[Police, Building Codes - Lactation in the Workplace]

Ordinance amending the Police Code to require employers to provide employees breaks and a location for lactation and to have a policy regarding lactation in the workplace that specifies a process by which an employee will make a request for accommodation, defines minimum standards for lactation accommodation spaces, requires that newly constructed tenant improvements or renovated in buildings designated for certain uses include lactation rooms, and outlines lactation accommodation best practices; amending the Building Code to specify the technical specifications of lactation rooms for new or renovated tenant improvements in buildings designated for certain uses; making findings, including environmental findings and findings regarding the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

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

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

Section 1. Environmental Finding. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with

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the Clerk of the Board of Supervisors in File No. 170240 and is incorporated herein by reference. The Board affirms this determination.

Section 2. Finding Regarding California Health and Safety Code. The proposed Building Code modification implements the minimum physical requirements for lactation rooms set forth in Section 1031 of the California Labor Code and 29 U.S.C. Section 207(r). The Board of Supervisors therefore finds that the proposed modification is not a building standard within the meaning of Section 18909 of the California Health and Safety Code and the finding required by Health and Safety Code Section 18941.5 is not applicable.

Section 3. The Police Code is hereby amended by adding Article 331, entitled “Lactation in the Workplace,” and consisting of Sections 33001.1, 33001.2, 33001.3, 33001.4, 33001.5, 33001.6, 33001.7, 33001.8, 33001.9, and 33001.10, to read as follows:

ARTICLE 331: LACTATION IN THE WORKPLACE

SEC. 33001.1. TITLE.
This Article 331 shall be known as the “Lactation in the Workplace Ordinance.”

SEC. 33001.2. FINDINGS AND PURPOSE.
(a) Breastfeeding provides health benefits to babies, as breast milk contains antibodies that protect babies from childhood illnesses including ear infections, respiratory infections, dermatitis, gastrointestinal disorders, asthma, obesity, diabetes, and a reduced risk of Sudden Infant Death Syndrome. The American Academy of Pediatrics recommends that babies be fed exclusively breast milk for the first six months of life and that breastfeeding continue at least until the end of the baby’s first year. For some parents, breast milk is readily available and affordable.
(b) Breastfeeding also provides many health benefits for mothers, including earlier return to pre-pregnancy weight and reduced risk of maternal postpartum depression, and reduced risk later in life of several cancers, type II diabetes, and osteoporosis.

(c) If a mother does not regularly express milk, the mother’s breasts can become full and uncomfortable, which may lead to a decrease in milk supply or infection. Most nursing mothers who return to work are able to sustain their milk supply and avoid discomfort by simply expressing milk at intervals and for lengths of time that suit their bodies.

(d) According to the Centers for Disease Control and Prevention, approximately 79% of new mothers in the United States breastfeed their babies at some point. Despite the benefits to mother and child of breastfeeding, only about 42% of babies are exclusively fed breast milk at three months of age. At six months of age, only about 19% of babies are exclusively fed with breast milk, and only about 49% of babies, in total, are fed some amount of breast milk.

(e) According to the San Francisco Department of Public Health (DPH), the majority of women in San Francisco do not exclusively breastfeed their child during the first six months. Of women who have a live birth, 97% initiate breastfeeding in the hospital, and 80% of mothers exclusively breastfeed in the hospital. Between birth and one month postpartum, 23% of women begin supplementing with infant formula, and 23% who had intended to exclusively breastfeed do so. Between one and three months postpartum, 10% of mothers stop breastfeeding altogether.

(f) There are noticeable disparities in breastfeeding rates in San Francisco among socioeconomic and ethnic groups. Mothers who use Women, Infants, and Children (WIC) services, a federally funded program that provides supplemental foods, health care referrals, and nutrition education to low-income women, experience much lower breastfeeding rates. Between birth and one month postpartum, 27% of mothers participating in WIC are exclusively breastfeeding. And only 16% of mothers participating in WIC are exclusively breastfeeding at six months of age. Caucasian infants whose mothers utilize WIC services are 3.5 times more likely than Asian infants, and 2 times more...
likely than African American infants, to be exclusively breastfed at one month of age. Hospitals that
serve the largest number of low-income women have the lowest rates of breastfeeding initiation.

(g) In the United States, more than one-third of mothers with children under the age of two
work full-time outside the home. Employment of mothers outside the home, especially full-time
employment, has a negative influence on the period of time mothers breastfeed. Only 25% of employed
women who are breastfeeding a child under age one continue to breastfeed the child for at least one
month after returning to work. In 2000, only 11% of mothers with a one-year-old child and who
worked full-time were still breastfeeding the child, in comparison to 19% of mothers who worked part-
time while having a one-year-old child, and 22% of such mothers who were not in the labor force.

(h) There are several barriers to breastfeeding associated with employment. Women may not
be aware of their rights to lactation accommodation in the workplace. Many women have fear of
discussing breastfeeding with employers, which for San Francisco WIC participants, is one factor
associated with early supplementation of formula for breastmilk. In San Francisco, 50% of women
who have given birth report back to work within 12 months postpartum, with only 13% reporting leave
from their job and only 13% working less than 40 hours per week.

(i) Under the Healthy People 2020 initiative, the U.S. Department of Health and Human
Services' Office of Disease Prevention and Health Promotion developed a set of national objectives,
which include a goal to increase the proportion of mothers who breastfeed their babies in the early
postpartum period to 81.9% by 2020.

(j) An employer with a breastfeeding-friendly environment may have an advantage when
recruiting and retaining employees. Breastfeeding may decrease employee absenteeism due to illness
of a child, to the extent breastfeeding reduces childhood illnesses. The fewer the childhood illnesses,
the fewer sick days mothers and fathers have to take in order to care for sick children.

(k) Federal law requires certain employers to provide nursing mothers with reasonable break
time to express milk for one year after the child's birth and a private space other than a bathroom, that
is shielded from view and free from intrusion, to express breast milk. (29 U.S.C. § 207(r).) Similarly, California law requires all employers to provide a reasonable amount of break time and to make a reasonable effort to provide a private space, other than a toilet stall, close to the employee’s work area, to accommodate an employee desiring to express breast milk at work. (Cal. Labor Code § 1030.) Twenty-seven states, the District of Columbia, and Puerto Rico have laws that are supportive of breastfeeding in the workplace. Women employees who have adequate break time and private space to pump milk are more likely to exclusively breastfeed. At six months, employed women who receive breastfeeding accommodations are 2.3 times as likely to exclusively breastfeed and 1.5 times as likely to exclusively breastfeed with each passing month in comparison to women who do not have adequate accommodations.

(l) A work environment that is supportive of a mother’s efforts to breastfeed her child will likely increase the period of the child’s life during which breastfeeding will occur. By creating requirements on employers to facilitate lactation for mothers returning to work, the City will enhance employed mothers’ ability to continue breastfeeding through their child’s first year and beyond.

(m) In recognition of the well-documented health advantages for mother and child of breastfeeding, the purpose of this Article 331 is to provide a supportive work environment to enable employees in the City who are nursing mothers to breastfeed or express milk during working hours. Providing a supportive work environment to these employees will greatly benefit the health and welfare of employees and their families, while reducing burdens on the health care system associated with medical problems in children and mothers caused in part by an absence of or reduction in breastfeeding.

SEC. 33001.3. DEFINITIONS.

For purposes of this Article 331, the following definitions shall apply:
“Agency” shall mean the Office of Labor Standards Enforcement or any successor department or office.

“Employee” shall mean any person who is employed within the geographic boundaries of the City by an Employer, including part-time Employees.

“Employer” shall mean any person as defined in Section 18 of the California Labor Code who employs an Employee working in the City. Notwithstanding the previous sentence, Employer shall not include the City or any governmental entity.

“Lactation Accommodation” shall mean Lactation Breaks and Lactation Location.

“Lactation Break” shall mean the break time an Employer is required to provide an Employee for purposes of expressing breast milk.

“Lactation Location” shall mean the space, room, or location an Employer must provide an Employee for purposes of expressing breast milk.

“Lactation Room” shall mean a room designated for use by mothers for purposes of expressing milk.

SEC. 33001.4. LACTATION ACCOMMODATION.

(a) Lactation Break. An Employer shall provide a reasonable amount of break time to accommodate an Employee desiring to express breast milk for the Employee’s child. The break time shall, if possible, run concurrently with any break time already provided to the Employee. Break time for an Employee that does not run concurrently with the rest time authorized for the Employee by the applicable wage order of the Industrial Welfare Commission shall may be unpaid.

(b) Lactation Location.

(1) An Employer shall provide a Lactation Location, other than a bathroom, in close proximity to the Employee’s work area that is shielded from view and free from intrusion from co-workers and the public. The room or other location may include the place where the Employee
normally works if it otherwise meets the requirements of this Section 33001.4. The Lactation Location shall also:

(A) Be safe, clean, and free of toxic or hazardous materials;

(B) Contain a surface (e.g., a table or shelf) to place a breast pump and other personal items;

(C) Contain a place to sit; and

(D) Have access to electricity.

(2) The Employer shall provide, in close proximity to the Employee’s work area, access to a refrigerator where the Employee can store breast milk and access to a sink with running water.

(3) Multi-Purpose Lactation Location. The Employer may satisfy the requirements of this Section 33001.4 by designating a room as a Lactation Location that is also used for other purposes, provided, however, that if the Employer uses this method to provide the accommodation, the primary function of the room shall be a designated Lactation Location during the duration of an Employee’s need to express milk and during any particular day that the room is needed to provide accommodation it may also be used for other purposes so long as lactation accommodation takes priority. During the period when the room is being used as a Lactation Location and also for other purposes, the Employer shall provide notice to other Employees that the primary use of the room is a Lactation Location, which takes precedence over other uses.

(4) Multi-Tenant Buildings. Where more than one Employer is located in the same building, and the Employer cannot satisfy the requirements of this Section 33001.4 by providing a Lactation Location within the Employer’s workspace, the Employer may fulfill the obligations under this Section 33001.4 by providing a Lactation Location meeting the requirements of subsection (b) that is shared among multiple Employers, provided that the Lactation Location is sufficient to accommodate the number of Employees who desire to use it at any given time.
(c) Exemption. An Employer may establish an exemption from any requirement of this Section 33001.4 if the Employer can show that such requirement would impose an undue hardship by causing the Employer significant expense or operational difficulty when considered in relation to the size, financial resources, nature, or structure of the Employer's business. Examples of an undue hardship could, in some circumstances, include: requiring the Employer to build a room, undertake a construction project, remove seating from a restaurant, or remove retail floor space.

SEC. 33001.5. REQUIRED POLICY AND PROCESS FOR REQUESTING LACTATION ACCOMMODATION.

(a) Lactation Accommodation Policy. Each Employer shall develop and implement a policy regarding Lactation Accommodation. The policy shall:

(1) Include a statement that Employees have a right to request Lactation Accommodation.

(2) Identify a process by which an Employee may request Lactation Accommodation. The process shall:

(A) specify the means by which an Employee may submit a request for Lactation Accommodation;

(B) require the Employer to respond to a request for Lactation Accommodation within five business days; and

(C) require the Employer and Employee to engage in an interactive process to determine the appropriate Lactation Break period(s) and the Lactation Location for the Employee.

(3) State that if in response to a request for Lactation Accommodation, the Employer does not provide Lactation Breaks or a Lactation Location, or provides a Lactation Location that does not comply with Section 33001.4(b), on the basis of the exception available under Section 33001.4(c),
the Employer must provide the Employee a written response that identifies the basis upon which the
Employer has denied the request. Copies of the responses required by this subsection (a)(3) shall be
retained in accordance with Section 3300L.6.

(4) State that retaliation against an Employee for exercising the rights conferred
by this Article 331 is prohibited.

(b) The Employer’s Lactation Accommodation policy shall be distributed to all Employees upon
hiring. The Employer shall also offer a copy of the policy to any Employee who inquires about or
requests pregnancy or parental leave. If the Employer has an employee handbook or set of policies
that the Employer makes available to Employees, the Lactation Accommodation policy shall be
included therein.

SEC. 3300L.6. EMPLOYER RECORDS.
An Employer shall maintain a written record of the initial written request or any update to the
initial request for Lactation Accommodation made pursuant to the policy required by Section
3300L.5(a)(2). The record shall include the name of the Employee, the date of the request, and a
description of how the Employer resolved the request. Employers shall retain documentation required
under this Article 3300L for a period of three years from the date of the request for Lactation
Accommodation, and shall allow the Agency access to such records, with appropriate notice and at a
mutually agreeable time, to monitor compliance with the requirements of this Article 3300L. When an
issue arises as to an alleged violation of this Article 3300L, if the Employer has failed to maintain or
retain documentation required under this Article 3300L, or does not allow the Agency reasonable
access to such records, it shall be presumed that the Employer has violated this Article 3300L, absent
clear and convincing evidence otherwise.

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SEC. 33001.7. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.

(a) It shall be unlawful for an Employer or any other person to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right protected under this Article 331.

(b) It shall be unlawful for an Employer or any other person to discharge, threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action against any person in retaliation for exercising rights protected under this Article 331. Such rights include but are not limited to the right to request Lactation Accommodation pursuant to this Article; the right to file a complaint or inform any person about any Employer’s alleged violation of this Article; the right to cooperate with the Agency in its investigations of alleged violations of this Article; and the right to inform any person of his or her possible rights under this Article.

(c) Protections of this Section 33001.7 shall apply to any person who mistakenly but in good faith alleges violations of this Article 331.

(d) Taking adverse action against a person within 90 days of the person’s filing a complaint with the Agency alleging a violation of any provision of this Article 331; of making a request for Lactation Accommodation; of informing any person about an Employer’s alleged violation of this Article; of cooperating with the Agency or other persons in the investigation or prosecution of any alleged violation of this Article; of opposing any policy, practice, or act that is unlawful under this Article; or of informing any person of his or her rights under this Article, shall raise a rebuttable presumption that such adverse action was taken in retaliation for the exercise of one or more of the aforementioned rights. Unless the Employer rebuts the presumption with clear and convincing evidence that the adverse action was solely for a reason other than retaliation, the employer shall be deemed to have violated this Section 33001.7.
SEC. 33001.87. IMPLEMENTATION AND ENFORCEMENT.

(a) Administrative Enforcement.

(1) The Agency is authorized to take appropriate steps to enforce this Article 331 and coordinate enforcement of this Article. The Agency may investigate possible violations of this Article. Where the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing. Given the time-sensitive nature of a complainant’s need for accommodation, the Agency shall endeavor to investigate and resolve complaints in an expeditious manner.

(2) The Agency shall not enforce and shall not impose penalties for any violation of Sections 1030-1032 of the Labor Code or violations of federal law.

(3) Where the Agency determines that a violation of this Article has occurred, it may issue a determination and order any appropriate relief, provided, however, that during the first 12 months following the operative date of this Article, the Agency must issue warnings and notices to correct. After the initial 12-month period following the operative date of this Article, Starting January 1, 2019, the Agency may issue determinations and impose an administrative penalty up to $500 for each violation of this Article. Prior to issuing a determination and imposing an administrative penalty, the Agency must issue a notice to correct and provide a reasonable amount of time for the Employer to resolve the violation. With the notice to correct, the Agency shall also provide or refer the Employer to information regarding how to resolve the violation. If the Employer resolves the violation within the prescribed period, the Agency shall not issue a determination of violation or impose an administrative penalty.

(4) Where prompt compliance is not forthcoming, the Agency may take any appropriate enforcement action to secure compliance. In order to compensate the City for the costs of investigating and remedying the violation, the Agency may also order the violating Employer or person to pay to the Supervisors Tang; Cohen, Ronen, Kim, Breed, Fewer, Yee, Safai
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City a sum of not more than $50 for each day or portion thereof and for each Employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the Agency and used to offset the costs of implementing and enforcing this Article.

(5) An Employee or other person acting on behalf of an Employee may report to the Agency any suspected violation of this Article. The Agency shall encourage reporting pursuant to this subsection (a)(5) by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation; provided however, that with the authorization of such person, the Agency may disclose his or her name and identifying information as necessary to enforce this Article or for other appropriate purposes. The filing of a report of a suspected violation by an Employee does not create any right of appeal to the Agency by the Employee; based on its sole discretion, the Agency may decide whether to investigate or pursue a violation of this Article.

(6) Rulemaking. The Director of the Agency may issue rules, regulations, or guidance consistent with this Article to further the purpose of the Article. The Director of the Agency may also establish rules and policies governing the administrative process for determining and appealing violations of this Article. The rules shall include but not necessarily be limited to procedures for:

(A) providing the Employer with notice that it may have violated this Article;

(B) providing the Employer with a right to respond to the notice;

(C) providing the Employer with notice of the Agency's determination of a violation; and

(D) providing the Employer with an opportunity to appeal the Agency's determination to a hearing officer, not employed by the Agency, who is appointed by the City Controller or his or her designee.

(7) If there is no appeal of the Agency's determination of a violation, that determination shall constitute the City's final decision. An Employer's failure to appeal the Agency's determination of
a violation shall constitute a failure to exhaust administrative remedies, which shall serve as a
complete defense to any petition or claim brought by the Employer against the City regarding the
Agency's determination of a violation.

(8) If there is an appeal of the Agency's determination of a violation, the hearing before
the hearing officer shall be conducted in a manner that satisfies the requirements of due process. In any
such hearing, the Agency's determination of a violation shall be considered prima facie evidence of a
violation, and the Employer shall have the burden of proving, by a preponderance of the evidence, that
the Agency's determination of a violation is incorrect. The hearing officer's decision of the appeal shall
constitute the City's final decision. The sole means of review of the City's final decision, rendered by
the hearing officer, shall be by filing in the San Francisco Superior Court a petition for writ of mandate
under Section 1094.5 of the California Code of Civil Procedure. The Agency shall notify the Employer
of this right of review after issuance of the City's final decision by the hearing officer.

(b) Interest. In any administrative action brought under this Article, the Agency or court, as the
case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in
subdivision (b) of Section 3289 of the California Civil Code.

(c) Remedies Cumulative. The remedies, penalties, and procedures provided under this Article
are cumulative.

SEC. 33001.8. LACTATION ROOMS IN NEW CONSTRUCTION AND REMODELED
BUILDINGS.

(a) New Construction of Buildings Designated for Certain Uses. New buildings
designated for Group A, B, E, F, I, or M use as defined by Section 304 of the Building Code
that will have at least 10,000 gross square feet of interior space designated for Employee only
use (i.e., space not designated for use by members of the public), shall include a Lactation
Room(s), as defined by Section 1210.5 of the Building Code, as follows:
For each additional 900 Employees in excess of 2400

(b) Renovated Buildings Designated for Certain Uses. Lactation Room(s) shall be added to existing buildings designated for Group A, B, E, F, I, or M use as defined by Section 304 of the Building Code as follows:

1. When there is a project to renovate the interior of the building,
2. The gross square footage of the interior space designated for Employee-only use (i.e. space not designated for public use) and included in the renovation project is at least 40,000 square feet, and
3. The estimated cost of the renovation project is over $500,000.

If these three requirements are met, the project shall include a Lactation Room(s), as follows:

<table>
<thead>
<tr>
<th>Employee Occupancy Load of Area of Building Subject to Renovation Project</th>
<th>Number of Lactation Rooms</th>
</tr>
</thead>
<tbody>
<tr>
<td>50-90</td>
<td>1</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Employees Range</th>
<th>Rooms</th>
</tr>
</thead>
<tbody>
<tr>
<td>91-180</td>
<td>2</td>
</tr>
<tr>
<td>181-300</td>
<td>3</td>
</tr>
<tr>
<td>301-600</td>
<td>4</td>
</tr>
<tr>
<td>601-1200</td>
<td>8</td>
</tr>
<tr>
<td>1201-2400</td>
<td>11</td>
</tr>
<tr>
<td>For each additional 900 Employees in excess of 2400</td>
<td>4</td>
</tr>
</tbody>
</table>

The dimensions and other specifications for such rooms are contained in Section 1210.5 of the Building Code. The requirement for a Lactation Room to have a sink, as specified by Section 1210.5 of the Building Code shall not apply where the renovation project does not involve plumbing work.

The requirement of this subsection (b) shall not apply to a project where the space subject to the renovation project already complies with subsection (a) of this Section 3300.8.

(c) Lactation Stations. Where multiple Lactation Rooms are required for a project under subsections (a) or (b) of this Section 3300.8, the project sponsor may fulfill the requirement by merging the required rooms and the square footage specified under Section 1210.5 of the Building Code and providing one room with multiple lactation stations or multiple rooms with multiple lactation stations. The total square footage provided must meet the minimum for the number of rooms required by subsections (a) or (b) of this Section. The room(s) must otherwise satisfy the requirements of this Section and Section 1210.5 of the Building Code, except that only one sink and one refrigerator are required in a room with multiple lactation stations. Each lactation station must meet the requirements of Section 3300.4(b)(1)(A)-(D) of this Section.

(d) Department of Building Inspection Responsibilities. In evaluating permit applications, the Department of Building Inspection shall ensure that plans for any project...
meeting the requirements of subsections (a) and (b) of this Section 33001.8 contain the
required Lactation Room(s):

(e) Other Requirements of Lactation Rooms.—Any Lactation Room required by
subsections (a) or (b) of this Section 33001.8 shall be designated for purposes of lactation and
shall not be converted for any other use. Each room shall have a sign outside the door
indicating that it is a Lactation Room. The room may be temporarily used for purposes other
than lactation only when the room is not being used by any Employee to accommodate the
Employee’s request for Lactation Accommodation. Each room shall have a refrigerator for
purposes of storing breastmilk.

(f) Enforcement.—The Director of the Agency, or his or her designee, shall receive and
investigate any complaint that a Lactation Room designated on the plans approved by the
Department of Building Inspection pursuant to subsections (a) or (b) of this Section 33001.8
has been converted to a use other than a Lactation Room, or does not have a sign or
refrigerator, as required by subsection (e) of this Section. Such complaints shall be handled
pursuant to Section 33001.7 of this Article 331. The Director of the Agency shall have no
enforcement authority regarding the requirements of this Section 33001.8, where the permit
and plans approved by the Department of Building Inspection do not include a Lactation
Room or where the plans do include a Lactation Room but the room was not constructed. If
the Director receives a complaint regarding such a building, the Director of the Agency shall
refer the complaint to the Department of Building Inspection.

SEC. 33001.9. CREATION OF EMPLOYER BEST PRACTICES, MODEL POLICY, AND
MODEL REQUEST FORM.

(a) The Director of Public Health, or his or her designee, shall create and distribute through
the Department of Public Health website and through other means, as appropriate, guidance for
Employers regarding best practices for Lactation Accommodation. The guidance shall provide examples of permissible Lactation Locations and shall include the following recommendations:

1. **Permanent Lactation Location.** The ideal situation is for an Employer to designate a permanent room within the workplace solely for purposes of lactation or nursing at all times. It should be a private room with: (A) a door that can be locked from the inside, (B) at least one electrical outlet, (C) a washable, comfortable chair, (D) a surface on which to place a pump or personal belongings such as a table or shelf, (E) adequate lighting, (F) the ability to add a partition to the room to accommodate multiple Employees simultaneously, (G) a refrigerator for storage of breast milk, (H) a sink with running water, (I) a hospital-grade electric breast pump or pumps, (J) a full length mirror, (K) a microwave, (L) lockers or a place to store belongings, and (M) the hygiene standards of the room shall be on par with a location suitable for the preparation or storage of food. There should be a permanent sign outside the room or on the door indicating that it is a Lactation Location Room.

2. **Temporary Lactation Spaces.** If, due to space, operational, or financial limitations, the Employer cannot provide a room as a dedicated Lactation Location or a room that is a multi-purpose Lactation Location, the Employer should designate a space within a room as a temporary Lactation Location. A temporary Lactation Location could, for example, be created using screening or curtains. The means by which the temporary Lactation Location is created (e.g., the curtain), and the items contained therein (i.e., the chair, table, etc.) should not be modified during the duration of the Employee’s need to express milk. While an Employee expresses milk, the Lactation Location should be free from intrusion by other persons by means of a latch or other closure mechanism. The temporary lactation space should have signage visible to other Employees designating the area as a Lactation Location for the duration of the Employee’s need to express milk. The Employer should provide notice to Employees of the existence and purpose of the temporary Lactation Location and that it should not be disturbed.
(3) Employers should consider flexible break times, given that an Employee’s need to
express milk may change over time.

(b) The Agency, in consultation with the Director of Public Health, or his or her designee,
shall create a model Lactation Accommodation policy that conforms to the requirements of Section
33001.5, and a model Lactation Accommodation request form. The Agency shall make these materials
available on its website.

SEC. 33001.10. NO CONFLICT WITH FEDERAL OR STATE LAW.
Nothing in this Article 33001 shall be interpreted or applied so as to create any requirement,
power, or duty in conflict with any federal or state law.

Section 4. The Building Code is amended by modifying Sections 106A and 1210:

SECTION 106A – PERMITS
* * * *

106A.3.3 Information on plans and specifications. Plans and specifications shall be
drawn to scale on substantial paper of a size not less than 11-inch by 17-inch (279.4 mm ×
431.8 mm) and shall be of sufficient clarity to indicate the location, nature and extent of the
work proposed and show in detail that it will conform to the provisions of this code and all
relevant laws, ordinances, rules and regulations. Specific plans and information required shall
include any of the following that is appropriate for the work being proposed:

* * * *

23. For a building that is an unsafe structure as defined in Section 102A, sufficient
information to show how all unsafe conditions will be corrected.
24. Information on plans demonstrating compliance with the lactation room requirements of Section 33001.8 of the Police Code and Section 1210.5 of the Building Code.

25. All other information necessary for determining compliance with applicable codes and regulations.

* * * *

SEC. 1210. TOILET, AND BATHROOM, AND LACTATION ROOM REQUIREMENTS

SEC. 1210.5. LACTATION ROOMS.

(a) Specifications. A Lactation Room required under Section 33001.8 of the Police Code shall meet the following requirements. The room shall be at least 50 square feet. It shall include at least one electrical outlet per lactation station and an additional outlet per room for a refrigerator, a sink with hot and cold running water, and a door that can be locked from the inside. The room shall be located no more than 500 feet or within two adjacent floors from the farthest employee workspace that it is designated to serve. The room shall meet all applicable local, state, and federal accessibility requirements, including requirements under the Americans with Disabilities Act and Chapter 11B of the California Building Code.

(b) Required Construction of Lactation Rooms. A Project Sponsor shall construct Lactation Room(s) in buildings designated for Group A, B, E, F, I, M, or R-1 use as defined by Chapter 3 of the Building Code when there are tenant improvements of the building that meet the following criteria:

(1) when there is tenant improvement project for the interior of the building, and

(2) the gross square footage of the interior space designated for Employee only use (i.e., space not designated for public use) and included in the project is at least 15,000 square feet, and
(3) the estimated cost of the project stated in the building application is over $1,000,000.

If these three requirements are met, the project shall include a Lactation Room(s), as follows:

<table>
<thead>
<tr>
<th>Employee Occupancy Load of Building</th>
<th>Number of Lactation Rooms or Stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>50-150</td>
<td>1</td>
</tr>
<tr>
<td>151-300</td>
<td>2</td>
</tr>
<tr>
<td>301-500</td>
<td>3</td>
</tr>
<tr>
<td>501-1000</td>
<td>4</td>
</tr>
<tr>
<td>1001-2000</td>
<td>8</td>
</tr>
<tr>
<td>2001-4000</td>
<td>11</td>
</tr>
<tr>
<td>For each additional 900 Employees</td>
<td>1</td>
</tr>
</tbody>
</table>

If the tenant improvement project contains existing Lactation Rooms that comply with this Section, such rooms may fulfill the requirements of this subsection (b).

(c) The requirement for a Lactation Room to have a sink, as specified by subsection (a) of this Section shall not apply where the project does not involve plumbing work.

(d) Lactation Stations. Where multiple Lactation Rooms are required for a project under subsection (b), the Project Sponsor may fulfill the requirement by merging the required rooms and the square footage specified under subsection (a) and providing one room with multiple lactation stations or multiple rooms with multiple lactation stations. The total square footage provided must meet the minimum for the number of rooms required by subsection (b).
The room(s) must otherwise satisfy the requirements of this Section 1210.5, except that only one sink is required in a room with multiple lactation stations.

(e) Other Requirements of Lactation Rooms. Any Lactation Room required by this Section shall be designated for purposes of lactation and shall not be converted for any other use. Each room shall have a sign outside the door indicating that it is a Lactation Room. The sign shall comply with Section 11B-216.2 of the Building Code. The room may be temporarily used for purposes other than lactation only when the room is not being used by any employee to accommodate the employee's request for lactation accommodation under Article 331 of the Police Code. Each lactation station shall have an electrical outlet and each Lactation Room shall have one additional electrical outlet to accommodate a refrigerator for purposes of storing breastmilk.

(f) For purposes of this Section 1210.5, “Project Sponsor” means the party that constructs the tenant improvements for an end user's occupancy.

Section 5. Effective Date and Operative Date.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) This ordinance shall become operative on January 1, 2018, 90 days after enactment.

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

Section 7. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.
Section 9. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to forward a copy of this ordinance to the California Building Standards Commission upon final passage.

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

By: BRADLEY A. RUSSI
Deputy City Attorney
Ordinance amending the Police Code to require employers to provide employees breaks and a location for lactation and to have a policy regarding lactation in the workplace that specifies a process by which an employee will make a request for accommodation, defines minimum standards for lactation accommodation spaces, requires that tenant improvements in buildings designated for certain uses include lactation rooms, and outlines lactation accommodation best practices; amending the Building Code to specify the technical specifications of lactation rooms for tenant improvements in buildings designated for certain uses; making findings, including environmental findings and findings regarding the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

May 22, 2017 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

May 22, 2017 Land Use and Transportation Committee - CONTINUED AS AMENDED

June 05, 2017 Land Use and Transportation Committee - RECOMMENDED

June 13, 2017 Board of Supervisors - PASSED, ON FIRST READING
  Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

June 20, 2017 Board of Supervisors - FINALLY PASSED
  Ayes: 9 - Breed, Cohen, Fewer, Peskin, Ronen, Safai, Sheehy, Tang and Yee
  Excused: 2 - Farrell and Kim
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/20/2017 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mayor

Date Approved

6/30/2017