

1 [Menu Labeling At Chain Restaurants.]

2

3 **Ordinance amending Sections 468 through 468.8 of the San Francisco Health Code to**  
4 **(1) require chain restaurants to provide, per standard menu item, the total number of**  
5 **calories on menu boards and food tags, and the total number of calories, saturated fat,**  
6 **carbohydrates and sodium on menus; and (2) revise existing requirements for**  
7 **providing nutritional information on alternative disclosure media.**

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

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

13 Section 1. The San Francisco Health Code is hereby amended by amending Sections  
14 468 through 468.8 to read as follows:

15 **SEC. 468. PURPOSE. POLICY**

16 *The purpose of Sections 468 through 468.8 is to provide consumers with information about the*  
17 *nutritional components of Food prepared, purchased, and eaten outside the home. Consumers must*  
18 *have basic nutritional information readily available in order to make informed choices about the Food*  
19 *that they, and their children and dependants, eat. These sections require Chain Restaurants to provide*  
20 *consumers with specific nutritional information on Menu Items, such as calorie content, so that*  
21 *consumers may be better able to make nutritional choices consistent with their health needs.*  
22 *Furthermore, ensuring informed food choices supports societal public health goals of preventing*  
23 *obesity, diabetes, and other avoidable nutrition-related diseases.*

24 *It is the policy of the City and County of San Francisco to require fast food establishments to*  
25 *make readily available to their customers in San Francisco ingredient and nutrition information*  
*regarding the products on their menus.*

1           **SEC. 468.1. FINDINGS.**

2           The Board of Supervisors hereby finds and declares as follows:

3           Obesity is a serious and growing public health crisis affecting states and localities across the  
4 country. In California and the City and County of San Francisco, obesity is one of the greatest public  
5 health challenges, as evidenced by the following:

- 6           • Obesity rates have doubled in children and tripled in teenagers over the past twenty years;
- 7           • The rate at which obesity is increasing in California is among the fastest in the country;
- 8           • One third of California children, one fourth of California teenagers, and one half of  
9 California adults are either overweight or obese;
- 10          • Fifty percent of overweight children and teenagers remain overweight as adults;
- 11          • Over half of Californians are at greater risk for heart disease, type-2 diabetes, high blood  
12 pressure, stroke, arthritis-related disabilities, depression, sleep disorders, and some cancers  
13 because of increasing obesity rates
- 14          • In San Francisco, 43% percent of adults are overweight or obese and 24% of school-age  
15 children are overweight or obese.

16          The burden of increasing overweight and obesity manifests itself in premature death and  
17 disability, health care costs, and lost productivity. Obesity greatly increases the risk of chronic  
18 diseases such as high cholesterol, high blood pressure, asthma, and type-2 diabetes. 22% of San  
19 Franciscans have high blood pressure and 6.5% of San Franciscans have diabetes. Heart disease is  
20 the leading cause of death in San Francisco. The financial cost of obesity is evidenced by the  
21 following:

- 22          • In 2005, California's costs related to obesity, overweight, and lack of physical activity were  
23 projected to reach \$28 billion for health care and lost work productivity;

- 1 • The indirect and direct costs of adult obesity in America are between \$69 and \$117 billion  
2 each year;
- 3 • If 10% of currently obese or overweight Californians were to reach and maintain a healthy  
4 weight over a five-year period, savings would amount to \$13 billion;
- 5 • Obesity-related expenditures are thought to have accounted for more than 25% of the  
6 increase in national health care spending between 1987 and 2001;
- 7 • The San Francisco Department of Public Health estimates that the obesity epidemic costs  
8 San Francisco \$192 million a year in medical expenses, lost productivity and workers'  
9 compensation. The estimated costs to the Department for diabetes for the year 2005 was  
10 \$25 million.

11 The rise in obesity rates has coincided with Americans eating more meals outside of the home.

12 Such meals contribute to the growing rate of obesity, as evidenced by the following:

- 13 • In 1970, Americans spent just 26% of their food dollars on restaurant meals and other foods  
14 prepared outside the home. Today, Americans spend 47.9% of their food dollars on away-  
15 from-home foods;
- 16 • Between 1972 and 1997, the per capita number of fast-food restaurants doubled, and the  
17 per-capita number of full-service restaurants rose by 35%;
- 18 • The increase in per capita restaurants accounts for 65% of the increase in the percentage of  
19 those who are obese;
- 20 • About one-third of the calories in an average American's diet come from restaurant or other  
21 away-from-home foods;
- 22 • On average, children and youth aged 11-18 visit fast food outlets of twice a week;
- 23 • Studies have shown a positive association between eating out and higher caloric intakes and  
24 higher body weights;
- 25

- 1 • Children eat almost twice as many calories (770) when they eat a meal at a restaurant as  
2 they do when they eat at home (420);
- 3 • Restaurant foods are generally higher in those nutrients for which over consumption is a  
4 problem, such as fat and saturated fat, and lower in nutrients required for good health, such  
5 as calcium and fiber;
- 6 • It is not uncommon for a restaurant entrée to provide half of a day's calories, saturated and  
7 trans fat, or sodium;
- 8 • Portion sizes are often large at restaurants and people tend to eat greater quantities of food  
9 when they are served more, whether or not they are hungry;
- 10 • Observational studies have shown that people who frequently consume food away from  
11 home tend to weigh more.

12 Without nutrition information, consumers consistently underestimate the nutritional content of  
13 restaurant foods, as evidenced by the following:

- 14 • In a California field poll about the nutritional value of typical fast food and restaurant menu  
15 items, not a single respondent was able to answer all four questions correctly. Less than 1%  
16 answered three out of four questions correctly, and only 5% answered two out of four  
17 questions correctly. Nearly 68% were not able to answer a single question correctly;
- 18 • An FDA-commissioned report concluded that without access to nutritional information,  
19 consumers are not able to assess the caloric content of foods;
- 20 • One study illustrated that restaurant foods contain almost twice the number of calories  
21 estimated by consumers;
- 22 • Another study showed that even trained nutrition professionals consistently underestimate  
23 the calorie content of restaurant foods by 200 to 600 calories.

1 When nutrition information is provided, consumers use it to make healthier choices, as  
2 evidenced by the following:

- 3 • Three quarters of American adults report using nutritional labels on packaged foods;
- 4 • Studies show that the use of food labels is associated with eating more healthful diets;
- 5 • Almost half of consumers report that the information provided on food labels has caused  
6 them to change their mind about buying a food product.
- 7 • With nutrition information, consumers are 24%-37% less likely to select high-calorie items.

8 The Federal Nutrition Labeling and Education Act requires food manufacturers to provide  
9 nutrition information on nearly all packaged foods, but explicitly exempts restaurants from that  
10 requirement.

11 The current system of voluntary nutritional disclosures by restaurants is inadequate.  
12 Approximately two-thirds of the largest chain restaurants fail to provide any nutritional information  
13 about their menu item to customers. Those that do provide such information often do not do so at the  
14 point of sale, but rather on websites or in brochures available only by request.

15 Competition within the food service industry is healthy and desirable but cannot lead to  
16 healthier food options when consumers are not able to make choices based upon the nutritional value  
17 of the food offered.

18 84% of Californians are in favor of nutritional labeling in restaurants. The United States  
19 Surgeon General, the Food and Drug Administration, the National Academies' Institute of Medicine,  
20 and the American Medical Association have all recommended nutritional labeling of restaurant food as  
21 a strategy to address rising obesity rates.

22 The aforementioned findings are based on studies referenced in the "Statement of Findings," a  
23 copy of which is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
24 incorporated herein by reference.

1 Therefore, it is the intent of the Board of Supervisors, in enacting this ordinance to provide  
2 consumers with basic nutritional information about prepared Foods sold at Chain Restaurants so that  
3 consumers can make informed Food choices; and to foster fairness and encourage beneficial  
4 competition among the Chain Restaurants of the City and County of San Francisco.

5 ~~The Board of Supervisors finds that major cardiovascular diseases are responsible for more~~  
6 ~~than one million deaths in the Unites States each year. As a result, almost one out of every two~~  
7 ~~Americans die of cardiovascular diseases. In 1984, nearly 50 percent of all deaths in San Francisco~~  
8 ~~were from heart disease, stroke and related disorders. It has been estimated that coronary heart~~  
9 ~~disease costs the United States over \$60 billion a year in direct and indirect costs.~~

10 ~~There is increasing evidence of a relationship between diet and many of the leading causes of~~  
11 ~~death in the United States. A number of risk factors have been identified as strongly associated with~~  
12 ~~coronary heart disease. High blood pressure and high blood cholesterol are two of the most clearly~~  
13 ~~established of these factors.~~

14 ~~A large body of evidence reveals that the blood cholesterol level of most Americans is~~  
15 ~~undesirably high, in large part because of our high dietary intake of calories, saturated fat, and~~  
16 ~~cholesterol. In countries with diets lower in these constituents, blood cholesterol levels are lower, and~~  
17 ~~coronary heart disease is less common. There is no doubt that appropriate changes in the American~~  
18 ~~diet will reduce blood cholesterol levels.~~

19 ~~The \$47 billion fast food industry provides a sizeable and growing portion of the American diet.~~  
20 ~~Studies indicate that Americans eat out often and that younger groups eat more often at fast food~~  
21 ~~places. A Gallup study over a three year period (1978 to 1980) revealed that 30 to 42 percent of those~~  
22 ~~polled had eaten out the day before. Twenty eight percent ate at fast food establishments. Other studies~~  
23 ~~have shown that one out of every five working women eat at a fast food establishment four times a~~

1 ~~week. It is apparent that fast foods comprise a significant portion of the diet of many Americans, San~~  
2 ~~Franciscans included.~~

3 ~~Recent studies have shown that some fast food establishments use highly saturated fats, such as~~  
4 ~~beef tallow, in the preparation of fried foods. Fast foods can supply more calories than needed from~~  
5 ~~one meal. Sodium levels may be high, which is of special concern for people on sodium restricted diets.~~  
6 ~~Various studies have noted the high fat and sugar content of some fast foods, and the low levels of~~  
7 ~~Vitamins A and C in many fast foods. Further, the majority of fast food establishments provided few~~  
8 ~~vegetables, fruits and whole grain products on their menus.~~

9 ~~When it comes to selecting a nutritious meal, most fast food diners are provided little, if any,~~  
10 ~~information regarding foods on the menu. Requiring ingredient and nutrition disclosure would enable~~  
11 ~~consumers, particularly consumers with histories of heart disease, stroke, or allergies, to make~~  
12 ~~informed choices concerning their eating habits, choices more consistent with their long term health.~~

13 ~~Most fast food establishments, unlike many local, nonfranchised restaurants, are not capable of~~  
14 ~~changing their menus on a daily basis. In fact, they are more like small, decentralized food~~  
15 ~~manufacturing facilities than restaurants. Each franchise in a chain uses the same ingredients to make~~  
16 ~~the same standardized product. The variety of food is limited and most foods come in standardized~~  
17 ~~containers or wrappers that could easily bear ingredient and nutrition labels. Section 343(i) of the~~  
18 ~~Federal Food, Drug and Cosmetic Act requires ingredient information to be included on the labels of~~  
19 ~~packaged food. Moreover, in a statement of policy issued December 3, 1985, regarding the disclosure~~  
20 ~~of ingredients in restaurant served foods, the Unites States Department of Agriculture went on record~~  
21 ~~supporting state and local efforts to require accurate descriptions of food served in, among other~~  
22 ~~places, fast food establishments.~~

23  
24  
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1           *Therefore, the Board of Supervisors declares that it is in the public interest to require fast food*  
2 *establishments to make readily available to their customers in San Francisco ingredient and nutrition*  
3 *information regarding the products on their menus.*

4           **SEC. 468.2. DEFINITIONS.**

5           *(a) "Chain Restaurant" means a Restaurant within the City and County of San Francisco that*  
6 *shares the same name, offers for sale substantially the same Menu Items, in servings that are*  
7 *standardized for portion size and content, and either: (1) operates under common ownership or control*  
8 *with at least 14 or more Restaurants in California; or (2) operates as a franchised outlet of a parent*  
9 *company with at least 14 or more franchised outlets in California.*

10           (b) "Director" shall mean the Director of Health, or his designated agents or  
11 representatives.

12           *(c) "Food" means any substance in whatever form for sale in whole or in any part for human*  
13 *consumption such as, for example, meals, snacks, desserts, and beverages of all kinds.*

14           *(d) "Food Tag" means any written, printed, or displayed price or descriptor of Food offered for*  
15 *sale at a Restaurant that is not a Menu or a Menu Board, such as, for example, a label placed next to a*  
16 *cherry pie showing a picture of a cherry and listing the price per slice.*

17           *(e) "Menu" means any list of Food offered for sale at a Restaurant, but does not include a*  
18 *Menu Board.*

19           *(f) "Menu Board" means any list of Food offered for sale at a Restaurant that is posted and*  
20 *intended for shared viewing by multiple customers such as, for example, back-lit marquee signs above*  
21 *the point of sale at fast-food outlets and chalk boards listing offered Food items; and also means any*  
22 *list of Food offered for sale at a Restaurant that is posted and intended for viewing by customers*  
23 *purchasing Food to go, such as, for example, a drive-through menu.*

1           (g) "Menu Item" means an item described on a Menu, a Menu Board, or a Food Tag that is  
2 prepared, un-prepackaged Food offered for sale in a Restaurant; and also means that portion of a  
3 combination item appearing on a Menu, a Menu Board, or a Food Tag that is prepared, un-  
4 prepackaged Food when the item appearing on the Menu, the Menu Board, or the Food Tag is a bundle  
5 of items, such as, for example, a "kids meal" that includes: (1) prepared, un-prepackaged Foods, such  
6 as a hamburger; (2) prepackaged Foods, such as milk; and (3) a toy.

7           (h) "Restaurant" means a facility at which any prepared, un-prepackaged Foods are offered for  
8 sale and consumption on or off the premises such as, for example: sit-down restaurants; cafés; some  
9 coffee stands; some convenience and grocery stores; and fast-food outlets.

10           ~~(a) "Color additive" shall mean a substance which satisfies both of the following requirements:~~

11           ~~(1) It is a dye, pigment, or other substance which is made by a process of synthesis or similar~~  
12 ~~artifice, or which is extracted, isolated or otherwise derived, with or without intermediate or final~~  
13 ~~change or identity, from a vegetable, animal, mineral, or other source.~~

14           ~~(2) When added or applied to a food, it is capable, alone or through reaction with any other~~  
15 ~~substance, of imparting color to the food to which it is added or applied.~~

16           ~~The term "color additive" does not include any material which is used, or intended to be used,~~  
17 ~~solely for a purpose or purposes other than coloring.~~

18           ~~The term "color," as used in this Section, includes black, white, and intermediate grays.~~

19           ~~(c) "Fast Food Establishment" shall mean a restaurant where ready to eat cooked food and~~  
20 ~~beverages, primarily served in or on disposable wrappers, packages, or containers, for consumption on~~  
21 ~~or off the premises, is offered for retail sale, and which is part of a chain of 10 or more franchised~~  
22 ~~restaurants. This definition is not applicable to bakeries, or to food operations which are an incidental~~  
23 ~~part of a grocery or a supermarket business.~~

1           ~~(d) "Food" shall mean any article intended for use for food, drink, confection, condiment, or~~  
2 ~~chewing gum, or any article which is used or integrated for use as a component of any such article.~~

3           ~~(e) "Food Additive" shall mean any substance, the intended use of which results or may~~  
4 ~~reasonably be expected to result, directly or indirectly, in such substance becoming a component of the~~  
5 ~~food or otherwise affecting the characteristics of the food.~~

6           ~~This includes any substance or radiation source which is intended for use in producing,~~  
7 ~~manufacturing, packing, treating, packaging, transporting, or holding any food.~~

8           ~~The term "food additive" does not include any of the following:~~

9           ~~(1) A pesticide chemical in or on a raw agricultural commodity.~~

10          ~~(2) A pesticide chemical that is used, or intended for use, in the production, storage, or~~  
11 ~~transportation of any raw agricultural commodity.~~

12          ~~(3) A color additive.~~

13          ~~(4) Any substance which is used in accordance with a sanction or approval granted prior to the~~  
14 ~~enactment of the Food Additives Amendment of 1958 (72 Stat. 1784), pursuant to the federal act; the~~  
15 ~~Poultry Products Inspection Act (71 Stat. 441; 21 U.S.C., Sec. 451 et seq.); the Meat Inspection Act of~~  
16 ~~March 4, 1907 (34 Stat. 1260) as amended and extended (21 U.S.C. Sec. 71 et seq.); or the Food and~~  
17 ~~Agricultural Code of this State.~~

18          ~~(f) "Federal Act" shall mean the Federal Food, Drug, and Cosmetic Act, as amended (52 Stat.~~  
19 ~~1040; 21 U.S.C., Sec. 301 et seq.).~~

20          ~~(g) "Label" shall mean a display of written, printed, or graphic matter upon a food or upon its~~  
21 ~~package.~~

22          ~~(h) "Labeling" shall mean label or other written, printed or graphic matter upon a food or upon~~  
23 ~~its package.~~

1           (i) "Package" shall mean any container or wrapper for enclosing or containing any food  
2 ~~product.~~

3           **SEC. 468.3. MENU LABELING REQUIRED AT CHAIN RESTAURANTS. INGREDIENT**  
4 **INFORMATION REQUIRED TO BE DISCLOSED.**

5           (a) Required Nutritional Information. Except as provided in subsection (h), each Chain  
6 Restaurant shall make nutritional information available to consumers for all Menu Items. This  
7 information shall include, but not be limited to, all of the following, per Menu Item, as usually prepared  
8 and offered for sale:

- 9           (1) Total number of calories;  
10           (2) Total number of grams of saturated fat;  
11           (3) Total number of grams of carbohydrates; and  
12           (4) Total number of milligrams of sodium.

13           (b) Information on Menus.

14           (1) Each Chain Restaurant that uses a Menu shall provide the nutritional information required  
15 by subsection (a) next to or beneath each item on the Menu using a font and format that is at least as  
16 prominent, in size and appearance, as that used to post either the name or price of the Menu Item.

17           (2) Each Chain Restaurant that uses a Menu shall include the following statement on the Menu  
18 in a clear and conspicuous manner: "Recommended limits for a 2,000 calorie daily diet are 20 grams  
19 of saturated fat and 2,300 milligrams of sodium."

20           (c) Information on Menu Boards.

21           (1) Each Chain Restaurant that uses a Menu Board shall provide on the Menu Board the  
22 nutritional information required by subsection (a)(1) next to or beneath each item on the Menu Board  
23 using a font and format that is at least as prominent, in size and appearance, as that used to post either  
24 the name or price of the Menu Item.

1           (d) Information on Food Tags. Each Chain Restaurant that uses a Food Tag shall provide on  
2 the Food Tag the nutritional information required by subsection (a)(1) using a font and format that is  
3 at least as prominent, in size and appearance, as that used to post either the name or price of the Menu  
4 Item.

5           (e) Range of nutritional information for different flavors and varieties. If a Chain Restaurant  
6 offers a Menu Item in more than one flavor or variety (such as beverages, ice cream, pizza, or  
7 doughnuts) and lists the item as a single menu item, the range of values for the nutritional information  
8 for all flavors and varieties of that item (i.e., the minimum to maximum numbers of calories) shall be  
9 listed for each size offered for sale.

10           (f) Disclaimers. Menus, Menu Boards, and Food Tags may include a disclaimer that indicates  
11 that there may be minimal variations in nutritional content across servings, based on slight variations  
12 in overall size and quantities of ingredients, and based on special ordering.

13           (g) Verifiable and Reliable Information Required.

14           (1) The nutrition information required by this section and section 468.4 shall be based on a  
15 verifiable analysis of the Menu Item, which may include the use of nutrient databases, laboratory  
16 testing, or other reliable methods of analysis.

17           (2) A Restaurant is in violation of this section and section 478.4 if the provided nutritional  
18 information required by these sections:

19           (i) Is not present in the location or in the form required by these sections;

20           (ii) Is different than what the Restaurant knows or believes to be the true and accurate  
21 information; or

22           (iii) Deviates from what actual analysis or other reliable evidence shows to be the average  
23 content of a representative sample of the Menu Item by more than 10% for Menu Items with calorie  
24

1 content values above 500 calories or by more than 20% for Menu Items with calorie content values 500  
2 calories or less.

3 (h) Food Items Excluded. This section and section 468.4 shall not apply to:

4 (1) Items placed on the table or at a counter for general use without charge, such as, for  
5 example, condiments;

6 (2) Alcoholic beverages; and

7 (3) Items that are on the Menu, Menu Board or Food Tag for less than 30 days in a calendar  
8 year.

9 ~~(a) The ingredient information relating to a packaged food sold for consumption by customers~~  
10 ~~of fast food establishments must be included on the label of the package, or on any of the alternative~~  
11 ~~disclosure media provided for in Section 468.5. The information must include ingredients, cooking~~  
12 ~~medium, spices, flavorings, coloring, artificial flavorings, artificial colorings, and chemical~~  
13 ~~preservatives. The ingredient information shall consist of the following items:~~

14 ~~(1) A heading titled "Ingredient Information".~~

15 ~~(2) The common or usual name of each ingredient of the food, in descending order of~~  
16 ~~predominance by weight.~~

17 ~~(3) The cooking medium.~~

18 ~~(4) Spices, flavorings, and colorings may be designated as spices, flavorings, and colorings~~  
19 ~~without naming each.~~

20 ~~(5) Artificial flavorings, artificial colorings, and chemical preservatives must be designated as~~  
21 ~~such.~~

22 ~~(6) Any other food additives, or color additives. FD&C Yellow No. 5 must be specifically~~  
23 ~~declared.~~

24 ~~(b) This Section does not require that any trade secret be divulged.~~

25

1           ~~(e) Customers will be able to obtain ingredient information without the necessity of purchasing~~  
2 ~~food.~~

3           **SEC. 468.4. NUTRITION INFORMATION REQUIRED TO BE DISCLOSED ON**  
4 **DISCLOSURE MEDIA OTHER THAN MENUS, MENU BOARDS AND FOOD TAGS.**

5           (a) ~~Each Chain Restaurant shall make the following nutrition information available to~~  
6 ~~consumers per Menu Item, as usually prepared and offered for sale, relating to a packaged food sold for~~  
7 ~~consumption by customers of fast food establishments must be included on the label of the package, or~~  
8 ~~on any of the alternative disclosure media provided for in subsection (c): Section 468.5. The~~  
9 ~~information must include calories, protein, carbohydrates, total fat, saturated fat, polyunsaturated~~  
10 ~~fat, cholesterol, and sodium., vitamins and minerals. The nutrition information shall consist of the~~  
11 following items:

12           (1) A heading titled "Nutrition Information ~~Per Serving~~" or equivalent heading acceptable  
13 to the Department of Public Health.

14           ~~(2) A statement of the serving size.~~

15           ~~(3) A statement of the number of servings per container.~~

16           ~~(4) Caloric content shall be expressed to the nearest five calorie increment per serving.~~

17           ~~(2 4) The nutritional information required by Section 468.3(a).~~

18           ~~(3 5) Protein, carbohydrates, and total fat, saturated fat, and polyunsaturated fat shall be~~  
19 expressed to the nearest gram per serving.

20           ~~(4 6) Cholesterol and sodium shall be expressed to the nearest milligram per serving.~~

21           ~~(7) In the case of vitamins and minerals, information regarding vitamin A, Vitamin C, thiamine,~~  
22 ~~riboflavin, niacin, calcium, and iron must be expressed in percentages of the U.S. RDA as derived from~~  
23 ~~the Recommended Dietary Allowances of the National Academy of Sciences National Research~~  
24 ~~Council, by the Food and Drug Administration, U.S. Department of Health and Human Services.~~

1 (b) Customers ~~will~~ must be able to obtain nutrition information without the necessity of  
2 purchasing food.

3 (c) The information required by subsection (a) must be disclosed, in a size and typeface that is  
4 clear and conspicuous, on a printed poster of a size no smaller than eighteen (18) inches by twenty-four  
5 (24) inches, displayed in a conspicuous place and readily visible to customers either: (1) at the  
6 point of sale; (2) near the front door; (3) on or near the host/hostess desk or reception area; or (4) at  
7 any point in or near the entryway or waiting area of the restaurant.

8 **SEC. 468.5. REPORTING REQUIREMENTS. ~~ALTERNATIVE DISCLOSURE MEDIA.~~**

9 By July 1, 2008, and July 1<sup>st</sup> of every year thereafter, Chain Restaurants shall report to the  
10 Department of Public Health the information required by Sections 468.3 and 468.4 in an electronic  
11 format determined by the Department. The Department shall make this information available to the  
12 public.

13 ~~Information required by Sections 468.3 and 468.4 must be disclosed either (a) on the label of~~  
14 ~~packaged food sold for consumption by customers of fast food establishments, or (b) on a notice~~  
15 ~~displayed in a conspicuous place and readily visible to customers at the point of sale, or (c) through the~~  
16 ~~provision of menu notices, or (d) brochures, made available to customers in a conspicuous place~~  
17 ~~readily available to said customers, or (e) tray liners.~~

18 **SEC. 468.6. PENALTIES AND ENFORCEMENT. ~~CONSPICUOUSNESS AND TERMS OF~~**  
19 **~~INFORMATION REQUIRED TO BE DISCLOSED.~~**

20 (a) Cumulative Remedies. The remedies provided by this section are cumulative and in addition  
21 to any other remedies available at law or in equity.

22 (b) Administrative Remedies. The Director may enforce the provisions of Sections 468.3  
23 through 468.5 by serving a Notice of Violation requesting a Chain Restaurant to appear at an  
24 administrative hearing before the Director at least 20 days after the Notice of Violation is mailed. At  
25

1 the hearing, the Chain Restaurant cited with violating the provisions of these sections shall be provided  
2 an opportunity to refute all evidence against it. The Director shall oversee the hearing and issue a  
3 ruling within 20 days of its conclusion. The Director's ruling shall be final. If the Director finds that a  
4 Chain Restaurant has violated any of the provisions of Sections 468.3 through 468.5 or refuses to  
5 comply with these sections, the Director may order either of the following penalties:

6 (1) Suspension or revocation of the permit issued by the Director pursuant to Sections 451 et.  
7 seq. of this Code; or

8 (2) An administrative fine in an amount (1) not exceeding one hundred dollars (\$100) for a first  
9 violation; (2) not exceeding two hundred dollars (\$200) for a second violation within one year; (3) not  
10 exceeding five hundred dollars (\$500) for each additional violation within one year. In assessing the  
11 amount of the administrative penalty, the Director shall consider any one or more of the relevant  
12 circumstances presented by any of the parties to the hearing, including but not limited to the following:  
13 the nature and seriousness of the misconduct, the number of violations, the persistence of the  
14 misconduct, the length of time over which the misconduct occurred, the willfulness of the Chain  
15 Restaurant's misconduct, and the Chain Restaurant's assets, liabilities, and net worth. Any penalty  
16 assessed and recovered pursuant to this paragraph shall be paid to the City Treasurer and credited to  
17 the Department Environmental Health Section Special Revenue Account.

18 (c) Civil Penalties. Violations of Sections 468.3 through 468.5 are subject to a civil action  
19 brought by the City Attorney, punishable by a civil fine not less than two hundred fifty dollars (\$250)  
20 and not exceeding five hundred (\$500) per violation. Unless otherwise specified in this section, each  
21 day of a continuing violation shall constitute a separate violation. In assessing the amount of the civil  
22 penalty, the court shall consider any one or more of the relevant circumstances presented by any of the  
23 parties to the case, including but not limited to the following: the nature and seriousness of the  
24 misconduct, the number of violations, the persistence of the misconduct, the length of time over which

1 the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets,  
2 liabilities, and net worth. Any penalty assessed and recovered in an action brought pursuant to this  
3 paragraph shall be paid to the City Treasurer and credited to the Department Environmental Health  
4 Section Special Revenue Account.

5 (d) Criminal Liability. Each violation of Sections 468.3 through 468.5 constitutes an infraction  
6 punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not  
7 exceeding two hundred dollars (\$200) for a second violation within one year; (3) a fine not exceeding  
8 five hundred dollars (\$500) for each additional violation within one year.

9 (e) Action for Injunction. The City Attorney may bring a civil action to enjoin a violation of  
10 Sections 468.3 through 468.5.

11 (f) Aiding and Abetting. Causing, permitting, aiding, abetting, or concealing a violation of any  
12 provision of Sections 468.3 through 468.5 shall also constitute a violation of this ordinance.

13 (g) Enforcement Agency. The Department of Public Health shall supervise compliance with  
14 Sections 468.3 through 468.5 and shall enforce those sections. Notwithstanding, any other person  
15 legally permitted under federal law, under state law, under Sections 468.3 through 468.5, or under  
16 other provisions of this Code to enforce a provision of these sections may enforce that provision. Such  
17 persons may include, for example: peace officers; code enforcement officials; and City officials,  
18 employees, and agents.

19 (h) Fees. In order to implement the requirements set forth in this ordinance, the Department of  
20 Public Health is hereby authorized to impose a surcharge of \$350.00 for the permit issued to Chain  
21 Restaurants pursuant to Sections 451 et. seq. of this Code.

22 (a) Information required by Sections 468.3 and 468.4 must be prominently placed upon the  
23 label, or other disclosure media as provided for in Section 468.5, with such conspicuousness, as  
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1 ~~compared with other words, statements, or designs and in such terms as to render it likely to be read~~  
2 ~~and understood by the ordinary individual under customary conditions of purchase and use.~~

3 ~~(b) If the information required by Sections 468.3 and 468.4 is disclosed on a label, the~~  
4 ~~information must appear on the outside container or wrapper of the retail package, or be easily legible~~  
5 ~~through the outside container or wrapper.~~

6 **SEC. 468.7. SEVERABILITY. ~~PENALTIES AND ENFORCEMENT.~~**

7 It is the intent of the Board of Supervisors to supplement applicable state and federal law and  
8 not to duplicate or contradict such law and this ordinance shall be construed consistently with that  
9 intention. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this  
10 ordinance, or its application to any person or circumstance, is for any reason held to be invalid or  
11 unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the  
12 remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this  
13 ordinance, or its application to any other person or circumstance. The Board of Supervisors hereby  
14 declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause  
15 or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions,  
16 paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

17 ~~(a) The Director of Public Health shall enforce Sections 468 through 468.6 against violations~~  
18 ~~by serving notice requiring the correction of any violation within a reasonable time specified by the~~  
19 ~~Director. If no response to the notice is received within the specified time period, the Director shall call~~  
20 ~~upon the City Attorney to maintain an action for injunction to enforce the provisions of Sections 468~~  
21 ~~and 468.6, to cause the correction of any such violation, and for assessment and recovery of a civil~~  
22 ~~penalty for such violation.~~

23 ~~(b) Any individual, firm, partnership, corporation, company, association, society, group or~~  
24 ~~other person or legal entity that violates any provision of Sections 468 through 468.6 shall be liable for~~

1 ~~a civil penalty, not to exceed \$500 for each day such violation is committed or permitted to continue,~~  
2 ~~which penalty shall be assessed and recovered in a civil action brought in the name of the people of the~~  
3 ~~City and County of San Francisco by the City Attorney in any court of competent jurisdiction. Any~~  
4 ~~penalty assessed and recovered in an action brought pursuant to this paragraph shall be paid to the~~  
5 ~~Treasurer of the City and County of San Francisco.~~

6 **SEC. 468.8 OPERATIVE DATE. SEVERABILITY.**

7 The disclosure requirements set forth in Sections 468.3(b) (Menus), 468.3(d) (Food Tags), and  
8 468.4(c) (Posters), shall become operative sixty (60) days after the effective date of this ordinance. The  
9 disclosure requirements set forth in Section 468.3(c) (Menu Boards) shall become operative one  
10 hundred and fifty (150) days after its effective date.

11 ~~If any part or provision of Sections 468 through 468.7 or application thereof, to any person or~~  
12 ~~circumstance is held invalid, the remainder of the section, including the application of such part of~~  
13 ~~provisions to other persons or circumstances, shall not be affected thereby and shall continue in full~~  
14 ~~force and effect. To this end the provisions of the sections are severable.~~

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

17 By: \_\_\_\_\_  
18 Francesca Gessner  
19 Deputy City Attorney

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