

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) General Plan, Planning Code and Environmental Findings.

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

25 (b) (2) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 ~~with the City's General Plan and eight priority policies of Planning Code Section 101.1.~~ The  
2 Board finds that the actions contemplated in this ordinance are consistent, on balance, with  
3 the City's General Plan and eight priority policies of Planning Code Section 101.1, for the  
4 reasons set forth in Planning Commission's draft resolution contained in the Transmittal of  
5 Planning Department Case Number 2018-010552PCA~~adopts these findings as its own.~~ A  
6 copy of ~~said Resolution~~ such draft resolution is on file with the Clerk of the Board of  
7 Supervisors in File No. 180777, and is incorporated herein by reference.

8 (e) (3) Pursuant to Planning Code Section 302, the Board of Supervisors finds that  
9 this ordinance will serve the public necessity, convenience, and welfare for the reasons stated  
10 in ~~Planning Commission Resolution No. \_\_\_\_\_~~ the Planning Commission's draft resolution  
11 contained in the Transmittal of Planning Department Case Number 2018-010552PCA, a copy  
12 of which is on file with the Clerk of the Board of Supervisors in File No. 180777, and is  
13 incorporated herein by reference.

14 (b) Legislative Findings.

15 (1) In 2014, the city of Mountain View passed a rule requiring that any future  
16 office tenant would be barred from providing free daily meals or subsidizing more than half the  
17 price at any on-site, in-house cafeteria during the approval of the Merlone Geier's Phase II  
18 development, The Village at the San Antonio Center. And, once Facebook moved there, the  
19 rule was enforced as a way to better integrate the company into the local community, and also  
20 to protect the surrounding mom-and-pop restaurants.

21 (2) In February 2018, the Office of Economic of Economic and Workforce  
22 Development published "State of the Retail Sector: Challenges and Opportunities for San  
23 Francisco's Neighborhood Commercial Districts" (henceforth, the "Study"). The Study was  
24 drafted by Strategic Economics, and examined the national restructuring of the retail,  
25 restaurant, and personal services industries.

1                   (3) The Study found that, nationally, the growth in retail and restaurant sales  
2 was concentrated in non-store (i.e., online) sales, food and beverage stores but, locally, San  
3 Francisco’s restaurants were slightly better off because of the many “competitive advantages”  
4 the Board of Supervisors had enacted in previous years.

5                   (4) A 2019 study conducted by Wealth-X reported that San Francisco has the  
6 most billionaires per capita than any other top city in the world, in large part, because of the  
7 City’s proximity to Silicon Valley and small population size. However, as our billionaire  
8 population has grown, income inequality has also ticked up. A 2018 study from the Brookings  
9 Institute found that San Francisco had the sixth highest level of income inequality of all cities  
10 in the U.S.

11                   (5) As part of the effort to curb income inequality in the City, facilitate the  
12 integration of office workers with the local communities, and maintain the vitality of the local  
13 retail and restaurant services, the Board of Supervisors finds that requiring a conditional use  
14 permit for employee cafeterias within office space, as those terms are further defined in this  
15 ordinance, is desirable.

16  
17                   Section 2. The Planning Code is hereby amended by revising Sections 102, 202.2,  
18 and 303, to read as follows:

19  
20                   **SEC. 102. DEFINITIONS.**

21                   \* \* \* \*

22                   **Office, General.** A Non-Retail Sales and Service Use that includes space within a structure or  
23 portion thereof intended or primarily suitable for occupancy by persons or entities which  
24 perform, provide for their own benefit, or provide to others at that location, services including,  
25 but not limited to, the following: professional, banking, insurance, management, consulting,

1 technical, sales, and design; and the non-accessory office functions of manufacturing and  
2 warehousing businesses, multimedia, software development, web design, electronic  
3 commerce, and information technology. This use shall exclude Non-Retail Professional  
4 Services as well as Retail Uses; repair; any business characterized by the physical transfer of  
5 tangible goods to customers on the premises; wholesale shipping, receiving and storage; and  
6 design showrooms or any other space intended and primarily suitable for display of goods. ~~An~~  
7 ~~Office use is subject to the operating conditions of Section 202.2 of this Code.~~

8 \* \* \* \*

9 **Office Use.** A grouping of uses that includes General Office, Retail Professional Services,  
10 and Non-Retail Professional Services. This use shall exclude: retail uses other than Retail  
11 Professional Services; repair; any business characterized by the physical transfer of tangible  
12 goods to customers on the premises; wholesale shipping, receiving and storage; and design  
13 showrooms or any other space intended and primarily suitable for display of goods. All office  
14 uses are subject to the operating conditions of Section 202.2 of this Code.

15 \* \* \* \*

16  
17 **SEC. 202.2. LOCATION AND OPERATING CONDITIONS.**

18 \* \* \* \*

19 (j) ~~Non-Retail Sales and Service Use;~~ Office Use. An "Employee Cafeteria,"  
20 as defined in Section 451(h) of the Health Code, is a prohibited use in Office space requires a  
21 Conditional Use authorization pursuant to Section 303 of this Code unless the Employee  
22 Cafeteria (1) is located at the first story, (2) is open to the public during all operating hours; (3)  
23 complies with all relevant design standards for street frontages as found in Planning Code  
24 Sections 145.1(c)(5)-(7) and 145.4(d)(3); and (4) employee meals in the Employee Cafeteria  
25 are not more than 50% subsidized by their employer or the employer provides meal vouchers

1 to employees for use outside the Employee Cafeteria. For purposes of this subsection (j),  
2 “Employee Cafeteria” is defined as a food facility within the premises where the employees  
3 are provided food on a regular basis. The operators of the food facility are either employees of  
4 the business or are contracted by that business. Foods are prepared and cooked on the site  
5 business premise in a full-service kitchen with an exhaust ventilation system. The food facility  
6 requires plan review and a health permit to operate from the Department of Public Health. ~~that~~  
7 ~~requires a health permit from the Department of Public Health to operate.~~ Any such use lawfully  
8 existing or finally approved as of ~~July 24, 2018~~ July 1, 2019 may continue and be maintained as a  
9 legal nonconforming Accessory Use but may not be expanded or re-installed if abandoned unless the  
10 expansion or reinstallation receives Conditional Use authorization as provided in this Section  
11 202.2.

12  
13 **SEC. 303. CONDITIONAL USES.**

14 \* \* \* \*

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

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

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

22 (3) The impact upon existing eating and drinking establishments in the  
23 neighborhood, including but not limited to whether meals in the proposed Employee Cafeteria  
24 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  
15 any 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

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