

[Planning Code - Tobacco Paraphernalia Establishments in North of Market Special Use District]

Ordinance amending the Planning Code to require in the North of Market Special Use District (SUD) that Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed obtain conditional use authorization, and to establish that after 18 months of non-use a legal non-conforming Tobacco Paraphernalia Establishment in the SUD will be deemed abandoned, preventing its restoration except as a new Tobacco Paraphernalia Establishment; and 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.

NOTE: **Unchanged Code text and uncodified 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 ~~strikethrough 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. Environmental and Land Use 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. 231225 and is incorporated herein by reference. The Board affirms this determination.

(b) On February 8, 2024, the Planning Commission, in Resolution No. 21508, 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 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 231225, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 21508, and the Board incorporates such reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. 231225.

Section 2. Articles 1 and 2 of the Planning Code are hereby amended by revising Sections 102, 209.3, 210.2, and 249.5, to read as follows:

SEC. 102. DEFINITIONS.

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Tobacco Paraphernalia Establishment. A Retail Sales and Service Use where more than 10% of the square footage of Occupied Floor Area, as defined in Section 102, or more than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the sale, distribution, delivery, furnishing, or marketing of Tobacco Paraphernalia from one person to another. For purposes of Sections 249.5, 719, and 723 of this Code, however, Tobacco Paraphernalia Establishments shall mean retail uses where any Tobacco Paraphernalia is sold, distributed, delivered, furnished, or marketed from one person to another. "Tobacco

Paraphernalia” means paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of tobacco, products prepared from tobacco, or controlled substances as defined in California Health and Safety Code Sections 11054, et seq. “Tobacco Paraphernalia” does not include lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco, cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by existing law. Cannabis Retail Uses as defined in Section 102, Temporary Cannabis Retail Uses as defined in Section 205.2, and Medical Cannabis Dispensary Uses as defined in Section 102 are not Tobacco Paraphernalia Establishments.

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SEC. 209.3. RC (RESIDENTIAL-COMMERCIAL) DISTRICTS.

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Table 209.3

ZONING CONTROL TABLE FOR RESIDENTIAL-COMMERCIAL DISTRICTS

Zoning Category	§ References	RC-3	RC-4
* * * *			
NON-RESIDENTIAL STANDARDS AND USES			
* * * *			
Sales and Service Category			
* * * *			
Tobacco Paraphernalia Store <u>Establishment</u>	§ 102	C (6)	C (2) (6)
* * * *			

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(2) ~~{Note Deleted}~~ TOBACCO PARAPHERNALIA ESTABLISHMENTS IN THE NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT – A special definition of “Tobacco Paraphernalia Establishments” set forth in Section 102 applies to parcels in the North of Market Residential Special Use District (Sec. 249.5). Additionally, a legal non-conforming Tobacco Paraphernalia Establishment in the North of Market Residential Special Use District is deemed abandoned after 18 months of non-use.

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(6) NP above the second floor.

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SEC. 210.2. C-3 DISTRICTS: DOWNTOWN COMMERCIAL.

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Table 210.2

ZONING CONTROL TABLE FOR C-3 DISTRICTS

Zoning Category	§ References	C-3-O	C-3-O(SD)	C-3-R	C-3-G	C-3-S
* * * *						
NON-RESIDENTIAL STANDARDS AND USES						
* * * *						
Sales and Service Category						
* * * *						
Tobacco Paraphernalia Store <u>Establishment</u>	§ 102	C	C	C	C (11)	C
* * * *						

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(10) C on the 2nd floor and above, except that a Massage Establishment located on the 2nd floor or above accessory to a Hotel, Personal Service or Health Service is P.

1 (11) TOBACCO PARAPHERNALIA ESTABLISHMENTS IN THE NORTH OF MARKET
2 RESIDENTIAL SPECIAL USE DISTRICT – A special definition of “Tobacco Paraphernalia
3 Establishments” set forth in Section 102 applies to parcels in the North of Market Residential Special
4 Use District (Sec. 249.5). Additionally, a legal non-conforming Tobacco Paraphernalia Establishment
5 in the North of Market Residential Special Use District is deemed abandoned after 18 months of non-
6 use.

7
8 **SEC. 249.5. NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

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10 (e) **Fringe Financial Services.** In addition to all other applicable controls set forth in
11 this Code, properties in the North of Market Residential Special Use District are within the
12 Fringe Financial Service Restricted Use District established by Section 249.35 and are subject
13 to the controls and exemptions set forth in Section 249.35.

14 (f) **Tobacco Paraphernalia Establishments.** A special definition of “Tobacco Paraphernalia
15 Establishments” applicable to the North of Market Residential Special Use District is set forth in
16 Section 102. Zoning controls for Tobacco Paraphernalia Establishments are set forth in other Sections
17 of this Code. In the North of Market Residential Special Use District, a legal non-conforming Tobacco
18 Paraphernalia Establishment shall be deemed abandoned after 18 months of non-use.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor’s veto of the ordinance.

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance. The number “10” in Footnote 10 of Table 210.2 of the
7 Planning Code has been reproduced with font indicating an addition to the Code, to correct a
8 prior numbering error.

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10 APPROVED AS TO FORM:
11 DAVID CHIU, City Attorney

12 By: /s/ HEATHER GOODMAN
13 HEATHER GOODMAN
14 Deputy City Attorney

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