

1 [~~Grading Rating~~ of food preparation and service establishments by Department of Public
2 Health and posting of ~~letter-grade~~ star rating and inspection score cards at food preparation
3 and service establishments.]

4 **Ordinance amending the San Francisco Health Code by adding a new section 456 et**
5 **seq. to establish ~~letter-grading~~ a star rating system by Department of Public Health for**
6 **inspection of food preparation and service establishments, requiring posting of ~~letter~~**
7 **grade star rating and inspection score cards by food preparation and service**
8 **establishments, and providing penalties for lack of compliance.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
12 Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. The San Francisco Health Code is hereby amended by adding Section 456
15 et seq., to read as follows:

16 Section 456. Food inspection report.

17 "Food inspection report" means the written notice prepared and issued by a county
18 environmental health inspector after conducting an inspection of a "food preparation and service
19 establishment" (as defined in Section 451) to determine compliance with all applicable federal, state
20 and local statutes, orders, ordinances, quarantines, rules, regulations, or directives relating to the
21 public health.

22 Section 456.1. ~~Grading Rating~~ and ~~letter-grade~~ star rating card.

23 A. "~~Grading Rating~~" means the ~~letter-grade~~ star rating issued by a county environmental
24 health inspector at the conclusion of the routine or scheduled inspection of a food preparation and
25 service establishment. The ~~grade~~ rating shall be based upon the scoring method set forth in this section
resulting from the food inspection report and shall reflect the food preparation and service

1 establishment's current and recent past degree of compliance with all applicable federal, state and
2 local statutes, orders, ordinances, quarantines, rules, regulations, or directives relating to the public
3 health.

4 B. ~~“Letter grade~~Star rating card” means a card that may be posted by a county
5 environmental health inspector at a food preparation and service establishment upon completion of a
6 routine or scheduled inspection that indicates the ~~letter grade~~star rating of the establishment as
7 determined by a county environmental health inspector using the scoring method established by the
8 Director of Health as set forth in this section. For the purposes of this provision, a food preparation
9 and service establishment shall include a food preparation and service establishment operating in
10 conjunction with a "food product and marketing establishment" (as defined in Section 440). Nothing in
11 section 456 et seq. shall prohibit the Department of Public Health from creating and using a letter
12 grade~~star~~ rating card in combination with an inspection score card. A county environmental health
13 inspector, ~~in~~ at his or her discretion, shall determine whether to post the ~~letter grade~~ star rating card,
14 the inspection score card, or both. In addition, a county environmental health inspector, in his or
15 her discretion, may require the posting of the inspection report.

16 C. A county environmental health inspector, in his or her discretion, may immediately close
17 any food preparation and service establishment which, upon completion of the routine inspection, does
18 not achieve a “C” grade as defined herein the lowest satisfactory score as determined by the
19 Director of Health. Nothing in this provision shall prohibit a county environmental health inspector
20 from immediately closing any food preparation and service establishment if, in his or her discretion,
21 immediate closure is necessary to protect the public health.

22 D. The ~~letter grade~~star rating assigned by a county environmental health inspector shall
23 be based upon an objective scoring methodology developed by the Director of Health, who shall
24 set the lowest satisfactory score and set the number of stars awarded based on the score
25 achieved. ~~the final numerical percentage score set forth in the food inspection report, as~~

1 follows:

2 1. A grade of "A" shall indicate a final score of 90 percent or higher as determined by a
3 county environmental health inspector;

4 2. A grade of "B" shall indicate a final score less than 90 percent but not less than 80
5 percent as determined by a county environmental health inspector;

6 3. A grade of "C" shall indicate a final score less than 80 percent but not less than 70
7 percent as determined by a county environmental health inspector.

8 Section 456.2. Inspection Scorecard.

9 A. "Inspection score card" means a card that may be posted by a county environmental health
10 inspector at a food preparation and service establishment, upon completion of a routine inspection,
11 that indicates the total numerical percentage score for the establishment as determined by a county
12 environmental health inspector and as set forth in the food inspection report. For the purposes of this
13 provision, a food preparation and service establishment shall include a food preparation and service
14 establishment operating in conjunction with a food product and marketing establishment. Nothing in
15 section 456 et seq. shall prohibit the Department of Public Health from creating and using an
16 inspection score card in combination with a letter grade star rating card. A county environmental
17 health inspector, in his or her discretion, shall determine whether to post the inspection score card, the
18 letter grade star rating card, or both. In addition, a county environmental health inspector, in his
19 or her discretion, may require the posting of the inspection report.

20 B. A county environmental health inspector, in his or her discretion, may immediately close any
21 food preparation and service establishment which, upon completion of the a routine or scheduled
22 inspection, achieves a total numerical percentage score less than 70 percent the lowest satisfactory
23 score as determined by the Director of Health as set forth in Section 456.1. Nothing in this
24 provision shall prohibit a county environmental health inspector from immediately closing any food
25 preparation and service establishment if, in his or her discretion, immediate closure is necessary to

1 protect the public health.

2 Section 456.3. Notice of Closure.

3 “Notice of closure” means a public notice that may be posted by a county environmental health
4 inspector at a food preparation and service establishment upon suspension or revocation of the
5 establishment's public health permit to operate and that results in the immediate closure of the
6 establishment and the discontinuance of all operations of the food preparation and service
7 establishment, by order of a county environmental health inspector, because of violations of applicable
8 federal, state and local statutes, orders, ordinances, quarantines, rules, regulations, or directives
9 relating to the public health.

10 Section 456.4. Routine Inspection.

11 “Routine inspection” means a periodic, unannounced inspection of a food preparation and
12 service establishment to determine compliance with all applicable federal, state and local statutes,
13 orders, ordinances, quarantines, rules, regulations, or directives relating to the public health. A
14 routine inspection shall not mean an inspection conducted by a county environmental health inspector
15 to determine compliance with a previously issued food inspection report or any interim inspection
16 conducted to determine compliance with specific regulations or legal requirements.

17 Section 456.5. Posting requirements -- Penalty for noncompliance -- Documents available for
18 public review.

19 A.. Upon issuance by a county environmental health inspector, he or she ~~may~~ shall post at a
20 food preparation and service establishment the ~~letter grade~~ star rating card, the inspection score card,
21 or both, as determined by him or her, so as to be clearly visible to the general public and to patrons
22 entering the establishment. In addition, a county environmental health inspector, in his or her
23 discretion, may require the posting of the inspection report. These requirements shall not
24 apply to "food preparation and service establishments" defined in Section 451(i, m, n, o, p, or
25 r). “Clearly visible to the general public and to patrons” means:

1 1. Posted in the front window of the establishment within five feet of the front door;

2 2. Posted in a display case mounted on the outside front wall of the establishment within five
3 feet of the front door; or

4 3. Posted in a location as directed and determined in the discretion of a county environmental
5 health inspector to ensure proper notice to the general public and to patrons.

6 B. In the event that a food preparation and service establishment is operated in the same
7 building or space as a separately licensed or permitted business, or in the event that a food preparation
8 and service establishment shares a common patron entrance with such a separately licensed or
9 permitted business, or in the event of both, a county environmental health inspector shall post the ~~letter~~
10 ~~grade~~star rating card, the inspection score card, or both, or the inspection report in the initial
11 patron contact area, or in a location as determined in the discretion of a county environmental health
12 inspector.

13 C. The ~~letter grade~~star rating card, and the inspection score card, and the inspection
14 report shall not be defaced, marred, camouflaged, hidden or removed. It is unlawful to operate a food
15 preparation and service establishment unless the ~~letter grade~~star rating card, the inspection score
16 card, or both, as determined by a county environmental health inspector, and the inspection report is
17 or are in place as set forth hereunder. Removal of the ~~letter grade~~star rating card, the inspection
18 score card, or both, or the inspection report is a violation of section 456 et seq. and may result in the
19 suspension or revocation of the public health permit to operate and shall be punishable as specified in
20 Section 456.8.

21 D. Every food preparation and service establishment shall post a legibly lettered sign which
22 displays the following information so as to be clearly visible to the general public and to patrons
23 entering the establishment: Any public health concerns regarding this establishment should be directed
24 to the City and County of San Francisco Department of Public Health, Environmental Health Section
25 located at: (local office address and telephone number to be provided by a county environmental health

1 inspector).

2 E. The food inspection report upon which the ~~letter grade~~star rating card, the inspection
3 score card, or both, are based and all subsequent reports issued by a county environmental health
4 inspector shall be maintained at the food preparation and service establishment and shall be available
5 to the general public and to patrons for review upon request. The food preparation and service
6 establishment shall keep the food inspection report and all subsequent reports until such time as a
7 county environmental health inspector completes the next routine inspection of the establishment and
8 issues a new food inspection report. In addition, a county environmental health inspector, in his
9 or her discretion, may require the posting of the inspection report.

10 Section 456.6. ~~Letter grade~~Star rating card and inspection score card -- Period of validity.

11 A ~~letter grade~~star rating card, an inspection score card, or both, shall remain valid until a
12 county environmental health inspector completes the next routine or scheduled inspection of the food
13 preparation and service establishment. After a routine inspection, the owner of a food preparation
14 and service establishment may request that the Health Department conduct a scheduled
15 inspection to revise the ~~grade~~rating. The Health Department shall respond to the request as
16 soon as is practicable.

17 Section 456.7. Public health permit suspension or revocation -- Notice of closure.

18 A.. Upon issuance of a written notice of suspension or revocation of the public health permit to
19 operate by a county environmental health inspector, he or she shall post a notice of closure at the food
20 preparation and service establishment so as to be clearly visible to the general public and to patrons.

21 B. Upon issuance of the written notice of suspension or revocation of the public health permit
22 to operate by a county environmental health inspector, the food preparation and service establishment
23 shall immediately close to the general public and to patrons and shall discontinue all operations until
24 the public health permit to operate has been reissued or reinstated by order of a county environmental
25 health inspector or until the establishment no longer operates as a food preparation and service

1 establishment.

2 C. The notice of closure shall remain posted until removed by a county environmental health
3 inspector. Removal of the notice of closure by any person other than a county environmental health
4 inspector or the refusal of a food preparation and service establishment to close upon issuance of the
5 written notice of suspension of the public health permit to operate is a violation of section 456 et seq.
6 and may result in the suspension or revocation of the food preparation and service establishment's
7 public health permit to operate and shall be punishable as specified in Section 456.8.

8 Section 456.8. ~~Penalty.~~Penalties.

9 A. ~~Any person, firm, association, company or corporation~~ violating any of the provisions of
10 Section 456 et seq., inclusive, of this Article on more than three occasions within a twelve month
11 period, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10 and not in
12 excess of \$500, or by imprisonment in the County Jail for a term not exceeding 100 days, or by both
13 such fine and imprisonment.

14 B. Any firm, association, company or corporation violating any of the provisions of
15 Section 456 et seq., inclusive, of this Article shall be subject to administrative penalties
16 imposed by the Director of Health. The Director may assess an administrative penalty not
17 exceeding fifty dollars (\$50) for a first violation; not exceeding one hundred dollars (\$100) for
18 a second violation; and not exceeding two hundred dollars (\$200) for the third and each
19 subsequent violation.

20 C. Before imposing an administrative penalty, the Director must serve upon the firm,
21 association, company or corporation with a notice of initial determination. The notice shall
22 state the proposed administrative penalty and the basis for the Director's initial determination,
23 including the alleged acts or failures to act that constitute a basis for the administrative
24 penalty. The notice shall inform the firm, association, company or corporation that it has the
25 right to request administrative review of the penalty within fifteen (15) days of receipt of the

1 notice.

2 D. If no request for review of the Director's decision is filed with the DirectorHealth
3 Department within the appropriate period, the decision shall be deemed final and shall be
4 effective fifteen (15) days after the notice of initial determination was served on the firm,
5 association, company or corporation. The Director shall issue an Order imposing an
6 administrative penalty and serve it upon the party served with the notice of initial
7 determination. Payment of any administrative penalty is due within 30 days of service of the
8 Director's Order. Any administrative penalty assessed and received in an action brought
9 under this Article shall be paid to the Treasurer of the City and County of San Francisco. The
10 firm, association, company or corporation against whom an administrative penalty is imposed
11 also shall be liable for the costs and attorney's fees incurred by the City and County of San
12 Francisco in bringing any civil action to enforce the provisions of this section, including
13 obtaining a court order requiring payment of the administrative penalty.

14 E. If the firm, association, company or corporation files a timely request for review of
15 the Director's decision with the DirectorHealth Department, the Director shall conduct a
16 hearing. Within fifteen (15) days of receipt of the request, the Director shall notify the
17 requestor of the date, time, and place of the hearing. Such hearing shall be held no later than
18 thirty (30) days after the Director receives the request, unless time is extended by mutual
19 agreement of the affected parties. The Director may adopt rules and regulations regarding
20 the hearing procedures.

21 F. Following the hearing, the Director shall serve written notice of the Director's
22 decision on the firm, association, company or corporation. If the Director's decision is that the
23 firm, association, company or corporation must pay an administrative penalty, the notice of
24 decision shall state that the recipient has ten (10) days in which to pay the penalty. Any
25 administrative penalty assessed and received in an action brought under this Article shall be

1 paid to the Treasurer of the City and County of San Francisco. The firm, association,
2 company or corporation against whom an administrative penalty is imposed also shall be
3 liable for the costs and attorney's fees incurred by the City and County of San Francisco in
4 bringing any civil action to enforce the provisions of this section, including obtaining a court
5 order requiring payment of the administrative penalty.

6 G. The Director of Health may appoint a designee to perform the Director's functions
7 and responsibilities under Section 456.8.

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

11 By: _____
12 Frederick P. Sheinfield
13 Deputy City Attorney
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