[Planning Code - Alcohol Sales in Movie Theaters]

Ordinance amending the Planning Code to authorize Movie Theaters that also operate as Bona Fide Eating Places to offer entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances or exhibitions, and 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 January 15, 2026, the Planning Commission, in Resolution No. 21880, 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. 251103, 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.21880 and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No.21880 is on file with the Clerk of the Board of Supervisors in File No. 251103.

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 additionally offer entertainment, cultural, artistic, dramatic, musical, or leisure activities, performances, or exhibitions so long as the premises obtains any necessary authorization from the Entertainment Commission. *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.

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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~~ to both *ticketed* and non-ticketed guests ~~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: /s/ *KRISTEN JENSEN*
KRISTEN A. JENSEN
Deputy City Attorney

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