



# SAN FRANCISCO PLANNING DEPARTMENT

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## New Planning Code Summary:

### Extending the Restriction on Tobacco Paraphernalia within the Polk Street Neighborhood Commercial District, and Establishing the Lower Polk Alcohol Restricted Use District

**Code Changes:** Amendment to Section 723 (Polk Street NCD), and the establishment of a new Section 788 (Lower Polk Street Alcohol Restricted Use District), Amendment to Zoning Map Sheet ZN-02

**Case Number:** Board File No. 12-1065

**Initiated by:** Supervisor Chiu

**Effective Date:** May 30, 2013

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## The Way It Was:

### Tobacco Paraphernalia Establishments

Section 723 of the Planning Code defined specific provisions for the Polk Street Neighborhood Commercial District (Polk Street NCD), and included Section 723.69, which prohibited Tobacco Paraphernalia Establishments within the NCD. Planning Code Section 790.123 provided a special definition of Tobacco Paraphernalia Establishment within the Polk Street NCD (and other districts): a retail use where any quantity of Tobacco Paraphernalia is sold, distributed, delivered, furnished or marketed from one person to another. This prohibition was to be repealed on January 15, 2013, three years after its initial effective date of January 15, 2010.

**Previously, there was not a Lower Polk Alcohol Restricted Use District (Lower Polk Alcohol RUD).** Instead, parcels in this area relied on the prevailing zoning district controls for alcohol related controls. Zoning controls for this area ranged as follows:

- The **Polk Street NCD** governs alcohol-related uses as follows: liquor stores, bars, and restaurants require Conditional Use Authorization pursuant to Planning Code Section 303. In addition to the Section 303 findings, the Planning Commission must also find that restaurants operate as a Bona Fide Eating Establishment pursuant to Section 790.142.
- The **NC-3 Zoning District** governs alcohol-related uses as follows: liquor stores are not permitted at the ground floor, while bars, limited restaurants, and restaurants are permitted at the ground floor.

## New Planning Code Summary: Polk Street NCD Tobacco and Lower Polk Alcohol RUD

- The **RC-4 Zoning District** governs alcohol-related uses as follows: liquor stores are permitted at the ground level, and bars, limited restaurants, and restaurants are permitted at the ground level because they are permitted at the ground level within NC-3 districts.

### The Way It Is Now:

#### Tobacco Paraphernalia Establishments

Section 723 has been amended to extend the special definition of Tobacco Paraphernalia Establishments applicable within the Polk Street NCD for three additional years, until January 15, 2016. Further, the prohibition on Tobacco Paraphernalia Establishments now applies to areas within ¼ mile of the boundaries of the Polk Street NCD.

#### Lower Polk Alcohol RUD

Section 788 has been added to create a Lower Polk Street Alcohol RUD. This district extends along Polk Street from California Street to the north, to O'Farrell Street to the south, without including the lots that front on California and O'Farrell Streets, and also extends west to Van Ness Avenue, excluding the lots that front on Van Ness, and east to Larkin Street, excluding the lots that front on Larkin. The new Lower Polk Alcohol RUD overlaps with the existing Polk Street NCD, RC-4, and NC-3 Zoning Districts.

Within the new Lower Polk Street Alcohol RUD, the following controls apply:

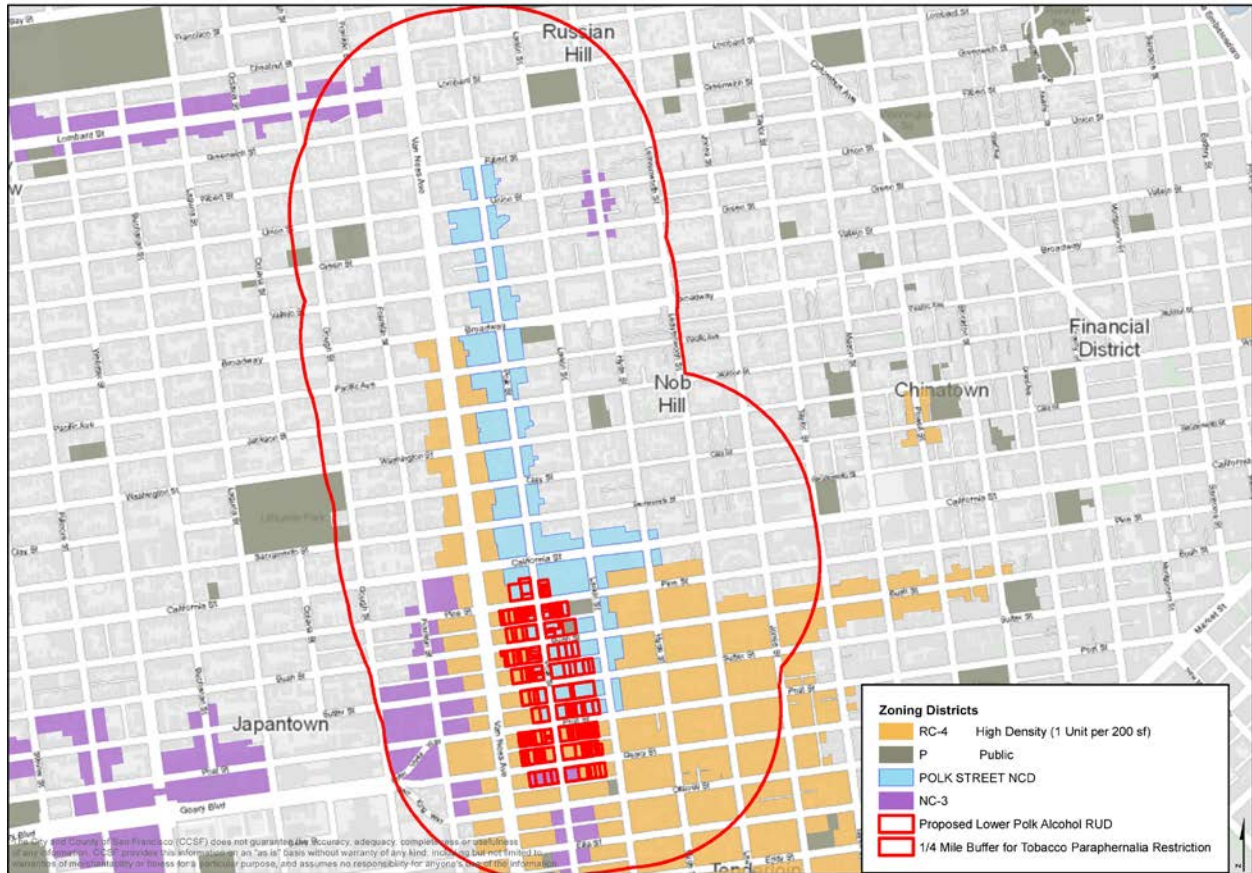
1. No new on-sale or off-sale liquor establishment may be approved. Liquor licenses may be transferred within the Polk Street Alcohol RUD, provided that no new liquor licenses are transferred into the district from outside of the district. Transfers within the proposed district require Conditional Use Authorization. Bona Fide Eating Establishments, as defined in Section 790.142, are not subject to the prohibition;
2. Liquor establishments are considered an abandoned use if the use has been discontinued for one year or more; and,
3. New restaurants with Types 47 or 49 liquor licenses may only be open after midnight if they serve meals until closing.

The controls outlined for the Lower Polk Alcohol RUD will sunset on May 30, 2018, five years after the effective date of this Ordinance.

The new Tobacco Paraphernalia Establishment buffer, as well as the new Lower Polk Alcohol RUD with the underlying zoning districts are shown in the map below.

# New Planning Code Summary: Polk Street NCD Tobacco and Lower Polk Alcohol RUD

## Existing Zoning Districts and Proposed Lower Polk Alcohol RUD



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Link to signed legislation:

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|--------|-------------------------|----------|--|
| 121065 | <a href="#">0074-13</a> | 05/30/13 | Planning Code, Zoning Map - Polk Street Alcohol and Tobacco Paraphernalia Restrictions; Establishing Lower Polk Street Alcohol Restricted Use District |
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