

File No. 160698

Committee Item No. 4

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 21, 2016

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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#### OTHER (Use back side if additional space is needed)

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Completed by: Derek Evans Date July 18, 2016

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

1 [Initiative Ordinance - Planning Code - Conditional Use Requiring Replacement of Production,  
2 Distribution, Repair, Institutional Community, and Arts Activities Uses]

3 **Motion ordering submitted to the voters an Ordinance amending the Planning Code to**  
4 **require replacement space and Conditional Use authorization for conversion of**  
5 **Production, Distribution, and Repair Use, Institutional Community Use, and Arts**  
6 **Activities Use”; and affirming the Planning Department’s determination under the**  
7 **California Environmental Quality Act, at an election to be held November 8, 2016.**

8  
9       MOVED, That the Planning Department has determined that the actions contemplated  
10 in this ordinance comply with the California Environmental Quality Act (California Public  
11 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
12 Board of Supervisors in File No. 160698 and is incorporated herein by reference.  
13 The Board affirms this determination; and be it

14       MOVED, That the Board of Supervisors hereby submits the following ordinance to the  
15 voters of the City and County of San Francisco, at an election to be held on November 8,  
16 2016.

17  
18 **Ordinance amending the Planning Code to require replacement space and Conditional**  
19 **Use authorization for conversion of Production, Distribution, and Repair Use,**  
20 **Institutional Community Use, and Arts Activities Use.**

21       NOTE: **Unchanged Code text and uncodified text** are in plain font.  
22       **Additions to Codes** are in *single-underline italics Times New Roman font*.  
23       **Deletions to Codes** are in ~~italics Times New Roman font~~.  
24       **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or  
25 parts of tables.

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

2 Section 1. Findings.

3 (a) San Francisco is a unique city and its character is made up of the diversity of its  
4 people and its businesses.

5 (b) As outlined in San Francisco's General Plan, its density creates a rich variety of  
6 experiences and encounters on every street. The City is cosmopolitan and affable, easily  
7 traversed by foot or by bus, and offers an intriguing balance of urban architecture. San  
8 Francisco is the center and the soul of the region and cooperative efforts to maintain the  
9 area's quality of life are imperative. The City has long been a magnet for business, culture,  
10 retailing, tourism and education. Its rich 150 year history reflects the cultures of the world and  
11 gives energetic diversity to its neighborhoods. The residents strive to maintain this tradition,  
12 welcoming people from around the world to participate in the promise of a healthy city.

13 (c) In recent years, this diversity is threatened because of the high cost of commercial  
14 real estate.

15 (d) Steady increases in commercial real estate rental rates have pushed office prices  
16 to 122% above where they were five years ago to about \$70 per square foot.

17 (e) The Bay Area commercial real estate markets are now the toughest in the nation.

18 (f) This threatens organizations and businesses that are important to the City but find  
19 themselves unable to compete for limited commercial space in this real estate market.  
20 Nonprofits organizations, arts organizations, and spaces for people to work in jobs that do not  
21 require high educational attainment find themselves pushed out of this market.

22 (g) In a recent report commissioned by the Northern California Grantmakers  
23 Association, "Status of Nonprofit Space and Facilities", in March 2016, two out of every three  
24 nonprofits surveyed say they will have to make a decision about moving within the next five  
25 years.

1 (h) Many nonprofits fear they will have to abandon part of their mission because of the  
2 economic pressure created by high real estate costs or move to new locations.

3 (i) The report identifies that some of this pressure can be addressed at the local  
4 government level by using zoning to create space suitable for arts and other community  
5 organizations, turning to publicly owned property for space, and including nonprofit space in  
6 affordable housing development.

7 (j) These pressures, although City-wide, are felt acutely in San Francisco's South of  
8 Market neighborhoods. Because of this, the Eastern Neighborhoods community planning  
9 process began in 2001 with the goal of developing new zoning controls for the industrial  
10 portions of these neighborhoods.

11 (k) At one time, land zoned for industrial uses covered almost the entire eastern  
12 bayfront of San Francisco, from the southern county line to well north of Market Street. As the  
13 city's economy has transformed over time, away from traditional manufacturing and "smoke-  
14 stack" industry toward tourism, service, and "knowledge-based" functions, the city's industrial  
15 lands have shrunk steadily.

16 (l) By the 1990s, land zoned for industrial uses stood at about 12% of the city's total  
17 usable land (i.e., not including parks and streets). This period was one of strong economic  
18 growth in which the city gained thousands of new jobs and residents. As a result, capital,  
19 business, and building activity surged into the industrial and residential Eastern  
20 Neighborhoods, south of Downtown. While this wealth brought needed resources, it also  
21 created conflicts around the use of land. San Francisco's industrial zoning has historically  
22 been permissive – allowing residences, offices, and other uses, in addition to industrial  
23 businesses.

24 (m) As part of the Eastern Neighborhoods planning process, the Planning Department  
25 conducted a series of workshops where stakeholders articulated goals for their neighborhood,

1 considered how new land use regulations (zoning) might promote these goals, and created  
2 several rezoning options representing variations on the amount of industrial land to retain for  
3 employment and business activity.

4 (n) Starting in 2005, the community planning process expanded to address other  
5 issues critical to these communities including affordable housing, transportation, parks and  
6 open space, urban design, and community facilities. The Planning Department began working  
7 with the neighborhood stakeholders to create Area Plans for each neighborhood to articulate  
8 a vision for the future.

9 (o) Based on several years of community input and technical analysis, the Eastern  
10 Neighborhoods Program calls for transitioning about half of the existing industrial areas in  
11 these four neighborhoods to mixed use zones that encourage new housing. The other  
12 remaining half would be reserved for Production, Distribution and Repair zoning districts,  
13 where a wide variety of functions such as Muni vehicle yards, caterers, and performance  
14 spaces can continue to thrive.

15 (p) The initial Eastern Neighborhoods Area Plans were adopted in 2008.

16 (q) At their core, the Eastern Neighborhoods Plans try to accomplish two key policy  
17 goals: 1) to ensure a stable future for Production, Distribution and Repair (PDR) uses in the  
18 city, mainly by reserving a certain amount of land for this purpose; and 2) to provide a  
19 significant amount of new housing affordable to low, moderate, and middle income families  
20 and individuals, along with "complete neighborhoods" that provide appropriate amenities for  
21 these new residents.

22 (r) Because San Francisco has very limited land available, it is important to evaluate  
23 the current state of land available for PDR use and to protect PDR uses because of  
24 competing pressure from residential and office uses, which can afford to pay far more to buy  
25 and develop land.

1 (s) Office tenants are willing to pay well over twice what PDR commands — creative  
2 tech space goes for \$70 a square foot in SoMa or the Inner Mission. This leads to the loss of  
3 space critical for PDR activities and therefore the loss of jobs that result from these activities.

4 (t) The Planning Department prepared a report in April 2005, on the demand for and  
5 supply of PDR in the City. This report is known as the EPS PDR Study. To alleviate the  
6 impact of loss of PDR uses and to revitalize PDR uses and to attract technology and biotech  
7 businesses to the City, it is necessary for the City to aggressively pursue retention of PDR  
8 and its associated job sectors. Development that removes PDR use should have the option of  
9 replacing the lost space at a one-to-one ratio. To accomplish this, a PDR replacement  
10 program should be established.

11  
12 Section 2. The Planning Code is hereby amended by adding a new Section 202.8, to  
13 read as follows:

14 **SEC. 202.8. LIMITATION ON CONVERSION OF PRODUCTION, DISTRIBUTION, AND**  
15 **REPAIR USE, INSTITUTIONAL COMMUNITY USE, AND ARTS ACTIVITIES USE.**

16 *The following controls shall apply in the following Eastern Neighborhoods Plans Areas:*  
17 *Mission; Eastern SoMa; Western SoMa; and, if adopted, Central SoMa. Notwithstanding any other*  
18 *provision of this Code, conversion of building space where the prior use in such space was a*  
19 *Production, Distribution, and Repair (PDR) use of at least 5,000 square feet, an Institutional*  
20 *Community use of at least 2,500 square feet, or an Arts Activities use, all as defined in Section 102,*  
21 *through change in use or any other removal, including but not limited to demolition of a building that is*  
22 *not unsound, shall require Conditional Use authorization pursuant to Section 303 and shall be subject*  
23 *to the following additional requirements:*

24 *(a) To preserve the existing stock of building space suitable for PDR, Institutional Community,*  
25 *and Arts Activities uses, if a project would result in conversion of building space, where the prior use in*

1 such space was PDR of at least 5,000 square feet, Institutional Community of at least 2,500 square feet,  
2 or Arts Activities use, through removal, including through demolition of a building that is not unsound,  
3 or through change of use, such space shall be replaced in compliance with the following criteria:

4 (1) In the areas that, as of July 1, 2016, are zoned SALI, PDR, or C-3-G, the  
5 replacement space shall include one square foot of PDR, Institutional Community, or Arts Activities  
6 use for each square foot of the use proposed for conversion.

7 (2) In the areas that, as of July 1, 2016, are zoned UMU, MUO, or SLI, the replacement  
8 space shall include 0.75 square foot of PDR, Institutional Community, or Arts Activities use for each  
9 square foot of the use proposed for conversion if replaced on the same property or shall include one  
10 square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use  
11 proposed for conversion if replaced off-site.

12 (3) In the areas that, as of July 1, 2016, are zoned MUG or MUR, the replacement  
13 space shall include 0.50 square foot of PDR, Institutional Community, or Arts Activities use for each  
14 square foot of the use proposed for conversion if replaced on the same property or shall include one  
15 square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use  
16 proposed for conversion if replaced off-site.

17 (4) The replacement space may be space for PDR, Institutional Community, or Arts  
18 Activities use, regardless of which of those uses is proposed for conversion. The replacement space  
19 shall be located on the same property or, if located off-site, shall be in the same area plan area or  
20 within 1/4 mile of the property, or, if replacing PDR space off-site, in any area that is zoned for PDR as  
21 a principally permitted use.

22 (5) The replacement requirements of this subsection (a) may be reduced by 0.25 for any  
23 project subject to a development agreement approved by the City under California Government Code  
24 Section 65864 et seq. if, as part of the terms of such development agreement, the required replacement  
25 space is rented, leased, or sold at 50% below market rate for such commercial space.

1 (b) Definitions. For the purposes of this Section 202.8, the following definitions shall apply:

2 “Prior use” shall mean the prior permanent use and shall not include any approved temporary  
3 uses such as “pop-up” eating establishments, craft fairs, or other seasonal uses.

4 “Replacement space” shall mean newly developed building space and shall not include  
5 building space that was previously used for PDR, Institutional Community, or Arts Activities.

6 “Unsound” shall mean a building for which rehabilitation would cost 50% or more of the cost  
7 to construct a comparable building.

8 (c) The amount of replacement space required under subsection (a)(1) may be reduced by the  
9 amount that is necessary to provide building entrances and exits; maintenance, mechanical, and  
10 utilities facilities; and on-site open space and bicycle facilities required under this Code; provided that  
11 no reduction shall be permitted for non-car-share vehicle parking spaces.

12 (d) In determining whether to grant Conditional Use authorization, in addition to making the  
13 required findings under Section 303, the Planning Commission shall consider the suitability of the  
14 replacement space for the use proposed for conversion.

15 (e) Exemptions. The following shall be exempt from the requirements of this Section 202.8:

16 (1) Any property under the jurisdiction of the Port of San Francisco or the Recreation  
17 and Park Commission; and all Redevelopment Plan Areas in effect as of July 1, 2016.

18 (2) Undeveloped property. The requirements of this Section 202.8 shall only apply to  
19 those portions of a site that are developed with building space where the prior use in such space was  
20 PDR use of at least 5,000 square feet, an Institutional Community use of at least 2,500 square feet, or  
21 an Arts Activities use.

22 (3) Any project where the PDR use, Institutional Community use, or Arts Activities use  
23 subject to conversion commenced after June 14, 2016.

24 (4) Any project for which an Environmental Evaluation application was submitted to  
25 the Planning Department by June 14, 2016.

1                   (5) Any public transportation project.

2                   (6) Any project that receives affordable housing credits associated with retention of  
3 affordable units at the South Beach Marina Apartments, pursuant to Board of Supervisors Resolution  
4 No. 197-16.

5                   (f) This Section 202.8 shall not authorize a change in use if the new use or uses are otherwise  
6 prohibited.

7                   (g) In Lieu Fee. The Board of Supervisors may enact an ordinance adopting an in lieu fee to  
8 meet the replacement requirements set forth in subsection (a). The proceeds from any such in lieu fee  
9 shall be used for the preservation and rehabilitation of existing PDR, Institutional Community, and  
10 Arts Activities spaces in the area plan area where the project paying the fee is located.

11                   (h) The Board of Supervisors may amend this Section 202.8 at any time after its effective date  
12 to promote or better achieve the underlying goal of protecting and enhancing these PDR, Institutional  
13 Community, and Arts Activities uses.

14  
15 APPROVED AS TO FORM:

16 DENNIS J. HERRERA, City Attorney

17  
18 By: \_\_\_\_\_  
19       MARLENA BYRNE  
20       Deputy City Attorney

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**LEGISLATIVE DIGEST**  
*(Amended in Committee - 7/18/2016)*

[Initiative Ordinance – Planning Code – Conditional Use Requiring Replacement of Production, Distribution, Repair, Institutional Community, and Arts Activities Uses]

**Motion ordering submitted to the voters, at an election to be held November 8, 2016, “Ordinance amending the Planning Code to require replacement space and Conditional Use authorization for conversion of Production, Distribution, and Repair Use, Institutional Community Use, and Arts Activities Use”; and affirming the Planning Department’s determination under the California Environmental Quality Act.**

Existing Law

The Planning Code contains various provisions for conversion of Production, Distribution and Repair (PDR) uses, depending on where such uses are located. There is no general requirement for conditional use authorization for conversion of an Institutional Community use or an Arts Activities use.

Amendments to Current Law

If this motion is approved, this measure would be placed on the November 2016 general election ballot as an initiative ordinance.

The measure would require conditional use authorization for any conversion of a PDR use of at least 5,000 square feet, an Institutional Community use of at least 2,500 square feet, or an Arts Activities use of any size within the following Eastern Neighborhoods Plans Areas: Mission; Eastern SoMa, and Western SoMa. Such spaces would be replaced in compliance with the following criteria:

(1) In the areas that, as of July 1, 2016, are zoned SALI, PDR, C-3-G, or M, the replacement space shall include one square foot of PDR, Institutional Community, or Arts Activities use for each square foot of such use proposed for conversion.

(2) In the areas that, as of July 1, 2016, are zoned UMU, MUO, MUG, or MUR, the replacement space shall include 0.75 square foot of PDR, Institutional Community, or Arts Activities use for each square foot of such use proposed for conversion if the use is replaced on the same property. If the use is replaced off-site, then it must be replaced at a 1:1 ratio.

The measure allows the replacement space to be used for PDR, Institutional Community, or Arts Activities, regardless of which use is proposed for conversion.

If the replacement space is located off-site, it must be located in the same plan area or within 1/4 mile of the property, or, if replacing PDR space off-site, in any area that is zoned for PDR as a principally permitted use.

If the proposed project is the subject of a development agreement, the required replacement space may be reduced by 0.25 if the development agreement also requires the replacement space be rented, leased, or sold at 50% below market rate.

In order to approve any conversions, the Planning Commission must make findings required under Planning Code Section 303 for conditional use authorization, and shall consider the suitability of the replacement space for the use proposed.

Certain property is exempt from the requirements of this ordinance, specifically: any property under the jurisdiction of the Port of San Francisco or the Recreation and Park Commission; Redevelopment Plan Areas in effect as of July 1, 2016; any undeveloped property or portions of a property; any site where the use that is subject to conversion commenced after June 14, 2016; any project that has received final Planning Commission approval by June 14, 2016; and any public transportation project.

The measure states that the Board of Supervisors may adopt an in lieu fee to meet the replacement requirements, which fee would be used for the preservation and rehabilitation of existing PDR, Institutional Community, and Arts Activities uses.

The measure provides that the Board of Supervisors may amend it at any time to promote or better achieve its goal of protecting and enhancing these uses.

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**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Todd Rydstrom**  
**Deputy Controller**

July 13, 2016

Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place Room 244  
San Francisco, CA 94102-4689

RE: File 160698 – Ordinance requiring conditional use authorization for replacement of production, distribution, repair, institutional community, and arts activities uses (first draft)

Dear Ms. Calvillo,

Should the proposed ordinance be approved by the voters, in my opinion, it would have a minimal impact on the cost of government.

The proposed amendment would require conditional use authorization for conversion of production, distribution, and repair use; institutional community use; or arts activities use. The proposed amendment also provides criteria for when these spaces could be replaced. The Planning Department has an existing process for conditional use authorization. If the ordinance is passed, these authorization requirements would be incorporated into the existing approval process.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Rosenfield".

*for* Ben Rosenfield  
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.

BOARD of SUPERVISORS



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

June 27, 2016

**File Nos. 160698**

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

Dear Ms. Jones:

On June 14, 2016, Supervisor Kim introduced the following Motion to consider the proposed Initiative Ordinance for submission by the full Board, for the November 8, 2016, Election:

**File No. 160698 Initiative Ordinance - Planning Code - Requiring Conditional Use Authorization for Replacement of Production, Distribution, Repair, Institutional Community, and Arts Activities Uses**

Motion ordering submitted to the voters an Ordinance amending the Planning Code to require Conditional Use authorization for conversion of Production, Distribution, and Repair Use, Institutional Community Use, and Arts Activities Use and replacement space; and affirming the Planning Department's determination under the California Environmental Quality Act, at an election to be held November 8, 2016.

These matters are being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink, appearing to read "Derek Evans".

By: Derek Evans, Clerk  
Rules Committee

Attachment

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

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. Individual physical projects would require environmental review.

BOARD of SUPERVISORS



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Planning Department  
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By: Derek Evans, Clerk  
Rules Committee

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

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Joy Navarrete

Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sfgov.org, c=US  
Date: 2016.06.30 08:19:55 -07'00'

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Ben Rosenfield, City Controller

FROM:  Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: June 27, 2016

SUBJECT: INITIATIVE ORDINANCE MOTION INTRODUCED  
November 8, 2016, Election

---

The Board of Supervisors' Rules Committee has received the following Motion to consider the proposed Initiative Ordinance for submission by the full Board, for the November 8, 2016, Election, introduced by Supervisor Kim on June 14, 2016.

**File No. 160698 Initiative Ordinance - Planning Code - Requiring Conditional Use Authorization for Replacement of Production, Distribution, Repair, Institutional Community, and Arts Activities Uses**

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This matter is being referred to you in accordance with Elections Code, Section 305(B)(2) and Rules of Order 2.22.3. Please review and prepare a financial analysis on the proposed measures prior to the first Rules Committee hearing.

If you have any questions or concerns please call me at (415) 554-7702 or email [derek.evans@sfgov.org](mailto:derek.evans@sfgov.org). To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Deputy City Controller  
Peg Stevenson, City Performance Director

BOARD of SUPERVISORS



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Dr. Carlton B. Goodlett Place, Room 244  
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## MEMORANDUM

TO: Nicole Elliott, Mayor's Office  
Jon Givner, Office of the City Attorney  
Naomi Kelly, City Administrator  
LeeAnn Pelham, Executive Director, Ethics Commission  
John Arntz, Director, Department of Elections  
John Rahaim, Director, Planning Department

FROM:  Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: June 27, 2016

SUBJECT: INITIATIVE ORDINANCE MOTION INTRODUCED  
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This matter is being referred to you in accordance with Board Rules of Order 2.22.4. Please review and submit any reports or comments you wish to be considered with the legislative files.

If you have any questions or concerns, please call me at (415) 554-7702 or email [derek.kevans@sfgov.org](mailto:derek.kevans@sfgov.org). To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Scott Sanchez, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department

BOARD of SUPERVISORS



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By: Derek Evans, Clerk  
Rules Committee

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

# 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  inquires"
- 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

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: