

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

---

---

## MEMORANDUM

---

---

Date: November 7, 2025  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 251103  
Planning Code - Alcohol Sales in Movie Theaters

---

- California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*)
  - Ordinance / Resolution
  - Ballot Measure
  
- 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](mailto:john.carroll@sfgov.org).

1 [Planning Code - Alcohol Sales in Movie Theaters]

2  
3 **Ordinance amending the Planning Code to permit on-site wine, beer, and/or liquor**  
4 **sales in Movie Theaters that also operate as Bona Fide Eating Places, and make**  
5 **conforming changes in the Planning Code definitions of Bar and Bona Fide Eating**  
6 **Place uses; permitting certain Movie Theaters in the Upper Fillmore Neighborhood**  
7 **Commercial District to sell wine and/or beer and offer entertainment, cultural, artistic,**  
8 **dramatic, musical, or leisure activities, performances, or exhibitions without being**  
9 **subject to non-residential use size limits otherwise applicable in the District; affirming**  
10 **the Planning Department’s determination under the California Environmental Quality**  
11 **Act; making findings of consistency with the General Plan, and the eight priority**  
12 **policies of Planning Code, Section 101.1; and making findings of public necessity,**  
13 **convenience, and welfare pursuant to Planning Code, Section 302.**

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

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

23 Section 1. General Findings.

24 (a) Movie Theaters serve as community cornerstones and gathering spaces for the  
25 arts, and in recent years, their operations have been threatened by shifting streaming habits,  
the COVID-19 pandemic, and more. The theaters hit hardest by these tough economic

1 conditions are small, single-screen, and historic theaters throughout the city and state, many  
2 of which were small businesses and have been forced to close.

3 (b) It is imperative that the City and County of San Francisco do all that we can to keep  
4 these small neighborhood theaters in business by supporting their profitability and delivering  
5 clear, transparent, and efficient permitting processes for any necessary restoration work. This  
6 ordinance helps support the neighborhood theater operations by allowing them to provide on-  
7 site beer, wine, and/or liquor sales for drinking on the premises, enabling them to more easily  
8 generate added revenue from these sales.

9 (c) Critically, this ordinance continues to require these theaters to obtain an ABC  
10 license and does not affect any businesses governed by Alcohol Restricted Use Districts  
11 where controls exist to protect the health, safety, and welfare of these neighborhoods.

12 (d) By enacting this ordinance, San Francisco helps make it easier for small movie  
13 theater businesses to continue to serve their local communities and the arts.

14

15 Section 2. Environmental 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. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
20 determination.

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

1 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning  
2 Code amendments will serve the public necessity, convenience, and welfare for the reasons  
3 set forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such  
4 reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on file  
5 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

6  
7 Section 3. Article 1 of the Planning Code is hereby amended by revising Section 102  
8 as follows:

9 **SEC. 102. DEFINITIONS.**

10 \* \* \* \*

11 **Bar.** A Retail Sales and Service Use that provides on-site alcoholic beverage sales for  
12 drinking on the premises, including bars serving beer, wine, and/or liquor to the customer  
13 where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC]  
14 license types 23, 42, 48, or 61), drinking establishments serving beer where minors are  
15 present (with ABC license types 40 or 60) in conjunction with other uses such as *Movie*  
16 ~~*Theaters and*~~ General Entertainment, and bars serving wine operated by licensed winegrowers  
17 (with ABC license type 02). Such businesses shall operate with the specified conditions in  
18 Section 202.2(a). A non-profit theater that provides on-site alcoholic beverage sales only for  
19 consumption by ticket-holding patrons on the premises, with ABC license type 64, shall not be  
20 considered a Bar use. A music entertainment facility that is authorized to sell beer, wine, and  
21 distilled spirits at retail for consumption on the premises, with ABC license type 90, shall not  
22 be considered a Bar use.

23 \* \* \* \*

24 **Bona Fide Eating Place.** A place that is regularly and in a bona fide manner used and kept  
25

1 open for the service of meals to guests for compensation and that has suitable kitchen  
2 facilities connected therewith, containing conveniences for cooking of an assortment of foods  
3 that may be required for ordinary meals.

4 \* \* \* \*

5 (c) Actual and substantial sales of meals are required, during the normal days and meal  
6 hours that a bona fide public eating place is open, provided that "normal days of operation"  
7 shall mean a minimum of five days a week and "normal hours" of operation for meal service  
8 shall mean approximately 7:00 a.m. to 11:00 a.m. if open for breakfast; 11:00 a.m. to 2:00  
9 p.m. if open for lunch; or 5:00 p.m. to 10:00 p.m. if open for dinner.

10 \* \* \* \*

11 (e) The establishment must secure significant revenue from food and non-alcoholic  
12 beverage sales. Significant revenue from food and non-alcoholic beverage sales shall mean  
13 either:

14 (1) A minimum of 51% of the establishment's gross receipts shall be from food sales  
15 prepared and sold to guests on the premises. Records of the establishment's gross receipts  
16 shall be provided to the Department upon request; or

17 (2) Annual gross food and non-alcoholic beverage sales prepared and sold to guests on  
18 the premises of at least \$4,200 per occupant based on the premises' maximum occupant load  
19 as determined and approved by the Fire Department and Department of Building Inspection.  
20 Records of the establishment's gross sales shall be provided to the Department upon request.  
21 The Zoning Administrator may adjust the amount of \$4,200 per occupant each year, provided  
22 that such adjustments are supported by specific financial and economic criteria, including but  
23 not limited to a review of the restaurant market, costs, prices, profits, and losses,<sup>1</sup> and  
24 recognizing the differences in sizes and types of establishments.

25 \* \* \* \*

1 (h) For a Movie Theater Use that only provides alcoholic beverage sales for on-site consumption  
2 during the normal hours of operation of entertainment activities, paragraphs (c) and (e) do not apply,  
3 but actual and substantial sales of meals are required during the normal hours of operation. For  
4 purposes of this paragraph, the “normal hours of operation” shall include two hours prior to, and one  
5 hour after, entertainment activities.

6 \* \* \* \*

7 **Movie Theater.** A Retail Entertainment, Arts and Recreation Use primarily designed and used  
8 for the presentation of films or motion pictures to an audience, and generally involving: (a) one or  
9 more auditoriums, (b) fixed seating oriented towards a screen, (c) professional projection equipment,  
10 and (d) one or more concession areas. A Movie Theater may provide beer, wine, and/or liquor sales for  
11 on-site consumption by ticketed customers, as a minor and incidental use, so long as it operates as a  
12 Bona Fide Eating Place as defined in Section 102 of this Code. ~~that displays motion pictures, videos,~~  
13 ~~slides, or closed-circuit television pictures.~~ This use does not include an adult theater, which is  
14 regulated as an Adult Business. Removal of a Movie Theater is subject to the controls in  
15 Section 202.4.

16 \* \* \* \*

17 Section 4. Article 7 of the Planning Code is hereby amended by revising Section 718  
18 as follows:

19 **SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

20 The Upper Fillmore Street Neighborhood Commercial District is situated in the south-  
21 central portion of Pacific Heights. It runs north-south along Fillmore Street from Jackson to  
22 Bush and extends west one block along California and Pine Streets. This medium-scaled,  
23 multi-purpose commercial district provides convenience goods to its immediate neighborhood  
24 as well as comparison shopping goods and services on a specialized basis to a wider trade  
25

1 area. Commercial businesses are active during both day and evening and include a number  
 2 of bars, restaurants, specialty groceries, and specialty clothing stores.

3 The Upper Fillmore District controls are designed to protect the existing building  
 4 scale and promote new mixed-use development which is in character with adjacent buildings.  
 5 Building standards regulate large lot and use development and protect rear yards above the  
 6 ground story and at residential levels. Most commercial uses are permitted at the first two  
 7 stories of new buildings. Special controls are designed to preserve the existing equilibrium of  
 8 neighborhood-serving convenience and specialty commercial uses. In order to maintain  
 9 convenience stores and protect adjacent livability, additional bars (unless part of a restaurant)  
 10 and formula retail establishments are prohibited, and financial service uses are limited. In  
 11 order to promote continuous retail frontage, drive-up and most automobile uses are  
 12 prohibited.

13 Housing development in new buildings is encouraged above the second story.  
 14 Existing residential units are protected by limitations on demolitions and upper-story  
 15 conversions. Accessory Dwelling Units are permitted within the district pursuant to Section  
 16 207.1 of this Code.

17 **Table 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT**  
 18 **ZONING CONTROL TABLE**

		Upper Fillmore Street NCD
Zoning Category	§ References	Controls
* * * *		
NON-RESIDENTIAL STANDARDS AND USES		
* * * *		

		Controls by Story		
		1st	2nd	3rd+
* * * *				
Entertainment, Arts and Recreation Use Category				
* * * *				
Movie Theater	§§ 102, 202.4	P(2)	P(2)	P(2)

\* \* \* \*

(2) ~~[Note deleted.]~~ A Movie Theater with no fewer than 150 fixed seats oriented toward a screen may additionally offer entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances, or exhibitions so long as the premises (i) obtains any necessary authorization from the Entertainment Commission, and (ii) is primarily designed and used for the presentation of films or motion pictures to an audience. In addition, such a Movie Theater may serve beer and/or wine for on-site consumption by ticketed customers as a minor and incidental use with an ABC license Type 41 so long as it operates as a Bona Fide Eating Place as defined in Section 102 of this Code. A Movie Theater that complies with these conditions is not subject to the non-residential use size limits in this Zoning Control Table or in Section 121.2 of this Code.

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.



1           Section 6. 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.

7

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

10 By:           KRISTEN JENSEN            
11           KRISTEN A. JENSEN  
          Deputy City Attorney

12 n:\legana\as2025\2500365\01880072.docx

13

14

15

16

17

18

19

20

21

22

23

24

25

## LEGISLATIVE DIGEST

[Planning Code - Alcohol Sales in Movie Theaters]

**Ordinance amending the Planning Code to permit on-site wine, beer, and/or liquor sales in Movie Theaters that also operate as Bona Fide Eating Places, and make conforming changes in the Planning Code definitions of Bar and Bona Fide Eating Place uses; permitting certain Movie Theaters in the Upper Fillmore Neighborhood Commercial District to sell wine and/or beer and offer entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances, or exhibitions without being subject to non-residential use size limits otherwise applicable in the District; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302..**

### Existing Law

The Planning Code defines Bars to include “drinking establishments serving beer where minors are present (with ABC license types 40 or 60) in conjunction with other uses such as Movie Theaters and General Entertainment, and bars serving wine operated by licensed winegrowers (with ABC license type 02).” This definition limits the kind of alcohol, and the types of ABC licenses permitted, for Movie Theaters to sell beer. No other alcohol types are included in the current definition.

The Planning Code defines Movie Theaters as “[a] Retail Entertainment, Arts and Recreation Use that displays motion pictures, videos, slides, or closed-circuit television pictures.” That definition does not include alcohol sales as a principally permitted use.

The Planning Code does not include Movie Theaters in the definition of a Bona Fide Eating Place. Several types of ABC license require the operator to operate a bona fide eating place.

### Amendments to Current Law

This ordinance permits the sale of alcohol with an ABC license for on-site consumption by ticket-holding customers as a minor or incidental use of Movie Theaters which are “primarily designed and used for the presentation of films or motion pictures to an audience, and generally involving: (a) one or more auditoriums, (b) fixed seating oriented towards a screen, (c) professional projection equipment, and (d) one or more concession areas”. The ordinance removes Movie Theaters from the definition of Bar Use, and defines Bona Fide Eating Place to include Movie Theaters, while exempting Movie Theaters from certain requirements for substantial sales of meals and significant revenue from food and non-alcoholic beverages during the normal hours of operation.

This ordinance also permits certain Movie Theaters in the Upper Fillmore Street Neighborhood Commercial District to make minor and incidental sales of wine and/or beer to ticketed customers for onsite consumption with an ABC 41 license. The amendments also permit Movie Theaters in the Upper Fillmore Street Neighborhood Commercial District that meet the specified requirements to offer entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances, or exhibitions so long as the premises (i) obtains any necessary authorization from the Entertainment Commission, and (ii) is primarily designed and used for the presentation of films or motion pictures to an audience. Such Movie Theaters would be exempt from the non-residential use size limits in Zoning Control Table 718 or in Section 121.2 of the Planning Code

Background Information

The purpose of this ordinance is to make it easier for small movie theater businesses to continue to serve their local communities and the arts, while requiring Movie Theaters to obtain the appropriate ABC license.

n:\legana\as2025\2500365\01858319.docx

## Introduction Form

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



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

- 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):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       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                       No

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

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: