

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

# MEMORANDUM

TO: Katy Tang, Director  
**Small Business Commission, City Hall, Room 448**

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: December 26, 2024

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 241208**

**Ordinance amending the Planning Code to conditionally permit Nighttime Entertainment uses on properties fronting Brannan Street in the SALI (Service/Arts/Light Industrial) District that fall within 200 feet of a RED (Residential Enclave) or RED-MX (Residential Enclave-Mixed) District; conditionally permitting Nighttime Entertainment uses on properties that front Folsom Street in the MUR (Mixed-Use Residential) District; exempting the aforementioned Folsom and Brannan Street properties from the 200-foot buffer restrictions for Nighttime Entertainment uses; making clarifying revisions to buffer restrictions for Nighttime Entertainment uses; 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.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:  
Offices of Chair Melgar and Supervisor Dorsey  
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_**

No Comment

Recommendation Attached

\_\_\_\_\_  
Chairperson, Small Business Commission

1 [Planning Code - Nighttime Entertainment Uses in Certain SALI and MUR Districts South of  
Market]

2

3 **Ordinance amending the Planning Code to conditionally permit Nighttime**  
4 **Entertainment uses on properties fronting Brannan Street in the SALI**  
5 **(Service/Arts/Light Industrial) District that fall within 200 feet of a RED (Residential**  
6 **Enclave) or RED-MX (Residential Enclave-Mixed) District; conditionally permitting**  
7 **Nighttime Entertainment uses on properties that front Folsom Street in the MUR**  
8 **(Mixed-Use Residential) District; exempting the aforementioned Folsom and Brannan**  
9 **Street properties from the 200-foot buffer restrictions for Nighttime Entertainment**  
10 **uses; making clarifying revisions to buffer restrictions for Nighttime Entertainment**  
11 **uses; affirming the Planning Department’s determination under the California**  
12 **Environmental Quality Act; making findings of consistency with the General Plan, and**  
13 **the eight priority policies of Planning Code, Section 101.1; and making findings of**  
14 **public necessity, convenience, and welfare 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. Background and General Findings.

15 (a) For over 50 years, the South of Market area ("SoMa"), specifically the Folsom  
16 Street corridor, has been one of San Francisco's major nightlife hubs, in which innumerable  
17 bars and nightclubs were established catering to diverse populations.

18 (b) The Western SoMa Special Use District allows but imposes restrictions on the  
19 establishment of new Nighttime Entertainment uses, including requiring a 200-foot buffer  
20 between such uses and any property within a RED (Residential Enclave) or RED-MX  
21 (Residential Enclave-Mixed) District, subject to certain exceptions.

22 (c) In 2023, the City enacted Ordinance No. 22-23 to promote and enhance the vitality  
23 of nightlife in SoMa, specifically in portions of the neighborhood located within the Leather and  
24 LGBTQ Cultural District ("Cultural District"), the boundaries of which are established in  
25 Administrative Code Section 107.3(e). However, Ordinance No. 22-23 did not address

1 properties that front Brannan Street in the SALI (Service/Arts/Light Industrial) District or  
2 properties that front Folsom Street in the MUR (Mixed-Use Residential) District, both of which  
3 fall outside of the Cultural District’s boundaries. Currently in SALI Districts, Nighttime  
4 Entertainment Uses are principally permitted, except on properties within the 200-foot buffer  
5 zone. In MUR Districts, Nighttime Entertainment uses are not permitted.

6 (d) This ordinance seeks to balance the buffer restrictions in the Western SoMa  
7 Special Use District with the need to promote the establishment and enhancement of nightlife  
8 in SoMa. To achieve this balance, the ordinance removes the buffer restrictions for properties  
9 that front Brannan Street in the SALI District and subjects new Nighttime Entertainment uses  
10 on such properties within the buffer to the conditional use process. This ordinance does not  
11 affect properties in the SALI District that are outside the 200-foot buffer restriction, where  
12 Nighttime Entertainment uses are currently principally permitted. For properties that front  
13 Folsom Street in the MUR District, the ordinance conditionally permits new Nighttime  
14 Entertainment Uses and exempts such properties from the buffer restrictions.

15  
16 Section 3. Articles 2 and 8 of the Planning Code are hereby amended by revising  
17 Sections 249.39, 833, 836, and 840, to read as follows:

18  
19 **SEC. 249.39. WESTERN SOMA SPECIAL USE DISTRICT.**

20 \* \* \* \*

21 (c) **Controls.** All provisions of the Planning Code shall apply except as otherwise  
22 provided in this subsection (c).

23 \* \* \* \*

24 (7) **Buffers from Nighttime Entertainment.** Additional requirements  
25 applicable to Nighttime Entertainment uses, as defined in Section 102, are as follows:

(A) **Nighttime Entertainment.** No portion of a non-accessory Nighttime Entertainment use, as defined in Section 102 of this Code, shall be permitted within 200 linear feet of any property within a RED or RED-MX District. This buffer shall not apply to: (i) any Nighttime Entertainment use within the WMUO District where a Nighttime Entertainment use that was established with a building permit application or a permit from the Entertainment Commission or Police Department was in operation within five years prior to submission of a building permit application to re-establish a Nighttime Entertainment use, ~~or~~ (ii) a Nighttime Entertainment Use established within the Regional Commercial District ~~P~~ pursuant to Section 703.9(b) of this Code, ~~or~~ (iii) properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street, (iv) conditionally permitted Nighttime Entertainment uses on properties fronting Folsom Street in the MUR District, or (v) conditionally permitted Nighttime Entertainment uses on properties fronting Brannan Street in the SALI District.

\* \* \* \*

**SEC. 833. MUR – MIXED USE-RESIDENTIAL DISTRICT.**

\* \* \* \*

<b>Table 833</b>		
<b>MUR – MIXED USE-RESIDENTIAL DISTRICT ZONING CONTROL TABLE</b>		
<b>Zoning Category</b>	<b>§ References</b>	<b>Mixed Use-Residential District Controls</b>
* * * *		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>		
* * * *		
<b>Entertainment, Arts and Recreation Use Category</b>		

## LEGISLATIVE DIGEST

[Planning Code - Nighttime Entertainment Uses in Certain SALI and MUR Districts South of Market]

**Ordinance amending the Planning Code to conditionally permit Nighttime Entertainment uses on properties fronting Brannan Street in the SALI (Service/Arts/Light Industrial) District that fall within 200 feet of a RED (Residential Enclave) or RED-MX (Residential Enclave-Mixed) District; conditionally permitting Nighttime Entertainment uses on properties that front Folsom Street in the MUR (Mixed-Use Residential) District; exempting the aforementioned Folsom and Brannan Street properties from the 200-foot buffer restrictions for Nighttime Entertainment uses; making clarifying revisions to buffer restrictions for Nighttime Entertainment uses; 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

Articles 2 and 8 of the Planning Code regulate allowable uses for the SALI (Service/Arts/Light-Industrial) and MUR (Mixed Use-Residential) Districts. Nighttime Entertainment is “a Retail Entertainment, Arts and Recreation Use that includes dance halls, discotheques, nightclubs, private clubs, and other similar evening-oriented entertainment activities. . . .” (Planning Code Section 102.) In the SALI District, Nighttime Entertainment is principally permitted. (Planning Code Section 836.) In the MUR District, Nighttime Entertainment is not permitted. (Planning Code Section 833.)

Properties that front Folsom and Brannan Streets in the SALI and MUR districts are also located in the Western SoMa Special Use District (“SUD”). The SUD imposes additional restrictions on Nighttime Entertainment. Within the SUD, Nighttime Entertainment is not permitted within 200 feet of any property located in a RED (Residential Enclave) or RED-MX (Residential Enclave-Mixed) District, subject to certain exceptions. (Planning Code Section 249.39(c)(7).)

### Amendments to Current Law

This ordinance would amend Planning Code Sections 833 and 836 to:

- Conditionally permit new Nighttime Entertainment uses on properties that front Folsom Street in the MUR District, and

- Conditionally permit new Nighttime Entertainment uses on properties fronting Brannan Street in the SALI District that fall within 200 feet of any property within a RED or RED-MX District.

This ordinance would also amend the SUD (Planning Code Section 249.39) to exempt the aforementioned Folsom and Brannan Street properties from the 200-foot buffer restrictions.

This ordinance does not affect properties in the SALI District that are outside the 200-foot buffer restriction, where Nighttime Entertainment uses are currently principally permitted.

This ordinance also makes several clerical amendments to update incorrect cross-references within the Planning Code, including Planning Code Section 840.

#### Background Information

In 2023, the City enacted Ordinance No. 22-23 to promote and enhance the vitality of nightlife in SoMa, specifically in portions of the neighborhood located within the Leather and LGBTQ Cultural District (“Cultural District”), the boundaries of which are established in Administrative Code Section 107.3(e). However, Ordinance No. 22-23 did not address properties that front Brannan Street in the SALI (Service/Arts/Light Industrial) District or properties that front Folsom Street in the MUR (Mixed-Use Residential) District, both of which fall outside of the Cultural District’s boundaries. Like Ordinance No. 22-23, this ordinance seeks to balance the buffer restrictions in the Western SoMa Special Use District with the need to promote the establishment and enhancement of nightlife in SoMa.

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1	<b>Entertainment, Arts and Recreation Uses*</b>	§§ 102, 181(f), 249.78, 803.9(b)	NP (1)(3)
2	* * * *		
3	Movie Theater	§ 102	P up to three screens.
4	<u>Nighttime Entertainment</u>	<u>§§ 102, 181(f), 823</u>	<u>NP (8)</u>
5	* * * *		
6			
7			

8 \* Not listed below

9 \* \* \* \*

10 (8) C on properties fronting Folsom Street. Conditionally permitted Nighttime Entertainment  
 11 uses on such properties are not subject to the buffer in Section 249.39(c)(7).

12  
 13 **SEC. 836. SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT**

14 \* \* \* \*

15 <b>Table 836</b>		
16 <b>SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE</b>		
17 <b>Zoning Category</b>	<b>§ References</b>	<b>Service/Arts/Light Industrial District Controls</b>
18 * * * *		
19 <b>NON-RESIDENTIAL STANDARDS AND USES</b>		
20 * * * *		
21 <b>Entertainment, Arts and Recreation Use Category</b>		
22 <b>Entertainment, Arts and Recreation Uses*</b>	§ 102, 803.9(b)	P <del>(10)</del>
23		
24 Movie Theater	§ 102	P up to three screens.
25		



<i>Nighttime Entertainment</i>	<i>§§ 102, 823</i>	<i>P (10)</i>
* * * *		

\* Not listed below

\* \* \* \*

(10) Nighttime Entertainment subject to buffer in Section ~~249.6(e)(9)~~249.39(c)(7), *except that within such buffer Nighttime Entertainment uses shall be conditionally permitted on properties fronting Brannan Street.*

**SEC. 840. WMUO – WSOMA MIXED USE-OFFICE DISTRICT.**

\* \* \* \*

<b>Table 840</b>		
<b>WMUO – WSOMA MIXED USE-OFFICE DISTRICT ZONING CONTROL TABLE</b>		
<b>Zoning Category</b>	<b>§ References</b>	<b>Western SoMa Mixed Use-Office District Controls</b>
* * * *		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>		
* * * *		
<b>Entertainment, Arts and Recreation Use Category</b>		
<b>Entertainment, Arts and Recreation Uses*</b>	§ 102, 803.9(b)	P (9)
* * * *		

\* Not listed below

\* \* \* \*

(9) Nighttime Entertainment is subject to restrictions in Section ~~249.39(c)(7)~~249.6(e)(9).

1           Section 4. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor’s veto of the ordinance.

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

12  
13 APPROVED AS TO FORM:  
14 DAVID CHIU, City Attorney

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

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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 conditionally permit Nighttime Entertainment uses on properties fronting Brannan Street in the SALI (Service/Arts/Light Industrial) District that fall within 200 feet of a RED (Residential Enclave) or RED-MX (Residential Enclave-Mixed) District; conditionally permitting Nighttime Entertainment uses on properties that front Folsom Street in the MUR (Mixed-Use Residential) District; exempting the aforementioned Folsom and Brannan Street properties from the 200-foot buffer restrictions for Nighttime Entertainment uses; making clarifying revisions to buffer restrictions for Nighttime Entertainment uses; 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: