



# NEW PLANNING CODE SUMMARY

## Tobacco Paraphernalia Establishments in North of Market Special Use District & Lower Polk Street Neighborhood Commercial District

<b>Amended Sections:</b>	102, 209.3, 210.2, 249.5 & 744
<b>Case Number:</b>	2023-011362PCA
<b>Board File/Enactment #:</b>	231225/070-24
<b>Initiated by:</b>	Supervisor Preston
<b>Effective Date:</b>	May 5, 2024

The Ordinance amended the Planning Code to prohibit in the North of Market Special Use District (SUD), the Lower Polk Street Neighborhood Commercial District (NCD), and within a quarter mile radius of the Lower Polk Street NCD, Tobacco Paraphernalia Establishments where any Tobacco Paraphernalia is sold, delivered, distributed, furnished, or marketed, and to establish that after 180 days of non-use a legal non-conforming Tobacco Paraphernalia Establishment in the SUD or NCD will be deemed abandoned, preventing its restoration.

### The Way It Was:

1. Planning Code Section 102 defines Tobacco Paraphernalia Establishment (TPE) as “A Retail Sales and Service Use 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 from one person to another.” Additionally, in the Polk Street NCD and the Haight Street NCD, TPE’s were defined as a retail use that sells *any* amount of tobacco paraphernalia.
2. There are two zoning districts within the North of Market SUD: C-3-G and RC-4. Tobacco Paraphernalia Establishments were Conditionally Permitted in both districts. TPE’s were Conditionally Permitted in the Lower Polk Street Neighborhood Commercial District (Lower Polk Street NCD).
3. Generally, legal non-conforming uses are considered abandoned after a three-year period of discontinuance.

### The Way It Is Now:

1. The special definition of TPE’s that applies to the Polk Street NCD and the Haight Street NCD has been

extended to apply to the NoMa SUD and the Lower Polk Street NCD.

2. TPE's are Not Permitted (NP) within the NoMa SUD, the Lower Polk Street NCD, or within a quarter mile radius of the Lower Polk St. NCD.
3. Any legal, non-conforming TPE within the NoMa SUD or the Lower Polk Street NCD will be considered abandoned after a 180-day period of discontinuance.

**Link to Signed Legislation:**

<https://sfgov.legistar.com/View.ashx?M=F&ID=12830435&GUID=A60431CC-1E18-422D-907E-BF4091F1AF9D>