

[Planning Code - Grocery Stores in Polk Street Neighborhood Commercial District]

Ordinance amending the Planning Code to authorize replacement of a Legacy General Grocery use with a subsequent General Grocery use in excess of 4,000 square feet in the Polk Street Neighborhood Commercial District; affirming the Planning Department’s determination under the California Environmental Quality Act; and 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. 221023 and is incorporated herein by reference. The Board affirms this determination.

(b) On December 1, 2022, the Planning Commission, in Resolution No. 21212, 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 2 of the
2 Board of Supervisors in File No. 221023, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors find that this
4 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
5 Planning Commission Resolution No. 21212, and incorporates such reasons by this reference
6 thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
7 No. 221023.

8
9 Section 2. The Planning Code is hereby amended by revising Sections 121.2 and 723,
10 to read as follows:

11 **SEC. 121.2. NON-RESIDENTIAL USE SIZE LIMITS IN NEIGHBORHOOD**
12 **COMMERCIAL AND NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICTS.**

13 * * * *

14 (b) In order to protect and maintain a scale of development appropriate to each
15 district, Non- Residential Uses that exceed the square footage stated in the table below shall
16 not be permitted, except in the following circumstances:

17 (1) In the Castro Street Neighborhood Commercial District, a Child Care
18 Facility, School, Post-Secondary Educational Institution, Religious Institution, Social Service
19 or Philanthropic Facility, Community Facility, or a Residential Care Facility as defined in
20 Section 102 of this Code that is operated by a non-profit and is neighborhood-serving may
21 exceed this Subsection 121.2(b) with Conditional Use authorization.

22 (2) In the Regional Commercial District, Schools and Childcare Facilities as
23 defined in Section 102 may exceed this Subsection 121.2(b) with Conditional Use
24 authorization.

1 (3) In the Polk Street Neighborhood Commercial District, this subsection
 2 121.2(b) shall not apply to a Movie Theater use, or the expansion of an existing General Grocery
 3 Use, as defined in Section 102 of this Code, and pursuant to the controls of Section 723.

4 The use area shall be measured as the Gross Floor Area for each individual Non-
 5 Residential use.

District	Use Size Limits
West Portal	4,000 <i>sq. ft. square feet</i>
North Beach	
Castro Street	
Polk Street	
Pacific Avenue	
Regional Commercial District	25,000 square feet

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

14 (a) **Background.** Sitting in the gulch between Nob and Russian Hills and Pacific
 15 Heights, the Polk Street Neighborhood Commercial District extends for a mile as a north-
 16 south linear strip, and includes a portion of Larkin Street between Post and California Streets.
 17 Polk Street's dense mixed-use character consists of buildings with residential units above
 18 ground-story commercial use. The district has an active, pedestrian-oriented, and continuous
 19 commercial frontage along Polk Street for almost all of its length. Larkin Street and side
 20 streets in the district have a greater proportion of residences than Polk Street itself. California
 21 Street and Hyde Street also have active, pedestrian-oriented, and commercial frontage that is
 22 small-scale. The district is well served by transit and includes the historic California Cable Car.
 23 To preserve and maintain the district's small-scale, fine grain storefronts, the consolidation or
 24 merger of existing retail or commercial spaces or storefronts is *generally* prohibited and lot
 25 mergers are controlled. The district provides convenience goods and services to the

1 residential communities in the Polk Gulch neighborhood and to the residents on the west
2 slopes of Nob and Russian Hills. It has many apparel and specialty stores, as well as some
3 automobile uses, which serve a broader trade area. Commercial uses also include offices, as
4 well as movie theaters, restaurants, and bars which keep the district active into the evening.

5 (b) **Controls.**

6 * * * *

7 (2) **Replacement of a Legacy Business Requires Conditional Use**

8 **Authorization.** Where an immediately prior use was a Legacy Business, as defined under
9 Administrative Code Section 2A.242, the controls require any new Non-Residential ~~Use~~ to
10 obtain Conditional Use authorization; provided, however, that this requirement shall not apply
11 where: (A) the subject non-residential space has had no occupant and has not been open to
12 the public for three or more years from the date the application for the new use is filed, ~~or~~ (B)
13 ~~where~~ the Legacy Business has removed itself or has been otherwise removed from the
14 Legacy Business Registry, or (C) the Legacy Business is an existing General Grocery use and is
15 replaced by another business classified as a General Grocery use, and only if the existing General
16 Grocery use is expanded into a building on the same Lot.

17 (3) **Merger of Storefronts Prohibited.** To preserve and maintain the district's
18 small-scale, fine grain storefronts, the consolidation or merger of existing ground floor retail or
19 commercial spaces or storefronts shall be prohibited, except that two adjacent storefronts may
20 be consolidated or merged if: (A) the storefronts are for a Legacy Business on a corner lot
21 within the same building and Block and Lot number, and provided that the consolidation or
22 merger of storefronts would not result in a use size in excess of the principally permitted use
23 size within the Polk Street NCD, or (B) the storefronts are merged by a General Grocery use in
24 association with the replacement of a Legacy Business that is also a General Grocery use, and the
25

1 expansion of the General Grocery use is within a building on the same Lot, and is consistent with the
 2 size limitations in Section 121.2.

3 * * * *

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

				Polk Street NCD	
Zoning Category		§ References	Controls		
NON-RESIDENTIAL STANDARDS AND USES (7)					
* * * *					
			Controls by Story		
			1st	2nd	3rd+
* * * *					
Sales and Service Use Category					
Retail Sales and Service Uses*	§§ 102, 202.2(a), 202.3	P	P	NP	
* * * *					
Flexible Retail	§ 102	NP	NP	NP	
<u>Grocery, General</u>	<u>§§ 102,</u> <u>121.2 (2)</u>	<u>P (2)</u>	<u>P</u>	<u>NP</u>	
* * * *					

22 * * * *

23 (2) USE SIZE EXEMPTION: Per Planning Code Section 121.2(b), Use Size shall
 24 generally not exceed 4,000 square feet except that a Movie Theater as defined in Section 102
 25 may exceed 4,000 square feet. In addition, the enlargement of an existing General Grocery use on

1 the same Lot, and in association with the replacement of a Legacy Business that is also a General
2 Grocery use, may exceed 4,000 square feet.

3 * * * *

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

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

14
15 APPROVED AS TO FORM:
16 DAVID CHIU, City Attorney

17 By: /s/ Austin Yang
18 AUSTIN M. YANG
19 Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Ordinance

File Number: 221023

Date Passed: January 31, 2023

Ordinance amending the Planning Code to authorize replacement of a Legacy General Grocery use with a subsequent General Grocery use in excess of 4,000 square feet in the Polk Street Neighborhood Commercial District; affirming the Planning Department's determination under the California Environmental Quality Act; and 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.

January 23, 2023 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

January 23, 2023 Land Use and Transportation Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

January 24, 2023 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

January 31, 2023 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 221023

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/31/2023 by the Board of Supervisors of the City and County of San Francisco.

Handwritten signature of Angela Calvillo
Angela Calvillo
Clerk of the Board

Handwritten signature of London N. Breed
London N. Breed
Mayor

2/9/23
Date Approved