



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: OCTOBER 11, 2018  
90-DAY DEADLINE: OCTOBER 29, 2018

*Project Name:* **Prohibiting Employee Cafeterias within Office Space**  
*Case Number:* **2018-010552PCA** [Board File No. 180777]  
*Initiated by:* Supervisors Safai, Peskin / Introduced July 24, 2018  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to prohibit Employee Cafeterias, as defined in the Health Code, within Office Space. Existing Employee Cafeterias would be allowed to remain as a legal nonconforming Accessory Use.

#### The Way It Is Now:

Employee Cafeterias, as defined in the Health Code, are allowed within Office Uses<sup>1</sup> as an Accessory Use.

#### The Way It Would Be:

Employee Cafeterias would be prohibited within Office Uses. Existing Employee Cafeterias lawfully existing or finally approved as of July 24, 2018 would be allowed to continue and maintained as a legal nonconforming Accessory Use but could not be expanded or re-installed if abandoned.

### BACKGROUND

With the approval of the Central Market Payroll Tax Exclusion in 2011 the City has eagerly awaited the revitalization of the Mid-Market Area. Many prominent technology firms located within the Mid-Market Area to take advantage of the payroll tax relief, bringing with them thousands of new employees.<sup>2</sup> Soon

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<sup>1</sup> Per Section 102 of the Planning Code an Office Use is defined as: A grouping of uses that includes General Office, Retail Professional Services, and Non-Retail Professional Services. This use shall exclude: retail uses other than Retail Professional Services; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; and design showrooms or any other space intended and primarily suitable for display of goods.

<sup>2</sup> Mayor Lee's Statement on Central Market/Tenderloin Payroll Tax Exclusion Report. October 27, 2014. Accessed September 24, 2018. <https://sfmayor.org/article/mayor-lees-statement-central-markettenderloin-payroll-tax-exclusion-report>

thereafter several restaurants followed.<sup>3</sup> Combined with hundreds of new residential units, new and renovated hotel units, and adjacent theater and arts uses, there was a general expectation that the Mid-Market Area retail and pedestrian life would be revitalized. Unfortunately, many of the restaurants attracted to the area have since closed or continue to struggle.<sup>4</sup> Further, many still perceive the area as undesirable or blighted. Some attribute, at least partially, the neighborhood's shortcomings to employee cafeterias installed by the new tenants in the area. These cafeterias typically provide free food to their employees disincentivizing them from going out and patronizing nearby businesses.

The City is also poised to approve the Central SoMa Plan, which will bring millions of square feet of new office space to the City. Central SoMa Plan is a comprehensive plan for the area surrounding much of southern portion of the Central Subway transit line. The Plan would change allowable land uses and zoning controls, increase heights on many parcels within the Plan area, proposes substantial changes to the street network to accommodate multiple modes of travel, and would provide additional recreational resources. The plan is projected to provide approximately 8,570 housing units and 32,500 jobs. The hope is that this new plan will create a vibrant new neighborhood in this area of the city; however one of the concerns is that the new office spaces in this area will also come with free employee cafeterias, which may repeat the situation we currently have in the Mid-Market.

## ISSUES AND CONSIDERATIONS

### Other jurisdictions

A similar proposal to this ordinance was recently enacted in Mountain View, California, although it is limited to a proposed development. In Mountain View, there a 9.9-acre site, known as Phase 2 of the San Antonio Center, was recently approved for redevelopment. The project included 120,000 square feet of commercial, retail and restaurant use, 70,000 square foot cinema, a 167-unit hotel, and 397,000 square feet of office use. To help assure patronage of the restaurants, the office uses in this project are subject to operating conditions that encourage use of the food and retail services at the San Antonio Center. Employers may subsidize or pay for employee meals if they are patronizing restaurants at the San Antonio Center. However, employers are prohibited from subsidizing meals by more than fifty percent or providing free meals for employees in the office space on a regular daily basis. This project specific regulation may also be considered for amendment at the request of office tenants or other applicants over time.<sup>5</sup>

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<sup>3</sup> "As Twitter Tax Break Nears Its End, Mid-Market Restaurants Feel Glimmer of Hope." Carolyn Alburger. September 19, 2018. Accessed September 25, 2018.

<https://sf.eater.com/2018/9/19/17862118/central-market-tax-exclusion-restaurants-post-mortem-future>

<sup>4</sup> "Mid-Market Needs to Find its Heart in order to Become a Real Neighborhood." Brock Keeling. September 19, 2018. Accessed September 25, 2018. <https://sf.curbed.com/2018/9/19/17861316/midmarket-neighborhood-development-mission>

<sup>5</sup> San Antonio Center, Phase 2.

<https://www.mountainview.gov/depts/comdev/planning/activeprojects/sanantcenter.asp>

Condition 42: Cafeteria Condition: In order to foster synergy between office, restaurant, and retail uses in the Center and realize the economic vitality of the project, the project anticipates employees in the office space will utilize food and retail services available in the Center. The applicant will encourage tenants and employees of tenants to utilize food and retail services available in the Center. Neither the applicant

### Health Code Definition of Employee Cafeterias

While the Planning Code has definitions for various food serving uses, it does not have a use definition for Employee Cafeterias; however, the Health Code does and defines an Employee Cafeteria as:

*a food facility located within business premises where the business employees are provided or sold food on a regular basis. Food and drink are not regularly served to the public and the food establishment is not subject to tax. The operators of the food facility are either employees of the business or are contracted by that business.<sup>6</sup>*

Employee cafeterias vary in their provision of food and drink. Some prepare food and drink in on-site full-service kitchens requiring an exhaust ventilation system. These often offer multiple choices in cuisine, sometimes made to order, and in many ways resemble private restaurants or food courts. Others offer pre-packaged snacks, breakfast items, and beverages but do not cook food in a kitchen facility requiring an exhaust ventilation system. These are akin to employee break rooms that are furnished with some food and small domestic appliances like toasters and coffee makers. Distinguishing between these two cafeteria types is essential when seeking to regulate employee cafeterias. Cafeterias with on-site full-service kitchens directly compete with nearby restaurants, while those with only small domestic appliances are less likely to compete. Department of Public Health (DPH) Staff also makes this type of distinction in their permitting, inspections and collaboration with other City agencies.

### Catering

The proposed ordinance does not prohibit employers from having lunch delivered to the office for its employees, nor is there any mechanism for this Planning Department to prohibit this type of activity. It is conceivable that office tenants restricted by this Ordinance would create large employee break rooms for caterers to provide food to their employees during the work week. Creating spaces that are just short of a full-service kitchen could serve as a work around to the proposed cafeteria prohibition.

### Impacts on Jobs

Another consideration is that employee cafeteria workers often enjoy better remuneration and working conditions than their counterparts in restaurants. One source notes that entry level pay for employee cafeteria workers can be up to 30% more than the minimum wage paid to kitchen staff in San Francisco restaurants.<sup>7</sup> It is also reported that employee cafeteria workers have more predictable working hours,

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nor tenant(s) will subsidize meals by more than fifty percent (50%) or provide free meals for employees in the office space on a regular daily basis. An employer can subsidize or pay for employee meals as long as they are patronizing restaurants in the Center. The applicant may make a request to amend this condition. The City Manager or a designee may make a recommendation to the City Council on this matter.

<sup>6</sup> San Francisco Health Code Article 8 Section 451: Food Preparation and Service Establishment

<sup>7</sup> Arvanitidis, Laurel. e-mail message from the Office of Workforce and Economic Development regarding correspondence with sf.citi, October 1, 2018

Sciacca, Annie. "The highest-paid restaurant workers are in San Francisco, survey says." Bizjournals. February 11, 2015. Accessed October 2, 2018.

have work hours amenable to child rearing and family life, and some enjoy unionization. The Ordinance would not remove these existing jobs, it would prevent new jobs like these by prohibiting new employee cafeterias.

### Alternatives to a Complete Ban

As an alternative to an outright prohibition on new Employee Cafeterias, the Department believes that there are ways to incentivize businesses to not add employee cafeterias to new office space, and help encourage employees to patronize local restaurants. This approach could include relaxing certain Planning Code requirements on Office use in exchange for not adding an employee cafeteria. Conversely, when an Employee Cafeteria is added, additional requirements to encourage employees to venture out into the neighborhood could be required as conditions of approval. The following are some possible alternatives to a complete ban on cafeterias:

#### Incentives for foregoing an Employee Cafeteria

1. Allow Office uses at the First Story and below in zoning districts where Office uses require Conditional Use authorization

In most Downtown Commercial Districts (C-3), Office Uses at or below the ground floor require Conditional Use authorization. As an incentive to not add an Employee Cafeteria, new office space would be allowed as of right at the first story and below and could even be excluded from the FAR requirements in new buildings. To ensure an active street frontage any first story office uses should be required to be set back 10-25 feet in accordance with the Planning Code standards. Further, Landmark buildings and buildings in the C-3-R (Downtown Retail, aka Union Square) should not be allowed to avail themselves of this exemption.

2. Exempt from Gross Floor Area up to 15,000 square feet of first story space if that first story space is devoted to personal services, restaurants, and retail sales of goods intended to meet the convenience shopping and service needs of downtown workers and residents.

The definition of Gross Floor Area in Planning Code Section 102 currently exempts up to 5,000 square feet from the Gross Floor Area calculation in C-3 zoning districts if it is devoted to retail uses at the first story. Increasing the exempted amount could serve as an incentive for new buildings to not provide an employee cafeteria and allows that increased area to be used for office activities. This definition could also be amended to provide this exception to zoning districts within the Central SoMa plan area.

3. Allow Employee Cafeterias on the first story if they are open to the public

Since Employee Cafeterias are accessory uses to a principle Office Use, their allowed location is subject to the underlying zoning district's regulations on Office Uses. Allowing an Employee Cafeteria on the first story would allow an activity regulated as an Office Use where it typically is

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<https://www.bizjournals.com/sanfrancisco/blog/2015/02/restaurants-san-francisco-bars-minimum-wage.html>

prohibited. The Planning Department, however, believes that the Employee Cafeteria should be open to the public. This public accessibility would help enliven the street and contribute to the quality of the public realm.

#### Requirements for Establishing an Employee Cafeteria

1. Require the provision of meal vouchers to employees for use at nearby restaurants.

To help offset the effect that subsidized Employee Cafeteria meals have upon local restaurants, office tenants would be required to provide their employees meal vouchers. These would be used to patronize nearby restaurants and help contribute to an enlivened pedestrian realm.

2. Require reporting to Office of Economic and Workforce Development (OEWD) as part of the DPH annual licensing for food facilities

DPH requires an annual licensing of all food facilities, including Employee Cafeterias. At the time of licensing it would be valuable to confirm the number of vouchers distributed to employees for use at local restaurants. Further, if an office has provided a cafeteria on the ground floor open to the public, it would also be valuable to know the extent to which the public is served by the employee cafeteria.

3. Amend the considerations under Planning Code Section 321 that the Planning Commission makes when considering approval of an Office development.

When the Planning Commission reviews office projects of 25,000 square feet or larger, it evaluates how well the project promotes the public welfare, convenience and necessity. When an office building project intends to allow Employee Cafeterias for future tenants, the Planning Commission should also consider how an Employee Cafeteria would promote the public welfare, convenience and necessity. Specific considerations should be made regarding existing restaurant concentration within a 300-foot radius of the office project; whether a future Employee Cafeteria will be at the first story and accessible to the public; and whether the Employee Cafeteria will provide workforce opportunities for local residents by coordinating with the OEWD to engage with the City's workforce system to provide employment opportunities and career trainings.

With this approach it is possible that new street enhancing retail spaces are created while also adding to the City's supply of office space. And when an Employee Cafeteria is established, adjacent restaurants may also see increased patronage through employer provided meal vouchers. In short, this approach can result in greater benefits to the City than a strict prohibition.

#### **General Plan Compliance**

##### Commerce and Industry Element

**Objective 1:** Manage economic growth and change to ensure enhancement of the total city living and working environment.

**Policy 1.2:** Assure that all commercial and industrial uses meet minimum, reasonable performance standards

The proposed Ordinance would help ensure that new employee cafeterias are regulated to lessen negative effects upon existing eating and drinking establishments.

#### Urban Design Element

**Objective 4:** Improvement of the neighborhood environment to increase personal safety, comfort, pride, and opportunity

**Fundamental Principles for Neighborhood Environment:** Principle #16 Continuity of interest and activities at ground level in commercial buildings adjacent to pedestrian ways creates rich street life and enhances pedestrian experiences.

The proposed Ordinance would help provide new patrons to ground level retail activity in office buildings. This will boost street life and enhance the pedestrian experience.

#### Downtown Area Plan

**Objective 3:** Improve Downtown San Francisco's position as the region's prime location for specialized retail trade.

**Policy 3.5:** Meet the convenience needs of daytime downtown workers

By limiting the number of new private eating facilities, the proposed Ordinance helps eating and drinking establishments open to all downtown workers thrive.

#### Transit Center District Plan

**Objective 1.4** Ensure the District maintains areas that contain concentrations of ground-level public-serving retail and convenience uses for workers and visitors.

**Objective 2.12** Ensure that development is pedestrian-oriented, fostering a vital and active street life.

The proposed Ordinance would limit the number of new private eating facilities and help ensure that ground-level eating and drinking establishments meet the demand for meals. This also bolsters the street life because many eating and drinking establishments will locate at ground-level.

#### **Implementation**

The Department has determined that this Ordinance will impact our current implementation procedures. It will require Planning Department Staff to coordinate with DPH Staff to determine if Building Permit Applications proposing tenant improvements that include a full-service kitchen with exhaust ventilation systems constitute an Employee Cafeteria as defined by the Health Code.

#### **RECOMMENDATION**

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Assure that DPH has the proper procedures or Health Code amendments in place to differentiate between cafeterias with full-service kitchens requiring ventilation exhaust systems and those that do not.
2. From the various proposals outlined in this report, create a set of incentives to forego inclusion of an Employee Cafeteria in Office space and a set of additional requirements when including an Employee Cafeteria in Office space.

## BASIS FOR RECOMMENDATION

The Department supports the Ordinance's intention to help maintain and enhance vibrant neighborhoods and pedestrian activity. The Department also supports the Ordinance's intention to induce patronage of neighborhood businesses; however, the Department finds that modifications should be made to better focus the proposed regulation's effects, and to provide flexibility to Office Uses regarding their decision on including an Employee Cafeteria. The modifications include the following:

**Recommendation 1: Assure that DPH has the proper procedures or Health Code amendments in place to differentiate between cafeterias with full-service kitchens requiring ventilation exhaust systems and those that do not.** There is a stark difference between employee cafeterias with full-service kitchens and those without. Full-service kitchens allow a cafeteria to resemble a restaurant and actively compete with the San Francisco's restaurants for patronage. Since the Ordinance seeks to control the proliferation of cafeterias that compete with restaurants, it is crucial that the implementing City agencies can focus on facilities with full-service kitchens requiring exhaust ventilation systems.

**Recommendation 2: Create a set of incentives to forego inclusion of an Employee Cafeteria in Office space and a set of additional requirements when including an Employee Cafeteria in Office space.** Rather than imposing a prohibition on Employee Cafeterias, the Department prefers creating a set of incentives for foregoing their inclusion and another set of additional requirements for their inclusion. The proposed alternatives listed above can help offset the negative impacts of adding Employee Cafeterias to office space by removing some of their competitive advantage of free meals through a voucher program. They can also help activate street frontages by allow employee cafeterias open to the general public on the ground floor, or they can disincentives the inclusion of cafeterias by providing incentives to office developers in the form of bonus gross floor area or additional office space.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 180777



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

HEARING DATE OCTOBER 11, 2018

*Project Name:* Prohibiting Employee Cafeterias within Office Space  
*Case Number:* 2018-010552PCA [Board File No. 180777]  
*Initiated by:* Supervisors Safai, Peskin / Introduced July 24, 2018  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
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**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROHIBIT EMPLOYEE CAFETERIAS, AS DEFINED IN THE HEALTH CODE, WITHIN OFFICE SPACES, EXCEPT FOR EXISTING EMPLOYEE CAFETERIAS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on July 24, 2018 Supervisors Safai and Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180777, which would amend the Planning Code to prohibit Employee Cafeterias, as defined in the Health Code, within Office space, except for existing Employee Cafeterias;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 11, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and



MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

The modifications include:

1. Assure that DPH has the proper procedures or Health Code amendments in place to differentiate between cafeterias with full-service kitchens requiring ventilation exhaust systems and those that do not.
2. Create a set of incentives to forego inclusion of an Employee Cafeteria in Office space and a set of additional requirements when including an Employee Cafeteria in Office space.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Measures taken to bolster the City's pedestrian environment should be supported, especially in nascent neighborhoods. This includes Ordinances that attempt to help induce patronage of ground floor retail establishments.
2. When regulating identified uses of concern, like Employee Cafeterias, flexibility should be included into any Ordinance. In this case a set of incentives for foregoing inclusion of an Employee Cafeteria in Office space and additional requirements when choosing to include one should form the basis of the new regulation.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL LIVING AND WORKING ENVIRONMENT.

#### Policy 1.2

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

*The proposed Ordinance would help ensure that new employee cafeterias are regulated to lessen negative effects upon existing eating and drinking establishments.*

## URBAN DESIGN ELEMENT

### OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE, AND OPPORTUNITY.

**Fundamental Principles for Neighborhood Environment: Principle #16**

Continuity of interest and activities at ground level in commercial buildings adjacent to pedestrian ways creates rich street life and enhances pedestrian experiences.

*The proposed Ordinance would help provide new patrons to ground level retail activity in office buildings. This will boost street life and enhance the pedestrian experience.*

**DOWNTOWN AREA PLAN**

**OBJECTIVE 3**

IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

**Policy 3.5**

Meet the convenience needs of daytime downtown workers.

*By limiting the number of new private eating facilities, the proposed Ordinance helps eating and drinking establishments open to all downtown workers thrive.*

**TRANSIT CENTER DISTRICT PLAN**

**OBJECTIVE 1.4**

ENSURE THE DISTRICT MAINTAINS AREAS THAT CONTAIN CONCENTRATION OF GROUND-LEVEL PUBLIC-SERVING RETAIL AND CONVENIENCE USES FOR WORKERS AND VISITORS.

**OBJECTIVE 2.12**

ENSURE THAT DEVELOPMENT IS PEDESTRIAN-ORIENTED, FOSTERING A VITAL AND ACTIVE STREET LIFE.

*The proposed Ordinance would limit the number of new private eating facilities and help ensure that ground-level eating and drinking establishments meet the demand for meals. This also bolsters the street life because many eating and drinking establishments will locate at ground-level.*

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would help preserve existing neighborhood-serving retail and help new neighborhood-serving retail by restricting private cafeteria uses.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would help build neighborhood character by bolstering demand for existing eating and drinking uses.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing because it concerns itself with retail uses within Office spaces.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*Because the Ordinance proposes to restrict new cafeterias within Office spaces, it would not negatively affect MUNI transit service or overburden the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired because the Ordinance proposes to restrict allowed accessory uses within Office spaces.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance proposes to restrict accessory uses within Office spaces.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings because the Ordinance proposes to restrict accessory uses within Office spaces.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because the Ordinance proposes to restrict accessory uses within Office spaces.*

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 11, 2018.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 11, 2018

1 [Planning Code - Prohibiting Employee Cafeterias within Office Space]

2

3 **Ordinance amending the Planning Code to prohibit Employee Cafeterias, as defined in**  
 4 **the Health Code, within Office space, except for existing Employee Cafeterias;**  
 5 **affirming the Planning Department’s determination under the California Environmental**  
 6 **Quality Act; making findings of consistency with the General Plan, and the eight**  
 7 **priority policies of Planning Code, Section 101.1; and adopting findings of public**  
 8 **necessity, convenience, and welfare under Planning Code, Section 302.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
 10 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
 11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
 12 **Board amendment additions** are in double-underlined Arial font.  
 13 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
 14 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
 15 subsections or parts of tables.

13

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

15

16 Section 1. Findings.

17 (a) The Planning Department has determined that the actions contemplated in this  
 18 ordinance comply with the California Environmental Quality Act (California Public Resources  
 19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
 20 Supervisors in File No. 180777 and is incorporated herein by reference. The Board affirms  
 21 this determination.

22 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
 23 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
 24 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board

25

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
4 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in  
5 Planning Commission Resolution No. \_\_\_\_\_.

6  
7 Section 2. The Planning Code is hereby amended by revising Sections 102 and 202.2,  
8 to read as follows:

9 **SEC. 102. DEFINITIONS.**

10 \* \* \* \*

11 **Office, General.** A Non-Retail Sales and Service Use that includes space within a structure or  
12 portion thereof intended or primarily suitable for occupancy by persons or entities which  
13 perform, provide for their own benefit, or provide to others at that location, services including,  
14 but not limited to, the following: professional, banking, insurance, management, consulting,  
15 technical, sales, and design; and the non-accessory office functions of manufacturing and  
16 warehousing businesses, multimedia, software development, web design, electronic  
17 commerce, and information technology. This use shall exclude Non-Retail Professional  
18 Services as well as Retail Uses; repair; any business characterized by the physical transfer of  
19 tangible goods to customers on the premises; wholesale shipping, receiving and storage; and  
20 design showrooms or any other space intended and primarily suitable for display of goods. An  
21 Office use is subject to the operating conditions of Section 202.2 of this Code.

22 \* \* \* \*

23 **SEC. 202.2. LOCATION AND OPERATING CONDITIONS.**

24 \* \* \* \*

25

1            (j) **Non-Retail Sales and Service Use; Office.** An “Employee Cafeteria,” as defined in  
2 Section 451(h) of the Health Code, is a prohibited use in Office space. Any such use lawfully existing or  
3 finally approved as of July 24, 2018 may continue and be maintained as a legal nonconforming  
4 Accessory Use but may not be expanded or re-installed if abandoned.

5  
6            Section 3. Effective Date. This ordinance shall become effective 30 days after  
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10  
11            Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
15 additions, and Board amendment deletions in accordance with the “Note” that appears under  
16 the official title of the ordinance.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: \_\_\_\_\_  
21 JUDITH A. BOYAJIAN  
22 Deputy City Attorney

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25