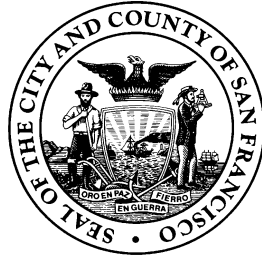


BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: John Carroll, Assistant Clerk, Public Safety and Neighborhood Services  
Committee, Board of Supervisors

DATE: June 27, 2019

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 190710**

**Ordinance amending the Health Code to replace the requirement that food preparation and service establishments post a symbol issued by the Department of Public Health with a requirement to post a color-coded placard indicating whether the establishment has passed (green), conditionally passed (yellow), or failed (red) a health inspection; and clarifying some of the terminology pertaining to violations and remedies and penalties for same.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

1 [Health Code - Food Preparation and Service Establishment Disclosures]

2  
3 **Ordinance amending the Health Code to replace the requirement that food preparation**  
4 **and service establishments post a symbol issued by the Department of Public Health**  
5 **with a requirement to post a color-coded placard indicating whether the establishment**  
6 **has passed (green), conditionally passed (yellow), or failed (red) a health inspection;**  
7 **and clarifying some of the terminology pertaining to violations and remedies and**  
8 **penalties for same.**

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

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

17 Section 1. Article 8 of the Health Code is hereby amended by revising Sections 451,  
18 456, 456.1, 456.2, 456.3, and 456.4, to read as follows:

19 **SEC. 451. FOOD PREPARATION AND SERVICE ESTABLISHMENT.**

20 For purposes of this Article 8, the following terms have the following meanings:

21 ~~(a)~~ "Bar or tavern" means any food preparation and service establishment which  
22 primarily prepares and/or serves alcoholic beverages.

23 ~~(b)~~ "Bed and breakfast establishment" means a "restricted food service facility" as  
24 defined in California Health and Safety Code Section 113893, as may be amended from time to  
25 time.

1           ~~(e)~~ "Boardinghouse" means any building or portion thereof occupied or intended,  
2 arranged, or designed for occupation, by six or more but less than 35 guests, where sleeping  
3 rooms and meals are provided to the guests for compensation; *in addition, Boardinghouse and*  
4 includes all private institutional-type homes where inspection is made by the *San Francisco*  
5 Department of Public Health.

6           ~~(d)~~ "Caterer" means a person who is in the business of providing food, beverages,  
7 and sometimes service, at social gatherings. The caterer prepares the food at a location  
8 separate from the social gathering, though the caterer may engage in limited food preparation  
9 at the location where the caterer serves the food. A caterer is not a private chef or chef for  
10 hire who prepares food in a private home.

11           ~~(e)~~ "Catering facility" means any food preparation and service establishment where a  
12 caterer prepares food for service at another location.

13           "City" means City and County of San Francisco.

14           ~~(f)~~ "Commissary" means any food establishment in which food, containers,  
15 equipment, or supplies are stored or handled for use in vehicles, mobile food preparation  
16 units, food carts, or vending machines.

17           "Consumer" has the meaning set forth in California Health and Safety Code Section 113757, as  
18 may be amended from time to time.

19           ~~(g)~~ "Director" means the Director of *Public Health* of the City *and County of San*  
20 *Francisco* or *his or her the Director's* designee. "Inspectors" shall mean the "Inspectors of the  
21 Department of Public Health," administered by said Director. The Director shall be responsible  
22 for the administration and enforcement of ~~Sections 451 to 456, inclusive, of~~ this Article 8 and the  
23 rules and regulations relating thereto. The Director shall, after a public hearing, prescribe the  
24 rules and regulations relating thereto. ~~Said rules and regulations shall be issued in pamphlet form.~~  
25

1 All ~~such~~ food preparation and service establishments shall be operated, conducted, and  
2 maintained in accordance therewith.

3 ~~(h)~~—"Employee Cafeteria" means a food facility located within business premises  
4 where the business employees are provided or sold food on a regular basis. Food and drink  
5 are not regularly served to the public and the food establishment is not subject to tax. The  
6 operators of the food facility are either employees of the business or are contracted by that  
7 business.

8 ~~(i)~~—"Food demonstrations" means any food preparation and/or service facility  
9 operating out of temporary facilities approved by the Director of ~~Public~~ Health for a period of  
10 time not to exceed seven consecutive days for purposes of demonstrating food preparation or  
11 equipment.

12 ~~(j)~~—"Food preparation and service establishment" means ~~and includes~~ any restaurant,  
13 mobile food facility, guest house, boardinghouse, special events, school food concessions,  
14 bar or tavern, take-out establishment, fast food establishment, caterer, catering facility,  
15 temporary facility, food demonstration, commissary, pushcart, stadium concession, vending  
16 machine, bed and breakfast establishment, employee cafeteria, private school cafeteria,  
17 hospital kitchen, and licensed health care facility, as those terms are defined herein.

18 ~~(k)~~—"Guest house" means any building or portion thereof occupied or intended,  
19 arranged, or designed for occupation, by 35 or more guests where sleeping rooms and meals  
20 are provided to the guests for compensation and shall include "guest house," "residence  
21 club," "lodge," "dormitory," "residence cooperative," and any of its variants.

22 ~~(l)~~—"Hospital kitchen" means any food preparation and service facility operating  
23 within a hospital that serves food to staff or the general public, but not to patients.

24 ~~(m)~~—"Licensed Health Care Facility" means all of the following health facilities with 16  
25 or more beds designated for the diagnosis, care, prevention, and treatment of human illness,

1 physical or mental, including convalescence, rehabilitation, and care during and after  
2 pregnancy, to which persons are admitted for a 24-hour stay or longer:

3 (1) General Acute Care Hospital as defined in California Health and Safety Code  
4 Section 1250(a) or any successive statutes;

5 (2) Acute Psychiatric Hospital as defined in California Health and Safety Code  
6 Section 1250(b) or any successive statutes;

7 (3) Skilled Nursing Facility as defined in California Health and Safety Code  
8 Section 1250(c) or any successive statutes;

9 (4) Intermediate Care Facility as defined in California Health and Safety Code  
10 Section 1250(d) or any successive statutes;

11 (5) Special Hospital as defined in California Health and Safety Code Section  
12 1250(f) or any successive statutes;

13 (6) Intermediate Care Facility/Developmentally Disabled as defined in California  
14 Health and Safety Code Section 1250(g) or any successive statutes; and

15 (7) Chemical Dependency Recovery Facility as defined in California Health and  
16 Safety Code Section 1250.3 or any successive statutes;

17 Any of the facility types listed above that are operated by the State of California  
18 Departments of Mental Health, Developmental Services, Corrections, or Youth Authority are  
19 not included in this definition.

20 "Limited food preparation" has the meaning set forth in California Health and Safety Code  
21 Section 113818, as may be amended from time to time.

22 ~~(n)~~ "Mobile Food Facility" means any vehicle or pushcart used in conjunction with a  
23 commissary or other permanent food facility upon which food is sold or distributed at retail.  
24 Mobile Food Facilities may be located on private or public property. Mobile Food Facility does  
25 not include a "Transporter" used to transport packaged food from a food facility or other

1 approved source to the ~~e~~Consumer. There are five categories of Mobile Food Facilities for  
2 licensing and fee payment purposes under *San Francisco* Business and Tax Regulations Code  
3 Section 249.1 as set forth below. ~~For purposes of this Section, the term "potentially hazardous~~  
4 ~~food" shall have the same meaning as set forth in California Health and Safety Code Section 110005 or~~  
5 ~~any successor provisions, the term "limited food preparation" shall have the same meaning set forth in~~  
6 ~~California Health and Safety Code Section 113818 or any successor provisions, and the term~~  
7 ~~"prepackaged" shall have the same meaning as set forth in California Health and Safety Code Section~~  
8 ~~113876 or any successor provisions.~~

9 (1) "Mobile Food Facility 1" means a Mobile Food Facility where a Mobile Food  
10 Facility Vendor handles prepackaged and non-potentially hazardous foods, including but not  
11 limited to, pastries, bagels, donuts, popcorn, chips, candies, sodas, or bottled drinks.

12 (2) "Mobile Food Facility 2" means a Mobile Food Facility where a Mobile Food  
13 Facility Vendor handles prepackaged and potentially hazardous foods, including but not  
14 limited to, cold sandwiches, salads, pasta, or cold noodles.

15 (3) "Mobile Food Facility 3" means a Mobile Food Facility where a Mobile Food  
16 Facility Vendor handles non-prepackaged and non-potentially hazardous foods, including but  
17 not limited to, churros, salted bagels, cotton candy, lemonade, or tea.

18 (4) "Mobile Food Facility 4" means a Mobile Food Facility where a Mobile Food  
19 Facility Vendor engages in limited food preparation.

20 (5) "Mobile Food Facility 5" means a Mobile Food Facility where a Mobile Food  
21 Facility Vendor engages in full food preparation or any food preparation not covered by Mobile  
22 Food Facility Categories 1-4, including but not limited to, tacos, burritos, crepes, or falafel.

23 ~~(e)~~ "Mobile Food Facility Vendor" means any person engaged in the business of  
24 operating a Mobile Food Facility within the City ~~and County of San Francisco~~.

1           ~~(p)~~ "Owner" or "owners" mean those persons, partnerships, or corporations who are  
2 financially interested in the operation of a food preparation and service establishment.

3           ~~(q)~~ "Operator" means any person engaged in the dispensing of or in assisting in the  
4 preparation of food, or a person otherwise employed in a food preparation and service  
5 establishment.

6           "Potentially hazardous food" has the meaning set forth in California Health and Safety Code  
7 Section 113871, as may be amended from time to time.

8           "Prepackaged food" has the meaning set forth in California Health and Safety Code Section  
9 113876, as may be amended from time to time.

10          ~~(r)~~ "Private school cafeteria" means any food preparation and service facility serving  
11 food to faculty and/or students of a school not operated by the San Francisco Unified School  
12 District.

13          ~~(s)~~ "Restaurant" means any coffee shop, cafeteria, short-order cafe, luncheonette,  
14 cocktail lounge, sandwich stand, soda fountain, public school cafeteria or eating  
15 establishment, in-plant or employee eating establishment, and any other eating establishment,  
16 organization, club, including Veterans' Club, boardinghouse, bed and breakfast  
17 establishments, or guest house, which gives, sells, or offers for sale, food to the public,  
18 guests, patrons, or employees as well as kitchens or other food preparation areas in which  
19 food is prepared on the premises for serving or consumption on or off the premises, and  
20 requires no further preparation, and also includes manufacturers of perishable food products  
21 that prepare food on the premises for sale directly to the public. The term "restaurant" shall  
22 not include mobile food facilities, cooperative arrangements made by employees who  
23 purchase food or beverages for their own consumption and where no employee is assigned  
24 full-time to care for or operate equipment used in such arrangement, or private homes; nor  
25 shall the term "restaurant" include churches, church societies, private clubs, or other nonprofit

1 associations of a religious, philanthropic, civic improvement, social, political, or educational  
2 nature, which purchase food, food products, or beverages, or which receive donations of food,  
3 food products, or beverages for service without charge to their members, or for service or sale  
4 at a reasonable charge to their members or to the general public at occasional fundraising  
5 events, for consumption on or off the premises at which the food, food products, or beverages  
6 are served or sold, if the service or sale of such food, food products, or beverages does not  
7 constitute a primary purpose or function of the club or association, and if no employee or  
8 member is assigned full-time to care for or operate equipment used in such arrangements.

9 ~~(f)~~ "School food concessions" means any food preparation, food service, or food  
10 products intended for consumption by students attending or participating in activities within a  
11 school facility.

12 ~~(g)~~ "Special events" means any organized collection of food purveyors operating  
13 individually or collaboratively out of approved temporary or mobile food facilities at a fixed  
14 location for a period of time not to exceed 25 days in a 90-day period in conjunction with a  
15 single, weekly, or monthly community event as defined in ~~the~~ California Health and Safety  
16 Code Section 113755, *as may be amended from time to time*.

17 ~~(h)~~ "Stadium concession" means any food preparation and/or service facility  
18 operating within a stadium, arena, or auditorium with a seating capacity of 25,000 or more.

19 ~~(i)~~ "Take-out establishment" means any food preparation and service establishment  
20 which primarily prepares food for consumption off premises.

21 ~~(j)~~ "Temporary facility" means any food preparation and service facility operating out  
22 of temporary facilities approved by the Director of ~~Public~~ Health at a fixed location for a period  
23 of time not to exceed 25 days in any 90-day period in conjunction with a single event or  
24 celebration.



1           ~~-(z)~~ "Vending machine" means any self-service device, which upon insertion of  
2 money or tokens, dispenses food without the necessity of replenishing the device between  
3 each vending operation.  
4

5           **SEC. 456. FOOD PREPARATION AND SERVICE ESTABLISHMENT**  
6 **DISCLOSURES.**

7           For purposes of Sections 456 through 456.5, the following terms have the following meanings:

8           "Closed Placard" means a red placard issued by a County Environmental Health Inspector to  
9 a Food Preparation and Service Establishment at the conclusion of a Routine or Scheduled Inspection  
10 in which one or more Major Violations that may pose an Imminent Health Hazard are documented,  
11 which violations, or subset thereof, are not corrected at the time of the inspection, as set forth in the  
12 Food Inspection Report.

13           "Conditional Pass Placard" means a yellow placard issued by a County Environmental Health  
14 Inspector to a Food Preparation and Service Establishment at the conclusion of a Routine or Scheduled  
15 Inspection in which two or more Major Violations that may pose an Imminent Health Hazard are  
16 documented, which violations are corrected at the time of the inspection, as set forth in the Food  
17 Inspection Report.

18           ~~A. "Food preparation and service establishment" is defined in Section 451 and for the~~  
19 ~~purposes of Section 456 et seq. shall include a food preparation and service establishment operating in~~  
20 ~~conjunction with a "food product and marketing establishment" (as defined in Section 440).~~

21           B. "Food ~~i~~nspection ~~r~~eport" means the written notice prepared and issued by a  
22 County Environmental Health Inspector after conducting an inspection of a ~~f~~Food ~~p~~reparation  
23 and ~~s~~Service ~~e~~Establishment to determine compliance with all applicable Federal, State, and  
24 local statutes, orders, ordinances, quarantines, rules, regulations, or directives relating to the  
25 public health.

1           "Food Preparation and Service Establishment" is defined in Section 451 and for purposes of  
2 Sections 456 et seq. shall include a Food Preparation and Service Establishment operation in  
3 conjunction with a "food product and marketing establishment" (as defined in Section 440).

4           ~~—C. "Symbol" means a representative mark issued by a county environmental health inspector~~  
5 ~~at the conclusion of the routine or scheduled inspection of a food preparation and service~~  
6 ~~establishment. The Symbol shall be issued only to a food preparation and service establishment that~~  
7 ~~scores ninety (90) percent or higher as a total numerical percentage score as set forth in the food~~  
8 ~~inspection report. The character of the Symbol shall be determined by the Director of Health in~~  
9 ~~consultation with San Francisco food preparation and service establishments.~~

10           ~~—D. "Inspection score card" means a card that indicates the total numerical percentage score~~  
11 ~~for the establishment as determined by a County Environmental Health Inspector and as set forth in the~~  
12 ~~food inspection report.~~

13           "Imminent Health Hazard" has the meaning set forth in California Health and Safety Code  
14 Section 113810, as amended from time to time.

15           "Major Violation" has the meaning set forth in California Health and Safety Code Section  
16 113821, as may be amended from time to time.

17           —E. "Notice of closure" means a public notice that may be posted by a county  
18 environmental health inspector at a fFood pPreparation and sService eEstablishment upon  
19 suspension or revocation of the establishment's public health permit to operate and that  
20 results in the immediate closure of the establishment and the discontinuance of all operations  
21 of the fFood pPreparation and sService eEstablishment, by order of a County Environmental  
22 Health Inspector, because of violations of applicable Federal, State, and/or local statutes,  
23 orders, ordinances, quarantines, rules, regulations, or directives relating to the public health.

24           "Pass Placard" means a green placard issued by a County Environmental Health Inspector to  
25 a Food Preparation and Service Establishment at the conclusion of a Routine or Scheduled inspection

1 in which no more than one Major Violation that may pose an Imminent Health Hazard is documented,  
2 which violation is corrected at the time of the inspection, as set forth in the Food Inspection Report.

3 "Placard" means a Closed Placard, a Conditional Pass Placard, or a Pass Placard

4 ~~F.~~ "Routine ~~i~~Inspection" means a periodic, unannounced inspection of a ~~f~~Food  
5 ~~p~~Preparation and ~~s~~Service ~~e~~Establishment to determine compliance with all applicable Federal,  
6 State and local statutes, orders, ordinances, quarantines, rules, regulations, or directives  
7 relating to the public health. A ~~r~~Routine ~~i~~Inspection shall not mean an inspection conducted by  
8 a County Environmental Health Inspector to determine compliance with a previously issued  
9 ~~f~~Food ~~i~~Inspection ~~r~~Report or any interim inspection conducted to determine compliance with  
10 specific regulations or legal requirements.

11 "Scheduled Inspection" means an announced inspection of a Food Preparation and Service  
12 Establishment that is scheduled for the purpose of following up on a Routine inspection, and where a  
13 food safety evaluation is made and a new Placard may be issued.

14  
15 **SEC. 456.1. POSTING REQUIREMENTS – PENALTY FOR NONCOMPLIANCE –**  
16 **DOCUMENTS AVAILABLE FOR PUBLIC REVIEW.**

17 ~~A.(a)~~ Upon issuance of a ~~Symbols~~Placard by a County Environmental Health  
18 Inspector, the ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment shall post the ~~Symbols~~Placard on  
19 the premises of the establishment so as to be clearly visible to patrons of the establishment.

20 ~~B.(b)~~ Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishments that are not issued ~~a~~  
21 ~~Symbols~~Placard by a County Environmental Health Inspector shall not post ~~the Symbols~~a Placard  
22 on the premises of the establishment.

23 ~~C.(c)~~ Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishments, whether issued ~~a~~  
24 ~~Symbols~~Placard or not, must make ~~the inspection score card and~~ the ~~Food~~ ~~i~~Inspection ~~r~~Report  
25 available to the general public and patrons for review upon request. ~~In addition, establishments~~

1 ~~must post the inspection report on the premises so as to be clearly visible to patrons of the~~  
2 ~~establishment. Posting of the inspection report shall not be required of "food preparation and service~~  
3 ~~establishments" defined in Section 451(i), (m), (n), (o), (p), or (r).~~

4 ~~D.(d)~~ The ~~Health~~ Department of Public Health shall strive to make all current Food  
5 inspection reports of food preparation and service establishments available on the  
6 Department's website as soon as is practicable.

7 ~~E.(e)~~ Once required to be posted, the ~~Symbol~~ Placard ~~and the inspection report~~ shall not  
8 be defaced, marred, camouflaged, hidden, or removed by the Food Preparation and Service  
9 Establishment until supereseded. It is unlawful to operate a food preparation and service  
10 establishment unless the ~~inspection score card, the Symbol, Placard and the inspection report are is~~  
11 in place as set forth hereunder. Removal of (or defacement, marring, camouflaging, or hiding of)  
12 the ~~inspection score card~~ Placard, ~~the Symbol, or the inspection report~~ from their its required place  
13 on the premises is a violation of Section 456 et seq. and may result in the suspension or  
14 revocation of the Public Health Permit to operate, as specified in Section 456.3, and ~~shall be is~~  
15 punishable, as specified in Section 456.4.

16 ~~F.(f)~~ Every food preparation and service establishment shall post a legibly  
17 lettered sign which displays the following information so as to be clearly visible to the general  
18 public and to patrons entering the establishment: Any public health concerns regarding this  
19 establishment should be directed to the City and County of San Francisco Department of  
20 Public Health, Environmental Health Section located at: (local office address and telephone  
21 number to be provided by a County Environmental Health Inspector).

22 ~~G.(g)~~ ~~The food inspection report upon which the current Symbol and the current inspection~~  
23 ~~score card are based shall be maintained at the food preparation and service establishment and shall~~  
24 ~~be available to the general public and to patrons for review upon request.~~ The food preparation  
25 and service establishment shall keep the current food inspection report until such time

1 as a County Environmental Health Inspector completes the next ~~r~~Routine or ~~s~~Scheduled  
2 ~~i~~Insp~~e~~ection of the establishment and issues a new ~~f~~Food ~~i~~Insp~~e~~ection ~~r~~Report.

3  
4 **SEC. 456.2. ~~SYMBOL AND INSPECTION SCORE CARD~~PLACARD – PERIOD OF**  
5 **VALIDITY.**

6 ~~A. A Symbol, an inspection score card, or both,~~Placard shall remain valid until a County  
7 Environmental Health Inspector completes the next ~~r~~Routine or ~~s~~Scheduled ~~i~~Insp~~e~~ection of the  
8 ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment. ~~After a routine inspection, the owner of a food~~  
9 ~~preparation and service establishment may request that the Health Department conduct a scheduled~~  
10 ~~inspection to revise the inspection score. The Health Department shall respond to the request as soon~~  
11 ~~as is practicable.~~

12  
13 **SEC. 456.3. PUBLIC HEALTH PERMIT SUSPENSION OR REVOCATION – NOTICE**  
14 **OF CLOSURE.**

15 ~~A.(a) A County Environmental Health Inspector, in his or her discretion, may immediately~~  
16 ~~close any food preparation and service establishment which, upon completion of a routine or scheduled~~  
17 ~~inspection, does not achieve the lowest satisfactory inspection report score as determined by the~~  
18 ~~Director of Health. Nothing in this provision Sections 456 et seq. shall prohibit a County~~  
19 Environmental Health Inspector from immediately closing any ~~f~~Food ~~p~~Preparation and ~~s~~Service  
20 ~~e~~Establishment if, in ~~his or her~~ the Inspector's discretion, immediate closure is necessary to  
21 protect the public health.

22 ~~B.(b)~~ Upon issuance of a written notice of suspension or revocation of the Public  
23 Health Permit to operate by a County Environmental Health Inspector, ~~he or she~~the Inspector  
24 shall post a ~~notice of closure~~Closed Placard at the ~~f~~Food ~~p~~Preparation and ~~s~~Service  
25 ~~e~~Establishment so as to be clearly visible to the general public and to patrons.

1           ~~C.(c)~~ Upon issuance of the written notice of suspension or revocation of the Public  
2 Health Permit to operate by a County Environmental Health Inspector and posting of a Closed  
3 Placard, the ~~f~~F~~ood~~ ~~p~~P~~reparation~~ and ~~s~~S~~ervice~~ ~~e~~E~~stablishment~~ shall immediately close to the  
4 general public and to patrons and shall discontinue all operations until the Public Health  
5 Permit to operate has been reissued or reinstated by order of a County Environmental Health  
6 Inspector or until the establishment no longer operates as a ~~f~~F~~ood~~ ~~p~~P~~reparation~~ and ~~s~~S~~ervice~~  
7 ~~e~~E~~stablishment~~.

8           ~~D.(d)~~ The ~~notice of closure~~Closed Placard shall remain posted until removed by a  
9 County Environmental Health Inspector. Removal of the ~~notice of closure~~Closed Placard by any  
10 person other than a County Environmental Health Inspector or the refusal of a ~~f~~F~~ood~~  
11 ~~p~~P~~reparation~~ and ~~s~~S~~ervice~~ ~~e~~E~~stablishment~~ to close upon issuance of the written notice of  
12 suspension of the Public Health Permit to operate is a violation of Section 456 et seq. and  
13 may result in the suspension or revocation of the ~~f~~F~~ood~~ ~~p~~P~~reparation~~ and ~~s~~S~~ervice~~  
14 ~~e~~E~~stablishment~~'s Public Health Permit to operate and shall be punishable as specified in  
15 Section 456.4.

16  
17           **SEC. 456.4. PENALTIES AND ENFORCEMENT.**

18           ~~A.(a)~~ Criminal Penalties. Any person violating any of the provisions of Section 456  
19 et seq., inclusive, of this Article 8 on more than three occasions within a twelve-month period,  
20 or violating Sections 451 through 454, inclusive, shall be guilty of a misdemeanor and shall be  
21 punished by a fine of not less than \$10 and not in excess of \$500, or by imprisonment in the  
22 County Jail for a term not exceeding 100 days, or by both such fine and imprisonment.

23           ~~B.(b)~~ Administrative Penalties. Any firm, association, company, or corporation  
24 violating any of the provisions of Section 456 et seq., inclusive, of this Article 8 shall be  
25 subject to administrative penalties imposed by the Director of Health. The Director may

1 assess an administrative penalty not exceeding ~~fifty dollars~~ (\$50) for a first violation; not  
2 exceeding ~~one hundred dollars~~ (\$100) for a second violation; and not exceeding ~~two hundred~~  
3 ~~dollars~~ (\$200) for the third and each subsequent violation of Section § 456 et seq.

4 ~~C.(c)~~ Before imposing an administrative penalty, the Director must serve upon the  
5 firm, association, company, person or corporation with responsibility for the Food Preparation and  
6 Service Establishment (hereinafter, "Responsible Party") ~~with~~ a notice of initial determination. The  
7 notice shall state the proposed administrative penalty and the basis for the Director's initial  
8 determination, including the alleged acts or failures to act that constitute a basis for the  
9 administrative penalty. The notice shall inform the ~~firm, association, company, or~~  
10 ~~corporation~~ Responsible Party that it has the right to request administrative review of the penalty  
11 within ~~fifteen~~ (15) days of receipt of the notice. Where the Director has determined that continued  
12 operation of the Food Preparation and Service Establishment poses a threat to public health, ~~The~~  
13 notice of initial determination may also require that the establishment cease and desist from  
14 all food preparation and service activity.

15 ~~D.(d)~~ If no request for review of the Director's decision is filed with the Health  
16 Department of Public Health within the appropriate period, the decision shall be deemed final  
17 and shall be effective ~~fifteen~~ (15) days after the notice of initial determination was served on  
18 the ~~firm, association, company, or corporation~~ Responsible Party. The Director shall thereafter issue  
19 an Order imposing an administrative penalty and serve it upon the party served with the notice  
20 of initial determination. Payment of any administrative penalty is due within 30 days of service  
21 of the Director's Order. Any administrative penalty assessed and received in an action brought  
22 under this Article § shall be paid to the Treasurer of the City and County of San Francisco.  
23 The ~~firm, association, company or corporation~~ Responsible Party against whom an administrative  
24 penalty is imposed also shall be liable for the costs and attorney's fees incurred by the City  
25

1 ~~and County of San Francisco~~ in bringing any civil action to enforce the provisions of this ~~s~~Section  
2 456.4, including obtaining a court order requiring payment of the administrative penalty.

3 ~~E.(e)~~ If the ~~firm, association, company or corporation~~Responsible Party files a timely  
4 request for review of the Director's decision with the ~~Health~~-Department of Public Health, the  
5 Director shall conduct a hearing. Within ~~fifteen (15)~~ days of receipt of the request, the Director  
6 shall notify the requestor of the date, time, and place of the hearing. Such hearing shall be  
7 held no later than ~~thirty (30)~~ days after the Director receives the request, unless time is  
8 extended by mutual agreement of the affected parties. The Director may adopt rules and  
9 regulations regarding the hearing procedures.

10 ~~F.(f)~~ Following the hearing, the Director shall serve written notice of the Director's  
11 decision on the ~~firm, association, company or corporation~~Responsible Party. If the Director's  
12 decision is that the ~~firm, association, company or corporation~~Responsible Party must pay an  
13 administrative penalty, the notice of decision shall state that the recipient has ~~ten (10)~~ days in  
14 which to pay the penalty. Any administrative penalty assessed and received in an action  
15 brought under this Article 8 shall be paid to the Treasurer of the City and County of San  
16 Francisco. The ~~firm, association, company or corporation~~Responsible Party against whom an  
17 administrative penalty is imposed also shall be liable for the costs and attorney's fees incurred  
18 by the City and County of San Francisco in bringing any civil action to enforce the provisions  
19 of this ~~s~~Section 456.4, including obtaining a court order requiring payment of the administrative  
20 penalty.

21 ~~G.(g)~~ The Director of Health may appoint a designee to perform the Director's  
22 functions and responsibilities under this Section 456.4.

23  
24 Section 2. Effective Date. This ordinance shall become effective 30 days after  
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the



1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By:



14 ANNE PEARSON  
15 Deputy City Attorney

16 n:\legana\as2019\1900480\01367894.docx

## LEGISLATIVE DIGEST

[Health Code - Food Preparation and Service Establishment Disclosures]

**Ordinance amending the Health Code to replace the requirement that food preparation and service establishments post a symbol issued by the Department of Public Health with a requirement to post a color-coded placard indicating whether the establishment has passed (green), conditionally passed (yellow), or failed (red) a health inspection; and clarifying some of the terminology pertaining to violations and remedies and penalties for same.**

### Existing Law

Food service and preparation establishments ("Food Establishments"), which include restaurants and other facilities that prepare and serve food to the public, are subject to inspection by the Department of Public Health ("DPH"). Currently, local law authorizes DPH to award a score to a Food Establishment at the conclusion of an inspection. The score can range between 0 to 100 points. Food Establishments are not required to post their score, but must make the inspection score card available to patrons upon request, and must post the inspection report on the premises.

### Amendments to Current Law

The proposed ordinance would require Food Establishments to post a colored food safety placard. The type of placard a Food Establishment would post would depend on the number and severity of violations that are identified during an inspection, and whether the violations, if identified, are corrected at the time of the inspection.

DPH would issue a green "Pass Placard" to a Food Establishment following an inspection in which no more than one major violation is documented, provided that the violation is corrected at the time of the inspection. A major violation is a violation that poses an imminent health hazard.

DPH would issue a yellow "Conditional Pass Placard" to a Food Establishment following an inspection in which two or more major violations are documented, provided that all violations are corrected at the time of the inspection.

DPH would issue a red "Closed Placard" to a Food Establishment following an inspection in which one or more major violations are documented, provided that one or more of the violations is not corrected at the time of the inspection.

The proposed ordinance would eliminate the requirement that Food Establishments post food inspection reports on the premises.

Background Information

Several neighboring counties (Alameda, Santa Clara, Solano, Contra Costa, Butte, Marin, Sonoma, and Sacramento) have adopted placarding systems that use a familiar green, yellow, red color scheme to communicate health and safety information to patrons of Food Establishments. County health departments in the Bay Area are moving towards a unified placarding program to facilitate standardized communication between food safety regulators, businesses, and the public.

The proposed placarding program would reflect safe food handling practices. DPH conducts inspections using risk factors adopted by the U.S. Centers for Disease Control and Prevention. Examples of major violations include, but are not limited to, vermin infestations, a lack of potable water, sewage backups, and adulterated food.

n:\leganalas2019\1900480\01367195.docx

Print Form

# Introduction Form

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

By a Member of the Board of Supervisors or Mayor

2019 JUN 18 PM 4:24

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

BY \_\_\_\_\_

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Supervisor Aaron Peskin

Subject:

Health Code - Food Preparation and Service Establishment Disclosures

The text is listed:

Ordinance amending the Health Code to replace the requirement that food preparation and service establishments post a symbol issued by the Department of Public Health with a requirement to post a color-coded placard indicating whether the establishment has passed (green), conditionally passed (yellow), or failed (red) a health inspection; and clarifying some of the terminology pertaining to violations and remedies and penalties for same.

Signature of Sponsoring Supervisor:



For Clerk's Use Only