

BOARD of SUPERVISORS



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MEMORANDUM

Date: October 28, 2022
To: Planning Department/Planning Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral – File No. 221104
Planning Code - SoMa Nighttime Entertainment Uses; Leather and LGBTQ
Cultural District

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

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 and the Western**
7 **SoMa Mixed Use-General District; removing certain restrictions on Nighttime**
8 **Entertainment uses on properties fronting Folsom Street between 7th Street and**
9 **Division Street and properties fronting 11th Street between Howard Street and Division**
10 **Street in the Western SoMa Special Use District; affirming the Planning Department’s**
11 **determination under the California Environmental Quality Act; making findings of**
12 **consistency with the General Plan, and the eight priority policies of Planning Code,**
13 **Section 101.1; and making findings of public necessity, convenience, and welfare**
14 **pursuant to Planning Code, Section 302.**

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

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

23 Section 1. Land Use and Environmental Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 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

1 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
2 determination.

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

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

13

14 Section 2. General Background and Findings.

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

21 (b) For over 50 years, South of Market, particularly the Folsom and 11th Street
22 corridors, has been one of San Francisco's major nightlife areas, in which innumerable bars
23 and nightclubs were established catering to diverse populations, such as the lesbian bars
24 Hula Shack and Baybrick Inn, and renowned dance bars and drag-focused entertainment
25 venues such as The Stud, The End-Up, DNA Lounge, and Oasis.

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

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

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

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

21 (g) To promote the establishment and enhance the vitality of nightlife in areas of the
22 City strongly associated with the Leather and LGBTQ communities, this ordinance amends
23 the Planning Code to permit Nighttime Entertainment uses in certain zoning districts
24 overlapping in whole or part with the Cultural District.
25

Section 3. The Planning Code is hereby amended by revising Sections 757, 823, and 844, 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
Arts Activities	§ 102	P	P	P
Entertainment, General	§ 102	P	P	P
<i>Entertainment, Nighttime</i>	<i>§ 102</i>	<i>NP(10)</i>	<i>NP(10)</i>	<i>NP(10)</i>
* * * *				

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

2
3 **SEC. 823. WESTERN SOMA SPECIAL USE DISTRICT.**

4 * * * *

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

7 * * * *

8 (9) **Buffers from Nighttime Entertainment and Animal Services.** Additional
9 requirements applicable to Nighttime Entertainment uses and Kennels, as defined in Section
10 102, are as follows:

11 (A) **Nighttime Entertainment.** No portion of a non-accessory Nighttime
12 Entertainment use, as defined in Section 102 of this Code, shall be permitted within 200 linear
13 feet of any property within a RED or RED-MX District. This buffer shall not apply to (i) any
14 Nighttime Entertainment use within the WMUO District where a Nighttime Entertainment use
15 that was established with a building permit application or a permit from the Entertainment
16 Commission or San Francisco Police Department was in operation within five years prior to
17 submission of a building permit application to re-establish a Nighttime Entertainment use, ~~or~~
18 (ii) a Nighttime Entertainment Use established within the Regional Commercial District
19 pursuant to Section 703.9(b) of this Code, or (iii) properties fronting Folsom Street between 7th
20 Street and Division Street and properties fronting 11th Street between Howard Street and Division
21 Street.

22 * * * *

23
24 **SEC. 844. WMUG – WSOMA MIXED USE-GENERAL DISTRICT.**

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

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

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

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.

* * * *

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.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

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

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LEGISLATIVE DIGEST

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

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 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; 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.

Existing Law

Currently, Nighttime Entertainment uses are not permitted in the Folsom Street Neighborhood Commercial Transit District and the Western SoMa Mixed Use-General District. (See Planning Code Sections 757 and 844.) The Western SoMa Special Use District permits Nighttime Entertainment Uses, but imposes restrictions on where those uses can be established within the Special Use District. Specifically, Planning Code Section 823(c)(9)(A) prohibits Nighttime Entertainment uses within 200 linear feet of any property within a Residential Enclave District or Residential Enclave-Mixed District.

The Leather and LGBTQ Cultural District (Administrative Code Section 107.3(e)) encompasses the Folsom Street Neighborhood Commercial Transit District and portions of the Western SoMa Mixed Use-General District and Western SoMa Special Use District.

Amendments to Current Law

This ordinance would amend Planning Code Section 757 to authorize Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street in the Folsom Neighborhood Commercial Transit District.

This ordinance would also amend Planning Code Section 844 to authorize Nighttime Entertainment as a principally permitted use in the Western SoMa Mixed Use-General District (WMUG), specifically on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

FILE NO. 221104

In addition, this ordinance would amend Planning Code Section 823 to remove the 200 linear feet buffer requirement in the Western SoMa Special Use District (SUD), specifically on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

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 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; 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.

Signature of Sponsoring Supervisor: