the existing sidewalk slope pattern in order to provide access necessary to comply with the Americans with Disabilities Act; provided, however, that the building obtained a site permit for new construction on or after August 29, 2005.*~~

(*B*~~*C*~~) Any enclosure of the public right-of-way that is used exclusively for private benefit and was installed on or after August 29, 2005. This subsection (n)(2)(*B*~~*C*~~) also shall apply to any enclosure installed prior to August 29, 2005 that is associated with a

commercial, industrial, or mixed-use building; provided, however, that the building is not located in any Neighborhood Commercial District as designated in Planning Code Article 7.

(*C*~~D~~) Underground storage tanks.

* * * *

(13) Notwithstanding subsection (n) of this Section 723.2, no public right-of-way occupancy assessment fee shall be charged for any encroachment that is appurtenant to any building and that is constructed exclusively for compliance with any applicable accessibility standard, including but not limited to any requirement of the Americans with Disabilities Act.

* * * *

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Peter Miljanich
PETER MILJANICH
Deputy City Attorney

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FILE NO. 240982

LEGISLATIVE DIGEST

[Building, Administrative, Public Works Codes - Disability Access Improvements for Places of Public Accommodation]

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Chapter 11D of the Building Code requires the owner of an existing building with a place of public accommodation to have the building inspected for compliance with accessible entry and path of travel requirements. If the building is not in compliance, the owner must either bring the building into compliance or obtain a finding from the City of equivalent facilitation, technical infeasibility, or unreasonable hardship. All mandated work must be completed within the time periods specified in the Building Code for building permits, unless an extension of time is granted.

Chapter 38 of the Administrative Code requires commercial landlords, before entering into or amending a lease agreement with a small business tenant for use of a place of public accommodation, to either remove barriers to disabled access, or notify prospective tenants in writing of applicable disability access requirements, including Building Code Chapter 11D.

Public Works Code Section 723.2 sets forth the process by which the Director of the Department of Public Works may permit private property owners to install or maintain minor encroachments in the public right-of-way. Section 723.2 requires the Public Works Department to collect a public right-of-way occupancy assessment fee for use of the sidewalk or other public right-of-way space.

Amendments to Current Law

This ordinance would remove Building Code Chapter 11D's local requirement that owners of buildings with a place of public accommodation comply with accessible entry and path of travel requirements. This ordinance would not affect the application of state or Federal requirements for building accessibility to buildings in San Francisco. Instead, this ordinance would require the Department of Building Inspection to (1) provide information to project applicants who own or operate a place of public accommodation regarding obligations to comply with disability access requirements under the California Building Code and the Americans with Disabilities Act; and (2) develop and distribute outreach tools, such as brochures and technical information sheets, to assist project applicants who own or operate a

place of public accommodation in understanding these requirements. This ordinance would also make conforming amendments to Chapter 38 of the Administrative Code.

This ordinance would eliminate public right-of-way occupancy assessment fees for certain encroachments constructed exclusively for compliance with any applicable accessibility standard, including but not limited to any requirement of the Americans with Disabilities Act.

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BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection **Voice (628) 652 -3510**
49 South Van Ness Avenue, 5th Floor San Francisco, California 94103

November 21, 2024

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 240982

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

The Code Advisory Committee met on November 13, 2024 and voted 10 to 2 to not adopt the changes.

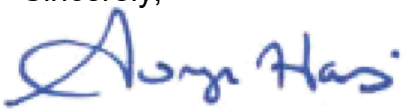
The Building Inspection Commission met and held a public hearing on November 20, 2024 regarding the proposed amendment to the Building, Administrative, and Public Works Codes contained in Board File No. 240982.

The Commissioners voted 4 to 2 with Commissioners Chavez and Williams dissenting to **recommend approval of the Ordinance**.

President Alexander-Tut	Yes
Vice-President Shaddix	Yes
Commissioner Chavez	No
Commissioner Meng	Yes
Commissioner Neumann	Yes
Commissioner Williams	No

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,



Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor London N. Breed
Supervisor Rafael Mandelman
Board of Supervisors

SAN FRANCISCO
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
DIRECTOR KATY TANG

November 6, 2024
Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 240982 – Disability Access Improvements for Places of Public Accommodation - Support

Dear Ms. Calvillo,

On October 28, 2024, Supervisor Mandelman presented BOS File No. 240982 – Disability Access Improvements for Places of Public Accommodation to the Small Business Commission (the Commission).

The legislation sunsets the City's Accessible Business Entrance (ABE) Program, which Supervisor Mandelman explained had made significant progress in helping thousands of businesses become more accessible. The legislation also redirects City resources to support broader accessibility initiatives. Through ongoing partnerships between the Department of Building Inspection, the Mayor's Office on Disability, and the Office of Small Business, a range of resources will be made available to assist small businesses in meeting ongoing accessibility needs.

The Commission supports this legislation and thanked Supervisor Mandelman for this thoughtful approach to make San Francisco more inclusive while also acknowledging the challenges that some small businesses face in making physical improvements to their spaces. The Commission agreed that the ABE program was very successful and looks forward to future collaboration between small businesses and the disability community.

Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,

Katy Tang
Director, Office of Small Business

MAYOR'S OFFICE ON DISABILITY AND OFFICE OF SMALL BUSINESS CONCEPT PAPER: PARTNERSHIP TO DRIVE ACCESSIBILITY AND INCLUSIVITY BEST PRACTICES IN LOCAL BUSINESSES

October 2024

Introduction

San Francisco has a unique approach to making sure that the small businesses in the City are accessible to patrons with disabilities. Even though the Americans with Disabilities act has modest requirements for public businesses that were built before 1990, San Francisco goes further and has required that people with disabilities be able to get into the front entrance. This program, the Accessible Business Entrance program ("ABE"), has been successful with 82% of affected small businesses participating. However, the ABE only addresses physical accessibility.

At this point, we recommend that the City's overall focus be expanded to develop productive relationships between the small business community and the disability community to bring about inclusivity and accessibility in many different respects, not only for people with mobility disabilities.

City's Primary Focus on Physical (Structural) Access and Enforcement

The ABE was codified in Chapter 11D of the Building Code in 2016 to establish a framework for a program under the Department of Building Inspection ("DBI") to bring a broader set of property and business owners into compliance with the accessibility standards of the California Building Code and, to the greatest extent feasible, the federal Americans with Disabilities Act within proscribed timelines.

The program has been extremely successful, with 16,505 out of 23,504 businesses now compliant with Chapter 11D requirements (including waived and exempted businesses); and an additional 2,871 are on the track towards compliance after having submitted a checklist. That means that a little over 82% of businesses are or are in the process of becoming compliant with Chapter 11D requirements.

However, 4,128 (or approximately 18%) of businesses have not responded to DBI's extensive outreach efforts to date (which include 10 rounds of letters and postcards in four

different languages, and numerous outreach events). At this point we believe that many of the remaining nonresponsive businesses are operated by small business owners who lack substantial financial resources to comply with accessibility requirements.

As a next step, the City is moving to extend Chapter 11D for a sixth time so that DBI can begin enforcement action against the remaining noncompliant businesses. Enforcement efforts will require a significant amount of time and DBI resources, and will include the following steps:

1. A Notice of Violation (NOV) will be sent
2. Inspectors will attempt to make contact regarding the NOV, including personally visiting the businesses
3. Warning letters are issued
4. Director's Hearing is scheduled
5. Director's Hearing is held
6. Order of Abatement is issued
7. Ability to Appeal Order of Abatement
8. Order of Abatement is sent to the Assessor-Recorder's Office to place a lien on the property

Recommendation for Moving beyond Enforcement to Achieve Outcomes

At this point the City is at a crossroads and must determine the best use of its limited resources to make the most impact towards accessibility.

It can continue with enforcement action against these local small businesses. However, this will overwhelm DBI's capacity and cause substantial delays to other building code enforcement (including accessibility inspections in new businesses). It will also result in the closure of hundreds if not thousands of our local neighborhood small businesses, and inevitably pit the communities against each other as has been the case in the past.

Alternatively, the City can pivot its focus and resources toward more effective strategies to strengthen outreach, education and support of our small businesses to foster accessibility, inclusivity and community partnerships.

The Office of Small Business and Mayor's Office on Disability recommended that the enforcement provisions of the ABE program be sunset so that DBI can redirect resources towards its inspections processes to more effectively work with property owners on accessibility improvements. Specifically:

- Provide an enhanced level of training for all inspectors on accessibility so that all inspectors are identifying and correcting accessibility requirements in the field.
- Hire a dedicated Certified Access Specialist (CASP) inspector in the DBI's Inspection's Division to support staff and provide guidance and expertise.
- Working with the Office of Small Business, develop educational materials for permit applicants on accessibility requirements.
- Enhance DBI's website to provide more information and guidance for accessibility complaints.

DBI will be required to report to the Mayor's Office on Disability ("MOD") on its progress on these four initiatives after six months, and then again to the Board of Supervisors and MOD with a review of DBI's efforts and the outcomes after twelve (12) months (six months after the report to MOD).

Accessibility Beyond the Front Door

The ABE program was a response to a series of accessibility lawsuits that targeted small businesses in San Francisco. Small businesses complained, often in the media, that they were forced to settle the lawsuits because they couldn't afford private legal representation. Many disability advocates have mixed feelings about the lawsuits; on the one hand they want businesses to be accessible. Yet they do not want to be regarded as potential litigants whenever they visit a small business, and they do not want small business owners to be hurt. The media has oversimplified the story into a conflict between the disability community and small businesses. In reality, people with disabilities might be small business owners themselves and most people with disabilities appreciate the vibrant neighborhoods in San Francisco with many small businesses and they appreciate the difficulties of successfully running a small business. Accessibility can be a powerful strategy that can bring additional customers into a small business and create strong customer loyalty. It does not need to be a source of strain on a small business.

The accessible business entrance program focuses on one aspect of accessibility: physical access. There are many other types of accessibility that can open up opportunities for people with many different kinds of disabilities such as vision, hearing, cognition and less

visible health conditions. Focusing instead on accessibility in this broad sense and emphasizing inclusivity for all often does not require costly building improvements and can be achieved through different modes of communication, such as large print menus, and with staff training.

Under the leadership of the Office of Small Business ("OSB") and MOD, and with active participation from many disability organizations and individuals, the following concepts could be developed into programs:

1. **Support and Training for Small Businesses**
    - Expanding outreach and training with community relationships
    - Create an Accessibility Best Practice Guide
    - Create an educational training video

2. **Public Messaging and Communications**
    - Let's reframe accessibility – beyond just physical accessibility and instead focus on inclusivity and accessibility for all
    - Campaigns to promote:
        - Accessibility benefits everyone
        - Tips and advice to interact with persons with disabilities (PWD)
        - A guide for businesses with tips
        - Accessibility beyond physical accessibility
        - Awareness of all the different types of disabilities and accessibility needs for each of them
    - A social media campaign to highlighting innovative ways some businesses have made their businesses more accessible

3. **Involvement of Disability Community**
    - Short interviews with exemplary business owners recorded by PWD
    - Train accessibility coaches with disabilities to train business owners
    - Offer training led by PWD for businesses
    - Survey PWD about how a business can be more user friendly when they aren't accessible
    - Customers with disabilities recognizing and recommending accessible businesses as a way to inspire other businesses to do the same.

Initiatives - Project Goals over the Next Year:

- Best Practice Guide for disability inclusion that addresses communication disabilities, web accessibility, autism spectrum, cognitive disabilities, as well as mobility disabilities. MOD will serve as the lead agency.
- Short videos that explain and illustrate disability inclusion in the context of specific types of businesses (i.e., restaurants, stores, entertainment) with spokespersons with disabilities. OSB will serve as the lead agency, with subject matter support from MOD and the disability community.
- Social media campaigns inviting people with disabilities to submit their own short videos. OSB will serve as the lead agency, with subject matter support from MOD and the disability community.
- Newsletter articles in the Small Business Newsletter based on specific best practices from the checklist and/or interviews with customers with disabilities. OSB will serve as the lead agency, with subject matter support from MOD and the disability community.
- Discuss campaigns and strategies on disability inclusion with the Mayor's Disability Council (MDC) and Small Business Commission (SBC).
- Name of the initiative and logo or sticker to show participation. OSB and MOD will partner on this.
- Executing the deliverables described above will be done by a working group coordinated by OSB.

OSB and MOD will report back to the Board of Supervisors after twelve (12) months with information on their initiatives and successes.

Partners

- OEWD
- OSB
- MOD
- ADM
- DAS
- MDC
- SBC
- Disability Organizations, including but not limited to:
    - Lighthouse for the Blind
    - Independent Living Resource Center
    - Community Living Campaign

- Business Councils and Merchant Associations
- Visit SF/Travel SF

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: October 16, 2024

To: Planning Department/Planning Commission

From: John Carroll, Assistant Clerk, Land Use and Transportation Committee

Subject: Board of Supervisors Legislation Referral - File No. 240982
Building, Administrative, Public Works Codes - Disability Access Improvements for Places of Public Accommodation

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☒ California Environmental Quality Act (CEQA) Determination
(California Public Resources Code, Sections 21000 et seq.)
☒ Ordinance / Resolution
☐ Ballot Measure

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment,

11/15/2024

☐ Amendment to the Planning Code, including the following Findings:
(Planning Code, Section 302(b): 90 days for Planning Commission review)
☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302

☐ Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)

☐ General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

☐ Historic Preservation Commission
☐ Landmark *(Planning Code, Section 1004.3)*
☐ Cultural Districts *(Charter, Section 4.135 & Board Rule 3.23)*
☐ Mills Act Contract *(Government Code, Section 50280)*
☐ Designation for Significant/Contributory Buildings *(Planning Code, Article 11)*

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: October 16, 2024

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committ3ee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 240982

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:
Offices of Chair Melgar and Supervisor Mandelman
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ No Comment

____ Recommendation Attached

_____
Chairperson, Small Business Commission

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
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M E M O R A N D U M

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: October 16, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Mandelman on October 8, 2024:

File No. 240982

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

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: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Mandelman
Tate Hanna, Department of Building Inspection
Patty Lee, Department of Building Inspection

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

TO: Rich Hillis, Director, Planning Department
Carla Short, Director, Public Works
Kelly Dearman, Executive Officer, Department of Disability and Aging Services
Nicole Bohn, Director, Mayor's Office on Disability
Sarah Dennis-Phillips, Executive Director, Office of Economic and Workforce Development

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: October 16, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Mandelman on October 8, 2024.

File No. 240982

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

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: john.carroll@sfgov.org.

cc:
Offices of Chair Melgar and Supervisor Mandelman
David Steinberg, Public Works
Ian Schneider, Public Works
Dan Sider, Planning Department
Corey Teague, Planning Department
Tina Tam, Planning Department
Lisa Gibson, Planning Department
Aaron Starr, Planning Department
Josh Switzky, Planning Department
Joy Navarrete, Planning Department
Debra Dwyer, Planning Department
Elizabeth Watty, Planning Department
Richard Sucre, Planning Department
Anne Taupier, Office of Economic and Workforce Development
Alesandra Lozano, Office of Economic and Workforce Development

From:	Carroll, John (BOS)
To:	"Cyn Wang"; MelgarStaff (BOS); ChenStaff; MahmoodStaff
Cc:	Ho, Calvin (BOS); Melgar, Myrna (BOS); Low, Jen (BOS); Chen, Chyanne (BOS); Sciammas, Charlie (BOS); Mahmood, Bilal (BOS); Cooper, Raynell (BOS)
Subject:	RE: Support of FILE NO. 240982
Date:	Friday, February 7, 2025 9:15:00 AM
Attachments:	image001.png

Thank you for your comment letter.

I am forwarding your comments to the members of the LUT committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our Legislative Research Center by following the link below:

-

Board of Supervisors File No. 240982

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

Click here to complete a Board of Supervisors Customer Service Satisfaction form.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

From: Cyn Wang <cyn@wangins.com>
Sent: Thursday, February 6, 2025 4:49 PM
To: MelgarStaff (BOS) <melgarstaff@sfgov.org>; ChenStaff <ChenStaff@sfgov.org>; MahmoodStaff <MahmoodStaff@sfgov.org>; Carroll, John (BOS) <john.carroll@sfgov.org>
Cc: Ho, Calvin (BOS) <calvin.ho@sfgov.org>
Subject: Support of FILE NO. 240982 t

Dear Members of the Land Use and Transportation Committee,

I am writing in strong support of FILE NO. 240982 to amend the Accessible Business Program (ABP). As a small business owner I have experienced firsthand the challenges and excessive burdens imposed by the ABP.

While accessibility is certainly important, the current framework for compliance has proven to be unnecessarily convoluted, costly, and an impediment to small business viability. Despite my background as a former Assistant City Attorney and a city commissioner, I found the process of understanding and complying with ABP requirements to be extraordinarily difficult. It took multiple visits to the Department of Building Inspection (DBI), dozens of emails, and the hiring of numerous vendors and contractors—including two certified access specialists—before I was able to comply. The total cost exceeded $10,000, and the required changes even extended to addressing the slope of the sidewalk in front of my business, which required further permits from other departments, further compounding the complexity and financial burden.

Beyond my own experience, I have also assisted dozens of monolingual small business owners who faced even greater challenges navigating the ABP. Many were unable to fully comprehend the requirements and had no feasible way to afford the necessary modifications. One business owner shared with me that compliance would force them to close entirely. This is simply not an acceptable outcome for small businesses in a city striving for economic recovery.

At a time when San Francisco should be focused on revitalizing its small business and nightlife economy, DBI resources should be dedicated to efficiently issuing permits for new housing and businesses, rather than enforcing an overly burdensome and often confusing compliance program. The proposed amendments to the ABP are a necessary step toward balancing accessibility goals with the economic realities faced by small businesses.

I urge the Land Use and Transportation Committee to support FILE NO. 240982 and ensure that the ABP does not continue to hinder the very businesses that keep San Francisco’s economy vibrant.

--
Cynthia Wang

From:	Carroll, John (BOS)
To:	"Serina Calhoun"; MelgarStaff (BOS); MahmoodStaff; ChenStaff
Cc:	Kevin Riley; Christopher Roach; Melgar, Myrna (BOS); Low, Jen (BOS); Chen, Chyanne (BOS); Sciammas, Charlie (BOS); Mahmood, Bilal (BOS); Cooper, Raynell (BOS)
Subject:	RE: Opposition to Ordinance - BOS File No. 240982
Date:	Wednesday, February 5, 2025 9:46:00 AM
Attachments:	image001.png

Thank you for your comment letter.

I am forwarding your comments to the members of the LUT committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our Legislative Research Center by following the link below:

-

Board of Supervisors File No. 240982

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

Click here to complete a Board of Supervisors Customer Service Satisfaction form.

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From: Serina Calhoun <serina@sync-arch.com>
Sent: Tuesday, February 4, 2025 9:35 AM
To: MelgarStaff (BOS) <melgarstaff@sfgov.org>; MahmoodStaff <MahmoodStaff@sfgov.org>; ChenStaff <ChenStaff@sfgov.org>; Carroll, John (BOS) <john.carroll@sfgov.org>
Cc: Kevin Riley <kriley82@gmail.com>; Christopher Roach <chris@studiovara.com>
Subject: Re: Opposition to Ordinance

Good morning Supervisors,

I'm emailing you today in strong support for Supervisor Mandelman's proposed Ordinance 240982. I recently learned this is scheduled to be heard at Land Use and Transportation on Monday.

My name is Serina Calhoun. I'm a local architect and I've been practicing in the Bay Area for 24 years. In the past 5 years, we have helped our clients received approvals for hundreds of business entries across the city. Although we have benefited from the work this program created, I'm writing to you today to strongly support repeal of the Program. As an architect, I understand the goal of making our city more accessible and I support those efforts. But achieving compliance is now requiring architectural services, building permits, civil engineering, and DPW permits. The costs for making these small businesses accessible is creeping up over $30,000. That's a bitter pill to swallow for small businesses with less than 1,000 sf of space.

The ABE program was enacted without adequate research and without adequate notice to businesses. In fact, DBI doesn't even have an accurate list of commercial entry addresses. I filed many checklists for active businesses only to be told by DBI that, the address didn't exist. Legacy businesses like the Irish Bank are a good example of this oversight. Getting DBI to update their records to include legitimate addresses cost some of my clients thousands of dollars in city fees and we had to produce countless documents to "prove" the entry existed, including historic fire insurance maps. On the flipside, many of my clients received violation notices for their residential entrances, because again – the city didn't have an accurate list of which addresses were commercial vs. residential uses.

As a result, many small business owners remain completely ignorant of this program, even 7 years later. And who is supposed to be responsible? The property owner? Or the business owner? Most lease agreements between business owners and landlords place ADA compliance on the shoulders of the tenant, something this ordinance failed to understand.

More recently, installation of a simple power-door operator, has ballooned into a complete regrading of the sidewalk. In the last year, DPW began requiring that a level landing, with slopes no greater than 2% be provided at the exterior operators. In our city of hills, this is technically infeasible. Those sidewalk improvements have cost small businesses $10,000-$30,000 just for the sidewalk work. For my clients with a 680 sf hair salon, that kind of cost is untenable. For these buildings, all constructed prior to the implementation of the ADA code, forcing small businesses to regrade large portions of the public right of way at their own expense seems punitive.

DBI has an access appeals board that can hear some of these cases, but even after my 24 years of practice, I still have no idea how to have a project heard by their group. There are no clear instructions about how to have a project brought before their board. Further, their findings are binding for DBI, but have no authority over DPW as a separate agency.

Although there is a $10,000 grant for business owners to help offset the costs of the program, it has

also been a failure. My office manager had to spend hours on the phone trying to get our application processed and, ultimately, the only way to obtain the funds was to register as a vendor for the city. How will the hair salons, nail salons, and corner stores obtain the funds when they don't qualify to be a city vendor? Because I didn't know I needed to pay my contractor prevailing wage, I didn't even qualify for the full amount for my own project.

This program has been a failure from the start. I urge you to support the repeal of the ordinance. I also strongly request that this group recommend DBI revise the DA-04 and DA-05 requirements for existing buildings and eliminate the requirement for level landings at sidewalk power door operators where the public right of way slope exceeds 2%. This interpretation of the code will continue to cripple small businesses in the future if this document is not revised when they bring in their tenant improvement projects.

I sincerely hope your committee can join me in supporting this legislation and repealing this poorly executed program.

All the best,

Serina Calhoun

Principal Architect

syncopated architecture

415-558-9843

From:	Robert Noelke
To:	Carroll, John (BOS)
Cc:	Peskin, Aaron (BOS); MelgarStaff (BOS); Preston, Dean (BOS)
Subject:	In support of File #240982
Date:	Monday, December 2, 2024 1:23:38 PM

Dear Mr. Carroll,

I strongly support Supervisor Mandelman's Ordinance File No. 240982, compliance with ABE has seriously impacted many small business I work with, not just cost, but the disruption to business, loss of expensive usable footage in these business establishments.

Thank you for your consideration of the issue.

Robert Noelke
Prague Property Management, Inc.

From:	Carroll, John (BOS)
To:	Betty Louie
Cc:	Peskin, Aaron (BOS); Melgar, Myrna (BOS); Preston, Dean (BOS); Low, Jen (BOS); Lovett, Li (BOS); Horrell, Nate (BOS)
Subject:	COMMENT LETTER - LUT COMMITTEE: Mandelman Ordinance File #240982
Date:	Tuesday, December 3, 2024 10:39:00 AM
Attachments:	image001.png

Thank you for your comment letter.

I am forwarding your comments to the members of the LUT committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our Legislative Research Center by following the link below:

-

Board of Supervisors File No. 240982

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

 Click here to complete a Board of Supervisors Customer Service Satisfaction form.

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From: Betty Louie <bjlouie@att.net>
Sent: Monday, December 2, 2024 2:11 PM
To: Carroll, John (BOS) <john.carroll@sfgov.org>
Cc: aron.peskin@sfgov.org; Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>
Subject: Mandelman Ordinance File #240982

File Number: 240982

Dear Supervisors,

I am writing in support of Supervisor Mandelman's Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

Finally, there is legislation that cuts bureaucratic red tape and unnecessary costs to arrive at the same conclusions!

Happy Holidays to All.

Betty Louie

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- [x] 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- [ ] 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- [ ] 3. Request for Hearing on a subject matter at Committee
- [ ] 4. Request for Letter beginning with "Supervisor _____ inquires…"
- [ ] 5. City Attorney Request
- [ ] 6. Call File No. _____ from Committee.
- [ ] 7. Budget and Legislative Analyst Request (attached written Motion)
- [ ] 8. Substitute Legislation File No. _____
- [ ] 9. Reactivate File No. _____
- [ ] 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- [x] Small Business Commission
- [ ] Youth Commission
- [ ] Ethics Commission
- [ ] Planning Commission
- [x] Building Inspection Commission
- [ ] Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- [ ] Yes
- [x] No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Mandelman

Subject:

[Building, Administrative, Public Works Codes - Disability Access Improvements for Places of Public Accommodation]

Long Title or text listed:

Ordinance amending the Building, Administrative, and Public Works Codes to remove the local requirement for existing buildings with a place of public accommodation 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; and affirming the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor: