BOARD of SUPERVISORS

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March 26, 2018

File No. 180190-2

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On March 20, 2018, Supervisor Peskin introduced the following substitute legislation:

File No. 180190-2

Ordinance amending the Planning Code to extend the Lower Polk Street Alcohol Restricted Use District to June 1, 2023; to expand the circumstances in that District when temporary closures of liquor establishments are not considered abandonment of such uses, and provide that such temporary closures in that District are not considered an enlargement, alteration, intensification, abandonment, or change of use, provided that any demolition permits required for the repair, renovation, or remodeling work have been approved by January 1, 2018; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy Navarrete 4/4/18

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

FILE NO. 180190 SUBSTITUTED 3/20/2018 ORDINANCE NO.

[Planning Code - Lower Polk Street Alcohol Restricted Use District]

Ordinance amending the Planning Code to extend the Lower Polk Street Alcohol Restricted Use District to June 1, 2023; to expand the circumstances in that District when temporary closures of liquor establishments are not considered abandonment of such uses, and provide that such temporary closures in that District are not considered an enlargement, alteration, intensification, abandonment, or change of use, provided that any demolition permits required for the repair, renovation, or remodeling work have been approved by January 1, 2018; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

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. _____ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, 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. _____, and is incorporated herein by reference.

(c) On _____, the Planning Commission, in Resolution No. _____, approved this ordinance, recommended it for adoption by the Board of Supervisors, and adopted findings that it will serve the public necessity, convenience, and welfare. Pursuant to Planning Code Section 302, 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. _____, and is incorporated herein by reference.

Section 2. The Planning Code is hereby amended by revising Section 788, to read as follows:

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

* * * *

(d) **Controls.**

* * * *

(2) Whenever a liquor establishment has discontinued its use for a continuous period of one year or more, the liquor establishment shall be deemed to have abandoned its use as a liquor establishment; provided that a break in continuous operation shall not be interpreted to include the following, as long as the location of the establishment does not change, the square footage used for the sale of alcoholic beverages does not increase, and

the type of California Department of Alcoholic Beverage Control Liquor License ("ABC License") does not change:

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

(B) Temporary closure of an existing liquor establishment for repair, renovation, or remodeling, *including full demolition of an existing building and new construction, and including voluntary repairs, renovations, or remodeling,* provided that permit applications for the repair, renovation, or remodeling work shall be submitted to the City upon or prior to the temporary closure and such permits and work shall be pursued diligently to completion; or

(C) A change in ownership of a liquor establishment or an owner-to-owner transfer of an ABC License.

* * * *

(e) **Sunset ~~*Provision*~~*Date*.** This Section 788 shall *expire by operation of law on June 1, 2023,* ~~*be repealed five (5) years after its initial Effective Date*~~ unless the Board of Supervisors, on or before that date, extends or re-enacts it. *Following its expiration, the City Attorney shall cause this Section to be removed from the Municipal Code.*

Section 3. The Planning Code is hereby amended by revising Section 723, to read as follows:

SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

* * * *

Zoning Category	§ References	Controls		
NON-RESIDENTIAL STANDARDS AND USES (7)				
* * * *				
Sales and Service Use Category				
Retail Sales and Service Uses*	§§ 102, 202.2(a), 202.3	P	P	NP
* * * *				
Bar	§§ 102, 202.2(a)	C*(1)*	NP	NP
* * * *				

* Not listed below

(1) ~~*[Note deleted.]*~~ *Temporary closures of existing liquor establishments for repair, renovation, or remodeling that meet the requirements of Section 788(d)(2)(B) shall not be considered enlargement, alteration, intensification, abandonment, or a change of use of a conditional use permit pursuant to Section 178 of this Code, provided that any demolition permits required for the repair, renovation, or remodeling work have been approved by January 1, 2018.*

* * * *

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

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

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

By: _____
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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FILE NO. 180190

REVISED LEGISLATIVE DIGEST

(Substituted, 3/20/2018)

[Planning Code - Lower Polk Street Alcohol Restricted Use District]

Ordinance amending the Planning Code to extend the Lower Polk Street Alcohol Restricted Use District to June 1, 2023; to expand the circumstances in that District when temporary closures of liquor establishments are not considered abandonment of such uses, and provide that such temporary closures in that District are not considered an enlargement, alteration, intensification, abandonment, or change of use, provided that any demolition permits required for the repair, renovation, or remodeling work have been approved by January 1, 2018; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Section 788 of the Planning Code creates the Lower Polk Street Restricted Use District. The District was created for five years since its effective date, and will expire on May 30, 2018.

Amendments to Current Law

This Ordinance extends the duration of the Lower Polk Street Restricted Use District by another five years, until June 1, 2023.

The Ordinance also expands the circumstances, in that District, when temporary closures of liquor establishments are not considered abandonment of such uses, and provide that such temporary closures are not considered an enlargement, alteration, intensification, abandonment, or change of use, provided that any demolition permits required for the repair, renovation, or remodeling work have been approved by January 1, 2018.

Background Information

This revised Legislative Digest was prepared for substitute legislation introduced on March 20, 2018.

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