

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Todd Rufo, Director, Office of Economic and Workforce Development  
Tiffany Bohee, Executive Director, Office of Community Investment and Infrastructure

FROM: *ll*  
*fn* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: January 17, 2017

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by the Planning Commission on January 10, 2017:

**File No. 170002**

**Ordinance amending the Commerce and Industry Element of the General Plan to update the guidelines regarding overconcentration of Eating and Drinking Establishments in a single area; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Ken Rich, Office of Economic and Workforce Development  
Lisa Pagan, Office of Economic and Workforce Development  
Claudia Guerra, Office of Community Investment and Infrastructure

1 [General Plan Amendment - Commerce and Industry Element; Guidelines for Eating and  
2 Drinking Establishments]

3 **Ordinance amending the Commerce and Industry Element of the General Plan to**  
4 **update the guidelines regarding overconcentration of Eating and Drinking**  
5 **Establishments in a single area; affirming the Planning Department's determination**  
6 **under the California Environmental Quality Act; and making findings of consistency**  
7 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

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. \_\_\_\_\_ and is incorporated herein by reference. The Board affirms  
21 this determination.

22 (b) On December 1, 2016, the Planning Commission, in Resolution No. 19803,  
23 adopted findings that the actions contemplated in this ordinance are consistent with the City's  
24 General Plan and the eight priority policies of Planning Code Section 101.1. The Board of  
25 Supervisors adopts these findings as its own. A copy of said Resolution is on file with the

1 Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by  
2 reference.

3 (c) Charter Section 4.105 and Planning Code Section 340 provide that the Planning  
4 Commission shall periodically recommend to the Board of Supervisors, for approval or  
5 rejection, proposed amendments to the General Plan in response to changing conditions.

6 (d) Pursuant to Planning Code Section 340, an amendment to the General Plan  
7 may be initiated by a resolution of intention by the Planning Commission referring to, and  
8 incorporating by reference, the proposed General Plan amendment. The Planning  
9 Commission shall adopt the proposed General Plan amendment if, after a public hearing, it  
10 finds from the facts presented that the public necessity, convenience and general welfare  
11 require the proposed amendment or any part thereof. If adopted by the Commission, in whole  
12 or in part, the proposed amendment shall be presented to the Board of Supervisors, which  
13 may approve or reject the amendment by a majority vote.

14 (e) The Commerce and Industry Element sets forth objectives and policies  
15 addressing the broad range of economic activities, facilities and support systems that  
16 constitute San Francisco's employment and service base. The Guidelines for Specific Uses  
17 contained in the Neighborhood Commerce section states that "[t]he balance of commercial  
18 uses may be threatened when eating and drinking establishments occupy more than 20% of  
19 the total occupied commercial frontage," with a higher percentage of 25% for districts such as  
20 North Beach where there is an established pattern of service to a broad market.

21 (f) Planning Code Section 303(o) states that the existing concentration of eating  
22 and drinking uses in an area should not exceed 25% of the total commercial frontage within  
23 300 feet of the establishment and within the same zoning district.

24 (g) Because there is specific language in the Planning Code regarding  
25 concentration of eating and drinking uses in an area, the proposed amendments to the

1 General Plan will replace the existing specific language in the Guidelines with general policy  
2 statements regarding the impacts of clustering.

3 (h) At a public hearing held on June 30, 2016, the Planning Commission adopted a  
4 Resolution of Intention to initiate the proposed amendment to the General Plan in order to  
5 update the Commerce and Industry Element. At a public hearing held on December 1, 2016,  
6 the Commission adopted Resolution No. 19803, finding that the proposed General Plan  
7 amendment serves the public necessity, convenience and general welfare and recommending  
8 the amendment to the Board of Supervisors.

9 (i) In a letter dated December \_\_\_\_, 2016, the Planning Department transmitted to  
10 the Board of Supervisors the proposed General Plan amendment and the Planning  
11 Commission's adoption actions. The Board received this transmittal on \_\_\_\_\_, and  
12 it is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

13 (j) The Board of Supervisors finds, pursuant to Planning Code Section 340, that the  
14 proposed General Plan amendment will serve the public necessity, convenience and general  
15 welfare for the reasons set forth in Planning Commission Resolution No. 19803 and  
16 incorporates those reasons herein by reference.

17  
18 Section 2. The General Plan is hereby amended by revising the text of the Commerce  
19 and Industry Element, to read as follows:

20 **Neighborhood Commerce**

21 **Objective 6**

22 **Maintain and Strengthen Viable Neighborhood Commercial Areas Easily Accessible to**  
23 **City Residents.**

24 \* \* \* \*

1 **POLICY 6.1**

2 Ensure and encourage the retention and provision of neighborhood-serving goods and  
3 services in the city's neighborhood commercial districts, while recognizing and encouraging  
4 diversity among the districts.

5 \* \* \* \*

6 **GUIDELINES FOR SPECIFIC USES**

7 \* \* \* \*

8 **Eating and Drinking Uses**

9 \* \* \* \*

10 In districts where the proliferation of eating and drinking establishments could generate  
11 problems, the following guidelines should be employed in the consideration of new  
12 establishments, relocations, changes from one kind of eating and drinking establishment to  
13 another (e.g. from self-service restaurant to full-service restaurant), expansion or  
14 intensification of existing establishments:

- 15 • The establishment should not add to an overconcentration of eating and drinking  
16 establishments in a single district. The balance of commercial uses may be threatened  
17 when eating and drinking establishments occupy *more than 20% of the total occupied an*  
18 *overconcentration of* commercial frontage. Proposals for eating and drinking  
19 establishments which would increase the proportion of total occupied commercial  
20 frontage above 20% *what is prescribed in the Planning Code* should be reviewed to ensure  
21 that they would not reduce the variety of neighborhood-serving uses; nor create  
22 substantial noise, traffic, parking problems, or other nuisances in the district or  
23 surrounding neighborhood. ~~Those establishments that would do the above should not be~~  
24 ~~permitted. Except in districts with an established pattern of service to a broad market, such as~~  
25 ~~North Beach, such establishments should not occupy more than 25% of the total commercially-~~

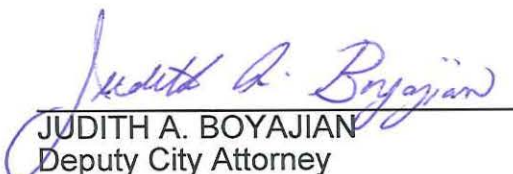
1 ~~occupied frontage in a district. To minimize the problems they can create, eating and drinking~~  
2 ~~uses should generally be at least 100 feet apart from each other, unless there are factors making~~  
3 ~~clustering of uses appropriate. For example, a configuration of clustered eating and drinking~~  
4 ~~uses where off street parking is shared might be more appropriate than an even distribution of~~  
5 ~~such establishments.~~

6 \* \* \* \*

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

12  
13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the General  
16 Plan that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the "Note" that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22  
23 By:   
24 JUDITH A. BOYAJIAN  
25 Deputy City Attorney

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## LEGISLATIVE DIGEST

[General Plan Amendment - Commerce and Industry Element; Guidelines for Eating and Drinking Establishments]

**Ordinance amending the Commerce and Industry Element of the General Plan to update the guidelines regarding overconcentration of Eating and Drinking Establishments in a single area; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

### Existing Law

The Commerce and Industry Element of the City's General Plan states that (1) the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage of a single zoning district and (2) eating and drinking establishments should not occupy more than 25% of the total commercially-occupied frontage in zoning districts with an established pattern of service to a broad market.

Planning Code Section 303 establishes a specific percentage limit for eating and drinking uses when such a use is seeking a Conditional Use authorization. Subsection (o) provides that such uses should not exceed 25% of the total commercial frontage in the same zoning district within 300 feet of the proposed establishment.

### Amendments to Current Law

The General Plan would be amended to (1) delete the specific percentages of eating and drinking establishments that can occupy total occupied commercial frontages in a single zoning district and (2) modify the language in the Guidelines for Eating and Drinking Establishments to reflect a general policy statement. Pursuant to Planning Code Section 303(o), Planning staff would continue to calculate the percentage of total commercial frontage within 300 feet of an establishment requesting a Conditional Use authorization but would no longer also have to calculate whether eating and drinking establishments occupy more than 20% of the total occupied commercial frontage of the zoning district.

### Background Information

As the primary policy document for the City's land use, the General Plan should contain general policy statements and goals. Specific requirements are more appropriately in the Planning Code. The current General Plan language confuses the complementary but different roles of the General Plan and the Planning Code, and requires planners to make two similar but distinct calculations for a specific project. In addition, the calculation prescribed in the General Plan does not meet the intent of the requirement, which is to look at the surrounding area for an overconcentration of eating and drinking uses. Simplifying the language in the

General Plan so that it reflects a general policy while leaving in place the specific requirements of the Planning Code would ensure a more effective and consistent evaluation of eating and drinking uses.

Planning Code Section 340 describes the process for amending the City's General Plan. Pursuant to subsection (d), a proposed amendment to the General Plan must be presented to the Board of Supervisors together with a copy of the Planning Commission's resolution of adoption. The Board may approve or reject the amendment by a majority vote. If the Board of Supervisors fails to act within 90 days of receipt, the amendment is deemed approved.

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