



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: FEBRUARY 21, 2019

90-DAY DEADLINE: MARCH 5, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: **Arts Activities and Nighttime Entertainment Uses in Historic Buildings**

Case Number: **2018-016400PCA** [Board File No. 181153]

Initiated by: Supervisor Kim / Introduced November 27, 2018

Staff Contact: Diego Sanchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Monica Giacomucci, Historic Preservation
Monica.giacomucci@sfgov.org 415-575-8714

Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Recommendation: **Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow Arts Activities and Nighttime Entertainment as Principally Permitted Uses in historic buildings in the RCD (Regional Commercial District) district.

The Way It Is Now:

Arts Activities and Nighttime Entertainment uses are prohibited in the Regional Commercial District (RCD).

The Way It Would Be:

Arts Activities and Nighttime Entertainment uses would be allowed at the first and second floors in the following buildings in the RCD:

1. Landmarks as designated per Article 10;
2. Buildings designated as Category I-IV pursuant to Article 11 and located within the Extended Preservation District; or
3. Buildings listed in or determined individually eligible for the National Register of Historic Places or the California Register of Historical Resources by the State Office of Historic Preservation.

BACKGROUND

Historic Preservation Commission

On February 6, 2019 the Historic Preservation Commission (HPC) heard the proposed Ordinance. The HPC spoke favorably of the proposed changes in the Ordinance, and was in accord with the proposed Planning Department Staff modifications. The HPC Resolution, R-1020, is included as Exhibit E.

ISSUES AND CONSIDERATIONS

Adaptive Re-Use of Historic Buildings

Actively used, fully functional historic buildings greatly contribute to a neighborhood's fabric and economic vitality. Unfortunately, due to rapid economic changes, certain buildings may not be properly designed to accommodate newer activities, leading to their neglect and deterioration. For example, older buildings may not have suitable conveyance or ventilation systems for particular economic activities or do not comply with ADA requirements. Some may suffer from outdated floor plan configurations, including inadequate ingress/egress. In other cases, existing building/life safety or land use regulations may hamper the introduction of many new economic activities. In these instances, it is reasonable that the City pursue incentives and/or regulatory amendments to facilitate the re-use of such buildings. Allowing otherwise prohibited uses, such as Arts Activities and Nighttime Entertainment, is one possible regulatory amendment. Another is to extend this privilege to the broadest set of buildings, including those contributing to a designated historic district.

San Francisco's General Plan also provides policy guidance regarding the preservation and adaptive re-use of historic buildings. For example, the Western SOMA Area Plan encourages and supports the adaptive re-use of the neighborhood's historic and social heritage resources.¹ The Mission and East SOMA Area Plans have policies that urge the City to revise land use controls to facilitate preservation goals.²

Economic Impact of the Nightlife and Entertainment Industry in San Francisco

The nightlife and entertainment industry is a significant and growing contributor to the City's economy. Recent studies by the Office of the Controller confirm the sector's economic contributions and growth.³ For instance, the Office of the Controller reports that in 2010 entertainment venues/nightclubs hosted over 3,200,000 guests who spent \$220,000,000. This report notes that tourists from outside of San Francisco made patronizing entertainment venues/nightclubs the reason for their visit one third of the time. They also spent, on average, three times what a San Francisco resident would spend on a similar visit. A 2016 Controller's Office study also notes the sector's growth as a source of employment in the City.

¹ Western SOMA Area Plan, Objective 5.1, Policy 5.1.3: Encourage and support the preservation and adaptive re-use of historic and social heritage neighborhood resources.

² Mission Area Plan, Objective 8.3, Policy 8.3.6: Adopt and revise land use, design and other relevant policies, guidelines, and standards, as needed to further preservation objectives.

East SOMA Area Plan, Objective 8.3, Policy 8.3.6: Adopt and revise land use, design and other relevant policies, guidelines, and standards, as needed to further preservation objectives

³ The Economic Impact of San Francisco's Nightlife Businesses. Office of the Controller- Office of Economic Analysis. March 5, 2012

<http://sfcontroller.org/sites/default/files/FileCenter/Documents/2953-Economic%20Impact%20of%20San%20Francisco%27s%20Nightlife%20Businesses.pdf>

Nightlife Industries in San Francisco: 2016 Update. Office of the Controller- Office of Economic Analysis. September 8, 2016

<http://nightlifesf.org/wp-content/uploads/2016/09/2016-Nightlife-Update.pdf>

Employment in entertainment venues/nightclubs grew by 40% between 2010 and 2015, as did the number of entertainment venues/nightclubs.

These figures support the notion that the nightlife and entertainment sector is integral to the City's economy. In this light, it is reasonable that the City take measures to assure the continued success of this sector. These measures may include expanding the areas where Nighttime Entertainment uses are allowed, especially as part of other economic development or historic preservation strategies.

Cultural Districts, Arts Activities and Nighttime Entertainment

The City recently formalized the process to establish Cultural Districts.⁴ One of the goals of Cultural Districts is to preserve and promote significant assets associated with events that have contributed to the history or cultural heritage of San Francisco and its people. These assets include buildings, traditions, events, venues, works of art, and public facing physical elements. Other cultural district goals include attracting and supporting artists, and cultural enterprises as well as preserving, maintaining, and developing unique cultural assets, of which nighttime venues may be considered.

In the SoMa the Filipino community organized a planning process to identify and map its cultural heritage assets.⁵ The Board of Supervisors subsequently recognized this effort by passing a resolution to establish the SoMa Pilipinas as the City's Filipino Cultural Heritage District.⁶ In this Cultural District, arts and cultural events are an identified community asset, and SoMa Pilipinas unites, supports, and preserves a coalition of dozens of community-focused arts and cultural organizations.

The Leather and LGBTQ communities in the SoMa have undertaken a similar process and enjoy recognition as the Leather Town Cultural District.⁷ Arts and nighttime entertainment play significant roles in the identity of these communities. For example, the many businesses and social groups serving the leather community were instrumental in an explosion of art and iconography depicting the LGBTQ experience. Much of this art is featured in local galleries and community spaces. Dance venues are also integral to community identity and serve as nighttime gathering places.

Attracting new Arts Activities and Nighttime Entertainment uses to the City, and to cultural districts, would be beneficial as a means of supporting and preserving the ways that the Leather and Filipino communities have traditionally experienced their SoMa communities. This is especially the case when

⁴ Ordinance 126-18

<https://sfgov.legistar.com/View.ashx?M=F&ID=6284954&GUID=AF375046-D498-476B-AD3D-7CF2DF13924F>

⁵ SoMa Pilipinas Progress Report: Filipino Cultural Heritage District Community Planning Process. October 2016.

⁶ Resolution No. 119-16:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4408163&GUID=EB12DF3A-F060-405B-9B9A-D9D0A81E0D54>

⁷ Ordinance 129-18

<https://sfgov.legistar.com/View.ashx?M=F&ID=6249291&GUID=7831093D-0BF1-4DD9-905C-01899BEF8989>

those uses are located in renovated and adaptively re-used historic buildings. Land use regulations should facilitate this potential synergy, especially in the Western SoMa. They should also extend this privilege to the broadest set of historic buildings, including those that contribute to a designated historic district.

Nighttime Entertainment in Western SoMa

The Planning Code considers dance clubs, nightclubs, and other similar evening-oriented entertainment activities Nighttime Entertainment uses. Owing to potential noise and queueing issues, the Planning Code established nine Good Neighbor Policies for Nighttime Entertainment uses in Mixed Use Districts. Among them include requiring employees to manage patron behavior while entering queueing and existing the premises; requiring employees to clean trash and debris within a 100-foot radius of the premises; and requiring that sound levels emanating from the premises do not exceed those established for residential uses by the San Francisco Noise Ordinance.⁸ While there are many Mixed Use Districts in the Western SoMa, including the RED and the RED-MX, the RCD is excluded because it is a Neighborhood Commercial District.

The RED and RED-MX zoning districts, which abut the RCD, also impose controls on Nighttime Entertainment. Nighttime Entertainment uses are prohibited from locating within 200 feet of any property in either of these two districts.⁹ As Exhibits B and C illustrate, this effectively prohibits Nighttime Entertainment in all but a handful of properties in the RCD.

The 200-foot buffer controls in the RED and RED-MX controls negate any benefits that introducing Nighttime Entertainment into the RCD can have. It may make sense to consider alternate regulations on Nighttime Entertainment in the RCD. The additional scrutiny afforded the Planning Commission under a Conditional Use authorization (CU) is one option. Under CU the Planning Commission must find the proposal necessary or desirable and compatible with the neighborhood. The CU allows the Planning Commission to impose restrictions on hours of operation and other operating practices. Applying adherence to the Good Neighbor Policies for Nighttime Entertainment uses for all CUs in the RCD as a second option would also help assure neighborhood compatibility. A third option is limiting new Nighttime Entertainment uses to historic buildings, including those buildings contributory to a designated historic district. This three-part measured approach would further balance the benefits of extending Nighttime Entertainment uses with noise and quality of life concerns.

Preservation, Rehabilitation and Maintenance Plan

Requiring a project sponsor to submit a Preservation, Rehabilitation and Maintenance Plan can also help facilitate the ongoing upkeep of historic properties. The Preservation, Rehabilitation and Maintenance Plan would require sponsors to secure a qualified consultant to develop a plan for ongoing maintenance, a report on the scope and cost of renovations or preservation work on the building, a construction schedule, and any other relevant information the Planning Department may require for successful preservation. Requiring a Preservation, Rehabilitation Plan for Nighttime Entertainment uses in historic resources can provide a means to preserve historic buildings in the RCD.

⁸ Planning Code Section 803.5, Good Neighbor Policies Governing Uses in Mixed Use Districts

⁹ Planning Code Section 823(c)(9)(A), Western SoMa Special Use District

General Plan Compliance

The proposed Ordinance complies with various policies in the Western SoMa Area Plan and the Arts Element. By relaxing land use restrictions on arts and entertainment uses within historic buildings, the proposed Ordinance creates incentives for adaptive re-use, uses arts to promote social inclusion and cultural vitality, and encourages uses that are open beyond the typical “nine-to-five” workday. By expanding the number of buildings allowed to house arts uses, the proposed Ordinance also supports the promotion of the arts and arts activities for the benefit of visitors, tourists, and residents.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department’s proposed recommendations are as follows:

1. Allow Arts Activities throughout the RCD district.
2. Conditionally permit Nighttime Entertainment uses within the RCD in historic buildings, including those that contribute to a historic district. Apply the Good Neighbor Policies for Nighttime Entertainment uses to all Nighttime Entertainment CUs in the RCD. Amend the RCD district narrative to reflect these changes.
3. Require a Preservation, Rehabilitation and Maintenance Plan for uses within the Folsom Street NCT and RCD districts.

BASIS FOR RECOMMENDATION

The Department supports the goals of the Ordinance because they provide multiple benefits to the City. Allowing Arts Activities and Nighttime Entertainment in historic buildings in SoMa can help adaptive re-use, contribute to economic vitality and assist the recently formed SoMa Pilipinas and Leather and LGBTQ Cultural Districts as they develop programmatically. The Department is proposing the following modifications to further those goals, as well as to ease implementation.

Recommendation 1: Allow Arts Activities throughout the RCD district. Extending the privilege of allowing Arts Activities to the broadest set of buildings, including contributors to a historic district, ensures that the largest number of building owners enjoy a new incentive to renovate and preserve their properties. This also helps capture the economic and social benefits of new arts venues and cultural activities within the SoMa neighborhood.

Recommendation 2: Conditionally permit Nighttime Entertainment uses within the RCD in historic buildings, including those that contribute to a historic district. Apply the Good Neighbor Policies for Nighttime Entertainment uses to all Nighttime Entertainment CUs in the RCD. Amend the RCD district narrative to reflect these changes. Staff recommends requiring CU for Nighttime Entertainment

uses in historic buildings because the CU process helps assure neighborhood compatibility and affords the Planning Commission an opportunity to impose additional operating conditions. The Good Neighbor Policies for Nighttime Entertainment will further assure neighborhood compatibility in the RCD. For consistency with these changes, the RCD district narrative should state that Nighttime Entertainment uses are allowed with CU rather than being prohibited.

Recommendation 3: Require a Preservation, Rehabilitation and Maintenance Plan for specified uses within the Folsom Street NCT and RCD districts. A Preservation, Rehabilitation and Maintenance Plan assures that historic buildings are properly renovated and is a reasonable requirement for allowing otherwise prohibited uses. Such a plan allows project sponsors to demonstrate how the flexibility in zoning will facilitate the prolonged utility of the building through preservation.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map of the Historic Resources in the Regional Commercial District
- Exhibit C: Map of the Historic Resources and District Contributors in the Regional Commercial District
- Exhibit D: HPC Resolution No. R-1020
- Exhibit E: Board of Supervisors File No. 181153



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Planning Commission Draft Resolution HEARING DATE FEBRUARY 21, 2019

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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW ARTS ACTIVITIES AND NIGHTTIME ENTERTAINMENT AS PRINCIPALLY PERMITTED USES IN HISTORIC BUILDINGS IN THE RCD (REGIONAL COMMERCIAL DISTRICT) 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 ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE UNDER PLANNING CODE SECTION 302.

WHEREAS, on November 27, 2018 Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181153, which would amend the Planning Code to allow Arts Activities and Nighttime Entertainment as principally permitted uses in historic buildings in the RCD (Regional Commercial District) district;

WHEREAS, upon taking office, Supervisor Haney took up sponsorship of Board File 181153;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 6, 2019; and,

WHEREAS, the proposed Ordinance has been determined to not be a project under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby **approves with modifications** the proposed ordinance.

The modifications include:

1. Allow Arts Activities throughout the RCD district.
2. Conditionally permit Nighttime Entertainment uses within the RCD in historic buildings, including those that contribute to a historic district. Apply the Good Neighbor Policies for Nighttime Entertainment uses to all Nighttime Entertainment CUs in the RCD. Amend the RCD district narrative to reflect these changes.
3. Require a Preservation, Rehabilitation and Maintenance Plan for uses within the Folsom Street NCT and RCD districts.

Section 703.9 Preservation of Historic Buildings within the Folsom Street NCT and RCD Districts.

(a) This subsection (a) applies only to buildings that are a designated landmark building per [Article 10](#) of the Planning Code, buildings designated as Category I-IV pursuant to [Article 11](#) of this Code and located within the Extended Preservation District, or a building listed in or determined individually eligible *or contributory to a district listed on* the National Register of Historic Places or the California Register of Historical Resources by the State Office of Historic Preservation

(b) Non-Retail Professional Services, Retail Professional Services, Philanthropic Administrative Services, Financial Services, Fringe Financial Services, Gyms, Limited Financial Services, Health Services, Personal Services and Instructional Services, as defined in Section [102](#), are *principally* permitted. ~~as of right~~ *In the RCD District only, in addition to the uses above, Arts Activities as defined in Section 102 are principally permitted and Nighttime Entertainment uses as defined in Section 102 require Conditional Use authorization. For all uses listed above, provided that* prior to the issuance of any necessary permits, the Zoning Administrator, with the advice of the Historic Preservation Commission, determines that allowing the use will enhance the feasibility of preserving the building. *The project sponsor must also submit a Preservation, Rehabilitation, and Maintenance Plan that describes any proposed preservation and rehabilitation work and that guarantees the maintenance and upkeep of the historic resource for approval by the Department. This Plan shall include:*

- (i) a plan for the ongoing maintenance of the subject property;
- (ii) information regarding the nature and cost of any rehabilitation, restoration or preservation work to be conducted at the subject property, including information about any required seismic, life safety, or disability access work;
- (iii) a construction schedule; and
- (iv) any other such information as the Department may require to determine compliance of this subsection 703.9(b).

Section 758. REGIONAL COMMERCIAL DISTRICT.

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

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

A diverse commercial environment is encouraged for the RCD. Eating and drinking establishments, general retail, office, certain auto uses, and production, distribution, and repair uses generally are permitted with certain limitations at the first and second stories. Arts Activities are encouraged on all floors ~~but nighttime entertainment uses are prohibited.~~ and *Nighttime Entertainment uses are allowed on the first and second floors in historic buildings*

Housing development is encouraged at the second story and above, and permitted on the ground floor on smaller lots. Student housing is not permitted, and existing residential units are protected by limitations on demolitions and conversions. Accessory Dwelling Units are permitted within the district pursuant to subsection 207(c)(4) of this Code.

Table 758. REGIONAL COMMERCIAL DISTRICT
ZONING CONTROL TABLE

		Regional Commercial District		
Zoning Category	§ Reference	Controls		
* * * *				
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				

		Controls by Story		
		1st	2nd	3rd +
* * * *				
Entertainment, Arts and Recreational Use Category				

Entertainment, Arts and Recreational Uses*	§§ 102, 202.4	NP	NP	NP
Arts Activities	§102	<u>P</u>	<u>P</u>	<u>P</u>
Entertainment, Nighttime	§102	<u>NP (3)</u>	<u>NP (3)</u>	<u>NP</u>

(3) ~~[Note deleted.]~~ C on first and second floor in historic buildings per Section 703.9 and subject to the Good Neighbor Policies for Nighttime Entertainment Activities in Planning Code Section 803.5(b).

Section 823 Western SoMa Special Use District

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

(9) Buffers from Nighttime Entertainment and Animal Service. Additional requirements applicable to nighttime entertainment uses and kennels, as defined in Section ~~224~~ 102, are as follows:

(A) Nighttime Entertainment. No portion of a non-accessory nighttime entertainment use, as defined in Section ~~102.17~~ 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 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 San Francisco Police Department was in operation within five years prior to submission of a building permit application to re-establish a nighttime entertainment use, or within the RCD district.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that Arts Activities and Nighttime Entertainment uses provide multiple benefits to the City. For example, recent studies by the Office of the Controller confirm the sector's contribution to City revenues and employment growth. In a similar vein, the arts form the basis of the identity of multiple Cultural Districts. These Cultural Districts help make San Francisco an attractive place to live, work, and socialize.
2. The Commission finds that land use regulations should accommodate new Arts Activities and Nighttime Entertainment uses. This can be done by relaxing existing prohibitions on those uses and allowing them to locate in historic buildings.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

WESTERN SOMA AREA PLAN

OBJECTIVE 2.1

RETAIN AND ENCOURAGE GROWTH OPPORTUNITIES FOR EXISTING NEIGHBORHOOD BUSINESSES.

Policy 2.1.4

Create incentives for adaptive re-use of existing commercial buildings throughout the Western SoMa SUD.

Allowing Arts Activities and Nighttime Entertainment is an incentive for property owners and commercial tenants to adaptively re-use older buildings in the Western SoMa SUD. These two activities are significant contributors to the San Francisco economy and attract patrons from across the metropolitan region, indicating that they can be useful in adaptive re-use strategies.

OBJECTIVE 5.1

REINFORCE THE DIVERSITY OF THE EXISTING BUILT FORM AND THE WAREHOUSE, INDUSTRIAL AND ALLEY CHARACTER.

Policy 5.1.3

Encourage and support the preservation and adaptive re-use of historic and social heritage neighborhood resources.

Policy 5.1.6

Encourage a mix of uses rather than mixed use developments.

Allowing Arts Activities and Nighttime Entertainment uses in historic buildings in the RCD facilitates the preservation and adaptive re-use of historic and social heritage sites in the Western SOMA. It also contributes to a mix of uses in the community, increasing neighborhood appeal.

OBJECTIVE 6.3

DEMONSTRATE LEADERSHIP THROUGH PRESERVATION, REHABILITATION AND ADAPTIVE RE-USE.

Policy 6.3.3: Prevent or avoid historic resource demolitions.

Expanding the number of allowed uses in historic resources in the RCD helps prevent or avoid demolitions because it allows property owners to offer spaces to Arts Activities or Nighttime Entertainment uses. These uses are a growing economic activity in San Francisco.

OBJECTIVE 8.1

REINFORCE THE IMPORTANCE OF THE ARTS BY PRESERVING AND ENHANCING EXISTING ARTS USES.

Policy 8.1.2: Create, expand and protect space for the arts.

Policy 8.1.10: Use arts and cultural activities to promote social inclusion and the cultural vitality of Western SoMa

Policy 8.2.10: Create new incentives to promote the inclusion of arts facilities in private development.

Principally permitting Arts Activities in the RCD creates the opportunity to provide spaces for the arts. It also lowers barriers to their inclusion in private development, resulting in an incentive. Allowing Arts Activities in the RCD also helps the effort to use arts and cultural activities to promote social inclusion in the Western SoMa because it provides new locations for those uses in the neighborhood

OBJECTIVE 10.2

ENCOURAGE APPROPRIATE ACTIVITIES DURING BOTH DAY AND NIGHT.

Policy 10.2.1: Encourage uses that operate outside of the usual “nine-to-five” workday.

Nighttime Entertainment, by definition, operates outside of the “nine-to-five” workday and allowing them in the RCD helps achieve this goal.

ARTS ELEMENT

OBJECTIVE I-2

INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.

Policy I-2.2: Continue to support and increase the promotion of the arts and arts activities throughout the City for the benefit of visitors, tourists, and residents.

Allowing Arts Activities in the RCD helps attract visitors, tourists and residents to that portion of the Western SoMa. This also helps support and promote arts activities in the Western SoMa.

OBJECTIVE VI-1

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy VI-1.1: Review, revise and coordinate city permit policies and codes to better meet the needs of the arts.

By removing a prohibition on Arts Activities in the RCD, the proposed Ordinance helps to better meet the needs of the arts.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would bolster neighborhood character as it proposes to allow character defining uses in historic buildings.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing because the Ordinance concerns itself with nonresidential uses in historic buildings.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired as the Ordinance proposes to allow new land uses in historic buildings.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance concerns itself with allowing new land uses in historic buildings.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would help preserve the City's Landmarks and historic buildings by allowing new land uses to locate with those buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because the Ordinance deals with allowing new land uses in historic buildings.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 21, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

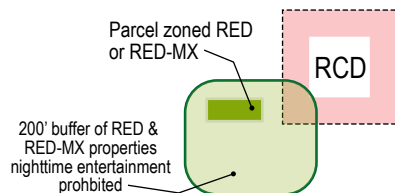
NOES:

ABSENT:

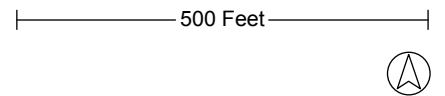
ADOPTED: February 21, 2019

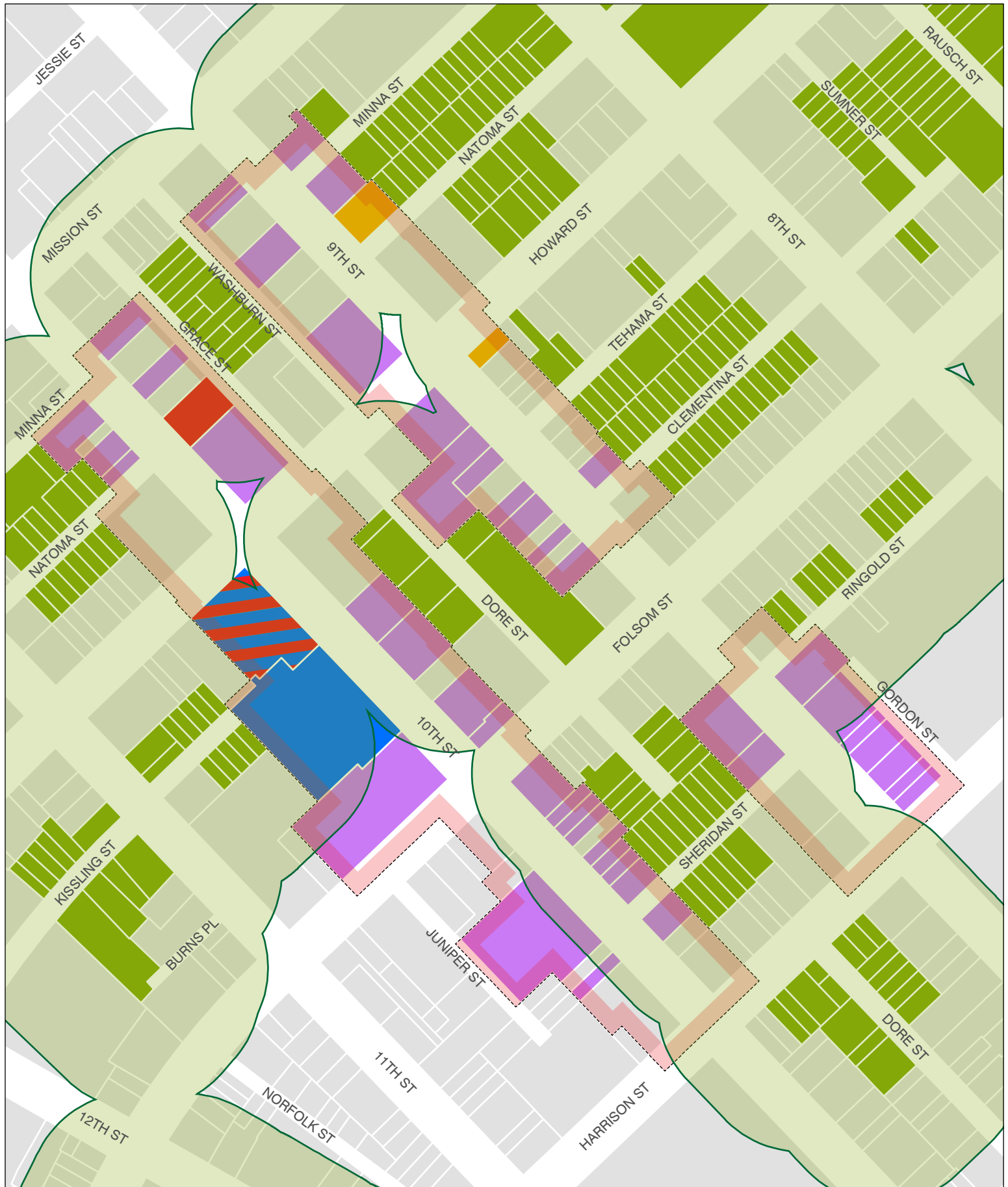


Historic Resources in RCD Zoning District SAN FRANCISCO



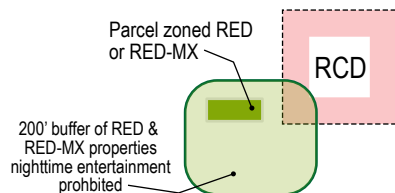
- Parcels that contain**
- Article 10 resources
 - Article 11 resources
 - National Register resources





Historic Resources and District Contributors in RCD Zoning District

SAN FRANCISCO



- Parcels that contain**
- Article 10 resources
 - Article 11 resources
 - National Register resources
 - District Contributors

500 Feet





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Historic Preservation Commission Resolution No. 1020 HEARING DATE FEBRUARY 6, 2019

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Tim Frye, Historic Preservation Officer
Tim.frye@sfgov.org, 415-575-6822

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW ARTS ACTIVITIES AND NIGHTTIME ENTERTAINMENT AS PRINCIPALLY PERMITTED USES IN HISTORIC BUILDINGS IN THE RCD (REGIONAL COMMERCIAL DISTRICT) 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 ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE UNDER PLANNING CODE SECTION 302.

WHEREAS, on November 27, 2018 Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181153, which would amend the Planning Code to allow Arts Activities and Nighttime Entertainment as principally permitted uses in historic buildings in the RCD (Regional Commercial District) district;

WHEREAS, upon taking office, Supervisor Haney took up sponsorship of Board File 181153;

WHEREAS, The Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 6, 2019; and,

WHEREAS, the proposed Ordinance has been determined to not be a project under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Historic Preservation Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Historic Preservation Commission has reviewed the proposed Ordinance; and

WHEREAS, the Historic Preservation Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Historic Preservation Commission hereby **approves with modifications** the proposed ordinance.

The modifications include:

1. Allow Arts Activities throughout the RCD district.
2. Conditionally permit Nighttime Entertainment uses within the RCD in historic buildings, including those that contribute to a historic district. Apply the Good Neighbor Policies for Nighttime Entertainment uses to all Nighttime Entertainment CUs in the RCD. Amend the RCD district narrative to reflect these changes.
3. Require a Preservation, Rehabilitation and Maintenance Plan for uses within the Folsom Street NCT and RCD districts.

Section 703.9 Preservation of Historic Buildings within the Folsom Street NCT and RCD Districts.

(a) This subsection (a) applies only to buildings that are a designated landmark building per Article 10 of the Planning Code, buildings designated as Category I-IV pursuant to Article 11 of this Code and located within the Extended Preservation District, or a building listed in or determined individually eligible or contributory to a district listed on the National Register of Historic Places or the California Register of Historical Resources by the State Office of Historic Preservation

(b) Non-Retail Professional Services, Retail Professional Services, Philanthropic Administrative Services, Financial Services, Fringe Financial Services, Gyms, Limited Financial Services, Health Services, Personal Services and Instructional Services, as defined in Section 102, are principally permitted. as of right, In the RCD District only, in addition to the uses above, Arts Activities as defined in Section 102 are principally permitted and Nighttime Entertainment uses as defined in Section 102 require Conditional Use authorization. For all uses listed above, provided that prior to the issuance of any necessary permits, the Zoning Administrator, with the advice of the Historic Preservation Commission, determines that allowing the use will enhance the feasibility of preserving the building. The project sponsor must also submit a Preservation, Rehabilitation, and Maintenance Plan that describes any proposed

preservation and rehabilitation work and that guarantees the maintenance and upkeep of the historic resource for approval by the Department. This Plan shall include:

- (i) a plan for the ongoing maintenance of the subject property;
- (ii) information regarding the nature and cost of any rehabilitation, restoration or preservation work to be conducted at the subject property, including information about any required seismic, life safety, or disability access work;
- (iii) a construction schedule; and
- (iv) any other such information as the Department may require to determine compliance of this subsection 703.9(b).

Section 758. REGIONAL COMMERCIAL DISTRICT.

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

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

A diverse commercial environment is encouraged for the RCD. Eating and drinking establishments, general retail, office, certain auto uses, and production, distribution, and repair uses generally are permitted with certain limitations at the first and second stories. Arts Activities are encouraged on all floors but nighttime entertainment uses are prohibited. and Nighttime Entertainment uses are allowed on the first and second floors in historic buildings

Housing development is encouraged at the second story and above, and permitted on the ground floor on smaller lots. Student housing is not permitted, and existing residential units are protected by limitations on demolitions and conversions. Accessory Dwelling Units are permitted within the district pursuant to subsection 207(c)(4) of this Code.

Table 758. REGIONAL COMMERCIAL DISTRICT
ZONING CONTROL TABLE

Regional Commercial District		
Zoning Category	§ Reference	Controls
* * * *		
NON-RESIDENTIAL STANDARDS AND USES		
* * * *		

		Controls by Story		
		1st	2nd	3rd +
* * * *				
Entertainment, Arts and Recreational Use Category				
Entertainment, Arts and Recreational Uses*	§§ 102, 202.4	NP	NP	NP
Arts Activities	§102	<u>P</u>	<u>P</u>	<u>P</u>
Entertainment, Nighttime	§102	<u>NP (3)</u>	<u>NP (3)</u>	<u>NP</u>

(3) ~~[Note deleted.] C on first and second floor in historic buildings per Section 703.9 and subject to the Good Neighbor Policies for Nighttime Entertainment Activities in Planning Code Section 803.5(b).~~

Section 823 Western SoMa Special Use District

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

(9) Buffers from Nighttime Entertainment and Animal Service. Additional requirements applicable to nighttime entertainment uses and kennels, as defined in Section ~~224~~ 102, are as follows:

(A) Nighttime Entertainment. No portion of a non-accessory nighttime entertainment use, as defined in Section ~~102.17~~ 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 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 San Francisco Police Department was in operation within five years prior to submission of a building permit application to re-establish a nighttime entertainment use, or within the RCD district.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Arts Activities and Nighttime Entertainment uses provide multiple benefits to the City. For example, recent studies by the Office of the Controller confirm the sector's contribution to City revenues and employment growth. In a similar vein, the arts form the basis of the identity of multiple Cultural Districts. These Cultural Districts help make San Francisco an attractive place to live, work, and socialize.
2. Land use regulations should accommodate new Arts Activities and Nighttime Entertainment uses. This can be done by relaxing existing prohibitions on those uses and allowing them to locate in historic buildings.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

WESTERN SOMA AREA PLAN

OBJECTIVE 2.1

RETAIN AND ENCOURAGE GROWTH OPPORTUNITIES FOR EXISTING NEIGHBORHOOD BUSINESSES.

Policy 2.1.4

Create incentives for adaptive re-use of existing commercial buildings throughout the Western SoMa SUD.

Allowing Arts Activities and Nighttime Entertainment is an incentive for property owners and commercial tenants to adaptively re-use older buildings in the Western SoMa SUD. These two activities are significant contributors to the San Francisco economy and attract patrons from across the metropolitan region, indicating that they can be useful in adaptive re-use strategies.

OBJECTIVE 5.1

REINFORCE THE DIVERSITY OF THE EXISTING BUILT FORM AND THE WAREHOUSE, INDUSTRIAL AND ALLEY CHARACTER.

Policy 5.1.3

Encourage and support the preservation and adaptive re-use of historic and social heritage neighborhood resources.

Policy 5.1.6

Encourage a mix of uses rather than mixed use developments.

Allowing Arts Activities and Nighttime Entertainment uses in historic buildings in the RCD facilitates the preservation and adaptive re-use of historic and social heritage sites in the Western SOMA. It also contributes to a mix of uses in the community, increasing neighborhood appeal.

OBJECTIVE 6.3

DEMONSTRATE LEADERSHIP THROUGH PRESERVATION, REHABILITATION AND ADAPTIVE RE-USE.

Policy 6.3.3: Prevent or avoid historic resource demolitions.

Expanding the number of allowed uses in historic resources in the RCD helps prevent or avoid demolitions because it allows property owners to offer spaces to Arts Activities or Nighttime Entertainment uses. These uses are a growing economic activity in San Francisco.

OBJECTIVE 8.1

REINFORCE THE IMPORTANCE OF THE ARTS BY PRESERVING AND ENHANCING EXISTING ARTS USES.

Policy 8.1.2: Create, expand and protect space for the arts.

Policy 8.1.10: Use arts and cultural activities to promote social inclusion and the cultural vitality of Western SoMa

Policy 8.2.10: Create new incentives to promote the inclusion of arts facilities in private development.

Principally permitting Arts Activities in the RCD creates the opportunity to provide spaces for the arts. It also lowers barriers to their inclusion in private development, resulting in an incentive. Allowing Arts Activities in the RCD also helps the effort to use arts and cultural activities to promote social inclusion in the Western SoMa because it provides new locations for those uses in the neighborhood

OBJECTIVE 10.2

ENCOURAGE APPROPRIATE ACTIVITIES DURING BOTH DAY AND NIGHT.

Policy 10.2.1: Encourage uses that operate outside of the usual “nine-to-five” workday.

Nighttime Entertainment, by definition, operates outside of the “nine-to-five” workday and allowing them in the RCD helps achieve this goal.

ARTS ELEMENT

OBJECTIVE I-2

INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.

Policy I-2.2: Continue to support and increase the promotion of the arts and arts activities throughout the City for the benefit of visitors, tourists, and residents.

Allowing Arts Activities in the RCD helps attract visitors, tourists and residents to that portion of the Western SoMa. This also helps support and promote arts activities in the Western SoMa.

OBJECTIVE VI-1

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy VI-1.1: Review, revise and coordinate city permit policies and codes to better meet the needs of the arts.

By removing a prohibition on Arts Activities in the RCD, the proposed Ordinance helps to better meet the needs of the arts.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would bolster neighborhood character as it proposes to allow character defining uses in historic buildings.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing because the Ordinance concerns itself with nonresidential uses in historic buildings.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired as the Ordinance proposes to allow new land uses in historic buildings.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance concerns itself with allowing new land uses in historic buildings.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would help preserve the City's Landmarks and historic buildings by allowing new land uses to locate with those buildings.

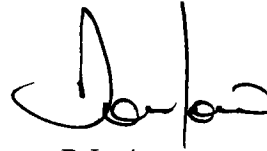
8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because the Ordinance deals with allowing new land uses in historic buildings.

5. **Planning Code Section 302 Findings.** The Historic Preservation Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 6, 2019.



Jonas P. Ionin
Commission Secretary

AYES: Black, Johnck, Johns, Pearlman, Wolfram, Matsuda, Hyland

NOES: None

ABSENT: None

ADOPTED: February 6, 2019

[Planning Code - Arts Activities and Nighttime Entertainment Uses in Historic Buildings]

Ordinance amending the Planning Code to allow Arts Activities and Nighttime Entertainment as Principally Permitted Uses in historic buildings in the RCD (Regional Commercial District) 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 adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncoded 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 ~~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. 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. 181153 and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, 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

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
4 ordinance will serve the public necessity, convenience, and general welfare for the reasons
5 stated in Planning Commission Resolution No. _____.
6

7 Section 2. Article 7 of the Planning Code is hereby amended by revising Sections
8 703.9 and 758, to read as follows:
9

10 **SEC. 703.9. PRESERVATION OF HISTORIC BUILDINGS WITHIN THE FOLSOM STREET**
11 **NCT AND RCD DISTRICTS.**

12 The following controls are intended to support the economic viability of buildings of
13 historic importance within the Folsom NCT and RCD Districts.

14 (a) This ~~subsection (a)~~ Section 703.9 applies only to buildings that are a designated
15 landmark building per Article 10 of the Planning Code, buildings designated as Category I-IV
16 pursuant to Article 11 of this Code and located within the Extended Preservation District, or a
17 building listed in or determined individually eligible for the National Register of Historic Places
18 or the California Register of Historical Resources by the State Office of Historic Preservation.

19 (b) Non-Retail Professional Services, Retail Professional Services, Philanthropic
20 Administrative Services, Financial Services, Fringe Financial Services, Gyms, Limited
21 Financial Services, Health Services, Personal Services and Instructional Services, as defined
22 in Section 102, are permitted as of right, provided that prior to the issuance of any necessary
23 permits, the Zoning Administrator, with the advice of the Historic Preservation Commission,
24 determines that allowing the use will enhance the feasibility of preserving the building. In the
25

RCD District only, in addition to the above uses, Arts Activities and Nighttime Entertainment as defined in Section 102 are permitted as of right.

(c) The Historic Preservation Commission shall review the proposed project for compliance with the Secretary of the Interior’s Standards, (36 C.F.R. § 67.7 (2001)) and any applicable provisions of the Planning Code.

SEC. 758. REGIONAL COMMERCIAL DISTRICT.

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

		Regional Commercial District
Zoning Category	§ References	Controls
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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
<u>Arts Activities</u>	<u>§ 102</u>	<u>P(3)</u>	<u>P(3)</u>	<u>NP</u>
<u>Entertainment, Nighttime</u>	<u>§ 102</u>	<u>P(3)</u>	<u>P(3)</u>	<u>NP</u>
* * * *	* * * *	* * * *	* * * *	* * * *

* Not listed below.

* * * *

(3) ~~[Note deleted.]~~ P on first and second floor in historic buildings per Section 703.9.

Section 3. 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 4. 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:
DENNIS J. HERRERA, City Attorney

By: _____
JUDITH A. BOYAJIAN
Deputy City Attorney

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