



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: MARCH 7, 2019

90-DAY DEADLINE: MARCH 10, 2019

Project Name: Conditional Use Authorization Required for Employee Cafeterias within Office Space

Case Number: 2018-010552PCA [Board File No. 180777]

Initiated by: Supervisors Safai and Peskin / Amended in Committee December 10, 2018

Staff Contact: Diego Sanchez, 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**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to require Conditional Use authorization for Employee Cafeterias, as defined, within Office space.

The Way It Is Now:

Employee Cafeterias, as defined in the Health Code, are allowed within Office Uses¹ as an Accessory Use.

The Way It Would Be:

Employee Cafeterias would require Conditional Use authorization 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

On October 15, 2017, the Planning Commission moved to disapprove the proposed Ordinance that would have prohibited Employee Cafeterias within Office Uses and recommended that the Board of Supervisor explore alternatives to the proposed prohibition.² The Planning Commission found that the proposed prohibition was too blunt of a regulation. It noted that Employee Cafeterias often hire locally, contract with local vendors, and can be used by local organizations or institutions for after-hours events. It also

¹ 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.

² Planning Commission Resolution No. 20327

found that new regulations on Employee Cafeterias, if pursued, should include an enhanced entitlement process, cafeteria size, and geographic considerations, among other alternative regulations.

At the December 10, 2018 Land Use Committee Supervisor Safai moved that the Ordinance prohibiting Employee Cafeterias within Office Space be amended to require Conditional Use authorization for Employee Cafeterias within Office Space and included specific Conditional Use findings. Supervisor Safai also modified how the term Employee Cafeteria is defined within the Planning Code. The Land Use Committee unanimously approved the motion to amend the Ordinance. Due to the substantive nature of the amendments the Ordinance was referred back to the Planning Commission for its consideration.

On February 26, 2019 Supervisor Safai provided Planning Department staff with a subsequent version of the proposed Ordinance. This subsequent version marked "Forthcoming", and attached as Exhibit B, includes the following changes:

1. Page 3, Line 11: The date of July 24, 2018 has been changed to "the date this Section 202.2(j) was enacted."
2. Page 3, Lines 22-24: Language in Conditional Use criteria nos. 2 and 3 is modified
3. Page 4, Lines 5-13: Conditional Use criteria nos. 6-8 are added
4. Page 4, Lines 14-18: A Condition of Approval requirement is added

Planning Department staff understands that these changes will be officially made at a subsequent Land Use Committee.

ISSUES AND CONSIDERATIONS

Conditional Use Findings

Conditional Use (CU) findings should help shape proposals to the benefit of larger City goals and policies. When this ordinance was first heard, the Planning Commission noted that findings for Employee Cafeterias should encourage integration into the City's larger economy; job creation for San Francisco residents; street activation when located at the first story; and providing incentives, such as meal vouchers, for employees to patronize nearby unaffiliated restaurants.³ The proposed CU findings in the amended Ordinance capture some of those goals. The amended Ordinance includes findings related to an Employee Cafeteria's effects on nearby restaurants and whether the employer will provide monetary incentives for employees to frequent outside restaurants. However, it omits findings related to the economic and workforce development potential of Employee Cafeterias and an explicit reference to a cafeteria's contribution to street activation. It also includes a finding related to reusable tableware, which is regulated in Chapter 16 of the San Francisco Environment Code.

Exemptions from Conditional Use Authorization

The CU requirement is imposed on uses to assure they are necessary or desirable for and compatible with the neighborhood and community in which they propose to locate.⁴ Certain uses also have additional considerations for Planning Commission to weigh. For example, when the Planning Commission deliberates over entertainment uses requiring CU it must also consider hours of operation and extent of

³ October 25, 2018 Planning Commission deliberation on Prohibiting Employee Cafeterias within Office Space, BF 180777

⁴ Planning Code Section 303(c)(1)

noise insulation measures. In this way the CU is a means to vet proposals against how they meet larger policy goals. When a use is proposed that already meets larger policy goals it may make sense to exempt that use from the CU process.

Planning Code Definition for Office use

Office activities are allowed under multiple Planning Code use definitions. The primary use definition is “Office Use,” a definition found in Planning Code Article 1 and Article 8. This use definition is also the broadest one, encompassing all office activities. Articles 1 and 8 also list other use definitions with typical office activities in their description. These include Non-Retail Professional Service, Retail Professional Serve, Design Professional, Administrative Service and Professional Service.⁵ However these use definitions are considered a subset of the broader “Office Use” definition.

Employee Cafeteria Definition

The Planning Code does not contain a definition for Employee Cafeteria. The Health Code does, and defines it 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.⁶

Employee cafeterias vary in their provision of food and drink; however, this Health Code definition does not distinguish between the different types and lumps all employee cafeterias into one definition. For instance, this definition includes cafeterias that prepare food and drink on-site and have full-service kitchens requiring an exhaust ventilation system. These facilities often offer multiple choices in cuisine, sometimes prepare meals made-to-order, and in many ways resemble private restaurants or food courts. This definition also includes other types of cafeterias that are more akin to employee break rooms. These cafeterias are furnished with some food and small appliances like toasters and coffee makers. They offer pre-packaged snacks, breakfast items, and beverages but food is not cooked in a kitchen facility requiring an exhaust ventilation system. The proposed ordinance intention is to only limit the first type of full-service cafeteria, and not the employee break room.

Nonconforming Status for Conditional Uses

The Ordinance proposes to make legally existing Employee Cafeterias, approved as of July 24, 2018, nonconforming uses that cannot expand or be re-installed after abandonment. The restrictions in this grandfathering clause are stronger restrictions than those for Employee Cafeterias approved after July 24, 2018, including those after that date but prior to the Ordinance effective date. For example, the Planning Code allows Conditional Uses, in certain instances, expansions of up to 25% of floor area, and allows

⁵ Planning Code Sections 102, 890.28, 890.70, 890.100, 890.106, 890.108

⁶ San Francisco Health Code Article 8, Section 451: Food Preparation and Service Establishment

kitchen expansions on a case-by-case basis.⁷ Expansions beyond these limits are considered significant and require a new Conditional Use authorization.⁸

General Plan Compliance

The amended Ordinance complies with various policies in the Commerce and Industry Element and the Downtown Area Plan. By establishing locational and operating conditions for new accessory Employee Cafeterias, the Ordinance helps ensure that negative effects upon existing eating and drinking establishments are lessened and helps create Employee Cafeterias that are open and accessible to daytime downtown workers. The Ordinance would also continue to allow an economic activity (food service) that provides employment opportunities for unskilled and semi-skilled workers.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

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. Expand the CU requirement so that it applies to more office type uses by including "Office Use" in Section 202.2.
2. Add criteria exempting certain Employee Cafeterias from the Conditional Use authorization requirement.
3. Amend the Employee Cafeteria definition so that it distinguishes between a full-service cafeteria and a breakroom.
4. Amend the Conditional Use findings to include a finding on economic and workforce development; to explicitly consider street activation; and to remove the proposed finding regarding reusable tableware.
5. Eliminate the proposed grandfathering clause and allow existing cafeterias to expand or reestablish with CU authorization when applicable.

BASIS FOR RECOMMENDATION

The Department supports the amended Ordinance because it provides an alternative to an outright prohibition on Employee Cafeterias. The proposed Conditional Use authorization and Planning Commission findings allow Employee Cafeteria operators to fashion business plans that help meet larger City goals and policies. The Department is proposing the following modifications, both substantive and technical, in hopes of improving implementation and realizing policy aims:

Recommendation 1: Apply the Conditional Use authorization requirements in Planning Code Section 202.2 to the "Office Use" definition. Applying the CU requirement to the "Office Use" definition assures that all office activities that include Employee Cafeterias are similarly regulated. This eliminates

⁷ Planning Code Interpretation of Section 186.1(b), Nonconforming use, "significant" defined

⁸ Planning Code Section 178(c)

loopholes that could be created with using a less encompassing office activity use definition such as "Office, General."

Recommendation 2: Add criteria exempting certain Employee Cafeterias from the Conditional Use authorization requirement. An exemption from the CU requirement is a strong incentive to design and operate a cafeteria in a manner that meets larger policy goals. For example, when an Employee Cafeteria opens at the street level it should be exempted from CU if it is open to and easily accessed by the public and maximizes storefront transparency. Similar requirements apply to other non-Residential uses and an Employee Cafeteria at the street level should comply as well. Further, if the employees are incentivized to patronize adjacent restaurants the street level cafeteria should be exempted from the CU requirement. This could include capping employee cafeteria meal subsidies or offering vouchers for use at nearby restaurants and cafes. These measures would help integrate Employee Cafeterias into the broader City fabric and help activate street life in and around the cafeteria

Recommendation 3: Amend the Employee Cafeteria definition so that it distinguishes between a full-service cafeteria and a breakroom. Clarifying the type of cafeteria subject to the proposed CU requirement helps operators and City staff. Operators benefit because they are made aware that a cafeteria with a full-service kitchen and exhaust system require CU. City staff benefit from a consistent definition and clarity about plan review requirements.

Recommendation 4: Amend the Conditional Use findings to include a finding on economic and workforce development; to explicitly consider street activation; and to remove the proposed finding regarding reusable tableware. The Planning Commission deliberation on the original Employee Cafeterias ordinance and their Resolution No. 20327 provide a framework for Conditional Use findings. Staff is proposing the following findings in accordance with the Planning Commission deliberation and Resolution No. 20327:

- (1) The size of the proposed Employee Cafeteria;
- (2) Whether the proposed Employee Cafeteria would be open to the general public in a location conducive to use by the general public, and contribute to street activation;
- (3) The impact upon existing eating and drinking establishments in the neighborhood, including but not limited to whether meals in the proposed Employee Cafeteria would be free or heavily subsidized;
- (4) Whether the employer will subsidize or pay for employee meals outside the proposed Employee Cafeteria; and
- (5) Whether the proposed Employee Cafeteria will promote economic opportunities for local residents and businesses by coordinating with the Office of Economic and Workforce Development to engage with the City's workforce system, including the First Source Hiring Program, and developing partnerships with existing and new local businesses, vendors, or institutions.

Staff is proposing to remove findings regarding reusable tableware because that consideration is better handled as a separate Ordinance amending the Environment Code, Chapter 16.

Recommendation 5: Eliminate the proposed grandfathering clause. The proposed grandfathering clause imposes stricter controls on existing Employee Cafeterias than those forthcoming. The benefit of this is unclear. In fact, it may be advantageous to allow existing Employee Cafeterias to expand, thereby requiring CU, the Planning Commission to review the proposal for necessity and desirability and application of locational and operational conditions applied to all CU. Further, the current Conditional Use regulations on expansions and re-installation are functional, and would not benefit from another exception for a specific accessory use such as Employee Cafeterias.

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: Unintroduced Version of Ordinance with Forthcoming Changes
- Exhibit C: Board of Supervisors File No. 180777



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution HEARING DATE MARCH 7, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Project Name: **Conditional Use Authorization Required for Employee Cafeterias within Office Space**

Case Number: **2018-010552PCA [Board File No. 180777]**

Initiated by: Supervisors Safai and Peskin / Amended in Committee December 10, 2018

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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REQUIRE CONDITIONAL USE AUTHORIZATION FOR EMPLOYEE CAFETERIAS, AS DEFINED, WITHIN OFFICE SPACE, 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 25, 2018; and,

WHEREAS, The Commission, under Resolution No. 20327, disapproved the proposed Ordinance and recommended that the Board of Supervisor explore alternatives to a prohibition on employee cafeterias within Office space; and

WHEREAS, the Board of Supervisors' Land Use Committee conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 10, 2018; and,

WHEREAS, the Land Use Committee amended the proposed Ordinance to require Conditional Use authorization for Employee Cafeterias within Office Space, except for existing Employee Cafeterias; and

WHEREAS, because of the substantive nature of the amendments, the amended Ordinance was referred to the Commission for its re-consideration; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the revised Ordinance on March 7, 2019; and,

WHEREAS, the amended Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 150378; and

WHEREAS, the 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 Commission has reviewed the amended Ordinance; and

WHEREAS, the 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 amended Ordinance.

Those modifications include:

SEC. 102. DEFINITIONS.

* * * *

Office, General. A Non-Retail Sales and Service Use that includes space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services including, but not limited to, the following: professional, banking, insurance, management, consulting, technical, sales, and design; and the non-accessory office functions of manufacturing and warehousing businesses, multimedia, software development, web design, electronic commerce, and information technology. This use shall exclude Non-Retail Professional Services as well as Retail Uses; 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. ~~As~~ All Office ~~use is~~ uses are subject to the operating conditions of Section 202.2 of this Code

Office Use. 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. An Office use is subject to the operating conditions of Section 202.2 of this Code

SEC. 202.2. LOCATION AND OPERATING CONDITIONS.

* * * *

~~(j) Non-Retail Sales and Service Use; Office Use. An "Employee Cafeteria," as defined in Section 451(h) of the Health Code, is a prohibited use in Office space requires a Conditional Use authorization pursuant to Section 303 of this Code unless the Employee Cafeteria (1) is located at the first story, (2) is open to the public during all operating hours; (3) complies with all relevant design standards for street frontages as found in Planning Code Sections 145.1(c)(5)-(7) and 145.4(d)(3); and (4) employee meals in the Employee Cafeteria are not more than 50% subsidized by their employer or the employer provides meal vouchers to employees for use outside the Employee Cafeteria. For purposes of this subsection (j), "Employee Cafeteria" is defined as a food facility within the premises where the employees are provided food on a regular basis. The operators of the food facility are either employees of the business or are contracted by that business. Foods are prepared and cooked on the business premise site in a full-service kitchen with an exhaust ventilation system. The food facility requires plan review and a health permit to operate from the Department of Public Health. ~~that requires a health permit from the Department of Public Health to operate. Any such use lawfully existing or finally approved as of July 24, 2018 may continue and be maintained as a legal nonconforming Accessory Use but may not be expanded or re-installed if abandoned~~~~

SEC. 303. CONDITIONAL USES.

* * * *

(y) With respect to applications for an Employee Cafeteria pursuant to Section 202.2(j) of this Code, in addition to the criteria set forth in Subsections (c) and (d) above the Commission shall consider the following:

- (1) The size of the proposed Employee Cafeteria ~~and its location in the building;~~
- (2) Whether the proposed Employee Cafeteria would be open to the general public ~~and~~, in a location conducive to use by the general public, and contribute to street activation;
- (3) The impact upon existing eating and drinking establishments in the neighborhood, including but not limited to whether meals in the proposed Employee Cafeteria would be free or heavily subsidized;
- (4) Whether the employer will subsidize or pay for employee meals outside the proposed Employee Cafeteria; and
- (5) Whether the proposed Employee Cafeteria ~~has committed to using all reusable foodware and packaging for on-site and takeaway dining will promote economic opportunities for local residents and businesses by coordinating with the Office of Economic and Workforce Development to engage with the City's workforce system, including the First Source Hiring Program, and developing partnerships with existing and new local businesses, vendors, or institutions.~~

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. As an alternative to an outright ban, the CU requirement allows Employee Cafeteria operators to fashion business plans that help meet larger City goals and policies.

2. These larger City goals and policies include integrating into and contributing to the broader City fabric, helping activate street life; integrating into the broader City economy through local procurement and hiring; and providing incentives for patronizing local eating and drinking establishments.
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 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.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers

The proposed Ordinance would continue to allow an economic activity (food service) that provides employment opportunities for unskilled and semi-skilled workers.

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.

The proposed Conditional Use findings can help create Employee Cafeterias open and accessible to daytime downtown workers by considering the cafeteria’s public accessibility.

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 and the conditional use findings would help enhance neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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 not have a negative effect on housing and would have a beneficial effect on neighborhood character as the conditional use findings require consideration of an Employee Cafeteria's effect on neighborhood eating and drinking establishments.

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 the Ordinance concerns itself with the permitting process for an accessory use.

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as the Ordinance seeks to enhance the entitlement process for accessory Employee Cafeterias.

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 seeks to amend the permitting process for accessory Employee Cafeterias.

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 as the Ordinance concerns itself with the entitlement process for an accessory use within Office space.

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.

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 deals with accessory uses within Office space.

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 March 7, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: March 7, 2019

1 [Planning Code - ~~Prohibiting~~ Conditional Use Authorization Required for Employee Cafeterias
2 within Office Space]

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

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

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

18 Section 1. Findings.

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

24 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
25 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

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, 202.2,
8 and 303, 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 * * * *

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

2 * * * *

3 (j) *Non-Retail Sales and Service Use; Office. An “Employee Cafeteria,” as*
4 defined in Section 451(h) of the Health Code, is a prohibited use *in Office space* requires a
5 Conditional Use authorization pursuant to Section 303 of this Code. For purposes of this
6 subsection (j), “Employee Cafeteria” is defined as a food facility within the premises where the
7 employees are provided food on a regular basis. The operators of the food facility are either
8 employees of the business or are contracted by that business. Foods are prepared and
9 cooked on the site in a full-service kitchen with an exhaust ventilation system that requires a
10 health permit from the Department of Public Health to operate. *Any such use lawfully existing or*
11 *finally approved as of July 24, 2018* the date this Section 202.2(j) was enacted *may continue and*
12 *be maintained as a legal nonconforming Accessory Use but may not be expanded or re-installed if*
13 *abandoned.*

14 **SEC. 303. CONDITIONAL USES.**

15 * * * *

16 (y) With respect to applications for an Employee Cafeteria pursuant to Section
17 202.2(j) of this Code, in addition to the criteria set forth in Subsections (c) and (d) above the
18 Commission shall consider the following:

19 (1) The size of the proposed Employee Cafeteria and its location in the
20 building;

21 (2) Whether the proposed Employee Cafeteria would be open to the general
22 public at times and in a location conducive to use by the general public;

23 (3) The impact upon existing businesses in the immediate neighborhood,
24 such as eating and drinking establishments, including but not limited to whether meals in the
25 proposed Employee Cafeteria would be free or heavily subsidized;

1 (4) Whether the employer will subsidize or pay for employee meals outside
2 the proposed Employee Cafeteria; and

3 (5) Whether the proposed Employee Cafeteria has committed to using all
4 reusable foodware and packaging for on-site and takeaway dining.

5 (6) The ability of existing eating and drinking establishments in the
6 neighborhood to absorb the increased demand related to the proposed Office project.

7 (7) The impact of employees of the Employee Cafeteria on the demand in
8 the City for housing, public transit, health, and other social services, relative to the demand of
9 such employees were they otherwise to be employed at other eating and drinking
10 establishments.

11 (8) Whether or not the Employee Cafeteria provides all employees and
12 contractors, such as janitors, servers, and security guards, equal access to the Employee
13 Cafeteria.

14 The Commission shall include as a Condition of Approval the requirement that any
15 Employee Cafeteria authorized shall be subject to applicable environmentally-friendly
16 requirements in the Environment Code, including but not limited to the requirements of
17 Chapter 16 (Food Service and Packaging Waste Reduction Ordinance) and Chapter 17
18 (Plastic Bag Reduction Ordinance).

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 JUDITH A. BOYAJIAN
12 Deputy City Attorney
13 n:\legana\as2018\1800715\01341382.docx

1 [Planning Code - ~~Prohibiting~~ Conditional Use Authorization Required for Employee Cafeterias
2 within Office Space]

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

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

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

18 Section 1. Findings.

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

24 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
25 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

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, 202.2,
8 and 303, 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
2 defined in Section 451(h) of the Health Code, is a prohibited use in Office space requires a
3 Conditional Use authorization pursuant to Section 303 of this Code. For purposes of this
4 subsection (j), “Employee Cafeteria” is defined as a food facility within the premises where the
5 employees are provided food on a regular basis. The operators of the food facility are either
6 employees of the business or are contracted by that business. Foods are prepared and
7 cooked on the site in a full-service kitchen with an exhaust ventilation system that requires a
8 health permit from the Department of Public Health to operate. Any such use lawfully existing or
9 finally approved as of July 24, 2018 may continue and be maintained as a legal nonconforming
10 Accessory Use but may not be expanded or re-installed if abandoned.

11 **SEC. 303. CONDITIONAL USES.**

12 * * * *

13 (y) With respect to applications for an Employee Cafeteria pursuant to Section
14 202.2(j) of this Code, in addition to the criteria set forth in Subsections (c) and (d) above the
15 Commission shall consider the following:

16 (1) The size of the proposed Employee Cafeteria and its location in the
17 building;

18 (2) Whether the proposed Employee Cafeteria would be open to the general
19 public and in a location conducive to use by the general public;

20 (3) The impact upon existing eating and drinking establishments in the
21 neighborhood, including but not limited to whether meals in the proposed Employee Cafeteria
22 would be free or heavily subsidized;

23 (4) Whether the employer will subsidize or pay for employee meals outside
24 the proposed Employee Cafeteria; and

1 (5) Whether the proposed Employee Cafeteria has committed to using all
2 reusable foodware and packaging for on-site and takeaway dining.

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

8
9 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the “Note” that appears under
14 the official title of the ordinance.

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 JUDITH A. BOYAJIAN
 Deputy City Attorney

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