San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

January 21, 2026

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

Re: **Transmittal of Planning Department Case Number 2025-010672PCA:**
Alcohol Sales in Movie Theaters
Board File No. 251103

Planning Commission Action: **Adopted a Recommendation for Approval with Modification**

Dear Ms. Calvillo and Supervisor Sherrill,

On January 15, 2026, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Sherrill. The proposed Ordinance would amend 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. Additionally, the proposed Ordinance would permit 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. At the hearing the Planning Commission adopted a recommendation for approval with modifications. The Commission's proposed modifications were as follows:

1. Remove the "fixed" seating requirement from the definition of Movie Theater.

2. Remove arbitrary restrictions within the Upper Fillmore NCD including the 150 fixed seating requirement and the Type 41 ABC License restriction.

3. Apply proposed changes consistently across districts including 1) allowing all Movie Theaters to offer a broader range of programming without establishing a separate Entertainment Use and 2) exempting

Movie Theaters from the Non-Residential Use Size Limit.

4. Within the Upper Fillmore NCD, allow Movie Theaters to serve alcohol for on-site consumption by non-ticketed patrons.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

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 the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Audrey Merlone

Audrey Merlone
Acting Manager of Legislative Affairs

cc: Kristen Jensen, Deputy City Attorney
Lorenzo Rosas, Aide to Supervisor Sherrill
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary

San Francisco Planning

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PLANNING COMMISSION RESOLUTION NO. 21880

HEARING DATE: JANUARY 15, 2026

Project Name: Alcohol Sales in Movie Theaters
Case Number: 2025-010672PCA [Board File No. 251103]
Initiated by: Supervisor Sherrill / Introduced November 4, 2025
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Audrey Merlone, Acting Manager of Legislative Affairs
audrey.merlone@sfgov.org, 628-652-7534

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL WITH MODIFICATION OF A PROPOSED ORDINANCE THAT WOULD AMEND 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.

WHEREAS, on November 4, 2025 Supervisor Sherrill introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 251103, which would amend 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;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 15, 2026; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modifications** of the proposed ordinance. The Commission's proposed recommendations are as follows:

1. Remove the "fixed" seating requirement from the definition of Movie Theater.
2. Remove arbitrary restrictions within the Upper Fillmore NCD including the 150 fixed seating requirement and the Type 41 ABC License restriction.
3. Apply proposed changes consistently across districts including 1) allowing all Movie Theaters to offer a broader range of programming without establishing a separate Entertainment Use and 2) exempting Movie Theaters from the Non-Residential Use Size Limit.
4. Within the Upper Fillmore NCD, allow Movie Theaters to serve alcohol for on-site consumption by non-ticketed patrons.

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:

The decline of traditional Movie Theaters is a growing concern, particularly for small and historic venues. In addition to declining attendance, there has been a noticeable shift in how audiences want to experience films. For those who do choose to attend in person, expectations around food and beverage offerings have evolved. The proposed Ordinance responds to these changing preferences by creating a more accessible path for Movie Theaters to adapt and remain competitive.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

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 aligns with the Commerce & Industry Element of the General Plan, particularly Objective 2, which seeks to maintain and enhance a sound and diverse economic base. It supports Policy 2.1 by helping retain existing commercial activity, as evidenced by the expanded opportunities for alcohol sales within Movie Theaters. Additionally, it supports Policy 2.3 by promoting a favorable social and cultural climate. Movie Theaters have long served as important community venues, bringing together people from diverse backgrounds to share cultural experiences. The proposed Ordinance helps preserve these spaces and their contributions to San Francisco's cultural fabric.

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 would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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 would not have a negative effect on housing or neighborhood character.

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

   The proposed Ordinance would 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 would 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 would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

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

   The proposed Ordinance would not have an adverse effect 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 would not have an adverse effect 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 would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

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 ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 15, 2026.

Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2026.01.20 15:40:48 -08'00'

Jonas P. Ionin
Commission Secretary

AYES: Campbell, McGarry, Williams, Braun, Imperial, Moore, So
NOES: None
ABSENT: None
ADOPTED: January 15, 2026

San Francisco Planning

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EXECUTIVE SUMMARY
PLANNING CODE TEXT AMENDMENT

HEARING DATE: January 15, 2026

90-Day Deadline: February 5, 2026

Project Name:	Alcohol Sales in Movie Theaters
Case Number:	2025-010672PCA [Board File No. 251103]
Initiated by:	Supervisor Sherrill / Introduced November 4, 2025
Staff Contact:	Veronica Flores Legislative Affairs veronica.flores@sfgov.org, 628-652-7525
Reviewed by:	Audrey Merlone, Acting Manager of Legislative Affairs audrey.merlone@sfgov.org, 628-652-7534

RECOMMENDATION: **Adopt a Recommendation for Approval with Modifications**

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to permit on-site wine, beer, and/or liquor sales in Movie Theaters that also operate as Bona Fide Eating Places. The proposed Ordinance also makes conforming changes in the Planning Code definitions of Bar and Bona Fide Eating Place uses. Lastly, the proposed Ordinance would permit certain Movie Theaters in the Upper Fillmore Neighborhood Commercial District (NCD) 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.

The Way It Is Now	The Way It Would Be
Movie Theaters are only allowed to sell alcohol on-site if they also establish a Restaurant or Bar use at the property. They must also comply with	Movie Theaters would be allowed to sell beer, wine, and/or liquor for on-site consumption by ticketed

additional requirements for those respective uses, as regulated by the California Department of Alcoholic Beverage Control (ABC).	customers without establishing a separate Restaurant or Bar use.
The Bona Fide Eating Place definition exempts Nighttime Entertainment Uses from hours of operation and revenue from food requirements to allow for more flexibility with State Alcohol license types.	For similar reasons, Movie Theaters would also be provided exemptions from hours of operations and significant revenue from food requirements.
Movie Theaters are principally permitted within the Upper Fillmore NCD. To offer other forms of entertainment beyond an accessory amount requires a separate Entertainment Use permit.	Additionally, Movie Theaters within the Upper Fillmore NCD would be allowed to offer entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances, or exhibitions without obtaining a separate Entertainment Use permit. Such Movie Theaters would be required to 1) have at least 150 fixed seats; 2) obtain any necessary authorizations from the Entertainment Commission; and 3) are limited to a Type 41 ABC License (so long as it operates as a Bona Fide Eating Place). A Movie Theater that complies with these provisions is not subject to the Non-Residential Use Size limits.

Anticipated Amendment

Supervisor Sherrill intends to introduce an amendment to remove the word “fixed” seating in the definition of Movie Theaters. The goal is to still require seating oriented towards a projector or screen, but these chairs do not need to be secured onto the floor.

Background

Under current regulations, Movie Theaters in San Francisco may only sell alcohol on-site if they also establish a separate Restaurant or Bar use on the property. This dual-use requirement imposes additional regulatory and operational burdens, which many theaters find difficult to meet. If they obtain a Bar Use permit, they may not admit patrons to the establishment that are under 21 years of age. If they obtain a Restaurant Use permit, they must meet the definition of a Bona Fide Eating Place, which requires 51% of gross receipts to come from food sales.

With the decline in movie-going due to the rise of streaming services and the lingering impacts of the COVID-19 pandemic, small and historic theaters are struggling to remain open. The Clay Theater, a historic single-screen venue, expressed interest in selling alcohol to support its operations but faced obstacles due to strict requirements for Restaurant uses. In response, Supervisor Sherrill introduced legislation to support Movie Theaters citywide, including the Clay Theater, by allowing them to sell alcohol on-site without needing to establish a separate Restaurant or Bar use. This change is intended to help theaters diversify their revenue streams and remain financially viable.

Issues and Considerations

Decline and Shift in Experiencing Movies

The decline of traditional Movie Theaters is a growing concern, particularly for small and historic venues. The rise of streaming services has significantly reduced in-person attendance, as more people opt to watch films from the comfort of their homes on flexible schedules. Despite this shift in consumer behavior, the operating costs for theaters, such as staffing, film licensing, and building maintenance, remain unchanged. This financial strain has led to the closure or repurposing of several historic theaters, including the Apollo Theater (now a Walgreens), the El Capitan Theatre (now a public parking lot), and the Haight Theatre (demolished and replaced with a Goodwill and residential units).

> People's preferences on the way they experience movies has changed and Movie Theaters need to be able to adapt to these changes.

In addition to declining attendance, there has been a noticeable shift in how audiences want to experience films. For those who do choose to attend in person, expectations around food and beverage offerings have evolved. Patrons increasingly seek a more elevated and flexible experience, including access to alcoholic beverages and expanded menu options that go beyond traditional concessions. The proposed Ordinance responds to these changing preferences by creating a more accessible path for Movie Theaters to adapt and remain competitive.

Permitting Requirements and Process Barriers

Under current regulations, Movie Theaters that want to be open to patrons under 21 years old must establish a separate Restaurant use to sell alcohol on-site, which may involve a complex and costly permitting process. This requirement includes compliance with stringent standards for food service infrastructure and operations. While large theater chains may have the resources to navigate this process, smaller and historic theaters often do not. The burden of meeting these requirements can discourage theaters from pursuing alcohol sales, even when such sales could significantly support their business operations. The proposed Ordinance removes this barrier by allowing alcohol sales without requiring a separate Restaurant or Bar use. This change reduces permitting costs and timelines and makes the process more accessible for smaller operators.

Bona Fide Eating Place Requirements

To qualify for certain ABC alcohol Licenses, a Restaurant must meet the definition of a Bona Fide Eating Place. To qualify as a Bona Fide Eating Place, an establishment must serve full meals during regular business hours and be equipped with a functioning kitchen and food service infrastructure. This includes, but is not limited to, refrigeration, cooking equipment, utensils, menus, and signage. ABC specifically excludes snacks such as popcorn or pretzels from meeting the meal requirement, and even sandwiches or salads alone are generally not considered sufficient.[1]

[1] State Department of Alcoholic Beverage Control, What is Required to be Considered a Meal.

Exceptions

Nighttime Entertainment uses are exempt from some Bona Fide Eating Place requirements. If alcohol is sold only to ticketed patrons during entertainment hours, these Nighttime Entertainment uses are not required to meet meal frequency or revenue thresholds. However, they must still serve actual meals during entertainment hours, defined as two hours before and one hour after the event, with a maximum of eight hours per day. The proposed Ordinance mirrors these exemptions for Movie Theaters but does not impose the eight-hour daily limit, allowing greater flexibility in their operations.

Upper Fillmore NCD

The proposed Ordinance would allow Movie Theaters to offer other types of programming, including entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances, or exhibitions. The proposed Ordinance also adds additional requirements for new Movie Theaters within the Upper Fillmore NCD. Movie Theaters would still be principally permitted within this district; however, they would also need to comply with the following requirements:

- Requires at least 150 fixed seats
- Obtains any necessary authorizations from Entertainment Commission
- Only allows a Type 41 ABC License (beer and/or wine) if it operates as a Bona Fide Eating Place

New Movie Theaters proposed within the Upper Fillmore NCD would be exempt from the Non-Residential Use Size limits if they meet the above requirements.

Affected Projects

The Department is currently aware of one theater interested in utilizing the new pathway provided by the proposed Ordinance: the Clay Theater, located within the Upper Fillmore NCD. Constructed in 1913 as a nickelodeon movie house, the Clay Theater is one of San Francisco's oldest single-screen theaters. It was the city's first dedicated foreign film venue and played a significant role in showcasing independent and art house films through the late 1980s. The theater closed in January 2020 after years of declining revenue. In 2022, it was designated a historic landmark under Ordinance No. 72-22 for its cultural and architectural significance. New ownership is now seeking to revitalize and reopen the theater, and the proposed Ordinance would support these efforts by providing a more accessible path to selling alcohol on-site.

General Plan Compliance

The proposed Ordinance aligns with the Commerce & Industry Element of the General Plan, particularly Objective 2, which seeks to maintain and enhance a sound and diverse economic base. It supports Policy 2.1 by helping retain existing commercial activity, as evidenced by the expanded opportunities for alcohol sales within Movie Theaters. Additionally, it supports Policy 2.3 by promoting a favorable social and cultural climate. Movie Theaters have long served as important community venues, bringing together people from diverse backgrounds to share cultural experiences. The proposed Ordinance helps preserve these spaces and their contributions to San Francisco's cultural fabric.

Racial and Social Equity Analysis

The proposed Ordinance advances racial and social equity by supporting small, single-screen theaters, which have been disproportionately affected by the decline in movie-going. Many of these theaters are minority-owned or serve diverse communities. By removing the requirement to establish a Restaurant or Bar use, the proposed Ordinance eliminates a significant barrier to alcohol sales, potentially saving applicants thousands of dollars in permit fees and months of review time. For small theaters, these savings could be critical to their survival. The proposed Ordinance also enables Movie Theaters to expand their revenue streams without navigating burdensome bureaucratic processes, helping to level the playing field for smaller operators.

Implementation

The Department has determined that this proposed Ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the **Commission adopt a recommendation for approval with modifications** of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Remove the "fixed" seating requirement from the definition of Movie Theater.

2. Remove arbitrary restrictions within the Upper Fillmore NCD including the 150 fixed seating requirement and the Type 41 ABC License restriction.

3. Apply proposed changes consistently across districts including 1) allowing all Movie Theaters to offer a broader range of programming without establishing a separate Entertainment Use and 2) exempting Movie Theaters from the Non-Residential Use Size Limit.

Basis for Recommendation

The Department supports the overall goals of the proposed Ordinance. It promotes the continued operation and financial sustainability of Movie Theaters by allowing them to sell alcohol on-site without establishing a separate Restaurant use. This change removes significant regulatory and operational hurdles, particularly for small and historic theaters that may not have the capacity or interest to operate full-service restaurants. The proposed ordinance includes safeguards to prevent these establishments from operating as bars, such as requiring alcohol sales to be secondary to the theater's main purpose and limited to ticketed patrons.
To strengthen the proposed Ordinance and ensure clarity in implementation, the Department recommends the following modifications:

Recommendation 1: Remove the "fixed" seating requirement from the definition of Movie Theater. The term "fixed seating" should be removed from the Movie Theater definition to ensure consistency with past Department policy. During the review of the Castro Theater, the Department determined that fixed seating

was not necessary to qualify as a Movie Theater, and this proposed Ordinance should reflect that precedent to maintain consistency. This precedent should be carried forward in the proposed Ordinance to maintain consistency in how Movie Theater uses are defined and regulated.

Moreover, requiring fixed seating may unintentionally exclude Movie Theaters that use flexible or non-traditional seating arrangements, such as modular or movable seating, which are increasingly common in historic or multi-use venues. These theaters still function as legitimate movie exhibition spaces and contribute meaningfully to the city's cultural landscape. Removing the "fixed" seating requirement would allow for greater adaptability in Movie Theater design and programming, supporting innovation and inclusivity in how film is presented to the public. This recommended modification aligns with Supervisor Sherrill's anticipated amendment.

Recommendation 2: Remove arbitrary restrictions within the Upper Fillmore NCD including the 150 fixed seating requirement and the Type 41 ABC License restriction. The proposed Ordinance introduces additional requirements specifically for Movie Theaters located within the Upper Fillmore NCD, including minimum fixed seating capacity, Entertainment Commission authorization (if needed), and limitations on the type of ABC license permitted. These added conditions appear arbitrary and unnecessarily restrictive, especially when compared to the broader, citywide changes proposed for the definitions of Movie Theater and Bona Fide Eating Place.

The recommendation is to remove the requirement for a minimum of 150 fixed seats, as it does not reflect the diversity of theater formats in San Francisco. Many smaller or historic theaters use flexible seating arrangements or non-traditional seating that still support legitimate film exhibitions. Retaining the "fixed seating" requirement would exclude these venues from qualifying as Movie Theaters under the proposed Ordinance, undermining its intent to support a wider range of theater operations.

Additionally, staff recommends removing the restriction to ABC License Type 41. The proposed Ordinance is intended to create a more flexible and accessible path for Movie Theaters to sell alcohol on-site. Limiting Movie Theaters to a single ABC license type may unnecessarily constrain their business models and prevent them from selecting the license that best fits their operations and programming.

Recommendation 3: Apply proposed changes consistently across districts including 1) allowing all Movie Theaters to offer a broader range of programming without establishing a separate Entertainment Use and 2) exempting Movie Theaters from the Non-Residential Use Size Limit. To ensure equitable treatment of theaters citywide, the proposed Ordinance should apply the proposed changes for Movie Theaters in the Upper Fillmore NCD consistently across all applicable districts. This includes relocating some of the changes proposed in the Upper Fillmore NCD to the general Movie Theater definition. This approach would allow **all** Movie Theaters to offer a broader range of programming, such as entertainment, cultural, artistic, and leisure activities, while maintaining their primary role as film exhibition venues. It gives businesses flexibility and helps them adapt to changing audience expectations. Finally, to further support the viability of Movie Theaters, staff recommends exempting them from Non-Residential Use Size limits. This exemption would allow theaters greater flexibility in how they use their space, particularly when offering food, beverage, and entertainment services as part of their operations.

Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

ATTACHMENTS:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 251103

Portions of this report were drafted and/or edited with the assistance of Microsoft Copilot, in accordance with the City and County of San Francisco's policy on the use of generative AI tools.

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San Francisco Planning

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EXHIBIT A

PLANNING COMMISSION
DRAFT RESOLUTION

HEARING DATE: JANUARY 15, 2026

Project Name:	Alcohol Sales in Movie Theaters
Case Number:	2025-010672PCA [Board File No. 251103]
Initiated by:	Supervisor Sherrill / Introduced November 4, 2025
Staff Contact:	Veronica Flores Legislative Affairs veronica.flores@sfgov.org, 628-652-7525
Reviewed by:	Audrey Merlone, Acting Manager of Legislative Affairs audrey.merlone@sfgov.org, 628-652-7534

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL WITH MODIFICATION OF A PROPOSED ORDINANCE THAT WOULD AMEND 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.

WHEREAS, on November 4, 2025 Supervisor Sherrill introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 251103, which would amend 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;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 15, 2026; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modifications** of the proposed ordinance. The Commission's proposed recommendations are as follows:

1. Remove the "fixed" seating requirement from the definition of Movie Theater.

2. Remove arbitrary restrictions within the Upper Fillmore NCD including the 150 fixed seating requirement and the Type 41 ABC License restriction.

3. Apply proposed changes consistently across districts including 1) allowing all Movie Theaters to offer a broader range of programming without establishing a separate Entertainment Use and 2) exempting Movie Theaters from the Non-Residential Use Size Limit.

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:

The decline of traditional Movie Theaters is a growing concern, particularly for small and historic venues. In addition to declining attendance, there has been a noticeable shift in how audiences want to experience films. For those who do choose to attend in person, expectations around food and beverage offerings have evolved. The proposed Ordinance responds to these changing preferences by creating a more accessible path for Movie Theaters to adapt and remain competitive.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

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 aligns with the Commerce & Industry Element of the General Plan, particularly Objective 2, which seeks to maintain and enhance a sound and diverse economic base. It supports Policy 2.1 by helping retain existing commercial activity, as evidenced by the expanded opportunities for alcohol sales within Movie Theaters. Additionally, it supports Policy 2.3 by promoting a favorable social and cultural climate. Movie Theaters have long served as important community venues, bringing together people from diverse backgrounds to share cultural experiences. The proposed Ordinance helps preserve these spaces and their contributions to San Francisco's cultural fabric.

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 would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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 would not have a negative effect on housing or neighborhood character.

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

   The proposed Ordinance would 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 would 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 would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

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

   The proposed Ordinance would not have an adverse effect 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 would not have an adverse effect 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 would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

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 ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 15, 2026.

Jonas P. Ionin
Commission Secretary

AYES:
NOES:

ABSENT:
ADOPTED: January 15, 2026

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EXHIBIT B

[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.

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

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

Section 1. General Findings.

(a) Movie Theaters serve as community cornerstones and gathering spaces for the 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

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

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

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

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

Section 2. Environmental Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 251103 and is incorporated herein by reference. The Board affirms this determination.

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

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

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

SEC. 102. DEFINITIONS.

* * * *

Bar. A Retail Sales and Service Use that provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine, and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] license types 23, 42, 48, or 61), 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). Such businesses shall operate with the specified conditions in Section 202.2(a). A non-profit theater that provides on-site alcoholic beverage sales only for consumption by ticket-holding patrons on the premises, with ABC license type 64, shall not be considered a Bar use. A music entertainment facility that is authorized to sell beer, wine, and distilled spirits at retail for consumption on the premises, with ABC license type 90, shall not be considered a Bar use.

* * * *

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

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

* * * *

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

* * * *

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

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

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

* * * *

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

* * * *

Movie Theater. A Retail Entertainment, Arts and Recreation Use *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. A Movie Theater may provide beer, wine, and/or liquor sales for on-site consumption by ticketed customers, as a minor and incidental use, so long as it operates as a Bona Fide Eating Place as defined in Section 102 of this Code.* ~~*that displays motion pictures, videos, slides, or closed-circuit television pictures.*~~ This use does not include an adult theater, which is regulated as an Adult Business. Removal of a Movie Theater is subject to the controls in Section 202.4.

*** * * ***

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

SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

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

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

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

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

Table 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT 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.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: *KRISTEN JENSEN*
KRISTEN A. JENSEN
Deputy City Attorney

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