

City of San José, California

COUNCIL POLICY

TITLE GUIDELINES FOR EVALUATION OF NIGHTCLUBS AND BARS	PAGE 1 of 4	POLICY NUMBER 6-23
EFFECTIVE DATE June 25, 1991	REVISED DATE February 23, 1993	
APPROVED BY COUNCIL ACTION June 25, 1991, Item 9w; 2/23/93, Item 9f		

BACKGROUND

Throughout its history, San José has been the center of cultural and entertainment activities. With the reemergence of the Downtown, entertainment activities, including nightclubs, have also undergone a resurgence.

To accommodate the growth of entertainment uses, the General Plan was amended in 1987 and 1988 to encourage the development of nightlife activities Downtown. The intent of this policy is to avoid a concentration of nighttime uses in any one area. Entertainment uses may be located throughout, as well as outside, the Downtown if they meet General Plan criteria. Currently there are 22 existing and approved nightclubs in the Downtown area with an authorized total occupancy of over 10,000 persons. In addition, the City and Redevelopment Agency have received numerous inquiries for additional nightclub proposals. The growth of bars in San José over the past decade has been minimal. With the emergence of nightclubs, bars have lost some of their popularity. With the exception of a few new neighborhood bars, most of the existing establishments have been in operation for over 10 years.

DEFINITIONS

Nightclubs are establishments that stay open late at night and provide entertainment, dancing, food, and drink and are not ancillary to a full-service restaurant. The operation of a nightclub in the City of San José requires an approved Conditional Use Permit. Bars are establishments that serve alcoholic beverages. Bars require an approved Conditional Use Permit to operate in the City of San José.

PURPOSE

The City allows nightclub and bar uses only through the discretionary Conditional Use Permit process to ensure that the development conforms to City requirements and is compatible with its surrounding neighborhood. In making recommendations to the Planning Commission, staff will review proposals on the basis of the following Guidelines for Evaluation of Nightclubs and Bars. Proposals will be examined on a case-by-case basis. To facilitate the evaluation process for individual permit applications, the guidelines identify the project characteristics necessary for approval. Existing nightclubs and bars which are subject to a permit with a time condition are not defined as new uses under this policy.

POLICY

1. Land Use Compatibility

- a. Nightclubs should be encouraged throughout the Downtown Core to promote a diversity of uses provided that they do not adversely impact existing or planned residential uses or conflict with other General Plan Goals and Policies.
- b. New nightclubs and bars should be discouraged from locating adjacent to or near any existing residential uses or any areas planned for residential uses in the adopted Horizon 2000 General Plan. Nightclubs may be located near areas designated Core Area Commercial with Residential

TITLE	GUIDELINES FOR EVALUATION OF NIGHTCLUBS AND BARS	PAGE	POLICY NUMBER
		2 of 4	6-23

Support for the Core Area overlay and parcels fronting Santa Clara Street. New nightclubs and bars adjacent to hotel uses should minimize the potential negative impacts on the guests of those facilities.

- c. New nightclubs and bars that are not open during daytime hours should not occupy more than 30 percent of the street frontage on any one side of the street. Basement and upper story nightclubs are exempt from this provision provided that the entrance to those facilities is clearly the sole use at the ground level along the street frontage.
- d. New bars outside the Downtown Core should be dispersed and, at a minimum, not be located within 500 feet of an existing bar or any existing school. Bars should be located and oriented in such a manner that would not adversely affect any nearby residential or school uses.
- e. New nightclubs should include sufficient space to accommodate queuing for patrons. This space should be provided on-site to the greatest extent possible. If the public right-of-way is proposed for queuing, a management plan to control crowds and litter as well as to ensure adequate pedestrian circulation should be part of the nightclub proposal.
- f. It is the responsibility of the Chief of Police to evaluate all bar and nightclub proposals to ensure the safety and security of both patrons and citizens. Conditions may be imposed to monitor bars and nightclubs and to discourage nuisance activities. These conditions may include such requirements as interior or exterior security guards, additional lighting, limited occupancy, and modifications of controls or procedures to increase effective law enforcement.
- g. New nightclubs and bars are discouraged from locating in areas where there has been above-average police calls for service.
- h. Nightclubs are permitted with the approval of a Conditional Use Permit only in the C-3 Commercial, M-1 Manufacturing and M-4 Manufacturing Zoning Districts.
- i. Bars as a primary use are permitted with the approval of a Conditional Use Permit only in the C-2 and C-3 Commercial Zoning Districts.
- j. The most appropriate General Plan Land Use Designation for nightclubs and bars is Commercial, except for Office and Neighborhood/Community Commercial.

2. Noise

- a. Both new construction and renovation of existing structures should meet the City's noise standards as specified in the Horizon 2000 General Plan. Sound attenuation techniques may be required to buffer adjacent interior and exterior spaces from noise generated by a nightclub or bar use.
- b. Windows and doors should not be open during the operation of the facility where noise impacts the surrounding area. Adequate ventilation should be provided so that openings to the outside can be closed when the bar or club is at full capacity.
- c. Outdoor areas for entertainment, including areas with roof openings, should not be allowed where noise impacts the surrounding area. Hours of operation and/or amplified sound should be carefully regulated to ensure compatibility with adjacent uses.
- d. Interior noise levels or adjacent uses and exterior noise levels should be monitored by a qualified noise consultant contracted by the applicant or operator commencing at the opening of the nightclub or bar facility. Measurements should be taken at least once monthly at two different times and a report submitted to the Planning Commission after one year of operation.

3. Parking

- a. For new nightclubs or bars, an analysis of both day and nighttime parking availability within 1200 feet of the proposed facility should be provided by the project proponent. Parking demand should

TITLE	GUIDELINES FOR EVALUATION OF NIGHTCLUBS AND BARS	PAGE	POLICY NUMBER
		3 of 4	6-23

be calculated at one space for each 40 square feet of usable patron area. Where there are insufficient spaces to meet the demand generated by the proposed bar or nightclub, parking should be provided by the operator at a location convenient and readily accessible to the patrons of the facility. Parking may be supplied by contracting with nearby property owners, offering validation services and/or valet services, or such other means that would not reduce the spaces available for existing uses. This may require the approval of an Off-Site or Alternating Use Parking Arrangement as specified in the San José Municipal Code.

- b. When new nightclubs or bars are required to provide additional parking to meet the demand generated by the proposed site, the parking facilities should be well lighted, consistent with applicable City and Redevelopment Agency standards.
- c. All nightclubs and bars are encouraged to identify the need for loading and unloading zones as means to enhance traffic circulation around the facility.
- d. All nightclubs and bars should be required to identify and publicize the location and availability of parking for its patrons.

4. Garbage and Litter

- a. Nightclub and bar operators should provide daily cleaning of the public right-of-way up to 200 feet from the property lines of the site of the facility. This cleaning should occur before 8:00 a.m. each day.
- b. Mechanical equipment used for outside maintenance, including blowers and street sweepers, etc., should not be used between 10:00 p.m. and 6:00 a.m. if the clean-up occurs within 500 feet of existing residential uses.

5. Typical Use Restrictions

- a. Admittance to bars and nightclubs will be restricted to patrons 21 years of age and older.
- b. Nightclubs which include an ancillary, non-separated restaurant are not permitted. Nightclubs may be permitted in such facilities provided that the restaurant use does not operate when the nightclub is in operation.
- c. Nightclubs and bars should not operate after 2:00 a.m., daily.
- d. Entertainment uses that serve no alcohol may be open to patrons 18 to 20 years and older.
- e. The maximum occupancy of a nightclub or bar is limited to the number identified by the Fire Marshall, and may be further limited in the Conditional Use Permit based on parking availability or other land use compatibility issues.
- f. Amplified sound, amusement games and pool/billiard tables may be restricted based on potential incompatibility with adjacent uses.
- g. Time limits for Conditional Use Permits for nightclubs and bars should generally be five years, unless there is sufficient evidence to support an alternate limit. Compliance Reviews may be required and should include an evaluation of the operation as well as any subsequent reports required as part of the permit approval.

6. Other Requirements

- a. The Planning Commission, or the City Council on appeal, may impose other appropriate conditions on a project-by-project basis as required to ensure land use compatibility. The guidelines in this policy represent minimum criteria for nightclubs and bars.
- b. The Planning Commission may annually review this policy to determine its adequacy in meeting the changing needs of the City.

TITLE GUIDELINES FOR EVALUATION OF NIGHTCLUBS AND BARS	PAGE 4 of 4	POLICY NUMBER 6-23
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- c. The Conditional Use Permit should include standard conditions, such as undergrounding utilities, providing public improvements, screening roof equipment, identifying building colors and materials, etc., necessary for the permit to fulfill the requirements for a Site Development Permit.