

SAN FRANCISCO  
PLANNING COMMISSION  
RESOLUTION NO. 17580

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 810.47b, 811.47b, 812.47b, AND 890.37 TO DEFINE THREE TYPES OF ENTERTAINMENT USE BASED UPON SIZE AND OTHER FACTORS; AMENDING THE SAN FRANCISCO POLICE CODE TO DEFINE THE THREE TYPES OF ENTERTAINMENT USE AUTHORIZED BY THE PLANNING CODE AND TO REQUIRE AN APPLICATION AND THE PERMIT FOR A PLACE OF ENTERTAINMENT OR EXTENDED-HOURS ACTIVITY TO SPECIFY ONE OF THE THREE TYPES OF ENTERTAINMENT USE.**

WHEREAS, on December 4, 2007, Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 071649 which will amend sections of the San Francisco Planning Code Sections 102.17, 790.38, and 890.37 to define three types of entertainment use based upon size, and amending sections of the Police Code to incorporate these definitions.

The proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 10, 2008.

The definitions of entertainment use in the Planning Code are broad-based and do not distinguish intensity or type of entertainment uses. Throughout San Francisco, an entertainment use is either permitted as-of-right, not permitted, or requires a Conditional Use Authorization from the Planning Commission, depending upon zoning district. The proposed Ordinance would amend the definition of entertainment throughout the Planning Code in a similar manner. In particular, it would create three levels of intensity: General entertainment use; Limited entertainment use (50 or fewer people); and Accessory entertainment use. These definitions would also be incorporated into the Police Code, so that the Entertainment Commission (the regulatory body that issues entertainment permits) will place entertainment uses into these three categories when issuing permits. No changes will be made to the use tables in each zoning district.

The intent of this legislation is to enable a more flexible set of entertainment uses in new plan areas, such as in Western SoMa and Eastern Neighborhoods. Entertainment and arts uses are a critical element of San Francisco's culture and these uses contribute to the vibrancy and diversity of neighborhoods. The Department is committed to incorporating these use categories in new plan areas. As originally drafted, the legislation was going to amend the entertainment use definitions throughout the Planning Code. However, the legislation conflicts with several provisions of the Code, specifically Article 7 (Neighborhood Commercial Districts). In sum, the initial definition of accessory entertainment use, which would permit an entertainment use as an accessory use as-of-right, directly conflicted with Code provisions that prohibited an entertainment use from being an accessory use.<sup>1</sup> The Department, working with the Entertainment Commission, Supervisor Peskin's

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<sup>1</sup> 703.2(c)(ii): Accessory Uses. "...No use will be considered accessory to a permitted principal or conditional use which involves or requires any of the following: (ii) any bar, restaurant, other entertainment, or any retail establishment which serves alcohol for consumption on-site."

office, and with other interested community groups, has rewritten the legislation to remove these conflicts and to have the proposed definitions be narrowly tailored so that they only apply to Article 8 (Mixed Use Districts). The rewritten legislation will enable two major planning efforts – the Western SoMa Special Use District and the Eastern Neighborhoods area plans (over ½ of the area will be subject to these new definitions) – to utilize the new definitions of entertainment use in their rezoning efforts.

The Commission that the Board of Supervisors recommends approval of the proposed Ordinance *with modifications* and adopts the attached Draft Resolution to that effect. The Commission supports the following:

1. Limit the scope of the Ordinance so that it amends the definitions in Article 8: Mixed Use Districts (and thus is not in conflict with other provisions of the Planning Code);
2. Amend the definitions of entertainment use in the following manner:
  - a. Entertainment Use: The highest level of intensity. This definition would remain similar to the existing definition in the Planning Code.
  - b. Limited Entertainment Use: An entertainment use where the occupancy is 50 persons or less.
  - c. Complementary Entertainment Use: An entertainment use that occupies no more than 144 square feet (a 12' by 12' space) and operates in conjunction with a principally or conditionally permitted use. The Commission agreed in concept with this definition but wanted additional consideration given to the Western SoMa Special Use District – in that particular area plan, the complementary entertainment definition be limited to those uses that are compatible with entertainment uses, such as coffee stores (Other Retail) and full-service restaurants.

Along with the proposed changes, the proposed amendments to the Planning Code are consistent with the following provisions of the General Plan. Staff discussion is in italics.

### **Commerce and Industry Element**

**Objective 1:** Manage economic growth and change to ensure enhancement of the total city living and working environment.

1. Policy 7.1: Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be litigated.

*The proposed Ordinance will enable entertainment uses to be located in various neighborhoods in the eastern portion of San Francisco. By providing for levels of entertainment use based on level of intensity, the Planning Department and Entertainment Commission can encourage this use where appropriate and minimize undesirable*

*consequences to mixed-use neighborhoods.*

**Arts Element**

**Goal I:** Support and nurture the arts through city leadership.

1. Objective I-1: Recognize the arts as necessary to the quality of life for all segments of San Francisco.

*The proposed Ordinance will enable arts and entertainment uses to be located in mixed-use neighborhoods where they will enhance the diversity of uses and quality of life for residents.*

Along with the proposed changes, the proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. The proposed amendments would preserve and promote neighborhood-serving retail uses and future opportunities for resident employment in and ownership of such businesses by permitting a variety of entertainment uses.
2. The existing housing and neighborhood character will be conserved and protected by the proposed amendments by maintaining and strengthening the diversity of uses and neighborhood services.
3. The City's supply of affordable housing would be unaffected by the proposed regulations. Existing Planning Code provisions and Planning Commission policies would continue to preserve all types of housing.
4. The proposed amendments will not impede Muni transit service or overburden the streets or neighborhood parking. Should there be concerns not anticipated by existing provisions, such concerns would be addressed through the noticing and public review process incorporated in the proposed Ordinance.
5. The proposed amendments will increase the viability of the City's diverse economic base and service sector and will create future opportunities for resident employment and ownership in the entertainment and arts sector.
6. Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with an entertainment use would be executed in compliance with all applicable construction and safety measures.
7. Landmarks and historic buildings would be unaffected by the proposed amendments. Should a potential entertainment use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.
8. The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that entertainment use permits would be such that sunlight access, to public or private property, would be adversely impacted.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the

proposed Ordinance as described in this Resolution and in the proposed Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 10, 2008.

  
Linda Avery  
Commission Secretary

AYES: Olague, Antonini, B. Lee, S. Lee, Moore, Suguya

NOES:

ABSENT:

ADOPTED: April 10, 2008