

File No. 140267

Committee Item No. _____

Board Item No. 29

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date _____

Board of Supervisors Meeting

Date March 25, 2014

Cmte Board

- Motion
- Resolution
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- Contract/Agreement
- Form 126 – Ethics Commission
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OTHER (Use back side if additional space is needed)

- BOARD FILE # 131064
- _____
- _____
- _____
- _____

Completed by: John Carroll Date March 20, 2014

Completed by: _____ Date _____

1 [Approval of a 90-Day Extension for Planning Commission Review of an Ordinance (File No. 131064) That Would Modify the Definition of a "Bona Fide Eating Place"]
2

3 **Resolution extending by 90-days the prescribed time within which the Planning**
4 **Commission may render its decision on a Ordinance (File No. 131064) amending the**
5 **Planning Code, to expand the definition of "bona fide eating place" to include a**
6 **definition based on food sales per occupant; and making environmental findings, and**
7 **findings of consistency with the General Plan, and the eight priority policies of**
8 **Planning Code, Section 101.1.**
9

10 WHEREAS, On November October 29, 2013, Supervisor Wiener introduced legislation
11 amending the Planning Code to expand the definition of "bona fide eating place" to include a
12 definition based on food sales per occupant; and making environmental findings, and findings
13 of consistency with the General Plan, and the eight priority policies of Planning Code, Section
14 101.1. A copy of said legislation is on file with the Clerk of the Board of Supervisors in File
15 No. 131064 and is incorporated herein by reference; and

16 WHEREAS, On or about November 12, 2013, the Clerk of the Board of Supervisors
17 referred the proposed ordinance to the Planning Commission, which currently is reviewing the
18 proposed ordinance; and

19 WHEREAS, The Planning Commission has 90 days to render its decision on proposed
20 amendments to the Planning Code that the Board of Supervisors initiates; and

21 WHEREAS, The Board, in accordance with Planning Code Section 306.4(d) may, by
22 Resolution, extend the prescribed time within which the Planning Commission is to render its
23 decision on proposed amendments to the Planning Code that the Board of Supervisors
24 initiates; and
25

1 WHEREAS, Supervisor Wiener has requested additional time for the Planning
2 Commission to review the proposed Ordinance; and

3 WHEREAS, The Board deems it appropriate in this instance to grant to the Planning
4 Commission additional time to review the proposed Ordinance and render its decision; now,
5 therefore, be it

6 RESOLVED, That by this Resolution, the Board hereby extends the prescribed time
7 within which the Planning Commission may render its decision on the proposed Ordinance for
8 approximately 90 additional days, until May 11, 2014.

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1 [Planning Code - Definition of Bona Fide Eating Place]

2
3 **Ordinance amending the Planning Code to expand the definition of “bona fide eating**
4 **place” to include a definition based on food sales per occupant; and making**
5 **environmental findings, and findings of consistency with the General Plan, and the**
6 **eight priority policies of Planning Code, Section 101.1.**

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

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

15 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
16 finds and determines that:

17 (a) The Planning Department has determined that the actions contemplated in this
18 ordinance comply with the California Environmental Quality Act (California Public Resources
19 Code Sections 21000 et seq.) and this Board adopts this determination as its own. Said
20 determination is on file with the Clerk of the Board of Supervisors in File No. _____ and
21 is incorporated herein by reference.

22 (b) On _____, the Planning Commission, in Resolution No. _____,
23 adopted findings that the actions contemplated in this ordinance are consistent; on balance,
24 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
25 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
the Board of Supervisors in File No. _____, and is incorporated herein by reference.

1 Section 2. The Planning Code is hereby amended by amending Section 790.142, to
2 read as follows:

3 **SEC. 790.142. BONA FIDE EATING PLACE.**

4 A place which is regularly and in a bona fide manner used and kept open for the
5 service of meals to guests for compensation and which has suitable kitchen facilities
6 connected therewith, containing conveniences for cooking of an assortment of foods which
7 may be required for ordinary meals.

8 (a) "Meals" shall mean an assortment of foods commonly ordered at various hours
9 of the day for breakfast, lunch or dinner. Incidental food service, comprised only of appetizers
10 to accompany drinks is not considered a meal. Incidental, sporadic or infrequent sales of
11 meals or a mere offering of meals without actual sales is not compliance.

12 (b) "Guests" shall mean persons who, during the hours when meals are regularly
13 served therein, come to a bona fide public eating place for the purpose of obtaining, and
14 actually order and obtain at such time, in good faith, a meal therein. Nothing in this section,
15 however, shall be construed to require that any food be sold or purchased with any beverage.

16 (c) Actual and substantial sales of meals are required, during the normal days and
17 meal hours that a bona fide public eating place is open; provided that "normal days of
18 operation" shall mean a minimum of five days a week and "normal hours" of operation for
19 meal service shall mean approximately 7:00 a.m. to 11:00 a.m. if open for breakfast; 11:00
20 a.m. to 2:00 p.m. if open for lunch; or 5:00 p.m. to 10:00 p.m. if open for dinner.

21 (d) The premises must be equipped and maintained in good faith. This means the
22 premises must possess working refrigeration and cooking devices, pots, pans, utensils, table
23 service, condiment dispensers, menus, signs and enough goods to make substantial meals.
24 The premises must comply with all regulations of the Department of Public Health.

1 (e) The restaurant must secure significant revenue from food sales. Significant revenue from
2 food sales shall mean either:

3 (1) A minimum of 51 percent of the restaurant's gross receipts shall be from
4 food sales prepared and sold to guests on the premises. Records of the restaurant's gross
5 receipts shall be provided to the Department upon request; or

6 (2) Annual gross food sales prepared and sold to guests on the premises of at least
7 \$5,200 per occupant based on the premises' maximum occupant load as determined and approved by
8 the San Francisco Fire Department and Department of Building Inspection.


9 (f) A "bona fide eating place" does not include an adult entertainment business as
10 defined in Planning Code Section 790.36.

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

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

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:

24 
MARLENA G. BYRNE
Deputy City Attorney

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

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 [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) 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 a Imperative

Sponsor(s):

Supervisor Wiener

Subject:

Approval of a 90-Day Extension for Planning Commission Review of an Ordinance that would modify the definition of a "bona fide eating place" (File No. 131064)

The text is listed below or attached:

Resolution extending by 90 days the prescribed time within which the Planning Commission may render its decision on a Ordinance (File No. 131064) amending the Planning Code, to expand the definition of "bona fide eating place" to include a definition based on food sales per occupant; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

140267

