

1 [Planning Code, Zoning Map - Polk Street Alcohol and Tobacco Paraphernalia Restrictions]

2

3 **Ordinance amending the Planning Code, Section 723, to extend the restriction on**
 4 **Tobacco Paraphernalia Establishments in the Polk Street Neighborhood Commercial**
 5 **District (NCD) for an additional three years and apply it to an area within one-quarter**
 6 **mile of the boundaries of the NCD; adding Section 788 to establish the Lower Polk**
 7 **Street Alcohol Restricted Use District for the properties located on Polk Street between**
 8 **California and O’Farrell Streets, and Polk Street’s side streets between California**
 9 **Street, Larkin Street, O’Farrell Street and Van Ness Avenue; amending the Zoning Map**
 10 **to designate the Lower Polk Street Alcohol Restricted Use District on Map Sheet ZN-02;**
 11 **and making environmental findings, Planning Code, Section 302, findings, and findings**
 12 **of consistency with the General Plan and the Priority Policies of Planning Code,**
 13 **Section 101.1.**

14 NOTE: Additions are *single-underline italics Times New Roman*;
 15 deletions are ~~*strike-through italics Times New Roman*~~.
 16 Board amendment additions are double-underlined;
 17 Board amendment deletions are ~~strike through normal~~.

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

19 Section 1. Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
 21 ordinance comply with the Environmental Quality Act (California Public Resources Code
 22 Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors
 23 in File No. 121065 and is incorporated herein by reference.

24 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
 25 amendments will serve the public necessity, convenience, and welfare for the reasons set

1 forth in Planning Commission Resolution No. _____ and the Board incorporates such
 2 reasons herein by reference. A copy of Planning Commission Resolution No. _____ is
 3 on file with the Clerk of the Board of Supervisors in File No. _____.

4 (c) This Board finds that these Planning Code amendments are consistent with the
 5 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
 6 forth in Planning Commission Resolution No. _____, and the Board hereby
 7 incorporates such reasons herein by reference.

8
 9 Section 2. The San Francisco Planning Code is hereby amended by amending Section
 10 723, to read as follows:

11 **SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
 12 **ZONING CONTROL TABLE**
 13 **SPECIFIC PROVISIONS FOR THE POLK STREET NEIGHBORHOOD**
 14 **COMMERCIAL DISTRICT**

| Article 7 Code Section | Other Code Section | Zoning Controls |
|---------------------------|--------------------------------------|---|
| § 723.69 | § 186.1 § 790.123 <u>§ 788</u> | Tobacco Paraphernalia Establishments – Tobacco Paraphernalia Establishments are not permitted in the Polk Street Neighborhood Commercial District <i>and within one-quarter mile of the boundaries of that Neighborhood Commercial District.</i> The special definition of "Tobacco Paraphernalia Establishments" |

1 applicable to the Polk Street Neighborhood
2 Commercial District shall be repealed ~~three~~ six
3 years after its initial effective date, unless the
4 Board of Supervisors, on or before that date,
5 extends or re-enacts it. In the Polk Street
6 Neighborhood Commercial District, the period
7 of non-use for a non-conforming Tobacco
8 Paraphernalia Establishment to be deemed
9 discontinued shall be 18 months.

10
11 Section 3. The San Francisco Planning Code is hereby amended by adding Section
12 788, to read as follows:

13 **SEC. 788. LOWER POLK STREET ALCOHOL RESTRICTED USE DISTRICT.**

14 (a) Findings. There is an unusually large number of establishments dispensing alcoholic
15 beverages, including beer and wine, for off-site consumption on Polk Street between California Street
16 and O'Farrell Street, and Polk Street's side streets between, but not including, Van Ness Avenue and
17 Larkin Street to the west and east, and between, but not including, California Street to O'Farrell Street
18 to the north and south. The existence of this many alcoholic beverage establishments appears to
19 contribute directly to numerous peace, health, safety and general welfare problems in the area,
20 including loitering, littering, public drunkenness, defacement and damaging of structures, and
21 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and
22 neighborhood lots. The existence of such problems creates serious impacts on the health, safety and
23 welfare of residents of nearby single- and multiple-family areas, including fear for the safety of
24 children, elderly residents, and visitors to the area. The problems also contribute to the deterioration of
25 the neighborhood and concomitant devaluation of property and destruction of community values and

1 quality of life. The number of establishments selling alcoholic beverages and the associated problems
2 discourage more desirable and needed commercial uses in the area.

3 (b) Establishment of the Lower Polk Street Alcohol Restricted Use District. In order to
4 preserve the residential character and the neighborhood-serving commercial uses of the area, the
5 Lower Polk Street Alcohol Restricted Use District is hereby established for the properties located on
6 Polk Street between California Street and O'Farrell Street, and Polk Street's side streets between, but
7 not including, Van Ness Avenue and Larkin Street to the west and east, and between, but not including,
8 California Street and O'Farrell Street to the north and south. The Lower Polk Street Alcohol
9 Restricted Use District shall be designated on Map Sheet Number ZN-02 on the Zoning Map of the City
10 and County of San Francisco.

11 (c) Definitions.

12 (1) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as defined
13 by California Business & Professions Code Section 23004 and 23025, pursuant to a California
14 Alcoholic Beverage Control Board license. It shall not be interpreted to mean an establishment that (A)
15 operates as a Bona Fide Eating Place, as defined in Section 790.142 of this Code, or (B) operates as an
16 "other retail sales and service" use that sells only general groceries or specialty groceries, as defined
17 in Planning Code Section 790.102 (a) or (b), respectively; or (C) operates during daytime hours but
18 operates no later than 12:00 midnight, and is not a location for Entertainment.

19 (2) An "off sale liquor establishment" shall mean a Liquor Store as defined in Planning Code
20 Section 790.55.

21 (3) An "on sale liquor establishment" shall mean a Bar as defined in Planning Code Section
22 790.22

23 (d) Controls.

24 (1) No new on-sale or off-sale liquor establishment shall be permitted in the Lower Polk Street
25 Alcohol Restricted Use District; provided that a liquor establishment located in the Lower Polk Street

1 Alcohol Restricted Use District may transfer its alcohol license to another site, either within or outside
2 the Lower Polk Street Alcohol Restricted Use District, provided that a liquor establishment located
3 outside the Lower Polk Street Alcohol Restricted Use District shall not transfer any alcohol license to a
4 liquor establishment located within the Lower Polk Street Alcohol Restricted Use District.

5 (2) Whenever a liquor establishment has discontinued its use for a continuous period of one
6 hundred eighty (180) days or more, the liquor establishment shall be deemed to have abandoned its use
7 as a liquor establishment; provided that a break in continuous operation shall not be interpreted to
8 include the following, as long as the location of the establishment does not change, the square footage
9 used for the sale of alcoholic beverages does not increase, and the type of California Department of
10 Alcoholic Beverage Control Liquor License ("ABC License") does not change:

11 (A) Re-establishment, restoration or repair of an existing liquor establishment on the same lot
12 after total or partial destruction or damage due to fire, riot, insurrection, toxic accident or other force
13 majeure; or

14 (B) Temporary closure of an existing liquor establishment for not more than one hundred eighty
15 (180) days for repair, renovation or remodeling; or

16 (C) A change in ownership of a Liquor Establishment or an owner-to-owner transfer of an ABC
17 License.

18 (3) All new entertainment permits at a new location shall require approval of a conditional use
19 permit in accordance with the requirements of Planning Code Section 303; provided that Limited-Live
20 Performance Locales, as defined in Section 1060 of the Police Code, shall be principally permitted in
21 Restaurants and Limited-Restaurants; and provided further that a change in ownership on the same
22 site with the same entertainment use shall not require approval of a new conditional use permit.

23 (4) Restaurants with Types 47 and 49 liquor licenses shall not be open past 12:00 midnight.

1 Section 4. The Zoning Map of the City and County of San Francisco shall be amended
2 by amending Sectional Map ZN-02 to establish the boundaries of the Lower Polk Alcohol
3 Restricted Use District and shall include the properties located between, but not including,
4 Van Ness Avenue, Larkin Street, O'Farrell Street and California Street, which includes the
5 following Assessor's Block Numbers, but shall not include the lots within these Assessor's
6 Block Numbers that front on Van Ness Avenue, Larkin Street, O'Farrell Street and California
7 Street:

8 **Assessor's Block Numbers 0645, 0646, 0667, 0668, 0669, 0670, 0691, 0692, 0693,**
9 **0694, 0715, and 0716.**

10 Section 5. Effective Date. This ordinance shall become effective 30 days from the
11 date of passage.

12 Section 6. This section is uncodified. In enacting this ordinance, the Board intends to
13 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
14 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
15 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
16 Board amendment deletions in accordance with the "Note" that appears under the official title
17 of the legislation.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 KATE H. STACY
23 Deputy City Attorney
24
25