

BOARD of SUPERVISORS



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MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Vincent C. Matthews, Ed.D., Superintendent, Unified School District
Shireen McSpadden, Executive Director, Department of Aging and Adult Services

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

DATE: September 25, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, substituted by Supervisor Peskin on September 17, 2019:

File No. 190710

Ordinance amending the Health Code and Business and Tax Regulations Code to replace the requirement that food preparation and service establishments ("food facilities") 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; clarifying some of the terminology pertaining to violations and remedies and penalties for same; defining new categories of food facilities; establishing annual permit fees for new categories of food facilities; and increasing permit fees for temporary permits and food vending machines.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Viva Mogi, San Francisco Unified School District
Bridget Badasow, Department of Aging and Adult Services

1 [Health, Business and Tax Regulations Codes - Food Preparation and Service Establishment
2 Categories, Disclosures, and Permit Fees]

3 **Ordinance amending the Health Code and Business and Tax Regulations Code to**
4 **replace the requirement that food preparation and service establishments ("food**
5 **facilities") post a symbol issued by the Department of Public Health with a requirement**
6 **to post a color-coded placard indicating whether the establishment has passed (green),**
7 **conditionally passed (yellow), or failed (red) a health inspection; clarifying some of the**
8 **terminology pertaining to violations and remedies and penalties for same; defining new**
9 **categories of food facilities; establishing annual permit fees for new categories of food**
10 **facilities; and increasing permit fees for temporary permits and food vending**
11 **machines.**

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

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

19 Section 1. Article 8 of the Health Code is hereby amended by revising Sections 451,
20 456, 456.1, 456.2, 456.3, 456.4, and 467, to read as follows:

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

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

24 ~~(a)~~—"Bar or tavern" means any ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment which
25 primarily prepares and/or serves alcoholic beverages.

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

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

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

14 ~~(e)~~ "Catering facility" means any ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment
15 where a caterer prepares food for service at another location.

16 (1) "Catering facility - Cooking" means a Catering facility where food is cooked for
17 service at another location.

18 (2) "Catering facility - No Cooking" means a Catering facility where Limited food
19 preparation occurs, but cooking is not allowed.

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

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

24 (1) "Commissary for cooking" means a Commissary where cooking occurs.

1 (2) "Commissary for Mobile Food Facility servicing" means a Commissary where
2 food is stored for a Mobile Food Facility, and where no food preparation or cooking is allowed.

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

5 "Cooking school" means a school where students prepare and consume food products.

6 ~~-(g)~~ "Director" means the Director of ~~Public~~ Health of the City ~~and County of San~~
7 ~~Francisco" or his or her~~ the Director's designee. "Inspectors" shall mean the "Inspectors of the
8 Department of Public Health," administered by said Director. The Director shall be responsible
9 for the administration and enforcement of ~~Sections 451 to 456, inclusive, of~~ this Article 8 and the
10 rules and regulations relating thereto. The Director shall, after a public hearing, prescribe the
11 rules and regulations relating thereto. ~~Said rules and regulations shall be issued in pamphlet form.~~
12 All ~~such~~ Food pPreparation and ~~s~~Service eEstablishments shall be operated, conducted, and
13 maintained in accordance therewith.

14 ~~-(h)~~ "Employee Cafeteria" means a food facility located within business premises
15 where the business employees are provided or sold food on a regular basis. Food and drink
16 are not regularly served to the public and the food establishment is not subject to tax. The
17 operators of the food facility are either employees of the business or are contracted by that
18 business.

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

23 ~~-(j)~~ "Food pPreparation and ~~s~~Service eEstablishment" means ~~and includes~~ any
24 restaurant, mobile food facility, guest house, boardinghouse, special events, school food
25 concessions, bar or tavern, take-out establishment, fast food establishment, caterer, catering

1 facility, temporary facility, food demonstration, commissary, pushcart, stadium concession,
2 vending machine, bed and breakfast establishment, employee cafeteria, private school
3 cafeteria, hospital kitchen, and licensed health care facility, as those terms are defined herein.

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

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

10 "Host facility" has the meaning set forth in California Health and Safety Code Section
11 113806.1, as may be amended from time to time.

12 ~~(m)~~ "Licensed Health Care Facility" means all of the following health facilities with 16
13 or more beds designated for the diagnosis, care, prevention, and treatment of human illness,
14 physical or mental, including convalescence, rehabilitation, and care during and after
15 pregnancy, to which persons are admitted for a 24-hour stay or longer:

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

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

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

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

24 (5) Special Hospital as defined in California- Health and Safety Code Section
25 1250(f) or any successive statutes;

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

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

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

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

10 "Limited service charitable feeding operation" has the meaning set forth in California Health
11 and Safety Code Section 113819, as may be amended from time.

12 ~~-(n)-~~ "Mobile Food Facility" means any vehicle or pushcart used in conjunction with a
13 commissary or other permanent food facility upon which food is sold or distributed at retail.
14 Mobile Food Facilities may be located on private or public property. Mobile Food Facility does
15 not include a "Transporter" used to transport packaged food from a food facility or other
16 approved source to the ~~e~~Consumer. There are five categories of Mobile Food Facilities for
17 licensing and fee payment purposes under ~~San Francisco~~ Business and Tax Regulations Code
18 Section 249.1 as set forth below. ~~For purposes of this Section, the term "potentially hazardous~~
19 ~~food" shall have the same meaning as set forth in California Health and Safety Code Section 110005 or~~
20 ~~any successor provisions, the term "limited food preparation" shall have the same meaning set forth in~~
21 ~~California Health and Safety Code Section 113818 or any successor provisions, and the term~~
22 ~~"prepackaged" shall have the same meaning as set forth in California Health and Safety Code Section~~
23 ~~113876 or any successor provisions.~~

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

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

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

10 (4) "Mobile Food Facility 4" means a Mobile Food Facility where a Mobile Food
11 Facility Vendor engages in ~~l~~limited food preparation.

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

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

17 ~~(p)~~"Owner" or "owners" mean those persons, partnerships, or corporations who are
18 financially interested in the operation of a ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment.

19 ~~(q)~~"Operator" means any person engaged in the dispensing of or in assisting in the
20 preparation of food, or a person otherwise employed in a ~~f~~Food ~~p~~Preparation and ~~s~~Service
21 ~~e~~Establishment.

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

24 "Prepackaged food" has the meaning set forth in California Health and Safety Code Section
25 113876, as may be amended from time to time.

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

4 ~~(s)~~ "Restaurant" means any coffee shop, cafeteria, short-order cafe, luncheonette,
5 cocktail lounge, sandwich stand, soda fountain, public school cafeteria or eating
6 establishment, in-plant or employee eating establishment, and any other eating establishment,
7 organization, club, including Veterans' Club, boardinghouse, bed and breakfast
8 establishments, or guest house, which gives, sells, or offers for sale, food to the public,
9 guests, patrons, or employees as well as kitchens or other food preparation areas in which
10 food is prepared on the premises for serving or consumption on or off the premises, and
11 requires no further preparation, and also includes manufacturers of perishable food products
12 that prepare food on the premises for sale directly to the public. The term "restaurant" shall
13 not include mobile food facilities, cooperative arrangements made by employees who
14 purchase food or beverages for their own consumption and where no employee is assigned
15 full-time to care for or operate equipment used in such arrangement, or private homes; nor
16 shall the term "restaurant" include churches, church societies, private clubs, or other nonprofit
17 associations of a religious, philanthropic, civic improvement, social, political, or educational
18 nature, which purchase food, food products, or beverages, or which receive donations of food,
19 food products, or beverages for service without charge to their members, or for service or sale
20 at a reasonable charge to their members or to the general public at occasional fundraising
21 events, for consumption on or off the premises at which the food, food products, or beverages
22 are served or sold, if the service or sale of such food, food products, or beverages does not
23 constitute a primary purpose or function of the club or association, and if no employee or
24 member is assigned full-time to care for or operate equipment used in such arrangements.

1 —(t)—"School food concessions" means any food preparation, food service, or food
2 products intended for consumption by students attending or participating in activities within a
3 school facility.

4 "Shared kitchen complex" means a facility that provides services and restrooms to Food
5 Preparation and Service Establishments located within the facility for the purpose of cleaning, storage,
6 refuse disposal, and wastewater disposal.

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

12 —(w)—"Stadium concession" means any food preparation and/or service facility
13 operating within the footprint of a stadium, arena, or auditorium, with a seating capacity of
14 25,000 or more.

15 —(x)—"Take-out establishment" means any ~~f~~Food ~~p~~Preparation and ~~s~~Service
16 ~~e~~Establishment ~~which~~that primarily prepares food for consumption off premises.

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

21 —(z)—"Vending machine" means any self-service device, which upon insertion of
22 money, credit card, mobile payment, or tokens, dispenses Potentially hazardous food or beverages
23 without the necessity of replenishing the device between each vending operation.

1 **SEC. 456. FOOD PREPARATION AND SERVICE ESTABLISHMENT**

2 **DISCLOSURES.**

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

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

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

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

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

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

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

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

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

12 "Major Violation" has the meaning set forth in California Health and Safety Code Section
13 113821, as may be amended from time to time.

14 ~~E.~~ "Notice of closure" means a public notice that may be posted by a county
15 environmental health inspector at a ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment upon
16 suspension or revocation of the establishment's public health permit to operate and that
17 results in the immediate closure of the establishment and the discontinuance of all operations
18 of the ~~f~~Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishment, by order of a County Environmental
19 Health Inspector, because of violations of applicable Federal, State, ~~and/or~~ local statutes,
20 orders, ordinances, quarantines, rules, regulations, or directives relating to the public health.

21 "Pass Placard" means a green placard issued by a County Environmental Health Inspector to
22 a Food Preparation and Service Establishment at the conclusion of a Routine or Scheduled inspection
23 in which no more than one Major Violation that may pose an Imminent Health Hazard is documented,
24 which violation is corrected at the time of the inspection, as set forth in the Food Inspection Report.

25 "Placard" means a Closed Placard, a Conditional Pass Placard, or a Pass Placard.

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

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

11
12 **SEC. 456.1. POSTING REQUIREMENTS – PENALTY FOR NONCOMPLIANCE –**
13 **DOCUMENTS AVAILABLE FOR PUBLIC REVIEW.**

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

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

20 ~~C.(c)~~ Food ~~p~~Preparation and ~~s~~Service ~~e~~Establishments, whether issued ~~a~~
21 ~~Symbols~~Placard or not, must make ~~the inspection score card and~~ the ~~Food~~ ~~i~~Inspection ~~r~~Report
22 available to the general public and patrons for review upon request. ~~In addition, establishments~~
23 ~~must post the inspection report on the premises so as to be clearly visible to patrons of the~~
24 ~~establishment. Posting of the inspection report shall not be required of "food preparation and service~~
25 ~~establishments" defined in Section 451(i), (m), (n), (o), (p), or (r).~~

1 ~~D.(d)~~ The ~~Health~~ Department of ~~Public Health~~ shall strive to make all current Food
2 inspection ~~r~~eports of food preparation and service establishments available on the
3 Department's website as soon as is practicable.

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

13 ~~F.(f)~~ Every food preparation and service establishment shall post a legibly
14 lettered sign which displays the following information so as to be clearly visible to the general
15 public and to patrons entering the establishment: Any public health concerns regarding this
16 establishment should be directed to the ~~City and County of San Francisco~~ Department of Public
17 Health, Environmental Health Section located at: ~~(local office address and telephone number to be~~
18 ~~provided by a County Environmental Health Inspector)~~ 1390 Market Street, Suite 210, San Francisco,
19 CA, 94102, (415) 252-3800.

20 ~~G.(g)~~ ~~The food inspection report upon which the current Symbol and the current inspection~~
21 ~~score card are based shall be maintained at the food preparation and service establishment and shall~~
22 ~~be available to the general public and to patrons for review upon request.~~ The food preparation
23 and service establishment shall keep the current food inspection ~~r~~eport until such time
24 as a County Environmental Health Inspector completes the next ~~r~~outine or scheduled
25 inspection of the establishment and issues a new food inspection ~~r~~eport.

1
2 **SEC. 456.2. ~~SYMBOL AND INSPECTION SCORE CARD~~PLACARD – PERIOD OF**
3 **VALIDITY.**

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

10
11 **SEC. 456.3. PUBLIC HEALTH PERMIT SUSPENSION OR REVOCATION – NOTICE**
12 **OF CLOSURE.**

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

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

24 ~~C.(c)~~ Upon issuance of the written notice of suspension or revocation of the Public
25 Health Permit to operate by a County Environmental Health Inspector and posting of a Closed

1 Placard, the fFood pPreparation and sService eEstablishment shall immediately close to the
2 general public and to patrons and shall discontinue all operations until the Public Health
3 Permit to operate has been reissued or reinstated by order of a County Environmental Health
4 Inspector or until the establishment no longer operates as a fFood pPreparation and sService
5 eEstablishment.

6 ~~—D.(d)~~ The ~~notice of closure~~Closed Placard shall remain posted until removed by a
7 County Environmental Health Inspector. Removal of the ~~notice of closure~~Closed Placard by any
8 person other than a County Environmental Health Inspector or the refusal of a fFood
9 pPreparation and sService eEstablishment to close upon issuance of the written notice of
10 suspension of the Public Health Permit to operate is a violation of Section § 456 et seq. and
11 may result in the suspension or revocation of the fFood pPreparation and sService
12 eEstablishment's Public Health Permit to operate and shall be punishable as specified in
13 Section 456.4.

14
15 **SEC. 456.4. PENALTIES AND ENFORCEMENT.**

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

21 ~~—B.(b)~~ Administrative Penalties. Any firm, association, company, or corporation
22 violating any of the provisions of Section § 456 et seq., inclusive, of this Article § shall be
23 subject to administrative penalties imposed by the Director of Health. For a violation of
24 subsection (c) or (d) of Section 456.3, the Director may assess an administrative penalty of not less
25 than \$200 and not more than \$1,000. For all other violations of Sections 456 et seq., the Director

1 may 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 Sections 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 8 shall be paid to the Treasurer of the City ~~and County of San Francisco~~. The
23 ~~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 of
19 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 **SEC. 467. FOOD VENDING MACHINES.**
25

1 (a) "Food vending machine" means any self-service device which, upon insertion or
 2 use of a credit card, mobile payment, coin, coins, or token, or by similar means, dispenses unit
 3 servings of potentially hazardous food or beverage, either in bulk or in package, without the
 4 necessity of replenishing the device between each vending operation; Food vending machines
 5 do not include self-service devices that only dispense non-potentially hazardous foods, including but
 6 not limited to that in operating has food product contact surfaces or dispenses foods of a perishable
 7 nature, including wrapped sandwiches or pastry goods, but not including devices dispensing peanuts,
 8 wrapped candy, gum, bottled beverages, or ice exclusively.

9 * * * *

10
 11 Section 2. The Business and Tax Regulations Code is amended by revising Sections
 12 249.1, 249.11, and 249.12, to read as follows.

13
 14 **SEC. 249.1. FOOD PREPARATION AND SERVICE ESTABLISHMENTS.**

15 Every person, firm or corporation engaged in the business of operating food
 16 preparation and service establishments, as defined in Section 451 of the *San Francisco* Health
 17 Code, that require permits from the *Health* Department of Public Health shall pay an annual
 18 license fee to the Tax Collector as follows:

19 (a)

Class	Fee
Class A. Food preparation and service establishments with a total square footage of:	
Less than 1,000 square feet	\$879
1,000 square feet to 2,000 square feet:	\$1,158

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Greater than 2,000 square feet	\$1,326
Class B. Bar or tavern	
Without food preparation	\$750
With food preparation	\$950
Class C. Take-out establishment	\$1,051
Class D. Fast food establishment	\$1,189
Class E. Catering facility	<u>\$1,025</u>
<i>Catering facility – No Cooking</i>	<u>\$618</u>
<i>Catering facility – Cooking</i>	<u>\$1,054</u>
Class F. Temporary facility	\$176
Class G. Commissary	<u>\$998</u>
<i>Commissary for Mobile Food Facility servicing</i>	<u>\$618</u>
<i>Commissary for cooking</i>	<u>\$1,027</u>
<i>Cooking school</i>	<u>\$618</u>
<i>Limited service charitable feeding operation</i>	<u>\$0</u>
<i>Host facility</i>	<u>\$824</u>
<i>Shared Kitchen Complex, less than 2,000 square feet</i>	<u>\$824</u>
<i>Shared Kitchen Complex, 2,000 square feet or more</i>	<u>\$1,030</u>
Class H. Mobile Food Facilities	
Class H-1. Mobile Food Facility 1	\$195
Class H-2. Mobile Food Facility 2	\$292

1	Class H-3. Mobile Food Facility 3	\$195
2	Class H-4. Mobile Food Facility 4	\$778
3	Class H-5. Mobile Food Facility 5	\$778
4	Class I. Stadium concession	\$710
5		
6	Class J. <i>Food</i> Vending machines	\$21127 plus \$5.56 per machine
7		
8	Class K. Bed and breakfast establishment	\$1,126
9		
10	Class L. Boarding house	\$283
11	Class M. Private school cafeteria.	
12		
13	Without food preparation	\$342
14	With food preparation	\$527
15	Class N. Hospital kitchen, with food service to the general public and staff only	\$1,060
16		
17	Class O. Licensed Health Care Facility	\$1,169
18	Class P. Caterer	\$376
19	Class Q. Employee Cafeteria	
20		
21	Without <i>only Limited</i> food preparation	\$669
22	With food preparation	\$1,029

23 The license fees set forth above shall be paid annually on or before March 31, in
24 accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code.*
25

1 (b) Exemptions. The following establishments are exempt from paying the fees
2 required by this Section 249.1:

3 (1) Food preparation and service establishments used exclusively by day care
4 facilities ~~for children are exempt from paying the fees required by this Section.~~

5 For the purpose of this subsection (b)(1), a "day care facility for children" shall
6 mean a "community care facility" licensed pursuant to the provisions of Chapter 3, Division 2
7 of the California Health and Safety Code (commencing at Section 1500), which provides
8 nonmedical care to children in need of personal services, supervision, or assistance essential
9 for sustaining the activities of daily living or for the protection of the individual on less than a
10 24-hour basis, or a "family day care home for children" licensed pursuant to the provisions of
11 Chapter 3.6, Division 2 of the California Health and Safety Code (commencing at Section
12 1597.50).

13 (2) Food preparation and service establishments funded through the ~~San Francisco~~
14 ~~Commission on Aging and Adult Services Commission~~ for nutrition projects for older individuals.

15 (3) Food preparation and service establishments owned and operated by a non-profit
16 organization for the purpose of charitable feeding.

17 * * * *

18
19 **SEC. 249.11. TEMPORARY PERMITS AND SPECIAL EVENT PERMITS; FEES.**

20 (a) Temporary permits will be granted by the Department of Public Health to operate
21 establishments under Section 248 – Food Product and Marketing Establishments and Section
22 249.1 – Food Preparation and Service Establishments for a fee ~~of \$63~~ equivalent to the hourly
23 rate of an Environmental Health Inspector, which will be effective for a period of one to 45 days.

24 * * * *

1 **SEC. 249.12. FOOD VENDING MACHINES.**

2 ~~(a)~~ Every person, firm or corporation engaged in the business of operating food
3 vending machines shall pay a fee of ~~\$177227~~ for each food vending machine operated. For
4 purposes of this Section 249.12, "food vending machine" has the meaning set forth in Section 467 of
5 Article 8 of the Health Code. The license fee set forth above shall be paid annually on or before
6 March 31, in accordance with the provisions of Section 76.1 of the Business and Tax
7 Regulations Code.*

8 ~~(b)~~ *In addition to the fee prescribed in Subsection (a) of this Section every permittee shall*
9 *pay an annual fee of \$5 for each vending machine operated in said business. The fee prescribed herein*
10 *shall not be prorated.*

11 ~~(c)~~ *The fee prescribed in Subsection (b) of this Section shall be credited to the fee payable in*
12 *Subsection (a) but said credit shall not exceed \$60.*

13
14 Section 3. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

23 ///

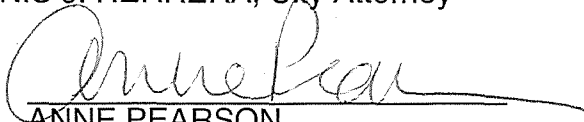
24 ///

25 ///

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By:



7 ANNE PEARSON
8 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 9/17/2019)

[Health, Business and Tax Regulations Codes - Food Preparation and Service Establishment Categories, Disclosures, and Permit Fees]

Ordinance amending the Health Code and Business and Tax Regulations Code to replace the requirement that food preparation and service establishments (“food facilities”) 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; clarifying some of the terminology pertaining to violations and remedies and penalties for same; defining new categories of food facilities; establishing annual permit fees for new categories of food facilities; and increasing permit fees for temporary permits and food vending machines.

Existing Law

Food service and preparation establishments (“Food Facilities”), 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 Facility at the conclusion of an inspection. The score can range between 0 to 100 points. Food Facilities 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.

Local law establishes annual permit fees for each category of Food Facility.

Amendments to Current Law

The proposed ordinance would require Food Facilities to post a colored food safety placard. The type of placard a Food Facility 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 Facility 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 Facility 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 Facility 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 Facilities post food inspection reports on the premises.

The proposed ordinance would define the following new categories of Food Facilities, and would establish an annual permit fee for each category;

- Catering facility – Cooking (\$1,054)
- Catering Facility – No Cooking (\$618)
- Commissary for Cooking (\$1,027)
- Commissary for Mobile Food Facility Servicing (\$618)
- Cooking School (\$618)
- Host Facility (\$824)
- Limited Service Charitable Feeding Operation (\$0)
- Shared Kitchen Complex, < 2,000 square feet (\$824)
- Shared Kitchen Complex > 2,000 square feet (\$1,030)

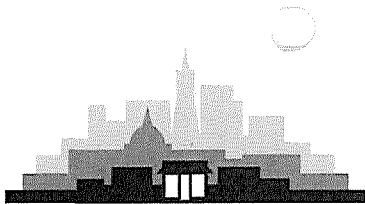
The proposed ordinance would increase the fees for food vending machines to \$227 per machine, and the temporary permit for Food Facilities to an amount equivalent to the hourly rate of an Environmental Health Inspector.

Background Information

This substitute ordinance reflects the following changes from the version that was introduced on June 18, 2019: (1) amendments to Article 8 of the Health Code to add new categories of food preparation and service establishments; (2) amendments to the Business and Tax Regulations Code to establish annual fees for the new categories of food preparation and service establishments, and to increase the fees for food vending machines and temporary permits.

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 Facilities. 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.



SAN FRANCISCO

OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

July 26, 2019

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 190710 - Health Code – Food Preparation and Service Establishment Disclosures

Small Business Commission Recommendation to the Board of Supervisors: **Approve.**

Dear Ms. Calvillo,

On July 22, 2019 the Small Business Commission (SBC or Commission) heard BOS File No. 190710 - Health Code – Food Preparation and Service Establishment Disclosures. Mr. Calvin Yan, aide to Supervisor Peskin and representatives from the Department of Public Health (DPH) provided the SBC with an overview of the legislation. The Commission voted unanimously (6-0 with 1 absent) to recommend that the Board of Supervisors approve the legislation.

The Commission enthusiastically supports this proposed ordinance. They applauded the design of the color coded system, especially where it will assist restaurant owners in complying with food safety regulations. The new system will also allow DPH to provide a food facility with a real time health score, and affords food facilities an opportunity to correct violations at the time of inspection. Under the current system, health code violations that have been resolved are not immediately reflected in the posted health score which has been problematic. The Commission also noted that the three color coding system will be in alignment with neighboring counties and will better communicate health and safety information to consumers.

The Commission is also appreciative that DPH consulted with the Golden Gate Restaurant Association (GGRA) prior to the introduction of the legislation. Chhavi Sahni with GGRA was in attendance and attested to this during public comment where she noted that the organization is in support of the legislation.

Thank you for considering the Commission's comments. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi
Director, Office of Small Business

cc: Aaron Peskin, Member, Board of Supervisors,
Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Stephanie Cushing, Director of Environmental Health, Department of Public Health
Lisa Pagan, Office of Economic and Workforce Development
John Carroll, Clerk, Public Safety and Neighborhood Services Committee

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: Dr. Grant Colfax, Director, Department of Public Health
Vincent C. Matthews, Ed.D., Superintendent, Unified School District

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

DATE: June 27, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on June 18, 2019:

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.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Viva Mogi, San Francisco Unified School District

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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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

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 SEP 17 PM 3:28

Time stamp
or meeting date

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

- 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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: