

1 [Planning Code - SoMa Nighttime Entertainment Uses; Leather and LGBTQ Cultural District]

2
3 **Ordinance amending the Planning Code to allow Nighttime Entertainment as a**
4 **principally permitted use on properties fronting Folsom Street between 7th Street and**
5 **Division Street and properties fronting 11th Street between Howard Street and Division**
6 **Street in the Folsom Street Neighborhood Commercial Transit District, the Regional**
7 **Commercial District, and the Western SoMa Mixed Use-General District; removing**
8 **certain restrictions on Nighttime Entertainment uses on properties fronting Folsom**
9 **Street between 7th Street and Division Street and properties fronting 11th Street**
10 **between Howard Street and Division Street in the Western SoMa Special Use District;**
11 **clarifying the buffer restrictions for Nighttime Entertainment uses in the**
12 **Service/Arts/Light Industrial District and the Western SoMa Mixed Use-Office District;**
13 **affirming the Planning Department's determination under the California Environmental**
14 **Quality Act; making findings of consistency with the General Plan and the eight priority**
15 **policies of Planning Code, Section 101.1; and making findings of public necessity,**
16 **convenience, and welfare pursuant to Planning Code, Section 302.**

17 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

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

25 Section 1. Land Use and Environmental Findings.

1 (a) The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
4 Supervisors in File No. 221104 and is incorporated herein by reference. The Board affirms
5 this determination.

6 (b) On January 12, 2023, the Planning Commission, in Resolution No. 21225, adopted
7 findings that the actions contemplated in this ordinance are consistent, on balance, with the
8 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
9 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
10 Board of Supervisors in File No. 221104, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, this Board finds that this ordinance will
12 serve the public necessity, convenience, and welfare for the reasons set forth in Planning
13 Commission Resolution No. 21225, and incorporates such reasons by this reference thereto.
14 A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No.
15 221104.

16
17 Section 2. General Background and Findings.

18 (a) San Francisco's South of Market area has been a local and world capital for
19 Leather culture since the 1960s, as well as one of the city's most significant and distinctive
20 Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) neighborhoods since the 1950s, with a
21 unique concentration of businesses, institutions, organizations, events, individuals, and artists
22 that has been an integral part of the City's cultural richness, economic prosperity, and
23 historical significance.

24 (b) For over 50 years, South of Market, particularly the Folsom and 11th Street
25 corridors, has been one of San Francisco's major nightlife areas, in which innumerable bars

1 and nightclubs were established catering to diverse populations, such as the lesbian bars
2 Hula Shack and Baybrick Inn, and renowned dance bars and drag-focused entertainment
3 venues such as The Stud, The End-Up, DNA Lounge, and Oasis.

4 (c) In 2018, the Board of Supervisors adopted Resolution No. 129-18 establishing the
5 Leather and LGBTQ Cultural District (“Cultural District”). Soon thereafter, the City enacted
6 Ordinance No. 126-18, which codified the Cultural District at Administrative Code Section
7 107.3(e) and defined its boundaries as “the area bounded by Howard Street to the northwest,
8 7th Street to the northeast, Highway 101 to the south between Howard Street and Bryant
9 Street, Division Street to the south between Bryant Street and Interstate 80, and Interstate 80
10 to the east, as well as the south side of Harrison Street between 7th Street and Morris Street.”

11 (d) In establishing the Cultural District, the City determined to preserve and further
12 develop Leather and LGBTQ nightlife and commercial corridors within the boundaries of the
13 Cultural District.

14 (e) The Cultural District is mostly contained within the Western SoMa Special Use
15 District, which allows but imposes restrictions on the establishment of new Nighttime
16 Entertainment uses. The Cultural District also encompasses the entirety of the Folsom Street
17 Neighborhood Commercial Transit District, and portions of the Western SoMa Mixed Use-
18 General District and the Regional Commercial District. These two districts do not allow for
19 Nighttime Entertainment uses.

20 (f) Nighttime Entertainment uses are integral to meeting the purposes of the Cultural
21 District. Restrictions on these uses are at odds with the stated purposes of the Cultural
22 District and the rich history of Leather and LGBTQ nightlife in SoMa. Lifting these restrictions
23 in designated areas of the Cultural District is part of the ongoing community conversation and
24 engagement around zoning controls in SoMa.
25

(g) To promote the establishment and enhance the vitality of nightlife in areas of the City strongly associated with the Leather and LGBTQ communities, this ordinance amends the Planning Code to permit Nighttime Entertainment uses in certain zoning districts overlapping in whole or part with the Cultural District.

Section 3. The Planning Code is hereby amended by revising Sections 757, 758, 823, and 844, 845, and 846, to read as follows:

SEC. 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

* * * *

Table 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

		Folsom Street NCT		
Zoning Category	§ References	Controls		
* * * *				
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				
		Controls by Story		
		1st	2nd	3rd
* * * *				
Entertainment, Arts, and Recreation Use Category				
Entertainment, Arts, and Recreation Uses*	§§ 102, 202.4	NP	NP	NP

1	Arts Activities	§ 102	P	P	P
2	Entertainment, General	§ 102	P	P	P
3					
4	<u>Entertainment, Nighttime</u>	<u>§ 102</u>	<u>NP(10)</u>	<u>NP(10)</u>	<u>NP(10)</u>
5					
6	* * * *				

7 (10) P on properties fronting Folsom Street between 7th Street and Division Street.

8

9 **SEC. 758. REGIONAL COMMERCIAL DISTRICT.**

10 The Regional Commercial District (RCD) is located along the 9th Street and 10th Street
 11 corridors, generally running from Mission Street to Harrison Street, and provides for a wide
 12 variety of commercial uses and services to a population greater than the immediate
 13 neighborhood. While providing convenience goods and services to the surrounding
 14 neighborhood, the RCD corridors are also heavily trafficked thoroughfares into and out of the
 15 City that serve shoppers from other neighborhoods and cities.

16 Large-scale lots and buildings and wide streets distinguish the RCD from smaller-
 17 scaled neighborhood commercial streets, although the district also includes small as well as
 18 moderately scaled lots. Buildings typically range in height from two to four stories with
 19 occasional taller structures.

20 A diverse commercial environment is encouraged for the RCD. Eating and drinking
 21 establishments, general retail, office, certain auto uses, and production, distribution, and
 22 repair uses generally are permitted with certain limitations at the first and second stories. Arts
 23 Activities are encouraged on all floors and Nighttime Entertainment uses are allowed on the
 24 First and Second Stories in historic buildings with Conditional Use authorization, except that
 25 Nighttime Entertainment uses are Principally Permitted in Article 10 Landmark Building No.

120 (currently St. Joseph's Church at 1401 Howard Street) and on properties fronting Folsom Street between 7th Street and Division Street.

* * * *

**Table 758. REGIONAL COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

		Regional Commercial District		
Zoning Category	§ References	Controls		
* * * *				
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				
		Controls by Story		
		1st	2nd	3rd
* * * *				
Entertainment, Arts, and Recreation Use Category				
Entertainment, Arts, and Recreation Uses*	§§ 102, 202.4	NP	NP	NP
Arts Activities	§ 102	P	P	P
Entertainment, General	§ 102	C	C	NP
Entertainment, Nighttime	§ 102	NP(3)	NP(3)	NP(3)
* * * *				

* Not listed below

(1) NP on 1st floor on lots with more than 25 feet of street frontage.

1 (2) Allowed with C so long as there is no ingress/ egress onto alleys, as defined in the
2 Western SoMa Community Plan, containing RED or RED-MX Districts

3 (3) C on First and Second Story in historic buildings and P in Article 10 Landmark
4 Building No. 120 (St. Joseph's Church at 1401 Howard Street) per Section 703.9, and subject
5 to the Good Neighbor Policies for Nighttime Entertainment activities in Planning Code Section
6 803.5(b), and P on properties fronting Folsom Street between 7th Street and Division Street.

7 * * * *

8
9 **SEC. 823. WESTERN SOMA SPECIAL USE DISTRICT.**

10 * * * *

11 (c) **Controls.** All provisions of the Planning Code shall apply except as otherwise
12 provided in this ~~Section~~ subsection (c).

13 * * * *

14 (9) **Buffers from Nighttime Entertainment and Animal Services.** Additional
15 requirements applicable to Nighttime Entertainment uses and Kennels, as defined in Section
16 102, are as follows:

17 (A) **Nighttime Entertainment.** No portion of a non-accessory Nighttime
18 Entertainment use, as defined in Section 102 of this Code, shall be permitted within 200 linear
19 feet of any property within a RED or RED-MX District. This buffer shall not apply to (i) any
20 Nighttime Entertainment use within the WMUO District where a Nighttime Entertainment use
21 that was established with a building permit application or a permit from the Entertainment
22 Commission or San Francisco Police Department was in operation within five years prior to
23 submission of a building permit application to re-establish a Nighttime Entertainment use, ~~or~~
24 (ii) a Nighttime Entertainment Use established within the Regional Commercial District
25 pursuant to Section 703.9(b) of this Code, or (iii) properties fronting Folsom Street between 7th

1 Street and Division Street and properties fronting 11th Street between Howard Street and Division
2 Street.

3 * * * *

4
5 **SEC. 844. WMUG – WSOMA MIXED USE-GENERAL DISTRICT.**

6 The WSoMa Mixed Use-General (WMUG) District is largely comprised of the low-scale,
7 production, distribution, and repair uses mixed with housing and small-scale retail. The
8 WMUG is designed to maintain and facilitate the growth and expansion of small-scale light
9 manufacturing, wholesale distribution, arts production and performance/exhibition activities,
10 and general commercial and neighborhood-serving retail and personal service activities, while
11 protecting existing housing and encouraging the development of housing at a scale and
12 density compatible with the existing neighborhood.

13 Housing is encouraged over ground floor commercial and production, distribution,
14 and repair uses. New residential or mixed use developments are encouraged to provide as
15 much mixed-income family housing as possible. Existing group housing and dwelling units will
16 be protected from demolition or conversion to nonresidential use by requiring conditional use
17 review. Accessory Dwelling Units are permitted within the district pursuant to subsection
18 207(c)(4) of this Code.

19 Hotels, ~~nighttime entertainment~~, movie theaters, adult entertainment, and heavy
20 manufacturing uses are not permitted. Office use is restricted to customer-based services on
21 the ground floor.

22
23

Table 844 WMUG – WSOMA MIXED USE-GENERAL DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	WSoMa Mixed Use-General District Controls
* * * *			
Assembly, Recreation, Arts and Entertainment			
844.55	Arts Activity	§ 102.2	P
844.56	Nighttime Entertainment	§§ 102. 17 , 181(f), 803.5(b), 823	NP <u>(1)</u>
* * * *			

(1) P on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

* * * *

SEC. 845. WMUO – WSOMA MIXED USE-OFFICE DISTRICT.

Table 845 WMUO – WSOMA MIXED USE-OFFICE DISTRICT ZONING CONTROL TABLE			
No.	Zoning Category	§ References	WSoMa Mixed Use-Office District Controls
* * * *			
Assembly, Recreation, Arts and Entertainment			
844.55	Arts Activity	§ 102.2	P
844.56	Nighttime Entertainment	§§ 102. 17 , 181(f), 803.5(b), 823	P <u>(1)</u>
* * * *			

1 (1) See buffer restrictions and exceptions for Nighttime Entertainment in Section
 2 823(c)(9)(A).

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 5 **SEC. 846. SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT.**

6 *****

Table 846 SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE			
No.	Zoning Category	§ References	SALI District Controls
* * * *			
Assembly, Recreation, Arts and Entertainment			
844.55	Arts Activity	§ 102.2	P
844.56	Nighttime Entertainment	§§ 102.47, 181(f), 803.5(b), 823	P <u>(1)</u>
* * * *			

17 (1) See buffer restrictions and exceptions for Nighttime Entertainment in Section
 18 823(c)(9)(A).

19 *****

20
 21 Section 4. Effective Date. This ordinance shall become effective 30 days after
 22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
 23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
 24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Giulia Gualco-Nelson
11 GIULIA GUALCO-NELSON
12 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 221104

Date Passed: February 14, 2023

Ordinance amending the Planning Code to allow Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Folsom Street Neighborhood Commercial Transit District, the Regional Commercial District, and the Western SoMa Mixed Use-General District; removing certain restrictions on Nighttime Entertainment uses on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Western SoMa Special Use District; clarifying the buffer restrictions for Nighttime Entertainment uses in the Service/Arts/Light Industrial District and the Western SoMa Mixed Use-Office District; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

January 23, 2023 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

January 23, 2023 Land Use and Transportation Committee - CONTINUED AS AMENDED

January 30, 2023 Land Use and Transportation Committee - RECOMMENDED

February 07, 2023 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai and Stefani


Excused: 1 - Walton

February 14, 2023 Board of Supervisors - FINALLY PASSED

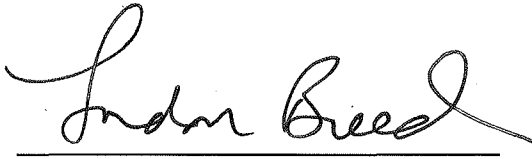
Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 221104

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/14/2023 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



London N. Breed
Mayor

2/23/23
Date Approved