Amendment of the Whole
May 11, 2005.

[ Castro Street and Upper Market Neighborhood Commercial Districts – Exemption of certain entertainment permits from the conditional use process.]

Ordinance amending the San Francisco Planning Code by amending Section 715.48 and Section 721.48 to provide that existing bars in the Castro Street and Upper Market Neighborhood Commercial Districts will be allowed to apply for and receive a place of entertainment permit from the Entertainment Commission without obtaining conditional use authorization from the Planning Commission if they can demonstrate to the satisfaction of the Entertainment Commission that they have been in regular operation as an entertainment use prior to January 1, 2004; adopting findings.

Note:

Additions are single-underline italics Times New Roman;
deletions are strikethrough italics Times New Roman.
Board amendment additions are double underlined.
Board amendment deletions are strikethrough normal.

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

Section 1. Findings.

(a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. 16958 recommending approval of this Planning Code amendment, and incorporates those reasons herein by this reference. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 041741.

(b) Pursuant to Planning Code Section 101.1, this Board of Supervisors finds that this ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) and with the General Plan, and hereby adopts and incorporates herein the findings of the Planning Commission as set forth in Planning Commission Resolution No. 16958.
(c) The Upper Market Street and Castro Street Neighborhood Commercial Districts have a worldwide reputation as entertainment districts, especially to the lesbian, gay, bisexual, and transgender communities.

(d) Many bars in these Neighborhood Commercial Districts have been operating for years as places of entertainment without the proper permits and there have been no significant complaints.

(e) The Planning Code currently requires a conditional use for a place of entertainment in these Neighborhood Commercial Districts, which would require a public hearing before the Planning Commission.

(f) Because the Planning Commission is currently backlogged with cases, it would take many months for existing bars to obtain approval of a conditional use, even if there is no neighborhood opposition.

(g) Eliminating the conditional use requirement for these existing bars would not deprive the public of a public hearing because a hearing would be required before the Entertainment Commission prior to approval of a place of entertainment permit.

(h) There is a significant public benefit to allowing legally-existing bars that have operated as places of entertainment for many years without problems to be grandfathered as legal entertainment uses.

Section 2. The San Francisco Planning Code is hereby amended by adding a pound sign after the C in Section 715.48 of the Zoning Control Table and adding Section 715.48 to the Specific Provisions for Castro Street Neighborhood Commercial District, to read as follows:

Sec. 715.48 Boundaries: Applicable for the Castro Street NCD.

Controls: Existing bars in the Castro Street Neighborhood Commercial District will be allowed to apply for and receive a place of entertainment permit from
the Entertainment Commission without obtaining conditional use authorization
from the Planning Commission if they can demonstrate to the satisfaction of the
Entertainment Commission that they have been in regular operation as an
entertainment use prior to January 1, 2004; provided, however, that a
conditional use is required (1) if an application for a conditional use for the
entertainment use was filed with the Planning Department prior to the date this
ordinance was introduced or (2) if a conditional use was denied within 12
months prior to the effective date of this ordinance.

Section 3. The San Francisco Planning Code is hereby amended by adding a pound
sign after the C in Section 721.48 of the Zoning Control Table and adding Section 721.48 to
the Specific Provisions for Upper Market Street Neighborhood Commercial District, to read as
follows:

Sec. 721.48 Boundaries: Applicable for the Upper Market Street NCD.

Controls: Existing bars in the Upper Market Street Neighborhood Commercial
District will be allowed to apply for and receive a place of entertainment permit
from the Entertainment Commission without obtaining conditional use
authorization from the Planning Commission if they can demonstrate to the
satisfaction of the Entertainment Commission that they have been in regular
operation as an entertainment use prior to January 1, 2004; provided, however,
that a conditional use is required (1) if an application for a conditional use for
the entertainment use was filed with the Planning Department prior to the date
this ordinance was introduced or (2) if a conditional use was denied within 12
months prior to the effective date of this ordinance.
Section 4. The Entertainment Commission shall adopt Rules and Regulations to implement the provisions of this ordinance.

Section 5: The provisions of this ordinance shall expire six months from the date this ordinance is adopted.

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

By: 

JUDITH A. BOYAJIAN
Deputy City Attorney
Ordinance amending the San Francisco Planning Code by amending Section 715.48 and Section 721.48 to provide that existing bars in the Castro Street and Upper Market Neighborhood Commercial Districts will be allowed to apply for and receive a place of entertainment permit from the Entertainment Commission without obtaining conditional use authorization from the Planning Commission if they can demonstrate to the satisfaction of the Entertainment Commission that they have been in regular operation as an entertainment use prior to January 1, 2004; adopting findings.

May 17, 2005  Board of Supervisors — PASSED ON FIRST READING
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

May 24, 2005  Board of Supervisors — FINALLY PASSED
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 24, 2005 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Gavin Newsom