

1 [Planning Code - Interim Zoning Moratorium on Change of Nighttime Entertainment Use - One  
2 Maritime Plaza Area]

3 **Urgency ordinance approving an interim zoning moratorium for 45 days on changes of**  
4 **nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street**  
5 **to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome**  
6 **Street to the east; affirming the Planning Department’s determination under the**  
7 **California Environmental Quality Act; and making findings of consistency with the**  
8 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

17 Section 1. Findings.

18 (a) **Environmental Findings.** The Planning Department has determined that the  
19 actions contemplated in this urgency ordinance are in compliance with the California  
20 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). The  
21 Board of Supervisors hereby affirms this determination. A copy of said determination is on file  
22 with the Clerk of the Board of Supervisors in File No. 190567 and incorporated by reference.

23 (b) **Specific Findings.**

24 (1) The One Maritime Plaza area is zoned C-3-O, which has a wide range of  
25 uses that are either principally permitted as of right or authorized as conditional uses. As the  
area becomes more residential in nature and has a greater diversity of uses and publicly-

1 accessible open spaces, protecting existing uses that encourage and enhance street activity  
2 at night is imperative, particularly on the mezzanine and publicly-accessible upper levels of  
3 the area, which were constructed as a part of the plaza build-out of the Alcoa Building in 1967.  
4 This public plaza and adjoining public pathways do not have existing street-level activation  
5 and rely mainly on the Nighttime Entertainment Uses at One Maritime Plaza to activate the  
6 upper level at night.

7 (2) Nighttime Entertainment Uses, defined in Section 102 of the Planning  
8 Code as including such uses as dance halls, discotheques, nightclubs, comedy clubs, and  
9 other similar evening-oriented entertainment activities, are an important contribution to  
10 enlivening an area at night. Currently, Nighttime Entertainment Uses are a principally  
11 permitted use on all stories in the C-3-O zoning district. The only other areas of the City where  
12 these uses are principally permitted on all stories is in industrially-zoned areas or PDR  
13 (Production, Distribution, and Repair) zoning districts. In most other zoning districts in the City,  
14 Nighttime Entertainment is either restricted to the ground floor and/or requires a conditional  
15 use authorization, or is not permitted at all. The existing entertainment uses at One Maritime  
16 Plaza regularly activate the upper public mezzanine area after dark (approximately 40 hours a  
17 week).

18 (3) In addition to enlivening the area at night, Nighttime Entertainment Uses  
19 in the area of One Maritime Plaza are an important source of employment for City residents,  
20 providing at least 40 service-industry jobs. This does not include the individual talent  
21 bookings, which number at least 300 paid gigs a year.

22 (4) In addition to encouraging public patronage after dark, the existing  
23 Nighttime Entertainment Uses at and around One Maritime Plaza employ three to four  
24 security guards in addition to a doorman, depending on the size of programmed events, which  
25 augment limited site staffing by One Maritime Plaza's two security guards.

1           (5)    The existing Nighttime Entertainment Uses in the One Maritime Plaza  
2 area, in addition to generating nighttime foot traffic, attract an average of 180 people a night,  
3 who then patronize the limited number of restaurants and bars in the immediate downtown  
4 vicinity.

5           (6)    The adjacent Embarcadero Center complex is currently undergoing  
6 renovations that make access to the top floor movie theater more difficult after hours, making  
7 the existing Nighttime Entertainment Uses at One Maritime Plaza even more critical to the  
8 public activation and overall safety and well-being of the surrounding area.

9           (c)    **Findings Related to Imposition of an Interim Moratorium.**

10          (1)    Planning Code Section 306.7 provides for the imposition of interim zoning  
11 controls to accomplish several objectives, which include (A) preserving areas of mixed  
12 residential and commercial uses in order to preserve the existing character of those  
13 neighborhoods and areas and (B) conserving the commerce and industry of the City in order  
14 to maintain the City's economic vitality and provide its citizens with adequate jobs and  
15 business opportunities.

16          (2)    The imposition of interim zoning controls in this ordinance is designed to  
17 ameliorate the problems and conditions identified in subsection (b) above by imposing a  
18 temporary moratorium on changes from a Nighttime Entertainment Use to any other  
19 permissible use.

20          (3)    This Board of Supervisors has considered the impact on the public  
21 health, safety, peace, and general welfare if the interim controls proposed herein are not  
22 imposed. It has determined that the public interest will be best served by imposing these  
23 interim controls at this time to ensure that the legislative scheme that may be ultimately  
24 adopted for the One Maritime Plaza area is not undermined during the planning and  
25

1 legislative process for permanent controls, which process shall be conducted within a  
2 reasonable time.

3 (d) **Planning Code Section 101.1 Findings.** This interim zoning moratorium  
4 advances and is consistent with Priority Policy 5 of Planning Code Section 101.1 in that it  
5 attempts to maintain a diverse economic base by protecting an important service sector from  
6 displacement due to commercial office development. With respect to Policies 1-4 and 6-8, the  
7 Board finds that the interim zoning moratorium does not, at this time, have an effect upon  
8 these policies and thus will not conflict with said policies.

9  
10 Section 2. The following interim zoning moratorium is hereby adopted as an Urgency  
11 Ordinance:

12 (a) Neither the Planning Department nor the Planning Commission shall issue an  
13 approval or authorization for any change in use from an existing Nighttime Entertainment Use  
14 to any other Principal Use, Conditional Use, or Accessory Use, including Non-Retail Sales &  
15 Service or Office Uses, authorized in the zoning district (as these terms are defined in Section  
16 102 of the Planning Code), nor shall any private clubs be permitted, in the One Maritime Plaza  
17 area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street  
18 to the west, and Sansome Street to the east.

19 (b) This interim zoning moratorium shall remain in effect for 45 days unless it is  
20 extended by the Board of Supervisors in accordance with California Government Code  
21 Section 65858 or permanent controls are adopted to address changes in use that better  
22 protect neighborhood character, maintain the City's economic vitality, and conserve existing  
23 uses in the defined area, whichever first occurs.

24 (c) If application of this ordinance would have the effect of denying approvals  
25 needed for the development of a project with a significant component of multifamily housing,

1 as described in California Government Code Section 65858, this moratorium shall not apply to  
2 that use, but otherwise shall be unaffected.

3 (d) Due to the urgency of establishing this interim zoning moratorium and  
4 notwithstanding the requirements of Planning Code Section 306.7(g), the Board finds that the  
5 standard public notice for Board of Supervisors hearings is adequate to inform the public of  
6 any hearing(s) on this ordinance.

7  
8 Section 3. Within 25 days of the Board's adoption of this Urgency Ordinance, the  
9 Planning Department shall submit to the Clerk of the Board of Supervisors a written report  
10 describing the measures taken to alleviate the conditions that led to the adoption of the  
11 ordinance. Upon receipt of the report, the Clerk shall calendar a motion for the full Board to  
12 consider and approve said report. Said hearing and the action taken thereon shall be no later  
13 than 35 days after this ordinance is effective.

14  
15 Section 4. Effective Date. This urgency ordinance shall become effective immediately  
16 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns  
17 the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the  
18 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

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

21 By: \_\_\_\_\_  
22 JUDITH A. BOYAJIAN  
23 Deputy City Attorney

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