

File No. 100720

Committee Item No. 12
Board Item No. 13

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 6/21/10

Board of Supervisors Meeting

Date 07/13/10

Cmte Board

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Completed by: Gail Johnson

Date 6/18/10

Completed by: 40

Date 6/24/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

01/ 02/0

[Food Permit Requirements and Fees for Caterers]

Ordinance amending San Francisco Health Code Section 451, amending San Francisco Business and Tax Regulations Code Section 249.1, and adding San Francisco Business and Tax Regulations Code Section 249.22 to update definitions and add fees and permitting requirements for caterers, and provide a mechanism for the Controller's Office annually to adjust fees to track program costs.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are *strike-through italics Times New Roman*. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The San Francisco Health Code is hereby amended by amending Section 451, to read as follows:

SEC. 451. FOOD PREPARATION AND SERVICE ESTABLISHMENT.

~~(a)(k)~~ "Bar or tavern" shall mean any food preparation and service establishment which primarily prepares and/or serves alcoholic beverages.

~~(b)(v)~~ "Bed and breakfast establishment" shall mean a "restricted food service facility" as defined in Health and Safety Code Section 113893.

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

(d) "Caterer" means a person who is in the business of providing food, beverages, and sometimes service, at social gatherings. The caterer prepares the food at a location separate from the

1 social gathering, though the caterer may engage in limited food preparation at the location where the
2 caterer serves the food. A caterer is not a private chef or chef for hire who prepares food in a private
3 home.

4 ~~(e)(m)~~ "Catering facility" shall mean any food preparation and service establishment
5 ~~where which prepares a caterer prepares food on a contractual basis within a fixed location~~ for
6 service at another location.

7 ~~(f)(p)~~ "Commissary" shall mean any food establishment in which food, containers,
8 equipment, or supplies are stored or handled for use in vehicles, mobile food preparation
9 units, food carts, or vending machines.

10 ~~(g)(h)~~ "Director" as used herein, shall mean the "Director of Public Health of the City and
11 County of San Francisco" or his or her designee. "Inspectors" shall mean the "Inspectors of
12 the Department of Public Health," administered by said Director. The Director shall be
13 responsible for the administration and enforcement of Sections 451 to 456, inclusive, of this
14 Article and the rules and regulations relating thereto. The Director shall, after a public hearing,
15 prescribe the rules and regulations relating thereto. Said rules and regulations shall be issued
16 in pamphlet form. All such food preparation and service establishments shall be operated,
17 conducted and maintained in accordance therewith.

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

22 ~~(i)(a)~~ "Food preparation and service establishment" as defined in this Section shall mean
23 and include any restaurant, itinerant restaurant, guest house, boardinghouse, special events,
24 school food concessions, bar or tavern, take-out establishment, fast food establishment,
25 caterer, catering facility, temporary facility, food demonstration, commissary, pushcart, stadium

1 concession, vending machine, bed and breakfast establishment, private school cafeteria,
2 hospital kitchen, and licensed health care facility, as those terms are defined herein.

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

7 ~~(k)(f)~~ "Hospital kitchen" shall mean any food preparation and service facility operating
8 within a hospital that serves food to staff or the general public, but not to patients.

9 ~~(l)(e)~~ "Itinerant restaurant" means any restaurant, operating from temporary facility,
10 cart or vehicle, except those peddler wagons used for peddling as defined in Section 132(a)
11 and (b) of Part III of the San Francisco Municipal Code, serving, offering for sale, selling or
12 giving away food or beverage, and includes, but is not limited to, facility or vehicle where only
13 wrapped sandwiches or other wrapped and packaged, ready-to-eat foods are served, and any
14 mobile unit on which food is prepared and served.

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

19 (1) General Acute Care Hospital as defined in Cal. Health and Safety Code Section
20 1250 (a) or any successive statutes;

21 (2) Acute Psychiatric Hospital as defined in Cal. Health and Safety Code Section 1250
22 (b) or any successive statutes;

23 (3) Skilled Nursing Facility as defined in Cal. Health and Safety Code Section 1250 (c)
24 or any successive statutes;

1 (4) Intermediate Care Facility as defined in Cal. Health and Safety Code Section 1250
2 (d) or any successive statutes;

3 (5) Special Hospital as defined in Cal. Health and Safety Code Section 1250 (f) or any
4 successive statutes;

5 (6) Intermediate Care Facility/Developmentally Disabled as defined in Cal. Health and
6 Safety Code Section 1250(g) or any successive statutes;

7 (7) Chemical Dependency Recovery Facility as defined in Cal. Health and Safety Code
8 Section 1250.3 or any successive statutes;

9 ~~(n)(f)~~ The term "Ownerowner" or "owners" as used herein, shall mean those persons,
10 partnerships, or corporations who are financially interested in the operation of a food
11 preparation and service establishment.

12 ~~(o)(g)~~ An "Operatoroperator" as used herein shall mean any person engaged in the
13 dispensing of or in assisting in the preparation of food, or a person otherwise employed in a
14 food preparation and service establishment.

15 ~~(p)(s)~~ "Private school cafeteria" shall mean any food preparation and service facility
16 serving food to faculty and/or students of a school not operated by the San Francisco Unified
17 School District.

18 ~~(q)(b)~~ "Restaurant" means any coffee shop, cafeteria, short-order cafe, luncheonette,
19 cocktail lounge, sandwich stand, soda fountain, public school cafeteria or eating
20 establishment, in-plant or employee eating establishment and any other eating establishment,
21 organization, club, including Veterans' Club, boardinghouse, bed and breakfast
22 establishments, or guest house, ~~eaterer~~, which gives, sells or offers for sale, food to the public,
23 guests, patrons, or employees as well as kitchens or other food preparation areas in which
24 food is prepared on the premises for serving or consumption on or off the premises, and
25 requires no further preparation and also includes manufacturers of perishable food products

1 that prepare food on the premises for sale directly to the public. The term "restaurant" shall
2 not include itinerant restaurants, cooperative arrangements made by employees who
3 purchase food or beverages for their own consumption and where no employee is assigned
4 full time to care for or operate equipment used in such arrangement, or private homes; nor
5 shall the term "restaurant" include churches, church societies, private clubs or other nonprofit
6 associations of a religious, philanthropic, civic improvement, social, political, or educational
7 nature, which purchase food, food products, or beverages, or which receive donations of food,
8 food products, or beverages for service without charge to their members, or for service or sale
9 at a reasonable charge to their members or to the general public at occasional fundraising
10 events, for consumption on or off the premises at which the food, food products, or beverages
11 are served or sold, if the service or sale of such food, food products or beverages does not
12 constitute a primary purpose or function of the club or association, and if no employee or
13 member is assigned full-time to care for or operate equipment used in such arrangements.

14 ~~(r)(4)~~ "School food concessions" means any food preparation, food service or food
15 products intended for consumption by students attending or participating in activities within a
16 school facility.

17 ~~(s)(4)~~ "Special events" means any organized collection of food purveyors operating
18 individually or collaboratively out of approved temporary or mobile food facilities at a fixed
19 location for a period of time not to exceed 25 days in a 90-day period in conjunction with a
20 single, weekly, or monthly community event as defined in the California Health and Safety
21 Code Section 113755.

22 ~~(t)(4)~~ "Stadium concession" shall mean any food preparation and/or service facility
23 operating within a stadium, arena, or auditorium with a seating capacity of 25,000 or more.

24 ~~(u)(4)~~ "Take-out establishment" shall mean any food preparation and service
25 establishment which primarily prepares food for consumption off premises.

1 (v)(#) "Temporary facility" shall mean any food preparation and service facility
2 operating out of temporary facilities approved by the Director of Public Health at a fixed
3 location for a period of time not to exceed 25 days in any 90-day period in conjunction with a
4 single event or celebration.

5 (w)(#) "Vending machine" shall mean any self-service device, which upon insertion of
6 money or tokens, dispenses food without the necessity of replenishing the device between
7 each vending operation.

8 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
9 by amending Section 291.1, to read as follows:

10 **SEC. 249.1. FOOD PREPARATION AND SERVICE ESTABLISHMENTS.**

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

15 (a) Class Fee

16 Class A. Food preparation and service establishments with a total square footage of:

17 Less than 1,000 square feet \$777

18 1,000 square feet to 2,000 square feet: 1,028

19 Greater than 2,000 square feet 1,179

20 Class B. Bar or tavern 923

21 Class C. Take-out establishment 932

22 Class D. Fast food establishment 1,056

23 Class E. Catering facility 908

24 Class F. Temporary facility 145

25 Class G. Food demonstrations 105

1 Class H. Commissary 884

2 Class I. Pushcart on private property 737

3 Class J. Stadium concession 625

4 Class K. Vending machines 177

5 Class L. Bed and breakfast establishment 999

6 Class M. Boarding house 241

7 Class N. Private school cafeteria 294

8 Class O. Hospital kitchen, with food service to the general public and staff only 940

9 Class P. Licensed Health Care Facility 1050

10 Class Q. Caterer 350

11 The license fees prescribed in this Section are due and payable on an annual basis
12 ~~commencing each year on~~ April 1, 1984. Fees for new licenses issued prior to, or after ~~July~~ April
13 1st, shall be prorated on a monthly basis.

14 (b) Exemptions. The following establishments are exempt from paying the fees
15 required by this Section:

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

18 For the purpose of this subsection, a "day care facility for children" shall mean a
19 "community care facility" licensed pursuant to the provisions of Chapter 3, Division 2 of the
20 California Health and Safety Code (commencing at Section 1500) which provides nonmedical
21 care to children in need of personal services, supervision, or assistance essential for
22 sustaining the activities of daily living or for the protection of the individual on less than a 24-
23 hour basis, or a "family day care home for children" licensed pursuant to the provisions of
24 Chapter 3.6, Division 2 of the California Health and Safety Code (commencing at Section
25 1597.50).

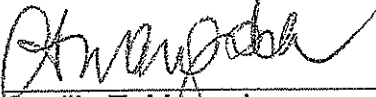
1 (2) Food preparation and service establishments funded through the San Francisco
2 Commission on Aging for nutrition projects for older individuals.

3 (c) Beginning with fiscal year 2010-2011 and annually thereafter, the fees set forth in this
4 section may be adjusted each year, without further action by the Board of Supervisors, as set forth in
5 this subsection. Not later than April 1, the Director shall report to the Controller the revenues
6 generated by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as well as
7 any other information that the Controller determines appropriate to the performance of the duties set
8 forth in this Article. Not later than May 15, the Controller shall determine whether the current fees
9 have produced or are projected to produce revenues sufficient to support the costs of providing the
10 services for which the fee is assessed and that the fees will not produce revenue that is significantly
11 more than the costs of providing the services for which the fee is assessed. The Controller shall, if
12 necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to ensure
13 that the program recovers the costs of operation without producing revenue that is significantly more
14 than such costs. The adjusted rates shall become operative on July 1.

15
16 **SEC. 249.22. CATERERS.**

17 Caterers are required to submit an application for a Class O permit to the Department of
18 Public Health with an application fee of \$323. The application shall include 1) a verification form
19 demonstrating that the caterer prepares food at a commissary or other facility permitted by the
20 Department of Public Health, 2) an operational procedure form, 3) a copy of a valid food safety
21 certificate, and 4) any other documents required by the Director of the Department of Public Health.
22 The application fee in this section may be adjusted annually as provided in Section 249.1(c). A caterer
23 who also owns a catering facility must pay the catering facility fee but is not required to pay the caterer
24 fee unless that caterer also prepares food at another catering facility where the caterer has no
25 ownership interest.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: 
4 Cecilia T. Mangoba
5 Deputy City Attorney
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LEGISLATIVE DIGEST

[Food Permit Requirements and Fees for Caterers.]

Ordinance amending San Francisco Health Code Section 451, amending San Francisco Business and Tax Regulations Code Section 249.1, and adding San Francisco Business and Tax Regulations Code Section 249.22 to update definitions and add fees and permitting requirements for caterers, and provide a mechanism for the Controller's Office annually to adjust fees to track program costs.

Existing Law

Health Code Article 8 addresses food permits issued by the Department of Public Health. The term "caterer" is not currently defined, though caterers are included in the restaurant category. Owners of catering facilities, where caterers prepare food for service in another location, must obtain permits and pay fees. But caterers who do not own the facilities where they prepare food are not currently obtaining permits.

Amendments to Current Law

The proposed ordinance would define the term "caterer" and create a new Class Q permit for Caterers.

Proposed Sec. 249.1(c) of the San Francisco Business and Professions Code would authorize the Controller's Office to adjust fees to ensure that the Health Department recovers the costs of operation without producing revenue that is significantly more than costs.

Background Information

The Department of Public Health has become aware that more than one caterer may prepare food at a catering facility. Caterers may employ different food preparation techniques (e.g. sanitizing and proper food thawing, cooling, and reheating), which require DPH to conduct separate inspections. In addition, each caterer should have a Food Safety Certification. Finally, caterers have requested DPH issue them permits so that they may gain credibility as a business.



TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *PD* Mayor Gavin Newsom *GT*
RE: Food Permit Requirements and Fees for Caterers
DATE: June 1, 2010

Dear Madame Clerk:

Attached for introduction to the Board of Supervisors is the ordinance amending San Francisco Health Code Section 451, amending San Francisco Business and Tax Regulations Code Section 249.1, and adding San Francisco Business and Tax Regulations Code Section 249.22 to update definitions and add fees and permitting requirements for caterers, and provide a mechanism for the Controller's Office annually to adjust fees to track program costs.

I request that this item be calendared in Budget and Finance Committee.

Should you have any questions, please contact Starr Terrell (415) 554-5262.

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