

1 [Interim Zoning Control - Conditional Use Authorization Required for a Change of Use from  
2 Nighttime Entertainment to Another Use Allowed in the Defined South of Market Area]

3 **Resolution imposing an interim zoning control for an 18-month period requiring**  
4 **conditional use authorization for a change in use from nighttime entertainment to any**  
5 **other use allowed in the area South of Market Street bounded by the southwest side of**  
6 **12th Street to the southwest side of 5th Street and the south side of Market Street to**  
7 **the south side of Harrison Street; affirming the Planning Department’s determination**  
8 **under the California Environmental Quality Act; and making findings of consistency**  
9 **with the eight priority policies of Planning Code, Section 101.1.**

10  
11 WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning  
12 controls that promote the public interest, including but not limited to 1) preservation of  
13 neighborhoods and areas of mixed residential and commercial uses in order to preserve the  
14 existing character of such neighborhoods and areas and 2) development and conservation of  
15 the commerce and industry of the City in order to maintain the City’s economic vitality, to  
16 provide its citizens with adequate jobs and business opportunities, and to maintain adequate  
17 services for its residents, visitors, businesses, and institutions; and

18 WHEREAS, Nighttime Entertainment, defined in Section 102 of the Planning Code as  
19 including such uses as dance halls, discotheques, nightclubs, and other similar evening-  
20 oriented activities, is a vital sector of the City’s economy, an important source of employment  
21 for City residents, and a cultural and recreational dimension of City life valued by residents  
22 and visitors alike; and

23 WHEREAS, It is important to preserve existing Nighttime Entertainment uses because  
24 the areas of the City where they are allowed is restricted due to their incompatibility with other  
25 uses because of late-night hours, potentially loud music, and/or large patron volumes; and

1           WHEREAS, The interim control provided for in this resolution will allow time for the  
2 orderly completion of a planning study and for the adoption of appropriate legislation to  
3 preserve Nighttime Entertainment uses as a viable and vital economic sector of the City; and

4           WHEREAS, This Board of Supervisors (“Board”) has considered the impact on the  
5 public health, safety, and general welfare if this interim control is not imposed; and

6           WHEREAS, The Board has determined that the public interest will be served by  
7 imposition of this interim control to ensure that the legislative scheme which may ultimately be  
8 adopted is not undermined during the planning and legislative process for permanent controls;  
9 and

10          WHEREAS, The Board makes the following findings of consistency with the Priority  
11 Policies set forth in Planning Code, Section 101.1: This interim control advances and is  
12 consistent with Priority Policy 5 in that it attempts to maintain a diverse economic base by  
13 protecting an important service sector from displacement; with respect to Policies 1-4 and 6-8,  
14 the Board finds that this interim control does not, at this time, have an effect upon these  
15 policies and thus will not conflict with said policies; and

16          WHEREAS, The Planning Department has determined that the actions contemplated in  
17 this resolution comply with the California Environmental Quality Act (California Public  
18 Resources Code, Sections 21000 et seq.); said determination is on file with the Clerk of the  
19 Board of Supervisors in File No. 190689 and is incorporated herein by reference; the Board  
20 affirms this determination; now, therefore, be it

21          RESOLVED, That during the period of this interim control and any extension thereof, a  
22 Conditional Use authorization from the Planning Commission is required for any change in  
23 use from an existing Nighttime Entertainment use to any other Principal Use, Conditional Use,  
24 or Accessory Use (as these terms are defined in Section 102 of the Planning Code) in the  
25 area South of Market Street bounded by the southwest side of 12th Street to the southwest

1 side of 5th Street and the south side of Market Street to the south side of Harrison Street; and,  
2 be it

3 FURTHER RESOLVED, That this interim control shall remain in effect for a period of  
4 18 months unless extended by the Board of Supervisors in accordance with Planning Code  
5 Section 306.7(h) or until permanent controls are adopted, whichever shall first occur.

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7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

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9 By: \_\_\_\_\_  
10 JUDITH A. BOYAJIAN  
11 Deputy City Attorney

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