

BOARD of SUPERVISORS



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# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

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

DATE: September 10, 2021

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

The Board of Supervisors' Land Use and Transportation Committee 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. 210934**

**Ordinance amending the Building Code to extend the time by approximately two years for existing buildings with a place of public accommodation to comply with the requirement to have all primary entries and paths of travel into the building accessible to persons with disabilities or to receive a City determination of equivalent facilitation, technical infeasibility, or unreasonable hardship; to extend the period for granting extensions from those deadlines; and to extend the time for the Department of Building Inspection's Report to the Board of Supervisors.**

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.

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

- No Comment**
- Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

cc: Kerry Birnbach

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

3 **Ordinance amending the Building Code to extend the time by approximately two years**  
4 **for existing buildings with a place of public accommodation to comply with the**  
5 **requirement to have all primary entries and paths of travel into the building accessible**  
6 **to persons with disabilities or to receive a City determination of equivalent facilitation,**  
7 **technical infeasibility, or unreasonable hardship; to extend the period for granting**  
8 **extensions from those deadlines; and to extend the time for the Department of Building**  
9 **Inspection's Report to the Board of Supervisors.**

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

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

18 Section 1. Findings.

19 (a) Pursuant to Charter Section D3.750-5, the Building Inspection Commission  
20 considered this ordinance at a duly noticed public hearing held on September \_\_, 2021.

21 (b) Chapter 11D of the Building Code requires the owner of an existing building with  
22 a place of public accommodation to have the building inspected for compliance with  
23 accessible entry and path of travel requirements. If the building is not in compliance, the  
24 owner must either bring the building into compliance or obtain a finding from the City of  
25 equivalent facilitation, technical infeasibility, or unreasonable hardship. Table 1107D sets forth  
deadlines for the four compliance categories to submit specified information to the

1 Department of Building Inspection (DBI), file an application for any required building permits,  
2 and obtain the required building permits. All mandated work must be completed within the  
3 time periods specified in the Building Code for building permits unless an extension of time is  
4 granted pursuant to Section 1108D.

5 (c) Under the Building Code, property owners are responsible for compliance with  
6 Code requirements notwithstanding any leases that may shift some of the burden of  
7 compliance onto the tenants. Many, if not all, of the buildings subject to the Chapter 11D  
8 requirements have multiple leased spaces many of which are operated by small businesses  
9 without a lot of financial resources. This ordinance will extend for an additional two years all  
10 compliance deadlines to resolve compliance issues for those owners who missed past  
11 deadlines and to give building owners and tenants more time to resolve any compliance  
12 issues going forward.

13

14 Section 2. Chapter 11D of the Building Code is hereby amended by revising Sections  
15 1107D, 1108D, and 1113D, to read as follows:

16

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

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

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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	<del>September 1, 2020</del> <u>September 30, 2022</u>	N/A	N/A
Category Two Buildings	No steps but barriers	<del>September 1, 2020</del> <u>September 30, 2022</u>	<del>December 1, 2020</del> <u>December 31, 2022</u>	<del>September 1, 2021</del> <u>September 29, 2023</u>
Category Three Buildings	One step with barriers	<del>September 1, 2020</del> <u>September 30, 2022</u>	<del>December 1, 2020</del> <u>December 31, 2022</u>	<del>September 1, 2021</del> <u>September 29, 2023</u>
Category Four Buildings	1+ step with other barriers	<del>September 1, 2020</del> <u>September 30, 2022</u>	<del>December 1, 2020</del> <u>December 31, 2022</u>	<del>September 1, 2021</del> <u>September 29, 2023</u>

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

1 the time to complete the mandatory work required by this Chapter 11D beyond ~~June 1, 2024~~  
2 June 30, 2026. The Commission’s decision shall be final.

3 \* \* \* \*

4  
5 **SECTION 1113D – COORDINATION WITH OTHER CITY AGENCIES; REPORT TO THE**  
6 **BOARD OF SUPERVISORS**

7 \* \* \* \*

8 **1113D.2. Report to the Board of Supervisors.** After consultation and coordination with  
9 other appropriate City departments and agencies, on or before ~~January 1, 2022~~ January 31,  
10 2024, the Department shall submit a report in writing to the Board of Supervisors concerning  
11 the effectiveness of this Chapter 11D and including recommendations, if any, for amendments  
12 to this Chapter. A progress report shall be submitted to the Board of Supervisors once a year  
13 thereafter until completion of this Chapter’s disability access improvement program.

14  
15 Section 3. Effective Date. This ordinance shall become effective 30 days after  
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
18 of Supervisors overrides the Mayor’s veto of the ordinance.

19  
20 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
24 additions, and Board amendment deletions in accordance with the “Note” that appears under  
25 the official title of the ordinance.

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

By: /s/ Austin Yang for  
KATE H. STACY  
Deputy City Attorney

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## LEGISLATIVE DIGEST

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

**Ordinance amending the Building Code to extend for the time for existing buildings with a place of public accommodation to comply with the requirement to have all primary entries and paths of travel into the building accessible to persons with disabilities or to receive a City determination of equivalent facilitation, technical infeasibility, or unreasonable hardship, to extend the period for granting extensions from those deadlines, and to extend the time for the Department of Building Inspection's Report to the Board of Supervisors.**

### 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. Table 1107D sets forth deadlines for the four compliance categories to submit specified information to DBI, file an application for any required building permits, and obtain the required building permits. 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 pursuant to Section 1108D. Section 1113D requires the Department of Building Inspection to submit a written report to the Board of Supervisors concerning the effectiveness of Chapter 11D, including recommendations, if any, for amendments to the Chapter.

### Amendments to Current Law

This ordinance will extend the time to comply with the requirements for approximately two years, and will standardize the deadlines for all building categories.

### Background Information

Under the Building Code, property owners are responsible for compliance with Code requirements notwithstanding any leases that may shift some of the burden of compliance onto the tenants. Many, if not all, of the buildings subject to the Chapter 11D requirements have multiple leased spaces many of which are operated by small businesses without a lot of financial resources. Extension of the compliance deadlines will give building owners and tenants more time to resolve any compliance issues going forward. Establishing the same compliance deadlines for all building categories will streamline and simplify the process.

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