SAN FRANCISCO
PLANNING
DEPARTMENT

GENERAL PLANNING INFORMATION

Tobacco Paraphernalia Establishments

Date:
October 2012

Subject:
Regulations for establishments which sell tobacco paraphernalia

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

What is Tobacco Paraphernalia?

Tobacco Paraphernalia means devices or instruments for the smoking, ingesting or inhaling of tobacco, products prepared from tobacco, or controlled substances.

What is a Tobacco Paraphernalia Establishment?

A Tobacco Paraphernalia Establishment is any retail use where either (1) more than 10% of the occupied floor area **or** (2) more than 10 linear feet of display area projected to the floor, is dedicated to the distribution or marketing of Tobacco Paraphernalia. (In other words, if either the 10% standard is met or the 10 linear foot standard is met, the use is considered a Tobacco Paraphernalia Establishment.) Examples of each situation appear below.

Figure 1
10% of occupied floor area

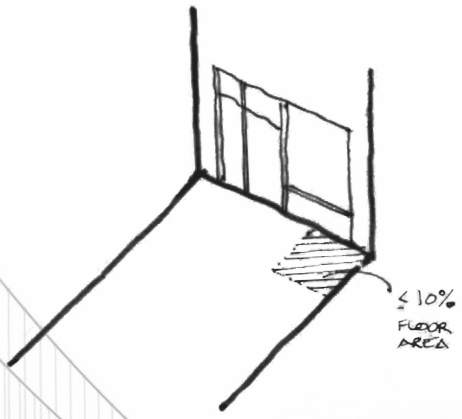
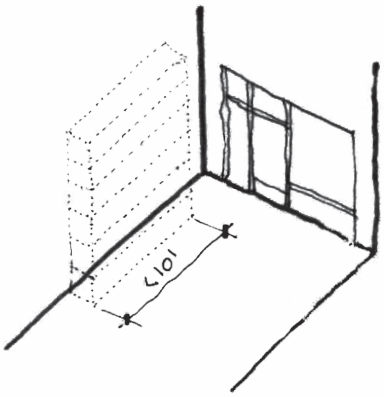


Figure 2
10 linear feet of display area



What are the rules for Tobacco Paraphernalia Establishments?

Tobacco Paraphernalia Establishments are either (1) prohibited from opening for business without first obtaining a Conditional Use authorization from the Planning Commission or (2) in certain Zoning Districts, prohibited from opening whatsoever.

Are any Tobacco Paraphernalia Establishments 'grandfathered'?

Yes. 'Grandfathering' is a term meaning that legal uses which pre-date a new restriction can continue to operate despite that newer restriction. Tobacco Paraphernalia Establishments were first regulated under the Planning Code in December 2008. A retail use that lawfully distributed Tobacco Paraphernalia prior to that date may continue to do so, so long as the area devoted to Tobacco Paraphernalia does not expand in any way. Note that grandfathering is not affected by any changes of ownership of the establishment. However, if the distribution of Tobacco Paraphernalia has ceased for three or more years, it is deemed "abandoned" and cannot be reactivated except by complying with all regulations applicable to new Tobacco Paraphernalia Establishments.

Additional regulations in the Polk Street NCD

In the Polk Street Neighborhood Commercial District (generally properties along Polk Street between Post & Filbert Streets and along Larkin Street between Post & Sacramento Streets), no retail use selling *any* amount of Tobacco Paraphernalia whatsoever is allowed. In other words, unlike elsewhere in the City, selling even a single smoking device is not allowed. Additionally, the period of abandonment discussed on the other side of this document is 18 months rather than three years.

Additional regulations along Haight Street

In the Haight Street Neighborhood Commercial District and Lower Haight Street Tobacco Paraphernalia Restricted Use District (together, the neighborhood commercial areas along Haight Street between Webster & Stanyan Streets), the period of abandonment discussed above is 18 months rather than three years.

What if I break the rules?

Violations of the Planning Code are subject to daily penalties of up to $250 for each day the violation exists. We want to help you comply with the Planning Code; if you would like to distribute Tobacco Paraphernalia and have any questions whatsoever, please call or visit the Planning Information Center during regular business hours. Our location and contact information appears below.

SAN FRANCISCO
PLANNING
DEPARTMENT

FOR OTHER PLANNING INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: **415.558.6378**
FAX: **415.558.6409**
WEB: **http://www.sfplanning.org**

Planning Information Center (PIC)
1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: **415.558.6377**

Planning staff are available by phone and at the PIC counter. No appointment is necessary.