

File No. 230410 Committee Item No. 6  
Board Item No. \_\_\_\_\_

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 10, 2023

Board of Supervisors Meeting Date \_\_\_\_\_

**Cmte Board**

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
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**OTHER (Use back side if additional space is needed)**

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referral CEQA PC 041423</u>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referral SBC 041423</u>       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>CEQA Determination 050923</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>PC Transmittal 062623</u>     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Melgar Comm Rpt 070523</u>    |
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Completed by: Erica Major Date July 6, 2023

Completed by: Erica Major Date \_\_\_\_\_

1 [Planning Code - Polk Street and Haight Street Neighborhood Commercial Districts]

2

3 **Ordinance amending the Planning Code to permit Health Services uses on the ground**  
 4 **floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to**  
 5 **clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco**  
 6 **Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered,**  
 7 **distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street**  
 8 **NCD such Tobacco Paraphernalia Establishments require conditional use**  
 9 **authorization, and to clarify that Tobacco Paraphernalia Establishments do not include**  
 10 **medicinal and adult-use cannabis retail uses; and 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 the Planning Code,**  
 13 **Section 101.1, and making findings of public necessity, convenience, and welfare**  
 14 **pursuant to the Planning Code, Section 302.**

15

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

20

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

22

22 Section 1. Environmental and Land Use Findings.

23

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

24

24 ordinance comply with the California Environmental Quality Act (California Public Resources

25

25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 230410 and is incorporated herein by reference. The Board affirms  
2 this determination.

3 (b) On June 15, 2023, the Planning Commission, in Resolution No. 21339, adopted  
4 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
5 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board  
6 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
7 Board of Supervisors in File No. 230410, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
9 amendments will serve the public necessity, convenience, and welfare for the reasons set  
10 forth in Planning Commission Resolution No. 21339, and the Board incorporates such  
11 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
12 Supervisors in File No. 230410.

13

14 Section 2. Article 1 of the Planning Code is hereby amended by revising Section 102  
15 to read as follows:

16 **SEC. 102. DEFINITIONS.**

17 \* \* \* \*

18 ***Tobacco Paraphernalia Establishment.*** A Retail Sales and Service Use where more  
19 than 10% of the square footage of Occupied Floor Area, as defined in Section 102, or more  
20 than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the  
21 sale, distribution, delivery, furnishing, or marketing of Tobacco Paraphernalia from one person  
22 to another. For purposes of Sections 719, and 723 of this Code, *however*, Tobacco  
23 Paraphernalia Establishments shall mean retail uses where *any* Tobacco Paraphernalia is  
24 sold, distributed, delivered, furnished, or marketed from one person to another. “Tobacco  
25 Paraphernalia” means paraphernalia, devices, or instruments that are designed or

1 manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of  
 2 tobacco, products prepared from tobacco, or controlled substances as defined in California  
 3 Health and Safety Code Sections 11054, et seq. "Tobacco Paraphernalia" does not include  
 4 lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco,  
 5 cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by  
 6 existing law. Cannabis Retail Uses as defined in Section 102, Temporary Cannabis Retail Uses as  
 7 defined in Section 205.2, and Medical Cannabis Dispensary Uses as defined in Section 102 ~~Medical~~  
 8 ~~Cannabis Dispensaries, as defined in Section 3301(f) of the San Francisco Health Code,~~ are not  
 9 Tobacco Paraphernalia Establishments.

10 \* \* \* \*

11

12 Section 3. Article 7 of the Planning Code is hereby amended by revising Sections 719  
 13 and 723 to read as follows:

14 **SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

15 \* \* \* \*

16 **Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**  
 17 **ZONING CONTROL TABLE**

18 \* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
		<b>Controls by Story</b>		
		<b>1st</b>	<b>2nd</b>	<b>3rd+</b>
* * * *				
<b>Sales and Service Use Category</b>				

25

1	<b>Retail Sales and Service</b>	§§ 102, 202.2(a)	P	C	NP
2	<b>Uses*</b>				
3	* * * *				
4	Tobacco Paraphernalia Establishment	§ 102	C(6)	C(6)	C(6)
5	* * * *				

\* \* \* \*

(6) TOBACCO PARAPHERNALIA ESTABLISHMENTS – ~~*A the special definition of “Tobacco Paraphernalia Establishments” applicable to the Haight Street Neighborhood Commercial District is set forth in Section 102, shall be repealed three years after its initial effective date, unless the Board of Supervisors, on or before that date, extends or re-enacts it.*~~ In the Haight Street Neighborhood Commercial District, the period of non-use for a non-conforming Tobacco Paraphernalia Establishment to be deemed discontinued shall be 18 months.

\* \* \* \*

**SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

\* \* \* \*

**Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES (7)</b>				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
<b>Sales and Service Use Category</b>				

1	<b>Retail Sales and Service Uses*</b>	§§ 102, 202.2(a), 202.3	P	P	NP
2					
3	* * * *				
4	Services, Health	§ 102	NP(3)	C	C
5	* * * *				
6	Tobacco Paraphernalia Establishment	§ 102	NP(5)	NP(5)	NP(5)
7	* * * *				

8 \* \* \* \*

9 (3) ~~[Note deleted.]~~ Health Services are principally permitted on properties that do not have  
10 any frontage on Polk Street or California Street.

11 \* \* \* \*

12 (5) TOBACCO PARAPHERNALIA ESTABLISHMENTS PROHIBITION– Tobacco  
13 Paraphernalia Establishments are not permitted in the Polk Street Neighborhood Commercial  
14 District and within one-quarter mile of the boundaries of that Neighborhood Commercial  
15 District. A ~~The~~ special definition of “Tobacco Paraphernalia Establishments” applicable to the  
16 Polk Street Neighborhood Commercial District ~~is set forth in Section 102. shall be repealed six~~  
17 ~~years after its initial effective date, unless the Board of Supervisors, on or before that date, extends or~~  
18 ~~re-enacts it.~~ In the Polk Street Neighborhood Commercial District, the period of non-use for a  
19 non-conforming Tobacco Paraphernalia Establishment to be deemed discontinued shall be 18  
20 months.

21 \* \* \* \*

22  
23 Section 4. Effective Date. This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

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

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

15 n:\legana\as2023\2300214\01669720.docx

## LEGISLATIVE DIGEST

[Planning Code - Polk Street and Haight Street Neighborhood Commercial Districts]

**Ordinance amending the Planning Code to permit Health Services uses on the ground floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street NCD such Tobacco Paraphernalia Establishments require conditional use authorization, and to clarify that Tobacco Paraphernalia Establishments do not include medicinal and adult-use cannabis retail uses; 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 the Planning Code, Section 101.1, and making findings of public necessity, convenience, and welfare pursuant to the Planning Code, Section 302.**

### Existing Law

Under current Planning Code rules for the Polk Street NCD, Health Services uses, such as offices for doctors, dentists, and chiropractors, are not permitted on the ground floor. Health Services uses are conditionally permitted on the second or higher floors only.

The Planning Code includes a special definition for Tobacco Paraphernalia Establishments applicable in the Polk Street and Haight Street NCDs, such that businesses are regulated as Tobacco Paraphernalia Establishments if they sell any Tobacco Paraphernalia, including pipes or other devices for smoking. Tobacco Paraphernalia Establishments, as defined, are not permitted in the Polk Street NCD and are permitted as a conditional use in the Haight Street NCD.

In the Planning Code section for the Polk Street NCD, there is a footnote saying this special definition expires after six years. For the Haight Street NCD, there is a footnote saying the special definition expires after three years.

### Amendments to Current Law

This ordinance allows Health Services as a permitted use on the ground floor in the Polk Street NCD, except for properties with frontage on Polk Street or California Street.

This ordinance deletes outdated references to expiration dates for the special definition of Tobacco Paraphernalia Establishments for the Polk Street and Haight Street NCDs. This ordinance confirms that the special definition is a permanent part of the Planning Code and currently does not have an expiration date.



Background Information

In 2009, the City established interim zoning controls prohibiting new Tobacco Paraphernalia Establishments in the Polk Street and Haight Street NCDs. The prohibition was incorporated into the City's ordinances as the special definition described above for Tobacco Paraphernalia Establishments applicable to those districts, among other code changes (Ordinance Nos. 151-09 and 3-10). The special definition was set to expire in three years, unless the Board of Supervisors extended or re-enacted it prior to its expiration. For the Polk Street NCD, the initial three-year period was extended for an additional three-years (Ordinance No. 74-13). Prior to this ordinance, the zoning control tables for each district referenced these respective three- or six-year operative periods in a footnote.

In subsequent legislation, the City re-adopted the special definition (Ordinance No. 22-15), eliminated duplicative definitions (Ordinance No. 130-17), and deleted outdated cross-references in the definition (Ordinance No. 202-18). Based on these more recent actions, it is apparent that the Board has re-enacted the special definition, thereby superseding any earlier provisions referencing an expiration of that definition. This ordinance deletes the now-outdated references to a three- or six-year operative period for the special definition and makes minor, technical changes to the definition.

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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

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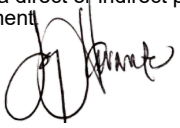
## MEMORANDUM

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Date: April 14, 2023  
To: Planning Department / Commission  
From: Erica Major, Clerk of the Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 230410  
Planning Code - Polk Street and Haight Street Neighborhood Commercial Districts

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- California Environmental Quality Act (CEQA) Determination Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment  
(California Public Resources Code, Sections 21000 et seq.)
  - Ordinance / Resolution
  - Ballot Measure05/09/23 
  
- 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](mailto:Erica.Major@sfgov.org).



June 26, 2023

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Peskin  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-003461PCA  
Polk Street and Haight Street Neighborhood Commercial Districts  
Board File No. 230410

**Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Peskin,

On June 15, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Peskin that would amend Planning Code Sections 102, 719, and 723. At the hearing the Planning Commission recommended approval.

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.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Aaron D. Starr  
*Manager of Legislative Affairs*

cc: Heather Goodman, Deputy City Attorney  
Sunny Angulo, Aide to Supervisor Peskin  
Erica Major, Office of the Clerk of the Board

**Attachments :**

Planning Commission Resolution

Planning Department Executive Summary



# PLANNING COMMISSION RESOLUTION NO. 21339

**HEARING DATE: JUNE 15, 2023**

**Project Name:** Polk Street and Haight Street Neighborhood Commercial Districts  
**Case Number:** 2023-003461PCA [Board File No. 230410]  
**Initiated by:** Supervisor Peskin / Introduced April 12, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PERMIT HEALTH SERVICES USES ON THE GROUND FLOOR FOR SPECIFIED AREAS OF THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD), TO CLARIFY THAT IN THE POLK STREET NCD AND WITHIN A QUARTER-MILE OF ITS BOUNDARIES TOBACCO PARAPHERNALIA ESTABLISHMENTS WHERE ANY TOBACCO PARAPHERNALIA IS SOLD, DELIVERED, DISTRIBUTED, FURNISHED, OR MARKETED ARE NOT PERMITTED, TO CLARIFY THAT IN THE HAIGHT STREET NCD SUCH TOBACCO PARAPHERNALIA ESTABLISHMENTS REQUIRE CONDITIONAL USE AUTHORIZATION, AND TO CLARIFY THAT TOBACCO PARAPHERNALIA ESTABLISHMENTS DO NOT INCLUDE MEDICINAL AND ADULT-USE CANNABIS RETAIL USES; 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 THE PLANNING CODE, SECTION 101.1, AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO THE PLANNING CODE, SECTION 302.**

WHEREAS, on April 12, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230410, which would amend the Planning Code to permit Health Services uses on the ground floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street NCD such Tobacco Paraphernalia Establishments require conditional use authorization, and to clarify that Tobacco Paraphernalia Establishments do not include medicinal and adult-use cannabis retail uses;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 15, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 and 15060(c)2; and

WHEREAS, the Planning 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

## 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:

The proposed Ordinance would support Health Services in Polk Street NCD, which is located in proximity to two hospitals.

The proposed Ordinance will remove outdated references making the Code clearer and easier to understand.

## General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### COMMERCE AND INDUSTRY ELEMENT

#### OBJECTIVE 1

**MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.**

##### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences.  
Discourage development which has substantial undesirable consequences that cannot be mitigated.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

**OBJECTIVE 2**

**MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.**

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

**OBJECTIVE 6**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.9

Regulate uses so that traffic impacts and parking problems are minimized.

*The proposed Ordinance supports the Commerce and Industry Element's goal of maintaining and retaining strong commercial corridors by providing more opportunities to establish Health Services within the Polk Street NCD. Currently, Health Services are only conditionally permitted on the second floor and above within Polk Street NCD. The Ordinance expands this by principally permitting Health Services on the ground floor for properties not facing onto Polk Street or California Street. This supports the Commerce and Industry Element's goal of still maintaining the core commercial corridor and regulating uses that impact traffic and parking within the commercial areas. Additionally, the Polk Street NCD is located between two hospitals, making Health Services an ideal and complimentary use in the area. This change would provide more flexibility and hopefully reduce vacancies within the Polk Street NCD maintaining and enhancing San Francisco's economic growth as prescribed in the Commerce and Industry Element. The proposed Ordinance supports the Commerce and Industry Element's goal of maintaining a diverse economy and mix of uses and goods within the Polk Street and Haight Street NCDs by avoiding an overconcentration of Tobacco Paraphernalia Establishments in these neighborhoods.*

**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-*

*servicing 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 not have a negative effect on housing or neighborhood character.*

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.*

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.*

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.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic 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.*

### **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 the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 15, 2023.



Jonas P Ionin Digitally signed by Jonas P Ionin  
Date: 2023.06.21 17:16:44 -0700

Jonas P. Ionin  
Commission Secretary

AYES: Braun, Imperial, Koppel, Moore, Tanner

NOES: Diamond

ABSENT: Ruiz

ADOPTED: June 15, 2023



# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE: June 15, 2023**

**90-Day Deadline: July 13, 2023**

**Project Name:** Polk Street and Haight Street Neighborhood Commercial Districts  
**Case Number:** 2023-003461PCA [Board File No. 230410]  
**Initiated by:** Supervisor Peskin / Introduced April 12, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**Recommendation:** Approval with Modifications

### Planning Code Amendment

The proposed Ordinance would amend the Planning Code to permit Health Services uses on the ground floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street NCD such Tobacco Paraphernalia Establishments require conditional use authorization, and to clarify that Tobacco Paraphernalia Establishments do not include medicinal and adult-use cannabis retail uses.

#### The Way It Is Now:

*Zoning change:*

1. Health Services are not permitted on the first floor within the Polk Street NCD and conditionally permitted on the second floor and above.

*Code clarifications:*

2. The definition of Tobacco Paraphernalia Establishment specifically excludes Medical Cannabis

Dispensaries.

3. The Polk Street and Haight Street NCD Zoning Control Tables reference an obsolete three- and six-year timeframes for the special definition for Tobacco Paraphernalia Establishments in these Districts.

### **The Way It Would Be:**

#### *Zoning change:*

1. In addition to being conditionally permitted on the second floor and above, Health Services would be permitted on the first floor within Polk Street NCD for properties that do not have frontage on Polk Street or California Street.

#### *Code clarifications:*

2. The definition of Tobacco Paraphernalia Establishment would also explicitly exclude Cannabis Retail Uses and Temporary Cannabis Retail Uses.
3. The Polk Street and Haight Street NCD Zoning Control Tables would eliminate the reference to these obsolete timeframes.

## **Background**

### **Health Service Control Changes**

Supervisor Peskin's office was approached by the property owner at 1299 Bush Street regarding the difficulty he was having filling his ground floor commercial space. The space has been vacant for the past four years. The property is in proximity to two hospitals, and as a result he has had several prospective Health Service uses inquire about renting the space; however, because the use is not allowed on the ground floor in the district, he has had to turn them away. Working with Planning Staff, the Supervisor's office then developed this ordinance to relax the rules on Health Service Uses in the Polk Street NCD, while still maintaining the existing controls along Polk and California Streets.

### **Tobacco Paraphernalia Establishment Changes**

In 2009, the Board adopted interim zoning controls that established a special definition for Polk Street and Haight Street NCDs making uses where *any* Tobacco Paraphernalia was sold considered a Tobacco Paraphernalia Establishment. Elsewhere in the city, Tobacco Paraphernalia Establishments were defined as retail uses where more than 10% of the square footage or more than 10 linear feet of display area, whichever is less, is dedicated to the sale of Tobacco Paraphernalia. These special definitions were adopted within the Polk Street and Haight Street NCDs for a period of three and six years respectively. The special definition of Tobacco Paraphernalia Establishments within the Polk Street NCD was renewed for another three years. During the 2015 Article 2 Code Reorganization, these special definitions were re-adopted and fully incorporated into the definition of Tobacco Paraphernalia Establishments; however, the reference to the original timeframes from the interim controls are still referenced within the Code. This Ordinance seeks to eliminate these outdated references.

## Issues and Considerations

### Health Services Uses and Street Activation

A Health Service is defined as a Retail Sales and Service Use that provides medical and allied health services by physicians, surgeons, dentists, podiatrists, psychologists, and other health-care professionals. Health Services comply with the Code's "active use" requirement, but to a lesser degree than other Retail Sales and Service Uses due to the nature of patient care and typically requiring appointments for services.

Polk Street NCD currently prohibits Health Services on the first floor where the street activation is most important; however, this NCD is close to two hospitals making Health Services a logical complimentary use in the area. Allowing Health Services in side-street commercial spaces on the first floor of the Polk Street NCD would provide more flexibility to help fill vacancies in the NCD. Limiting this change to just the side streets also helps ensure that Polk and California Street, the main commercial corridors of this district, maintain active commercial uses.

### Tobacco Paraphernalia Establishments

Tobacco Paraphernalia Establishments are retail uses where more than 10% of the square footage of Occupied Floor Area 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.<sup>1</sup> In the Polk Street and Haight Street NCDs, Tobacco Paraphernalia Establishments includes retail uses where *any* tobacco paraphernalia is sold, distributed, delivered, furnished, or marketed from one person to another.

Tobacco Paraphernalia Establishment uses do not include actual tobacco sales. The definition also excludes Medical Cannabis Dispensaries (MCDs). When the new Cannabis Retail use definition was created in 2017, it was not also explicitly excluded within the Tobacco Paraphernalia Establishment definition alongside MCDs. The proposed Ordinance would explicitly exclude Cannabis Retail and Temporary Cannabis Retail uses from the definition of Tobacco Paraphernalia Establishments for clarity and consistency.

The 2009 interim zoning controls noting the special definition of Tobacco Paraphernalia Establishments in the Polk Street and Haight Street NCDs were not extended because the special definition was incorporated into the definition of Tobacco Paraphernalia Establishments in 2015. Eliminating the outdated references to the original timeframes of the special definition would also make the Code clearer and more consistent.

### General Plan Compliance

The proposed Ordinance supports the Commerce and Industry Element's goal of maintaining and retaining strong commercial corridors by providing more opportunities to establish Health Services within the Polk Street NCD. Currently, Health Services are only conditionally permitted on the second floor and above within Polk

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<sup>1</sup> Section 102 defines Tobacco Paraphernalia as 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.

Street NCD. The Ordinance expands this by principally permitting Health Services on the ground floor for properties not facing onto Polk Street or California Street. This supports the Commerce and Industry Element's goal of still maintaining the core commercial corridor and regulating uses that impact traffic and parking within the commercial areas. Additionally, the Polk Street NCD is located between two hospitals, making Health Services an ideal and complimentary use in the area. This change would provide more flexibility and hopefully reduce vacancies within the Polk Street NCD maintaining and enhancing San Francisco's economic growth as prescribed in the Commerce and Industry Element.

### **Racial and Social Equity Analysis**

The proposed amendments cannot be directly tied to a negative or positive impact in advancing the City's racial and social equity. There is not enough data to support the claim for the small number of Health Services that it will affect.

### **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 recommendation is as follows:

1. Only prohibit Health Services for storefronts that face onto Polk Street or California Street.

### **Basis for Recommendation**

The Department supports the overall goals of this Ordinance because it promotes uses within the Polk Street NCD that would complement the adjacent hospitals. Health Services are a basic need and should be more widely permitted in the city to benefit all San Franciscans; however, the proposed Ordinance could be further enhanced while still preserving the primary commercial corridor with the recommended modification listed below. The Department also supports the proposed Ordinance's removal of outdated references because it will make the Code clearer and more consistent.

#### **Recommendation 1: Only prohibit Health Services for storefronts that face onto Polk Street or California Street.**

As drafted, the Ordinance prohibits Health Services on the ground floor for all properties that have frontage on Polk Street or California Street. This unintentionally excludes corner lots that have storefronts facing onto a side street. Additionally Exhibit C shows there are several irregularly shaped lots within Polk Street NCD that have multiple street frontages or just a sliver of their property boundary facing onto Polk Street, but the primary frontage is on a side street. The recommendation would allow Health Services on such properties if the actual storefront does not face onto Polk Street or California Street. This aligns with the proposed Ordinance's intent to concentrate commercial activity on Polk Street and California Street.

## 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 Sections 15378 and 15060(c)2 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: Board of Supervisors File No. 230410
- Exhibit C: Map of Impacted Parcels

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## **PLANNING COMMISSION DRAFT RESOLUTION**

**HEARING DATE: June 15, 2023**

**Project Name:** Polk Street and Haight Street Neighborhood Commercial Districts  
**Case Number:** 2023-003461PCA [Board File No. 230410]  
**Initiated by:** Supervisor Peskin / Introduced April 12, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PERMIT HEALTH SERVICES USES ON THE GROUND FLOOR FOR SPECIFIED AREAS OF THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD), TO CLARIFY THAT IN THE POLK STREET NCD AND WITHIN A QUARTER-MILE OF ITS BOUNDARIES TOBACCO PARAPHERNALIA ESTABLISHMENTS WHERE ANY TOBACCO PARAPHERNALIA IS SOLD, DELIVERED, DISTRIBUTED, FURNISHED, OR MARKETED ARE NOT PERMITTED, TO CLARIFY THAT IN THE HAIGHT STREET NCD SUCH TOBACCO PARAPHERNALIA ESTABLISHMENTS REQUIRE CONDITIONAL USE AUTHORIZATION, AND TO CLARIFY THAT TOBACCO PARAPHERNALIA ESTABLISHMENTS DO NOT INCLUDE MEDICINAL AND ADULT-USE CANNABIS RETAIL USES; 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 THE PLANNING CODE, SECTION 101.1, AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO THE PLANNING CODE, SECTION 302.**

WHEREAS, on April 12, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230410, which would amend the Planning Code to permit Health Services uses on the ground floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street NCD such Tobacco Paraphernalia Establishments require conditional use authorization, and to clarify that Tobacco Paraphernalia Establishments do not include medicinal and adult-use cannabis retail uses;



WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 15, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 and 15060(c)2; and

WHEREAS, the Planning 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Planning Commission hereby **approves with modification** the proposed ordinance. The Commission’s proposed recommendation is as follows:

1. Only prohibit Health Services for storefronts that face onto Polk Street or California Street.

## 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:

The proposed Ordinance would support Health Services in Polk Street NCD, which is located in proximity to two hospitals.

The proposed Ordinance will remove outdated references making the Code clearer and easier to understand.

## General Plan Compliance

The proposed Ordinance and the Commission’s recommended modification is consistent with the following Objectives and Policies of the General Plan:

### COMMERCE AND INDUSTRY ELEMENT

#### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

**OBJECTIVE 2**

**MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.**

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

**OBJECTIVE 6**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.9

Regulate uses so that traffic impacts and parking problems are minimized.

*The proposed Ordinance supports the Commerce and Industry Element's goal of maintaining and retaining strong commercial corridors by providing more opportunities to establish Health Services within the Polk Street NCD. Currently, Health Services are only conditionally permitted on the second floor and above within Polk Street NCD. The Ordinance expands this by principally permitting Health Services on the ground floor for properties not facing onto Polk Street or California Street. This supports the Commerce and Industry Element's goal of still maintaining the core commercial corridor and regulating uses that impact traffic and parking within the commercial areas. Additionally, the Polk Street NCD is located between two hospitals, making Health Services an ideal and complimentary use in the area. This change would provide more flexibility and hopefully reduce vacancies within the Polk Street NCD maintaining and enhancing San Francisco's economic growth as prescribed in the Commerce and Industry Element.*

**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 not have a negative effect on housing or neighborhood character.*

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.*

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.*

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.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic 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.*

**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 June 15, 2023

Jonas P. Ionin  
*Commission Secretary*

AYES:

NOES:

ABSENT:

ADOPTED: June 15, 2023

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1 [Planning Code - Polk Street and Haight Street Neighborhood Commercial Districts]

2

3 **Ordinance amending the Planning Code to permit Health Services uses on the ground**  
 4 **floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to**  
 5 **clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco**  
 6 **Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered,**  
 7 **distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street**  
 8 **NCD such Tobacco Paraphernalia Establishments require conditional use**  
 9 **authorization, and to clarify that Tobacco Paraphernalia Establishments do not include**  
 10 **medicinal and adult-use cannabis retail uses; and 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 the Planning Code,**  
 13 **Section 101.1, and making findings of public necessity, convenience, and welfare**  
 14 **pursuant to the Planning Code, Section 302.**

15

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

20

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

22

22 Section 1. Environmental and Land Use Findings.

23

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

24

24 ordinance comply with the California Environmental Quality Act (California Public Resources

25

25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 230410 and is incorporated herein by reference. The Board affirms  
2 this 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 these Planning Code  
9 amendments will serve the public necessity, convenience, and welfare for the reasons set  
10 forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such  
11 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
12 Supervisors in File No. \_\_\_\_\_.

13  
14 Section 2. Article 1 of the Planning Code is hereby amended by revising Section 102  
15 to read as follows:

16 **SEC. 102. DEFINITIONS.**

17 \* \* \* \*

18 ***Tobacco Paraphernalia Establishment.*** A Retail Sales and Service Use where more  
19 than 10% of the square footage of Occupied Floor Area, as defined in Section 102, or more  
20 than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the  
21 sale, distribution, delivery, furnishing, or marketing of Tobacco Paraphernalia from one person  
22 to another. For purposes of Sections 719, and 723 of this Code, *however*, Tobacco  
23 Paraphernalia Establishments shall mean retail uses where *any* Tobacco Paraphernalia is  
24 sold, distributed, delivered, furnished, or marketed from one person to another. “Tobacco  
25 Paraphernalia” means paraphernalia, devices, or instruments that are designed or

1 manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of  
 2 tobacco, products prepared from tobacco, or controlled substances as defined in California  
 3 Health and Safety Code Sections 11054, et seq. "Tobacco Paraphernalia" does not include  
 4 lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco,  
 5 cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by  
 6 existing law. Cannabis Retail Uses as defined in Section 102, Temporary Cannabis Retail Uses as  
 7 defined in Section 205.2, and Medical Cannabis Dispensary Uses as defined in Section 102 ~~Medical~~  
 8 ~~Cannabis Dispensaries, as defined in Section 3301(f) of the San Francisco Health Code,~~ are not  
 9 Tobacco Paraphernalia Establishments.

10 \* \* \* \*

11

12 Section 3. Article 7 of the Planning Code is hereby amended by revising Sections 719  
 13 and 723 to read as follows:

14 **SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

15 \* \* \* \*

16 **Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**  
 17 **ZONING CONTROL TABLE**

18 \* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
		<b>Controls by Story</b>		
		<b>1st</b>	<b>2nd</b>	<b>3rd+</b>
* * * *				
<b>Sales and Service Use Category</b>				

25



1	<b>Retail Sales and Service</b>	§§ 102, 202.2(a)	P	C	NP
2	<b>Uses*</b>				
3	* * * *				
4	Tobacco Paraphernalia Establishment	§ 102	C(6)	C(6)	C(6)
5	* * * *				

\* \* \* \*

(6) TOBACCO PARAPHERNALIA ESTABLISHMENTS – ~~*A the special definition of “Tobacco Paraphernalia Establishments” applicable to the Haight Street Neighborhood Commercial District is set forth in Section 102, shall be repealed three years after its initial effective date, unless the Board of Supervisors, on or before that date, extends or re-enacts it.*~~ In the Haight Street Neighborhood Commercial District, the period of non-use for a non-conforming Tobacco Paraphernalia Establishment to be deemed discontinued shall be 18 months.

\* \* \* \*

**SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

\* \* \* \*

**Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES (7)</b>				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
<b>Sales and Service Use Category</b>				

1	<b>Retail Sales and Service Uses*</b>	§§ 102, 202.2(a), 202.3	P	P	NP
2					
3	* * * *				
4	Services, Health	§ 102	NP(3)	C	C
5	* * * *				
6	Tobacco Paraphernalia Establishment	§ 102	NP(5)	NP(5)	NP(5)
7	* * * *				

8 \* \* \* \*

9 (3) ~~[Note deleted.]~~ Health Services are principally permitted on properties that do not have  
10 any frontage on Polk Street or California Street.

11 \* \* \* \*

12 (5) TOBACCO PARAPHERNALIA ESTABLISHMENTS PROHIBITION– Tobacco  
13 Paraphernalia Establishments are not permitted in the Polk Street Neighborhood Commercial  
14 District and within one-quarter mile of the boundaries of that Neighborhood Commercial  
15 District. A ~~The~~ special definition of “Tobacco Paraphernalia Establishments” applicable to the  
16 Polk Street Neighborhood Commercial District ~~is set forth in Section 102. shall be repealed six~~  
17 ~~years after its initial effective date, unless the Board of Supervisors, on or before that date, extends or~~  
18 ~~re-enacts it.~~ In the Polk Street Neighborhood Commercial District, the period of non-use for a  
19 non-conforming Tobacco Paraphernalia Establishment to be deemed discontinued shall be 18  
20 months.

21 \* \* \* \*

22  
23 Section 4. Effective Date. This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

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

12 By:                                   /s/                                    
13 HEATHER L. GOODMAN  
Deputy City Attorney

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# Polk NCD

# EXBHIT C



**Legend:**

Orange with purple hatchmarks = Parcels that would be permitted to have Health Service on the ground floor  
Blue = Parcels that would NOT be permitted to have Health Service on the ground floor

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

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## MEMORANDUM

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Date: April 14, 2023  
To: Planning Department / Commission  
From: Erica Major, Clerk of the Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 230410  
Planning Code - Polk Street and Haight Street Neighborhood Commercial Districts

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- 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](mailto:Erica.Major@sfgov.org).

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448
FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee
DATE: April 14, 2023
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. 230410

Ordinance amending the Planning Code to permit Health Services uses on the ground floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street NCD such Tobacco Paraphernalia Establishments require conditional use authorization, and to clarify that Tobacco Paraphernalia Establishments do not include medicinal and adult-use cannabis retail uses; 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 the Planning Code, Section 101.1, and making findings of public necessity, convenience, and welfare pursuant to the 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.

\*\*\*\*\*

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

- No Comment
Recommendation Attached

Chairperson, Small Business Commission

cc: Kerry Birnbach



**MYRNA MELGAR**

---

DATE: July 5, 2023

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee  
COMMITTEE REPORTS

A handwritten signature in blue ink, appearing to read "mm", located to the right of the "FROM:" line.

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Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them to be considered by the full Board on Tuesday, July 11, 2023, as Committee Reports:

**File No. 230410**

**Planning Code - Polk Street and Haight Street Neighborhood Commercial Districts**

Sponsor: Peskin

Ordinance amending the Planning Code to permit Health Services uses on the ground floor for specified areas of the Polk Street Neighborhood Commercial District (NCD), to clarify that in the Polk Street NCD and within a quarter-mile of its boundaries Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed are not permitted, to clarify that in the Haight Street NCD such Tobacco Paraphernalia Establishments require conditional use authorization, and to clarify that Tobacco Paraphernalia Establishments do not include medicinal and adult-use cannabis retail uses; 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 the Planning Code, Section 101.1, and making findings of public necessity, convenience, and welfare pursuant to the Planning Code, Section 302.

**File No. 230374**

**Building Code - Streamlining Site Permit Review**

Sponsors: Safai; Melgar

Ordinance amending the Building Code to outline the site permit application process, define and limit the scope of Building Official review of site permits, and require simultaneous interdepartmental review of site permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 10, 2023, at 1:30 p.m.