Ordinance amending the Administrative and Planning Codes to authorize the
Entertainment Commission to hold a hearing on noise issues related to proposed
projects for construction of new hotels and motels, or conversions of existing
structures to hotel or motel uses, to be located within 300 feet of a Place of
Entertainment, and to provide recommendations to the Planning Department and/or
Department of Building Inspection regarding such projects, and require the Planning
Department and Planning Commission to consider noise issues when reviewing
proposed hotel and motel projects; affirming the Planning Department’s determination
under the California Environmental Quality Act; and making findings of consistency
with the General Plan and the eight priority policies of Planning Code Section 101.1.

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. 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. 161064 and is incorporated herein by reference. The Board affirms
this determination.
(b) On January 5, 2017, the Planning Commission, in Resolution No. 19826, 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. 161064, and is incorporated herein by reference.

Section 2. The Administrative Code is hereby amended by revising Sections 116.1, 116.2, 116.4, 116.5, 116.8, 116.9, and 116.11, to read as follows:

SEC. 116.1. DECLARATION OF POLICY.

It shall be the policy of the City to protect existing Places of Entertainment from potential conflicts with adjacent and nearby residential development uses, hotel uses, and motel uses, provided that such Places of Entertainment are operated and maintained in accordance with all applicable federal, state, and local laws and regulations, including applicable noise restrictions. The City encourages the use by developers of residential projects, hotels, and motels of best available noise control technologies and best management practices whenever possible to reduce the potential for conflict with Places of Entertainment.

Furthermore, it shall be the policy of the City to protect the future residents of industrial, commercial, and mixed-use neighborhoods in which Places of Entertainment operate, by providing notification processes to inform such residents of the possible noise levels in such neighborhoods and by requiring design features in new residential construction to promote the compatibility of residential uses and entertainment uses in adjacent or nearby Places of Entertainment.

SEC. 116.2. DEFINITIONS.

For the purposes of this Chapter 116, the following definitions shall apply.

"City" means the City and County of San Francisco.
"Development Permit" means any land use permit or entitlement, including but not limited to any building permit, site permit, Conditional Use authorization, variance, or decision based on discretionary review of a proposed project, where the project meets at least one of the following criteria:

(1) the project is subject to the Planning Department's requirement for a Preliminary Project Assessment for residential use, pursuant to Planning Department policy;

(2) the project is subject to the Planning Department's requirement that a Pre-Application Meeting be held for new construction, pursuant to Planning Department policy;

(3) the project proposes a conversion change of use of a structure from non-residential use to residential use; or

(4) the project proposes the new construction of a Hotel or Motel, or change of use to a Hotel Use or Motel Use.

"Hotel" is defined in Section 102 of the Planning Code.

"Hotel Use" means the use of any real property as a Hotel, regardless of whether it is a mixed use property.

"Motel" is defined in Section 102 of the Planning Code.

"Motel Use" means the use of any real property as a Motel, regardless of whether it is a mixed use property.

"Place of Entertainment" is defined in Section 1060 of the Police Code.

"Project" means a structure for Residential Use, Hotel Use, or Motel Use, where the structure's exterior boundaries are within 300 radial feet of a Place of Entertainment that has been permitted for 12 or more consecutive months prior to the filing of the first complete application for a Development Permit for construction of the Project structure or for its conversion to Residential Use, Hotel Use, or Motel Use.

* * * *
SEC. 116.4. PROTECTION FOR EXISTING PLACES OF ENTERTAINMENT.

No establishment that has held a permit to operate as a permitted Place of Entertainment within 300 radial feet of a building for which construction or conversion for Residential Use was completed on or after January 1, 2005, shall be or become a public or private nuisance on the basis of noise disturbance for a resident of that building, if the Place of Entertainment operates in compliance with the Municipal Code and the terms of its permits.

SEC. 116.5. PLANNING DEPARTMENT NOTIFICATION TO PROJECT SPONSORS AND ACCEPTANCE OF DEVELOPMENT PERMITS.

(a) The Planning Department shall maintain a list of permitted Places of Entertainment, available to the public on its website, received from and updated by the Entertainment Commission pursuant to Police Code Section 1060.5.

(b) Based on the list described in subsection (a), the Planning Department, at the earliest practicable time, shall notify a sponsor of a proposed Project that the Project is within 300 radial feet of a Place of Entertainment at the earliest practicable time.

(c) For any application for a Development Permit for a Project submitted after the effective date of this Chapter 116, the Planning Department will not consider an application for a Development Permit to be complete until the following has occurred:

1. pursuant to Section 116.7, the Entertainment Commission has provided written notification to the Planning Department either that the Entertainment Commission did not hold a hearing, or that it held a hearing and the Project sponsor attended the hearing; and

2. pursuant to Section 116.7, the Entertainment Commission has provided written comments and recommendations, if any, or the time provided in this Section 116.7 for doing so has elapsed.
SEC. 116.8. DISCLOSURE REQUIREMENTS FOR TRANSFER OF REAL PROPERTY FOR RESIDENTIAL USE.

* * * *

(d) Does Not Apply to Hotels or Motels. This Section 116.8 does not apply to the transfer of a Hotel or Motel.

SEC. 116.9. NOTICE OF SPECIAL RESTRICTIONS.

At the time a proposed Project for a Residential Use is approved a Notice of Special Restrictions (NSR) must be recorded with the Assessor-Recorder that states all of the restrictions of Section 116.8 and any other conditions that the Planning Commission or Department places on the property. The Planning Department may enforce the terms of the NSR, including but not limited to enforcement for any failure to comply with the provisions of Section 116.8, through the application of Planning Code Sections 176 and 176.1. This Section 116.9 does not apply to a Project for a Hotel Use or Motel Use.

SEC. 116.11. PROJECTS FOR WHICH A FIRST CONSTRUCTION DOCUMENT HAS NOT BEEN ISSUED BEFORE THE EFFECTIVE DATE OF CHAPTER 116.

For any proposed Project for a Residential Use for which, as of the effective date of this Chapter 116, or any proposed Project for a Hotel Use or Motel Use for which as of the effective date of the ordinance in Board File No. 161064 amending this Chapter 116, a Project sponsor has applied for a Development Permit, but for which a first construction document, as that term is defined in Section 107A.13.1 of the Building Code, has not been issued, the following provisions shall apply:

(a) The proposed Project shall be subject to this Chapter 116.

(b) As soon as practicable, the Planning Department shall notify the Entertainment Commission and the Project sponsor as soon as practicable that the proposed Project is within Supervisors Breed, Farrell BOARD OF SUPERVISORS Page 5
300 radial feet of a Place of Entertainment, to provide the Entertainment Commission with an opportunity to determine whether to hold a hearing pursuant to Section 116.7.

(c) Notwithstanding subsection (a) above, any previously scheduled hearing on a Development Permit application for the proposed project shall not be delayed by the Entertainment Commission's consideration of whether to hold a hearing pursuant to Section 116.7, or the Entertainment Commission's holding of such a hearing.

* * * *

(f) This Section 116.11 shall not apply to Hotel or Motel Projects that have received a Planning Commission approval by October 4, 2016.

Section 3. The Planning Code is hereby amended by revising Section 314 to read as follows:

SEC. 314. REVIEW OF RESIDENTIAL, HOTEL, AND MOTEL PROJECTS.

In addition to any other factors appropriate for consideration under the Planning Code, the Planning Department and Planning Commission shall consider the compatibility of uses when approving Residential Uses, Hotel Uses, or Motel Uses, as those terms are defined in Chapter 116 of the Administrative Code, adjacent to or near existing permitted Places of Entertainment and shall take all reasonably available means through the City's design review and approval processes to ensure that the design of such new residential, hotel, or motel development project takes into account the needs and interests of both the Places of Entertainment and the future residents or guests of the new development. Such considerations may include, among others:

(a) the proposed project's consistency with applicable design guidelines;

(b) any proceedings held by the Entertainment Commission relating to the proposed project, including but not limited to any acoustical data provided to the Entertainment Commission, pursuant to Administrative Code Section 116.6; and
(c) any comments and recommendations provided to the Planning Department by the Entertainment Commission regarding noise issues related to the project pursuant to Administrative Code Section 116.7.

Section 4. 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 5. 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.

Section 6. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

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

By:

By:

VICTORIA WONG
Deputy City/Attorney

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Ordinance amending the Administrative and Planning Codes to authorize the Entertainment Commission to hold a hearing on noise issues related to proposed projects for construction of new hotels and motels, or conversions of existing structures to hotel or motel uses, to be located within 300 feet of a Place of Entertainment, and to provide recommendations to the Planning Department and/or Department of Building Inspection regarding such projects, and require the Planning Department and Planning Commission to consider noise issues when reviewing proposed hotel and motel projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

February 06, 2017 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

February 06, 2017 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

February 14, 2017 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

February 28, 2017 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/28/2017 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

3/10/2017