

1 [~~Grading Rating Evaluation~~ of food preparation and service establishments by Department of
2 Public Health, issuance of Symbol, and posting of ~~letter grade star rating and inspection score~~
~~cards~~ Symbol and inspection reports at food preparation and service establishments.–]

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

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

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

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

17 Section 456. Food preparation and service establishment disclosures.

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

22 ~~Section 456.1. Food inspection report.~~

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

1 public health.

2 Section 456.12. ~~GradingRating and letter grade star rating card~~ Symbol designation.

3 AC. "GradingRatingSymbol" means the letter grade star rating a representative mark
4 issued by a county environmental health inspector at the conclusion of the routine or scheduled
5 inspection of a food preparation and service establishment. The graderatingSymbol shall be issued
6 only to a food preparation and service establishment that scores ninety (90) percent or higher
7 as a total numerical percentage score as set forth in the food inspection report. The character
8 of the Symbol shall be determined by the Director of Health in consultation with San Francisco
9 food preparation and service establishments. ~~shall be based upon the scoring method set~~
10 ~~forth in this section resulting from the food inspection report and shall reflect the food~~
11 ~~preparation and service establishment's current and recent past degree of compliance with all~~
12 ~~applicable federal, state and local statutes, orders, ordinances, quarantines, rules,~~
13 ~~regulations, or directives relating to the public health.~~

14 B. "Letter grade Star rating card" means a card that may be posted by a county
15 environmental health inspector at a food preparation and service establishment upon
16 completion of a routine or scheduled inspection that indicates the letter grade star rating of the
17 establishment as determined by a county environmental health inspector using the scoring
18 method established by the Director of Health as set forth in this section. ~~For the purposes of~~
19 ~~this provision, a food preparation and service establishment shall include a food preparation~~
20 ~~and service establishment operating in conjunction with a "food product and marketing~~
21 ~~establishment" (as defined in Section 440). Nothing in section 456 et seq. shall prohibit the~~
22 ~~Department of Public Health from creating and using a letter grade star rating card in~~
23 ~~combination with an inspection score card. A county environmental health inspector, in at his~~
24 ~~or her discretion, shall determine whether to post the letter grade star rating card, the~~
25 ~~inspection score card, or both. In addition, a county environmental health inspector, in his or~~

1 her discretion, may require the posting of the inspection report.

2 CB. ~~A county environmental health inspector, in his or her discretion, may immediately~~
3 ~~close any food preparation and service establishment which, upon completion of the a routine~~
4 ~~or scheduled inspection, does not achieve a “C” grade as defined herein the lowest~~
5 ~~satisfactory inspection report score as determined by the Director of Health. Nothing in this~~
6 ~~provision shall prohibit a county environmental health inspector from immediately closing any~~
7 ~~food preparation and service establishment if, in his or her discretion, immediate closure is~~
8 ~~necessary to protect the public health.~~

9 D. ~~The letter gradestar rating assigned by a county environmental health inspector~~
10 ~~shall be based upon an objective scoring methodology developed by the Director of Health,~~
11 ~~who shall set the lowest satisfactory score and set the number of stars awarded based on the~~
12 ~~score achieved. the final numerical percentage score set forth in the food inspection report, as~~
13 ~~follows:~~

14 1. ~~A grade of “A” shall indicate a final score of 90 percent or higher as determined by a~~
15 ~~county environmental health inspector;~~

16 2. ~~A grade of “B” shall indicate a final score less than 90 percent but not less than 80~~
17 ~~percent as determined by a county environmental health inspector;~~

18 3. ~~A grade of “C” shall indicate a final score less than 80 percent but not less than 70~~
19 ~~percent as determined by a county environmental health inspector.~~

20 Section 456.23. ~~Inspection Scorecardscore card.~~

21 A. ~~D. “Inspection score card” means a card that may be posted by a county~~
22 ~~environmental health inspector at a food preparation and service establishment, upon~~
23 ~~completion of a routine inspection, that indicates the total numerical percentage score for the~~
24 ~~establishment as determined by a county environmental health inspector and as set forth in the food~~
25 ~~inspection report. For the purposes of this provision, a food preparation and service~~

1 establishment shall include a food preparation and service establishment operating in
2 conjunction with a food product and marketing establishment. Nothing in section 456 et seq.
3 shall prohibit the Department of Public Health from creating and using an inspection score
4 card in combination with a letter gradestar rating card. A county environmental health
5 inspector, in his or her discretion, shall determine whether to post the inspection score card,
6 the letter gradestar rating card, or both. In addition, a county environmental health inspector,
7 in his or her discretion, may require the posting of the inspection report.

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

15 Section 456.34. Notice of Closure.

16 E. "Notice of closure" means a public notice that may be posted by a county environmental
17 health inspector at a food preparation and service establishment upon suspension or revocation of the
18 establishment's public health permit to operate and that results in the immediate closure of the
19 establishment and the discontinuance of all operations of the food preparation and service
20 establishment, by order of a county environmental health inspector, because of violations of applicable
21 federal, state and local statutes, orders, ordinances, quarantines, rules, regulations, or directives
22 relating to the public health.

23 Section 456.45. Routine Inspection.

24 F. "Routine inspection" means a periodic, unannounced inspection of a food preparation and
25 service establishment to determine compliance with all applicable federal, state and local statutes,

1 orders, ordinances, quarantines, rules, regulations, or directives relating to the public health. A
2 routine inspection shall not mean an inspection conducted by a county environmental health inspector
3 to determine compliance with a previously issued food inspection report or any interim inspection
4 conducted to determine compliance with specific regulations or legal requirements.

5 Section 456.561. Posting requirements -- Penalty for noncompliance -- Documents available
6 for public review.

7 A. Upon issuance of a Symbol by a county environmental health inspector, the food
8 preparation and service establishment shall have the discretion whether and where to post the
9 Symbol on the premises of the establishment so as to be clearly visible to patrons of the
10 establishment. A food preparation and service establishment issued a Symbol shall not be
11 required to post the Symbol, an inspection score card, or an inspections report. However, it
12 shall make the inspection score card and the inspection report available to the general public
13 and patrons for review upon request.

14 B. Food preparation and service establishments that are not issued Symbols by a
15 county environmental health inspector shall not post the Symbol on the premises of the
16 establishment.

17 C. Food preparation and service Establishments, whether issued Symbols or not,
18 whether issued not issued Symbols or not must make the inspection score card and the
19 inspection report available to the general public and patrons for review upon request. In
20 addition, for such establishments, he or she may shall post at a food preparation and service
21 establishment the letter gradestar rating card, the inspection score card, or both, as
22 determined by him or her, so as to be clearly visible to the general public and to patrons
23 entering the establishment. In addition, a county environmental health inspector, in his or her
24 discretion, may must post the inspection score card and require the posting of the inspection
25 report on the premises so as to be clearly visible to patrons of the establishment. Posting of

1 ~~the inspection score card or the inspection report shall not be required of~~ These requirements
2 shall not apply to "food preparation and service establishments" defined in Section 451(i, m, n,
3 o, p, or r). "Clearly visible to the general public and to patrons" means:

- 4 1. ~~Posted in the front window of the establishment within five feet of the front door;~~
- 5 2. ~~Posted in a display case mounted on the outside front wall of the establishment~~
6 ~~within five feet of the front door; or~~
- 7 3. ~~Posted in a location as directed and determined in the discretion of a county~~
8 ~~environmental health inspector to ensure proper notice to the general public and to patrons.~~

9 D. The Health Department shall strive to make all current inspection reports of food
10 preparation and service establishments available on the Department's website as soon as is
11 practicable.

12 ~~B. In the event that a food preparation and service establishment is operated in the~~
13 ~~same building or space as a separately licensed or permitted business, or in the event that a~~
14 ~~food preparation and service establishment shares a common patron entrance with such a~~
15 ~~separately licensed or permitted business, or in the event of both, a county environmental~~
16 ~~health inspector shall post the letter gradestar rating card, the inspection score card, or both,~~
17 ~~or the inspection report in the initial patron contact area, or in a location as determined in the~~
18 ~~discretion of a county environmental health inspector.~~

19 GE. Once required to be posted, The letter gradestar rating card, and the
20 Symbolinspection score card, and the inspection report shall not be defaced, marred,
21 camouflaged, hidden or removed until superceded. It is unlawful to operate a food preparation and
22 service establishment unless the letter gradestar rating card, the inspection score card, or both, as
23 determined by a county environmental health inspector, the Symbol, and the inspection
24 report is or are in place as set forth hereunder. Removal of the letter gradestar rating card, the
25 inspection score card, or both, the Symbol, or the inspection report from their required place on

1 the premises is a violation of section 456 et seq. and may result in the suspension or revocation of the
2 public health permit to operate and shall be punishable as specified in Section 456.894.

3 DE. Every food preparation and service establishment shall post a legibly lettered sign which
4 displays the following information so as to be clearly visible to the general public and to patrons
5 entering the establishment: Any public health concerns regarding this establishment should be directed
6 to the City and County of San Francisco Department of Public Health, Environmental Health Section
7 located at: (local office address and telephone number to be provided by a county environmental health
8 inspector).

9 EG. The food inspection report upon which the ~~letter grade~~current Symbol and, the current
10 inspection score card, ~~or both,~~ are based and all subsequent reports issued by a county
11 environmental health inspector shall be maintained at the food preparation and service
12 establishment and shall be available to the general public and to patrons for review upon request. The
13 food preparation and service establishment shall keep the current food inspection report and all
14 subsequent reports until such time as a county environmental health inspector completes the next
15 routine or scheduled inspection of the establishment and issues a new food inspection report. ~~In~~
16 addition, a county environmental health inspector, in his or her discretion, may require the
17 posting of the inspection report.

18 Section 456.672. Letter gradeStar rating card Symbol and inspection score card -- Period
19 of validity.

20 A ~~letter grade~~star rating card Symbol, an inspection score card, or both, shall remain valid
21 until a county environmental health inspector completes the next routine or scheduled inspection of
22 the food preparation and service establishment. After a routine inspection, the owner of a food
23 preparation and service establishment may request that the Health Department conduct a
24 scheduled inspection to revise the ~~grade~~ratinginspection score. The Health Department shall
25 respond to the request as soon as is practicable.

1 Section 456.783. Public health permit suspension or revocation -- Notice of closure.

2 A. A county environmental health inspector, in his or her discretion, may immediately
3 close any food preparation and service establishment which, upon completion of a routine or
4 scheduled inspection, does not achieve the lowest satisfactory inspection report score as
5 determined by the Director of Health. Nothing in this provision shall prohibit a county
6 environmental health inspector from immediately closing any food preparation and service
7 establishment if, in his or her discretion, immediate closure is necessary to protect the public
8 health.

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

13 BC. Upon issuance of the written notice of suspension or revocation of the public health permit
14 to operate by a county environmental health inspector, the food preparation and service establishment
15 shall immediately close to the general public and to patrons and shall discontinue all operations until
16 the public health permit to operate has been reissued or reinstated by order of a county environmental
17 health inspector or until the establishment no longer operates as a food preparation and service
18 establishment.

19 CD. The notice of closure shall remain posted until removed by a county environmental health
20 inspector. Removal of the notice of closure by any person other than a county environmental health
21 inspector or the refusal of a food preparation and service establishment to close upon issuance of the
22 written notice of suspension of the public health permit to operate is a violation of section 456 et seq.
23 and may result in the suspension or revocation of the food preparation and service establishment's
24 public health permit to operate and shall be punishable as specified in Section 456.894.

25 Section 456.894. Penalty-Penalties.

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

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

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

19 D. If no request for review of the Director's decision is filed with the Director Health
20 Department within the appropriate period, the decision shall be deemed final and shall be
21 effective fifteen (15) days after the notice of initial determination was served on the firm,
22 association, company or corporation. The Director shall issue an Order imposing an
23 administrative penalty and serve it upon the party served with the notice of initial
24 determination. Payment of any administrative penalty is due within 30 days of service of the
25 Director's Order. Any administrative penalty assessed and received in an action brought

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

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

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

23 G. The Director of Health may appoint a designee to perform the Director's functions
24 and responsibilities under Section 456.94.

25 Section 456.5. Board review -- hearing

1 A Committee of the Board of Supervisors shall hold a hearing concerning the
2 implementation of Section 456 et seq. before July 1, 2005.

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

6 By: _____
7 Frederick P. Sheinfield
8 Deputy City Attorney

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