

***BIC Regular
Meeting of
May 15, 2024***

Agenda Item 4



May 9, 2024

Building Inspection Commission
49 South Van Ness Avenue
San Francisco, CA 94103

Re: FILE NO. 240297 Proposed Change to Building Code – Mandatory Disability Access Improvements for Places of Public Accommodation – Extension of Time Deadlines

Honorable Members of the Commission:

The May 8, 2024 regular meeting of the full Code Advisory Committee (CAC) deliberated on the proposed change to 2022 San Francisco Building Code Chapter 11D, Mandatory Accessible Improvements for Buildings with a Place of Public Accommodations, to extend the time for compliance. Table 1107D Compliance Schedule will be changed to: submit compliance checklist and specify compliance option to December 31, 2024, file application for required building permit(s) to December 31, 2024 and obtain required building permits(s) to September 29, 2025.

After a discussion regarding the Extension of Time Deadlines, the CAC voted unanimously to recommend the Building Inspection Commission approve the proposed ordinance as written. The CAC recommended a robust public outreach by Department of Building Inspection (DBI), Public Works and the Mayor's Office of Small Business regarding the new compliance deadlines and how to comply with the Accessible Business Entrance (ABE) program.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas Fessler".

Thomas Fessler
DBI Technical Services Division
Secretary to the Code Advisory Committee

cc. Patrick O'Riordan, C.B.O. Director
Christine Gasparac, Assistant Director
Neville Pereira, Deputy Director
Janey Chan, Manager
Ned Finnie, AIA, Chair, Code Advisory Committee

Attach: Proposed Ordinance and Legislative Digest

Technical Services Division
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BOARD of SUPERVISORS



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MEMORANDUM

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: March 28, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors’ Land Use and Transportation Committee has created a new duplicate ordinance file:

File No. 240297

Ordinance amending the Building Code to extend the deadlines 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 regarding the disability access improvement program.

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 the commission 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
Patty Lee, Department of Building Inspection

FILE NO.

ORDINANCE NO.

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

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

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

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

19 Section 1. Findings.

20 (a) Pursuant to Charter Section 4.121, the Building Inspection Commission
21 considered this ordinance at a duly noticed public hearing held on _____.

22 (b) Chapter 11D of the Building Code requires the owner of an existing building with
23 a place of public accommodation to have the building inspected for compliance with
24 accessible entry and path of travel requirements. If the building is not in compliance, the
25 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

1 deadlines applicable to the four compliance categories (Category One Buildings, Category
2 Two Buildings, Category Three Buildings, and Category Four Buildings) for submitting
3 specified information to the Department of Building Inspection (DBI), filing an application for
4 any required building permits, and obtaining the required building permits. All mandated work
5 must be completed within the time periods specified in the Building Code for building permits
6 unless an extension of time is granted pursuant to Section 1108D.

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

15 (d) No local findings are required under California Health and Safety Code Section
16 17958.7 because the amendments to the Building Code contained in this ordinance do not
17 regulate materials or manner of construction or repair, and instead relate in their entirety to
18 administrative procedures for implementing the code, which are expressly excluded from the
19 definition of a “building standard” by California Health and Safety Code Section 18909(c).

20
21 Section 2. Chapter 11D of the Building Code is hereby amended by revising Sections
22 1107D, 1108D, and 1113D (specifically, Section 1113D.2), to read as follows:

23
24 **SECTION 1107D – COMPLIANCE SCHEDULE; OPTION TO COMPLY WITH CURRENT**
25 **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 <u>December 31, 2022-2024</u>	N/A	N/A
Category Two Buildings	No steps but barriers	June 30 <u>December 31, 2022-2024</u>	December 31, 2022-2024	September 29, 2023-2025
Category Three Buildings	One step with barriers	June 30 <u>December 31, 2022-2024</u>	December 31, 2022-2024	September 29, 2023-2025
Category Four Buildings	1+ step with other barriers	June 30 <u>December 31, 2022-2024</u>	December 31, 2022-2024	September 29, 2023-2025

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

1 (a) For good cause shown, the Building Official may grant one extension of time for
2 up to six months from the compliance timelines in Table 1107D. For good cause shown, one
3 or more additional extensions of time may be granted by the Access Appeals Commission
4 pursuant to Section 1110D; provided, however, that in no event shall the Commission extend
5 the time to complete the mandatory work required by this Chapter 11D beyond June 30, ~~2026~~
6 2028. The Commission's decision shall be final.

7 * * * *

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

11 * * * *

12 **1113D.2. Report to the Board of Supervisors.** After consultation and coordination with
13 other appropriate City departments and agencies, on or before January 31, ~~2024-2026~~, the
14 Department shall submit a report in writing to the Board of Supervisors concerning the
15 effectiveness of this Chapter 11D and including recommendations, if any, for amendments to
16 this Chapter. A progress report shall be submitted to the Board of Supervisors once a year
17 thereafter until completion of this Chapter's disability access improvement program.

18

19 Section 3. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

23 ///

24 ///

25 ///

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

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Peter R. Miljanich
11 PETER R. MILJANICH
12 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee – March 25, 2024)

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

Ordinance amending the Building Code to extend the deadlines 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 regarding the disability access improvement program.

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 2.5 years.

Background Information

This ordinance is a duplicate of the ordinance in Board File No. 231005. On March 25, 2024, after duplicating the ordinance, the Land Use and Transportation Committee amended it to change the deadline for submission of the compliance checklist and specification of the compliance option from June 30, 2024 to December 31, 2024.

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

FILE NO. 240297

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.

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Accessible Business Entrance Legislation: Deadline Extension

Building Inspection Commission

May 15, 2024

File No. 240297

Discussion and possible action regarding Board of Supervisors Ordinance (File No. 240297) amending the Building Code to extend the deadlines for existing buildings with a place of public accommodation to comply with the requirements to have all primary entries and paths of travel into the building accessible to persons with disabilities...

Suggested action is to make a recommendation of approval to the Board of Supervisors.

Accessible Business Entrance Program

Program was established by ordinance in 2016 and is administered by DBI.

Deadlines were extended in 2021 and then again earlier this year. This legislation would further extend the deadlines:

- Submit checklist by December 31, 2024
- File application for building permit by December 31, 2024
- Obtain required building permit by September 29, 2025

ABE Compliance Rates

23,504 properties in the program

– 16,505 (70%) Compliant

- Of those that have applied for a permit (1,190), 416 need to finish getting their permit issued

– 6,999 (30%) Non-compliant

- 2,871 submitted a checklist, but need a permit
- 4,128 no response

– 571 have indicated technical infeasibility

- 348 still need to get a permit to officially request an exemption

– 417 have indicated unreasonable hardship

- 283 still need to get a permit to officially request an exemption

ABE Outreach

- Created a new ABE webpage with step-by-step instructions and an online form submission portal
- Sent 10 rounds of letters and postcards in four languages
 - 1st mailing was more than 10,000 properties
 - 10th mailing was more than 6,900 properties
- Published an op/ed in Sing Tao (Chinese language newspaper)
- Held outreach events in conjunction with Office of Small Business
 - Bernal Business & Arts Alliance in-person meeting
 - Chinatown events
 - Merchant walks
- Presented at Small Business Commission meeting

Code Advisory Committee Recommendation

The Code Advisory Committee met on May 8, 2024 and unanimously voted to recommend that the BIC approve the proposed ordinance as written.

The CAC recommended robust public outreach by DBI, Public Works and the Office of Small Business regarding the new deadlines and how to comply with the program.



THANK YOU