

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This ordinance deletes outdated references to expiration dates for the special definition of Tobacco Paraphernalia Establishments for the Polk Street and Haight Street NCDs.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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