

File No. 140804

Committee Item No. 6

Board Item No. 20

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date October 6, 2014

Board of Supervisors Meeting

Date Oct. 21, 2014

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
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Completed by: Andrea Ausberry Date October 3, 2014

Completed by:  Date 10.6.14

1 [Planning Code - Arcades in the Haight Street Neighborhood Commercial District]

2  
3 **Ordinance amending the Planning Code to permit arcades in the Haight Street**  
4 **Neighborhood Commercial District; affirming the Planning Department's determination**  
5 **under the California Environmental Quality Act; and making findings of consistency**  
6 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

15 Section 1. Findings.

16 (a) The Planning Department has determined that the actions contemplated in this  
17 ordinance comply with the California Environmental Quality Act (California Public Resources  
18 Code, Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
19 Supervisors in File No. 140804 and available on the Board's website and is incorporated  
20 herein by reference. The Board affirms this determination.

21 (b) On September 18, 2014, the Planning Commission, in Resolution No. 19239,  
22 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
23 with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1.  
24 The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk  
25 of the Board of Supervisors in File No. 140804, and is incorporated herein by reference.

1 Section 2. The Planning Code is hereby amended by revising Article 7, Sections 719  
 2 and 790.4 to read as follows:

3 **SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**  
 4 **CONTROL TABLE**

5 \* \* \* \*

No.	Zoning Category	§ References	Haight Street		
			Controls by Story		
			1st	2nd	3rd+
...	...	...	...	...	...
719.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4	<u>P</u>	<u>P</u>	

15 \* \* \* \*

16 **SPECIFIC PROVISIONS FOR THE HAIGHT STREET DISTRICT**

Article 7 Code Section	Other Code Section	Zoning Controls
* * * * <u>§ 719.48</u>	<u>§§ 790.4, 790.38</u>	<i>Within the Haight Street Neighborhood Commercial District, that portion of an Other Entertainment use comprised of mechanical amusement game devices will be considered an Amusement Game Arcade Use, for the purposes of the Planning Code.</i>
* * * * 		

1                   **SEC. 790.4. AMUSEMENT GAME ARCADE (MECHANICAL AMUSEMENT**  
2 **DEVICES).**

3                   A retail use which provides eleven or more amusement game devices such as video  
4 games, pinball machines, or other such similar mechanical and electronic amusement  
5 devices, in a quantity which exceeds that specified in Section 1036.~~2331~~ of the Police Code as  
6 *accessory or Ancillary Uses*. Mechanical amusement devices are further regulated in Sections  
7 1036 through 1036.~~3524~~ of the Police Code.

8  
9                   Section 3. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

13  
14                   Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By: 

24 JUDITH A. BOYAJIAN  
25 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Planning Code - Arcades in the Haight Street Neighborhood Commercial District]

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.**

Existing Law

The Planning Code currently prohibits Arcades, defined as a retail use which provides 11 or more amusement game devices, from being located in the Haight Street Neighborhood Commercial District.

Amendments to Current Law

The proposed ordinance would amend the Planning Code to make Arcades permitted as a principal use in the Haight Street Neighborhood Commercial District. The ordinance would also update references in the Planning Code to Arcade regulations in the Police Code.

Background Information

This ordinance is a companion piece to legislation introduced on July 15, 2014 that would amend the permitting requirements in the Police Code for mechanical amusement devices and Arcades (File No. 140776). Those Police Code provisions were enacted in 1982, at a time when the number of video game machines was rapidly increasing in the City, giving rise to public concern regarding the location of these machines, the number of machines permitted at any given location, creation of street and sidewalk congestion where these machines are concentrated, accessibility to the machines by minors during school hours, and the occurrence of public disturbances and petty crimes in the vicinity of these machines.

Since the Police Code provisions were first enacted, video games have become readily available through personal mobile devices and home-entertainment systems. Today, there are only two Arcades operating in the City permitted by the Entertainment Commission. Older-style arcade games such as pinball machines have become a niche novelty for an older demographic, diminishing public concerns about the secondary effects of such devices in neighborhoods and reducing the need for such stringent restrictions on the location and operation of arcades. Small businesses, including in the Haight Street Neighborhood Commercial District, are experimenting with establishing pinball arcades and pinball leagues, which bring the community together and are an asset to the neighborhood.

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# SAN FRANCISCO PLANNING DEPARTMENT

September 19, 2014

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Breed  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

1650 Mission St.  
Suite 400  
San Francisco, CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Re: **Transmittal of Planning Department Case Number 2014.1193T:  
Arcades in the Haight Street Neighborhood Commercial District  
Board File No. 140804  
Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo and Supervisor Breed,

On September 18, 2014, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Sections 719.69B and 790.4, introduced by Supervisor Breed. At the hearing the Planning Commission recommended approval with modifications.

The proposed modifications include:

- Add a Specific Provision to the Haight Street NCD Zoning Control Table to clarify that in the Haight Street NCD that portion of an Other Entertainment use comprising of Mechanical Amusement Devices will be considered an Amusement Game Arcade Use. The modification would be as follows:

Article 7 Code Section	Other Code Section	Zoning Controls
§719.48	§§790.4, 790.38	Within the Haight Street Neighborhood Commercial District, that portion of an Other Entertainment use comprised of mechanical amusement game devices will be considered an Amusement Game Arcade Use, for the purposes of the Planning Code.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of both Commissions. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'AnMarie Rodgers', with a long horizontal line extending to the right.

AnMarie Rodgers  
Senior Policy Advisor

cc:

Francesca Gessner, Deputy City Attorney  
Connor Johnston, Aide to Supervisor Breed  
Andrea Ausberry, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution 19239

HEARING DATE SEPTEMBER 18, 2014

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

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*Project Name:* Arcades in the Haight Street Neighborhood Commercial District  
*Case Number:* 2014.1193T [Board File No. 140804]  
*Initiated by:* Supervisor Breed / Introduced July 15, 2014  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
anmarie.rodgers@sfgov.org, 415-558-6395

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 719.69B, 790.4 AND 719.48 TO PRINCIPALLY PERMIT AMUSEMENT GAME ARCADES ON THE FIRST AND SECOND STORIES WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT, TO REVISE REFERENCES TO THE POLICE CODE WITHIN PLANNING CODE SECTION 790.4 AND TO ADD A SPECIFIC PROVISION TO THE ZONING CONTROL TABLE FOR THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT INDICATING THAT THE PORTION OF AN OTHER ENTERTAINMENT USE CONSISTING OF MECHANICAL AMUSEMENT DEVICES WILL BE CONSIDERED AN AMUSEMENT GAME ARCADE USE; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on July 15, 2014, Supervisor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140804, which would amend Planning Code Sections 719.69B, 790.4 and 719.48 to principally permit Amusement Game Arcades on the first and second stories in the Haight Street Neighborhood Commercial District (NCD), revise references to the Police Code within Planning Code Section 790.4 and add a Specific Provision to the Zoning Control Table for the Haight Street NCD indicating that the portion of an Other Entertainment use consisting of Mechanical Amusement Devices will be considered an Amusement Game Arcade use;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 18, 2014; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and



WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modification** the proposed ordinance.

The Commission recommended modification would add a Specific Provision to the Zoning Control Table for the Haight Street NCD indicating that the portion of an Other Entertainment use consisting of Mechanical Amusement Devices will be considered an Amusement Game Arcade use.

Specifically, the Commission recommends the Specific Provision as follows:

Article Code Section	Other Code Section	Zoning Controls
§719.48	§§790.4, 790.38	Within the Haight Street Neighborhood Commercial District, that portion of an Other Entertainment use comprised of mechanical amusement game devices will be considered an Amusement Game Arcade Use, for the purposes of the Planning Code.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Existing controls on Amusement Game Arcades are based on older conceptions of pinball and other mechanical amusement devices as games of chance and extensions of gambling and arcades as magnets for vandalism, petty crime and drug use.
2. Today mechanical amusement devices complement home video game consoles as well the games available on personal mobile devices. This context places mechanical amusement devices and the Amusement Game Arcade within a purely recreational niche.
3. In the current wave of interest, Amusement Game Arcades are seen as venues for social interaction and for forming community around friendly competition. Popular support for Amusement Game Arcades is evident in the growth of pinball leagues and venues across the US.
4. Loosening Planning Code restrictions on where Amusement Game Arcades may locate meets the popular demand for this use, expands small business opportunities, diversifies the breadth of available services within neighborhood commercial districts, enhances the unique character of the

City's neighborhood commercial districts, and complements the modernizing of controls on this use occurring in the Police Code.

5. Concerns about an increase in nuisance as a result of the spread of Amusement Game Arcades are allayed by the number of existing controls in place to address such issues.
6. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The proposed Ordinance will facilitate the establishment of a retail use that provides net benefits in the form recreational and community gathering spaces. Any potential undesirable consequences may be addressed through existing regulatory controls.*

### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

#### Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance will allow the commercial activity to locate on the first and second stories within the Haight Street NCD. This will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees and hence enhances San Francisco as a location of firms.*

### OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed Ordinance will allow the provision of a neighborhood-serving retail establishment that can add to the diversity and distinction of the Haight Street NCD.*

7. **Planning Code Section 101 Findings.** 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. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance will allow neighborhood serving retail uses to locate on the first and second floors of the Haight Street NCD.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance will allow retail uses that conserve and protect the unique character to locate in the Haight Street NCD and as such will preserve the diversity of the Upper Haight neighborhood.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance is exclusively concerned with the establishment of retail uses and will not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance will not result in the displacement of any industrial or service sector establishments due to commercial office development because the proposed Ordinance is concerned with the regulations on retail uses.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance will not have an impact on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance will not have an impact on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance will not have an impact on the City's parks and open space and their access to sunlight and vistas.*

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 18, 2014.

Jonas P. Ionin  
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, Wu

NOES:

ABSENT:

ADOPTED: September 18, 2014



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 18, 2014

1650 Mission St.  
Suite 400  
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CA 94103-2479

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*Project Name:* Arcades in the Haight Street Neighborhood Commercial District  
*Case Number:* 2014.1193T [Board File No. 140804]  
*Initiated by:* Supervisor Breed / Introduced July 15, 2014  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval with Modification**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 719.69B to principally permit Amusement Game Arcades on the first and second stories in the Haight Street Neighborhood Commercial District (NCD) and amend Section 790.4 to update references to the Police Code within the definition of Amusement Game Arcade.

#### The Way It Is Now:

The Haight Street NCD prohibits Amusement Game Arcades on any story.<sup>1</sup>

Planning Code Section 790.4 defines Amusement Game Arcades as a retail use providing eleven or more amusement game devices and further references Police Code to clarify the use.<sup>2</sup>

#### The Way It Would Be:

The proposed Ordinance would principally permit Amusement Game Arcades (Mechanical Amusement Devices) on the 1<sup>st</sup> and 2<sup>nd</sup> stories within the Haight Street NCD.

The proposed Ordinance would also update references to the specific Police Code sections within Planning Code Section 790.4 to reflect forthcoming changes to the Police Code.<sup>3</sup>

<sup>1</sup> Planning Code Section 719.69B prohibits Amusement Game Arcades on all stories.

<sup>2</sup> The Planning Code defines the Amusement Game Arcade use as follows:

A retail use which provides eleven or more amusement game devices such as video games, pinball machines, or other such similar mechanical and electronic amusement devices, in a quantity which exceeds that specified in Section 1036.31 of the Police Code as accessory uses. Mechanical amusement devices are further regulated in Sections 1036 through 1036.35 of the Police Code.

<sup>3</sup> Board File 140776 is companion legislation to the proposed Ordinance (BF 140804) and is proposing to amend Police Code Section 1036. Amendments would update Police permit review procedures, lessen

## ISSUES AND CONSIDERATIONS

**Existing Regulatory Environment.** The existing controls on Amusement Game Arcades and Mechanical Amusement Devices (MADs) date back to the early 1980's. In that era there was concern about the rapid proliferation of Amusement Game Arcades and the potential nuisances created by the use including the number of mechanical amusement game devices in any one location, increased congestion on sidewalks around Arcades, the accessibility to Arcades by minors during school hours and the occurrence of crime and other anti-social behavior in areas near Arcades.

Controls in the Planning Code and the Police Code exist to address these concerns around nuisance. For example, the Planning Code considers a use with up to 10 MADs an Other Entertainment Use and is allowed in the vast majority of NCDs.<sup>4</sup> However, a use with 11 or more MADs is considered an Amusement Game Arcade and is not typically allowed in the NCDs.<sup>5</sup> Further, all NCDs prohibit Amusement Game Arcades on the second story.

The Police Code regulates MADs chiefly through Section 1036. Section 1036 controls the number of MADs allowed in a location based on the square foot area of retail floor area, and also prohibits establishments in neighborhood commercial districts from having 11 or more mechanical amusement devices.

**Proposed Changes to Existing Controls.** Companion legislation (BF 140776) to the proposed Ordinance is seeking to loosen Police Code regulation on MADs and arcades in a modernization effort responding to the current perceptions and realities. Proposed changes include the following:

- Eliminating the Police permit requirement for up to 4 MADs in a bar and up to 10 MADs within any other premise;
- Eliminate the Police Code minimum area requirement for MADs in retail establishments; and
- Eliminate the Police Code prohibition on arcades within areas zoned neighborhood commercial.

It is important to note that the changes to the Planning Code in the proposed Ordinance would principally permit Amusement Game Arcades and would not require Section 312 neighborhood notification but would maintain the requirement of Conditional Use Authorization for uses with 10 or fewer MADs. This would create a counterintuitive permitting process as a less intensive use would be subject to a much more robust process.

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permitting restrictions, and remove obsolete provisions including Police Code Sections 1036.31 and 1036.35.

<sup>4</sup> Only five NCDs (West Portal, Pacific Avenue, SOMA, Folsom and RCD) prohibit Other Entertainment uses. In all other NCDs Other Entertainment is allowed either as of right with Section 312 Notification or by Conditional Use Authorization.

<sup>5</sup> Only five NCDs (NC-3, NC-S, Broadway, Mission St and Excelsior) allow Amusement Game Arcades with Conditional Use Authorization.

Last, the forthcoming reorganization of Article 2 will incorporate the existing Amusement Game Arcades use into the broader General Entertainment use category. This change will establish uniform, modernized controls across the city for Amusement Game Arcades and is anticipated to be adopted and effective by mid-year 2015

**Pinball Resurgence.** In recent years, pinball has enjoyed a resurgence of interest, as evidenced by the opening of new pinball venues, a pinball museum and new commercial pinball manufacturers of varying sizes. The demographic groups leading this resurgence are not adolescents. This current wave of popularity is driven by Baby Boomer and Gen-X hobbyists, collectors and nostalgists.<sup>6</sup> These are groups that have the disposable income to purchase vintage and new machines and the desire to form peer networks spanning metropolitan regions.

In the US, the interest in pinball is supported by the Professional and Amateur Pinball Association (an industry trade organization), by multiple local, national and international pinball tournaments and by, as mentioned above, the reemergence of arcades and other locations to play pinball.

In the Bay Area, there are five competitive pinball leagues including one that meets at the Free Gold Watch (1767 Waller Street), an establishment in the Haight Street Neighborhood Commercial District.

#### REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

#### RECOMMENDATION

The Department recommends that the Commission recommend *approval with amendment* to the proposed Ordinance. Department Staff recommends the following:

1. Principally permit Amusement Game Arcades in the Haight Street NCD on the 1<sup>st</sup> and 2<sup>nd</sup> stories.
2. Add a Specific Provision to the Haight Street NCD Zoning Control Table to clarify that in the Haight Street NCD that portion of an Other Entertainment use comprising of MADs will be considered an Amusement Game Arcade Use. This change would ensure that smaller complementary MAD uses with 10 or fewer devices are not given more rigorous review than larger principal MAD uses. The Specific Provision to the Haight Street NCD Zoning Control Table would be as follows:

Article Code Section	Other Code Section	Zoning Controls
----------------------	--------------------	-----------------

<sup>6</sup>The following internet sites and articles document the pinball resurgence: <http://loriengreen.com/portfolio/pinball-documentary/>, <http://keepingmycool.blogspot.com/2012/10/the-case-for-pinball-resurgence.html>, <http://pinballbayarea.com/>, <http://www.sfgate.com/bayarea/article/Enthusiasm-over-pinball-at-full-tilt-in-Bay-Area-2477358.php>

§719.48	§§790.4, 790.38	Within the Haight Street Neighborhood Commercial District, that portion of an Other Entertainment use comprised of mechanical amusement game devices will be considered an Amusement Game Arcade Use.
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3. **Revise Planning Code Section 790.4 to update references to Police Code Section 1036 in light of the forthcoming revisions from the companion legislation (BF140776).**

**BASIS FOR RECOMMENDATION**

The Department supports the proposed Ordinance, with the amendment, because it updates regulations on mechanical amusement devices to correspond to how the devices are currently perceived and used. Existing controls on Amusement Game Arcades are based on older notions of pinball and other MADs as games of chance and extensions of gambling and arcades as magnets for vandalism, petty crime and drug use. Today MADs complement home video game consoles as well the games available on personal mobile devices. This context places MADs and the Amusement Game Arcade within a purely recreational niche.

**Recommendation 1: Principally permit Amusement Game Arcades in the Haight Street Neighborhood Commercial District on the 1<sup>st</sup> and 2<sup>nd</sup> stories.**

Beyond modernizing the controls on Amusement Game Arcades, the loosening of restrictions on their establishment satisfies a number of policies within the Commerce and Industry Element of the General Plan that look to attract and retain commercial activities that serve neighborhood residents, that look to enliven and distinguish neighborhood commercial districts and that create an atmosphere of interest in the City of San Francisco as a whole.<sup>7</sup>

In this current wave of interest, Amusement Game Arcades are seen as venues for social interaction and for forming community around friendly competition. Popular support for Amusement Game Arcades is evident in the growth of pinball leagues and venues across the US. The support for the easing of restrictions within the Haight Street NCD is also evident by the number of letters of support received by way of Supervisor London Breed’s office.

While there may be concerns about an increase of nuisance as a result of loosening the controls on Amusement Game Arcades, multiple controls exist to address these. For example, past concerns about smoking in the Amusement Game Arcades are now addressed by the prohibition on indoor smoking

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<sup>7</sup> Policy 1.1: Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated; Policy 2.1: Seek to retain existing commercial and industrial activity and to attract new such activity to the city; Policy 2.3: Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location; Policy 6.1: Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city’s neighborhood commercial districts, while recognizing and encouraging diversity among the districts



found in the San Francisco Health Code.<sup>8</sup> Concerns that the use will attract alcohol consumption are addressed by the restriction on new Bars or Liquor Stores in the Haight Street NCD.<sup>9</sup> Concerns that the loosening of controls will facilitate the spread of gambling are allayed by the fact that San Francisco Police Code prohibits the operation of or any machine or device upon which money or any other article or thing of value is staked, bet, hazarded, won or lost upon chance.<sup>10</sup>

Finally, the loosening of restrictions on the establishment of Amusement Game Arcades within the Planning Code goes hand in hand with the current updates to the Police Code articles dealing with MADs. These changes look to modernize permit review processes, and eliminate obsolete provisions.

**Recommendation 2: Add a Specific Provision to the Haight Street NCD Zoning Control Table to clarify that in the Haight Street NCD that portion of an Other Entertainment use comprising of MADs will be considered an Amusement Game Arcade Use.** Without the addition of the Specific Provision clarifying that the portion of an Other Entertainment use comprising of MADs is to be considered an Amusement Game Arcade use, the Planning Code would be amended to streamline the approval process for a use proposing 11 or more MADs while maintaining the current Conditional Use Authorization requirement for a use proposing 10 or fewer MADs. This amendment would prevent more strict control of less intensive uses.

This recommendation is also in line with the intention of Recommendation #1, which is to ease controls on the use of MADs.

**Recommendation 3: Revise Planning Code Section 790.4 to update references to Police Code Section 1036 in light of the forthcoming revisions.** Given that the companion legislation (BF 140776) is eliminating the Police Code sections referenced in the Planning Code and that as of the date of this report the companion legislation had passed the first reading of the Board of Supervisors, it is necessary to the integrity and accuracy of the Planning Code to update Section 790.4. The updates would also be in conformity with the efforts of this Ordinance to modernize the regulations on Amusement Game Arcades.

## ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 719.69B and 790.4 would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Sections 15378 and 15060(c)(2) of the CEQA Guidelines.

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<sup>8</sup> San Francisco Health Code Article 19F Section 1009.22(a) prohibits smoking in buildings containing business establishments, among other uses.

<sup>9</sup> Planning Code Section 719.41, 719.45 and 781.9 prohibit alcohol sales without a bona fide eating place.

<sup>10</sup> Article 3 of the San Francisco Police Code broadly prohibits the use of machines for the purpose of gambling.

**PUBLIC COMMENT**

As of the date this report, the Planning Department received multiple letters from members of the public, by way of Supervisor London Breed's office, expressing support for an Amusement Game Arcade use within the within the Haight Street Neighborhood Commercial District.

**RECOMMENDATION: Recommendation of Approval with Modifications**

**Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 140804
- Exhibit C: Letters of Support for Amusement Game Arcade use within the Haight Street NCD

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Greg Suhr, Chief, Police Department  
Jocelyn Kane, Executive Director, Entertainment Commission

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development  
Committee, Board of Supervisors

DATE: October 2, 2014

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed substituted legislation, introduced by Supervisor Breed on September 30, 2014:

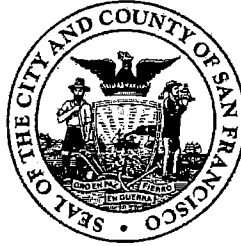
**File No. 140804**

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

If you have any additional 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.

c: Christine Fountain, Police Department  
Crystal Stewart, Entertainment Commission

BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

October 3, 2014

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On September 30, 2014, Supervisor Breed introduced the following substituted legislation:

**File No. 140804**

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Economic Development Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
AnMarie Rodgers, Senior Policy Manager  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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

October 2, 2014

File No. 140804

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On September 30, 2014, Supervisor Breed introduced the following substituted legislation:

**File No. 140804**

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

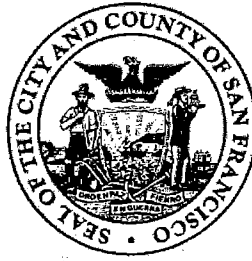
A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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TDD/TTY No. 554-5227

## MEMORANDUM

TO: Greg Suhr, Chief, Police Department  
Jocelyn Kane, Executive Director, Entertainment Commission

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development  
Committee, Board of Supervisors

DATE: July 28, 2014

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Breed on July 15, 2014:

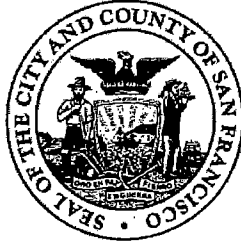
**File No. 140804**

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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c: Christine Fountain, Police Department  
Crystal Stewart, Entertainment Commission

BOARD of SUPERVISORS



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San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

July 28, 2014

File No. 140804

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 15, 2014, Supervisor Breed introduced the following legislation:

**File No. 140804**

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sfgov.org, c=US  
Date: 2014.07.31 14:13:00 -0700

BOARD of SUPERVISORS



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

July 28, 2014

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On July 15, 2014, Supervisor Breed introduced the following legislation:

**File No. 140804**

**Ordinance amending the Planning Code to permit arcades in the Haight Street Neighborhood Commercial District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Economic Development Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
AnMarie Rodgers, Senior Policy Manager  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning



Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor"
- 5. City Attorney request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

RECEIVED  
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 SAN FRANCISCO  
 inquires  
 218  
 SEP 25 PM 2:01

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

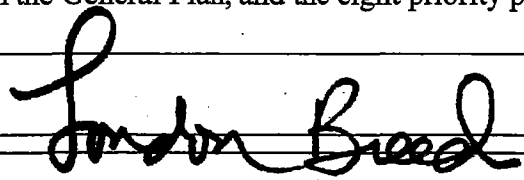
**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

**Subject:**

**The text is listed below or attached:**

Signature of Sponsoring Supervisor: \_\_\_\_\_



For Clerk's Use Only:

