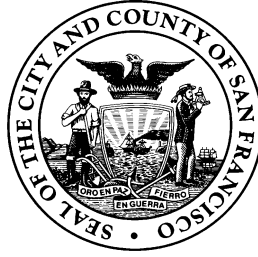


BOARD of SUPERVISORS



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

GOVERNMENT AUDIT AND OVERSIGHT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Gordon Mar, Chair  
Government Audit and Oversight Committee

FROM: John Carroll, Assistant Clerk

DATE: April 17, 2020

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, April 21, 2020

The following file should be presented as COMMITTEE REPORT at the regular Board meeting on Tuesday, April 21, 2020. This emergency ordinance was acted upon at the regular Government Audit and Oversight Committee meeting on Thursday, April 16, 2020, at 10:00 p.m., by the votes indicated.

**Item No. 16                      File No. 200360**

**Emergency ordinance to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.**

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Gordon Mar - Aye  
Supervisor Aaron Peskin - Aye  
Supervisor Matt Haney - Aye

Cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Alisa Somera, Legislative Deputy  
Anne Pearson, Deputy City Attorney

File No. 200360

Committee Item No. 4

Board Item No. 16

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: April 16, 2020

Board of Supervisors Meeting:

Date: April 21, 2020

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance - VERSION 2                        |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest - VERSION 2               |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER

- |                          |                                     |   |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Office of Small Business Letters – April 15 and 16, 2020</u> |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____   |
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| <input type="checkbox"/> | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____   |

Prepared by: John Carroll

Date: April 10, 2020

Prepared by: John Carroll

Date: April 17, 2020

1 [Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery  
2 Service Employee Protections]

3 **Emergency ordinance to temporarily require grocery store, drug store, restaurant, and**  
4 **on-demand delivery service employers to provide health and, scheduling, ~~and hours~~**  
5 **protections to employees during the public health emergency related to COVID-19.**

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

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

14 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

15 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in  
16 cases of public emergency affecting life, health, or property, or for the uninterrupted operation  
17 of any City or County department or office required to comply with time limitations established  
18 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists  
19 that requires the passage of this emergency ordinance.

20 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency (the  
21 “Public Health Emergency”) in response to the spread of the novel coronavirus COVID-19. On  
22 March 3, 2020, the Board of Supervisors concurred in the February 25 Proclamation and in  
23 the actions taken by the Mayor to meet the Public Health Emergency.

24 (c) To mitigate the spread of COVID-19, on March 16, 2020, the Local Health Officer  
25 issued Health Order No. C19-07 directing San Franciscans to “shelter in place,” or stay at  
home, except as necessary to take care of essential needs. That order extended to April 7,

1 2020. On March 31, 2020, the Local Health Officer issued a replacement order, Health Order  
2 No. C19-07b, which tightens the restrictions and extends the stay-at-home order through May  
3 3. These Orders have forced the closure of many businesses. Restaurants are prohibited from  
4 operating except for carry out and delivery service. Essential Businesses, including grocery  
5 stores, drug stores, and on-demand delivery services for food, medicines, and other essential  
6 items, may continue to operate under Health Order No. C19-07b, subject to certain social  
7 distancing and sanitation requirements.

8 (d) This emergency ordinance is necessary to reduce the likelihood of COVID-19  
9 infection among employees of grocery stores, drug stores, restaurants, and on-demand  
10 delivery services and the members of the public with whom they interact.

11

12 Section 2. Findings and Purpose.

13 (a) Grocery stores, drug stores, restaurants, and on-demand delivery services, provide  
14 critical access to essential items during the Public Health Emergency. Many San Franciscans,  
15 especially residents who are particularly vulnerable to COVID-19 due to age or underlying  
16 health conditions, have turned to on-demand delivery services to receive food and other  
17 essential items while staying safe at home.

18 (b) Grocery store, drug store, and restaurant employees, and on-demand delivery  
19 drivers and shoppers are an essential population of workers who cannot perform their work  
20 remotely. These workers must be provided the necessary supplies, tools, and equipment to  
21 protect themselves from infection and to prevent the spread of COVID-19 to other employees  
22 or to the members of the public to whom they supply essential goods. All grocery stores, drug  
23 stores, restaurants, and on-demand delivery services must fully implement and follow Health  
24 Order No. C19-07b.

25

1 (c) This need is particularly pressing for on-demand delivery drivers and shoppers.  
2 Under California Labor Code Section 2750.3, a worker who provides services for a hiring  
3 entity is an employee unless the hiring entity demonstrates that the worker is an independent  
4 contractor. Many delivery services incorrectly classify their delivery shoppers and drivers as  
5 independent contractors. Independent contractors generally are not provided health  
6 insurance, sick leave, other paid leave, unemployment insurance, or workers compensation;  
7 they may not be provided or reimbursed for the necessary supplies, tools and equipment to  
8 protect themselves from COVID-19; and they may not be provided guidance on the social  
9 distancing and sanitation requirements of Order No. C19-07b. Existing City ordinances govern  
10 employee benefits, which are beyond the scope of this emergency ordinance. However, to  
11 prevent the spread of COVID-19 through essential on-demand delivery services, it is  
12 necessary to clarify and supplement Health Order No. C19-07b's requirements in the on-  
13 demand delivery service context. To do so, this emergency ordinance defines on-demand  
14 delivery drivers and shoppers as Employees, regardless of how the on-demand delivery  
15 service classifies them for any other purpose.

16 (d) Further, by providing additional scheduling flexibility ~~and hours protections~~, this  
17 emergency ordinance provides grocery store, drug store, restaurant, and on-demand delivery  
18 employees additional tools to protect themselves and others from infection and thereby  
19 protect public health.

20

21 Section 3. Definitions.

22 For purposes of this emergency ordinance, the following definitions apply.

23 "Agency" means the Office of Labor Standards Enforcement.

24 "City" means the City and County of San Francisco.

25

1 "Covered Employer" means any person, as defined in Section 18 of the California  
2 Labor Code, including corporate officers or executives, who directly or indirectly or through an  
3 agent or any other person, including through the services of a temporary services or staffing  
4 agency or similar entity, employs, suffers or permits to work, or exercises control over the  
5 wages, hours, or working conditions of an Employee for any of the following: (a) a grocery  
6 store, supermarket, convenience store, restaurant, cafe, or other establishment primarily  
7 engaged in the retail sale of food; or (b) a drug store, pharmacy, or other establishment  
8 primarily engaged in the retail sale of medication, pharmaceuticals, or medical supplies; or (c)  
9 an On-Demand Delivery Service.

10 "Employee" means any person who in a particular week performs at least two hours of  
11 work for a Covered Employer within the geographical boundaries of the City, without regard to  
12 whether the Covered Employer classifies the person as an employee for any other purpose.  
13 "Employee" includes, without limitation, shoppers and drivers for an On-Demand Delivery  
14 Service.

15 "Essential Business" has the same meaning of "Essential Business" in Health Order  
16 No. C19-07b.

17 "On-Demand Delivery Service" means a third-party an online or mobile application or  
18 other internet service that offers or arranges for the ased delivery platform or network  
19 company that facilitates the consumer purchase and same-day or scheduled delivery of food  
20 products, medications, or other goods directly from no fewer than 20 restaurants, grocery  
21 stores, drug stores, and other Essential Businesses.

22 "~~Part-time~~" means ~~fewer than 35 hours of work in each work week.~~

23  
24 Section 4. Protections for Employees of On-Demand Delivery Services.  
25

1 (a) As required by Health Order No. C19-07b (Section 13.h.iii) all Essential Businesses  
2 must provide employees hand sanitizer, soap and water, or effective disinfectant in the  
3 workplace. Additionally, under this emergency ordinance, Covered Employers that are On-  
4 Demand Delivery Services must provide to or reimburse Employees for the reasonable cost of  
5 purchasing necessary hand sanitizer, disinfecting cleaning supplies, and any needed personal  
6 protective equipment such as gloves and face masks.

7 (b) As required by Health Order No. C19-07b (Section 13.h), all Essential Businesses  
8 must provide a Social Distancing Protocol to each employee who works at a facility and must  
9 post the Social Distancing Protocol in each facility. Additionally, under this emergency  
10 ordinance, Covered Employers that are On-Demand Delivery Services must provide the  
11 Social Distancing Protocol to Employees in a manner calculated to reach all such Employees  
12 via electronic communication, and/or by posting conspicuously on the Employer’s web-based  
13 or app-based platform.

14 (c) As required by Health Order No. C19-07b (Sections 13.h.i, 13.k.i), individuals are to  
15 maintain at least six feet of physical distance from people who are not part of the same  
16 household. Additionally, under this emergency ordinance, Covered Employers that are On-  
17 Demand Delivery Services must offer Employees who make deliveries the option of a “no-  
18 contact” delivery method where feasible with detailed guidance on how to safely make both in-  
19 person and no-contact deliveries.

20 (d) As required by Health Order No. C19-07b (Section 13.h.v), essential businesses  
21 must regularly disinfect high-touch surfaces. Additionally, under this emergency ordinance,  
22 Covered Employers that are On-Demand Delivery Services must require delivery drivers to  
23 regularly disinfect high-touch surfaces in their vehicles and compensate them for doing so.

24  
25 Section 5. Right to Schedule Changes.

1 A Covered Employer shall where reasonably feasible approve an Employee's request  
2 to cancel scheduled work for any reason for which an Employee may otherwise use leave  
3 under the City's Paid Sick Leave Ordinance (Administrative Code Sections 12W.2(e) and  
4 12W.4(a)), and the Agency's rules and guidance implementing those provisions, or  
5 emergency paid sick leave under the Families First Coronavirus Response Act, H.R. 6201,  
6 Public Law No. 116-127, Section 5102(a) and implementing regulations. The Employer shall  
7 allow the Employee to use any available accrued paid sick leave or emergency paid sick  
8 leave, or to reschedule the work.

9  
10 ~~Section 6. Offering Additional Work to Part-Time Employees.~~

11 ~~(a) Subject to the limitations in this Section 6, before a Covered Employer may hire~~  
12 ~~new Employees or use contractors or a temporary services or staffing agency to perform work~~  
13 ~~for the Covered Employer, the Covered Employer shall first offer the additional work to~~  
14 ~~existing Part-time Employee(s) if (1) the Part-time Employee(s) are qualified to do the~~  
15 ~~additional work, as reasonably determined by the Covered Employer, and (2) the additional~~  
16 ~~work is the same or similar to work the Employee(s) have performed for the Covered~~  
17 ~~Employer. This Section 6 requires Covered Employers to offer to Part-time Employees only~~  
18 ~~the number of hours required to give the Employee 35 hours of work in a week.~~

19 ~~(b) A Covered Employer has discretion to divide the additional work hours among Part-~~  
20 ~~time Employees consistent with this Section 6.~~

21 ~~(c) A Part-time Employee may, but is not required to, accept the Covered Employer's~~  
22 ~~offer of additional work hours under this Section 6. The Part-Time Employee shall have 72~~  
23 ~~hours to accept the additional hours, after which time the Covered Employer may hire new~~  
24 ~~Employees to work the additional hours. The 72 hours referenced in the previous sentence~~  
25 ~~begins either when the Part-Time Employee receives the written offer of additional hours or~~



1 whenever the Covered Employer posts the offer of additional hours described in subsection  
2 (d), whichever is later. A Part-Time Employee who wishes to accept the additional hours must  
3 do so in writing.

4 (d) ~~When this Section 6 requires a Covered Employer to offer additional work hours to~~  
5 ~~existing Part-time Employees, the Covered Employer shall make the offer either in writing~~  
6 ~~directly to an Employee or by providing notice to Employees in a manner calculated to reach~~  
7 ~~all such Employees by posting the offer in a conspicuous location in the workplace where~~  
8 ~~notices to Employees are customarily posted, providing it via electronic communication,~~  
9 ~~and/or by posting conspicuously on the Employer's web-based or app-based platform.~~

10  
11 Section 67. Exercise of Rights Protected; Retaliation Prohibited.

12 (a) It shall be unlawful for a Covered Employer or any other person to interfere with,  
13 restrain, or deny the exercise of, or the attempt to exercise, any right protected under this  
14 emergency ordinance.

15 (b) It shall be unlawful for a Covered Employer or any other person to discharge,  
16 threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action  
17 against any person in retaliation for exercising rights protected under this emergency  
18 ordinance.

19 (c) Protections of this emergency ordinance shall apply to any person who mistakenly  
20 but in good faith alleges violations of this emergency ordinance.

21  
22 Section 78. Implementation and Enforcement.

23 (a) An individual may report a potential violation of this emergency ordinance by calling  
24 311. The Agency may investigate potential violations and may coordinate investigation by  
25 other City officials as appropriate.

1           (b) The Agency is authorized to implement and enforce this emergency ordinance and  
2 may promulgate regulations and guidelines for such purposes. Except as otherwise provided  
3 by Agency regulations or guidelines, the investigation and administrative enforcement  
4 provisions of Police Code Section 3300F.10 and the civil enforcement provisions of Police  
5 Code Section 3300F.12 apply to this emergency ordinance.

6  
7           Section 89. Other City Laws.

8           This emergency ordinance is not intended to limit the operation of any other City law.  
9 Should there be any overlap in application between this emergency ordinance and another  
10 City law, both laws shall be followed, except if there is a conflict between the two that cannot  
11 be reconciled, the City law providing greater protection to the Employee shall take  
12 precedence.

13  
14           Section 940. Preemption.

15           Nothing in this emergency ordinance shall be interpreted or applied so as to create any  
16 right, requirement, power, or duty in conflict with federal or state law. The term “conflict,” as  
17 used in this Section 9 means a conflict that is preemptive under federal or state law.

18  
19           Section 1044. City Undertaking Limited to Promotion of the General Welfare.

20           In undertaking the adoption and enforcement of this emergency ordinance, the City is  
21 undertaking only to promote the general welfare. The City is not assuming, nor is it imposing  
22 on its officers and employees, an obligation for breach of which it is liable in money damages  
23 to any person who claims that such breach proximately caused injury. This emergency  
24 ordinance does not create a legally enforceable right by any member of the public against the  
25 City.

1           Section 1142. Severability.

2           If any section, subsection, sentence, clause, phrase, or word of this emergency  
3 ordinance, or any application thereof to any person or circumstance, is held to be invalid or  
4 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
5 affect the validity of the remaining portions or applications of this emergency ordinance. The  
6 Board of Supervisors hereby declares that it would have passed this emergency ordinance  
7 and every section, subsection, sentence, clause, phrase, and word not declared invalid and  
8 unconstitutional without regard to whether any other portion of this emergency ordinance or  
9 application thereof would be subsequently declared invalid or unconstitutional.

10  
11           Section 1243. Effective Date; Expiration.

12           Consistent with Charter Section 2.107, this emergency ordinance shall become  
13 effective immediately upon enactment, and shall expire on the 61st day following enactment  
14 unless reenacted as provided by Section 2.107, or upon the termination of the Public Health  
15 Emergency, whichever occurs first. Enactment occurs when the Mayor signs the ordinance,  
16 the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of  
17 receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

18  
19           Section 1344. Supermajority Vote Required.

20           In accordance with Charter Section 2.107, passage of this emergency ordinance by the  
21 Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.

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

3 By: /s/ \_\_\_\_\_  
4 LISA POWELL  
5 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
*(Amended in Committee – April 16, 2020)*

[Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections]

**Emergency ordinance to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.**

Existing Law

Local Health Order No. C19-07b requires individuals in the City to shelter in place, or stay at home, except for specified essential needs. Under this Order, many businesses have closed temporarily. Restaurants are prohibited from operating except for carry out and delivery service. Other Essential Businesses, including grocery stores, drug stores, and on-demand delivery services for food, medicines, and other essential items, may continue to operate, subject to certain social distancing and sanitation requirements. Among other provisions, these requirements include that essential businesses provide employees hand sanitizer, soap and water, or effective disinfectant; provide employees with a social distancing protocol, which requires maintaining at least six feet of distance from people who are not part of the same household; and regularly disinfect high-touch surfaces.

Amendments to Current Law

This emergency ordinance does not amend current law, but it supplements and clarifies how Health Order No. C19-07b applies in the on-demand delivery service context, where delivery drivers and shoppers do not work in a fixed workplace.

Background Information

This emergency ordinance provides certain protections for employees of “covered employers,” which are grocery stores, drug stores, restaurants, and on-demand delivery services. Consistent with the presumption in California Labor Code Section 2750.3, which has not been demonstrated to be inapplicable, on-demand delivery service workers are classified as employees for the purposes of the emergency ordinance regardless of how the employer classifies them.

The emergency ordinance supplements and clarifies how Order No. C19-07b’s social distancing and sanitation requirements apply in the on-demand delivery service context. The emergency ordinance requires on-demand delivery services to provide to or reimburse employees for the reasonable cost of purchasing necessary hand sanitizer, disinfecting cleaning supplies, and any needed personal protective equipment such as gloves and face masks, and to provide employees a social distancing protocol. Additionally, on-demand

delivery services must offer delivery employees the option of a no-contact delivery method where feasible to facilitate social distancing and provide them detailed guidance on how to safely make both in-person and no-contact deliveries. On-demand delivery services also must require delivery drivers to regularly disinfect high-touch surfaces in their vehicles and compensate them for doing so.

The emergency order provides scheduling protections that give grocery, drug store, restaurant, and on-demand delivery service employees an additional tool to keep themselves safe. Covered employers must, where reasonably feasible, allow employees to cancel work for any reason for which sick leave or emergency paid sick leave under the federal Families First Coronavirus Response Act may be taken. Employees may use any available accrued paid sick leave or emergency paid sick leave, or reschedule the work.

The emergency ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the emergency ordinance and taking any adverse action against an employee for exercising rights protected under the emergency ordinance.

The Office of Labor Standards Enforcement (OLSE) will implement and enforce the emergency ordinance. Complaints of potential violations can be reported by calling 311 or contacting OLSE.

n:\govern\as2020\2000442\01441455.docx

**From:** [Dick-Endrizzi, Regina \(ECN\)](#)  
**To:** [Haney, Matt \(BOS\)](#); [Mar, Gordon \(BOS\)](#); [Peskin, Aaron \(BOS\)](#)  
**Cc:** [Carroll, John \(BOS\)](#); [Donovan, Dominica \(ECN\)](#); [RivamonteMesa, Abigail \(BOS\)](#); [Wright, Edward \(BOS\)](#); [Angulo, Sunny \(BOS\)](#); [Hepner, Lee \(BOS\)](#)  
**Subject:** Update Letter from OSB regarding Item #4 - GAO- 200360  
**Date:** Thursday, April 16, 2020 9:18:34 AM  
**Attachments:** [200360 OSB Letter to GAO.Amended.pdf](#)  
**Importance:** High

---

Dear Supervisor Mar, Peskin and Haney,  
The attached letter is an update to my letter sent last night.

I have discussed OSB's proposed amendments with Supervisor Haney's aide Abigail RivamonteMesa and support:

- Striking Section 6 in its entirety as it addresses the Office of Small Business's (OSB) key concern for San Francisco's small businesses and local independent grocers.
- Not amending the definition of "Covered Employer" to include "350 or more employees" as this qualifier is no longer needed by striking Section 6.
- Agree to retaining "...performs at least two hours of work..." in the definition of "Employee".

The Office of Small Business key concern is now addressed. Thank you for your consideration and all you are doing for the health and safety of San Francisco.

Kindly,

**Regina Dick-Endrizzi | Executive Director | Office of Small Business**

[regina.dick-endrizzi@sfgov.org](mailto:regina.dick-endrizzi@sfgov.org) | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573

[www.sfosb.org](http://www.sfosb.org) | [businessportal.sfgov.org](http://businessportal.sfgov.org) | [facebook](#) | [twitter](#)

### **COVID-19 Assistance for Businesses & Employees**

---

**From:** Dick-Endrizzi, Regina (ECN)  
**Sent:** Thursday, April 16, 2020 2:34 AM  
**To:** Haney, Matt (BOS) <matt.haney@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Aaron Peskin <aaron.peskin@sfgov.org>  
**Cc:** Carroll, John (BOS) <john.carroll@sfgov.org>; Dominica Donovan (dominica.donovan@sfgov.org) <dominica.donovan@sfgov.org>; RivamonteMesa, Abigail (BOS) <abigail.rivamontemesa@sfgov.org>; Wright, Edward (BOS) <edward.w.wright@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>; Hepner, Lee (BOS) <lee.hepner@sfgov.org>  
**Subject:** RE: Item #4 - GAO- 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections

Letter attached

Kindly,

**Regina Dick-Endrizzi | Executive Director | Office of Small Business**

[regina.dick-endrizzi@sfgov.org](mailto:regina.dick-endrizzi@sfgov.org) | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573  
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**COVID-19 Assistance for Businesses & Employees**

---

**From:** Dick-Endrizzi, Regina (ECN)

**Sent:** Thursday, April 16, 2020 2:31 AM

**To:** Haney, Matt (BOS) <[matt.haney@sfgov.org](mailto:matt.haney@sfgov.org)>; Mar, Gordon (BOS) <[gordon.mar@sfgov.org](mailto:gordon.mar@sfgov.org)>; Aaron Peskin <[aaron.peskin@sfgov.org](mailto:aaron.peskin@sfgov.org)>

**Cc:** Carroll, John (BOS) <[john.carroll@sfgov.org](mailto:john.carroll@sfgov.org)>; Dominica Donovan ([dominica.donovan@sfgov.org](mailto:dominica.donovan@sfgov.org)) <[dominica.donovan@sfgov.org](mailto:dominica.donovan@sfgov.org)>; RivamonteMesa, Abigail (BOS) <[abigail.rivamontemesa@sfgov.org](mailto:abigail.rivamontemesa@sfgov.org)>; Wright, Edward (BOS) <[edward.w.wright@sfgov.org](mailto:edward.w.wright@sfgov.org)>; Angulo, Sunny (BOS) <[sunny.angulo@sfgov.org](mailto:sunny.angulo@sfgov.org)>; Hepner, Lee (BOS) <[lee.hepner@sfgov.org](mailto:lee.hepner@sfgov.org)>

**Subject:** Item #4 - GAO- 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections

**Importance:** High

Dear Supervisors,

Attached is letter from me as Director, of the Office of Small Business. Due to the Emergency Ordinance, the Small Business Commission is not able to hear. I have one key amendment request so that small businesses, predominately our local independent grocers are hamstrung by Section 6 but still retains the core component requirements for formula retailers. Formula retailers have a very different way handling scheduling than our small and local brick and mortar business. This is why there is the <https://sfgov.org/olse/formula-retail-employee-rights-ordinances>. My recommendation is to modify the definition of "Covered Employer" to be an employer of a business that is 350+ employees. I am happy to speak with you directly on how I came to 350+ employees.

Below are the Legacy Business Registry that would be impacted by Section 6, should the definition of covered employer not change.

**Legacy Business local grocers:**

Avedano's Holly Park Market  
Bi-Rite Market  
Courtney's Produce  
Haight and Fillmore Whole Foods  
Le Beau Nob Hill Market  
Lucca Delicatessen  
Lucca Food & Wine Shop  
Marina Supermarket  
New World Market  
Noriega Produce  
Other Avenues  
Pearl Market  
Real Food Company  
S & S Grocery  
Ted's Market and Delicatessen  
Valencia Whole Foods



**Legacy Businesses restaurants cafés**

Alioto's Restaurant	<a href="#">Escape From New York Pizza</a>	Pacific Cafe
Balboa Cafe	Hamburger Haven	Pacitas Salvadorean Bakery
Beep's Burgers	Hayes Street Grill	Perry's San Francisco
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	Noe Valley Bakery	Zazie Restaurant
	Original Joe's	

Thank you for your time and consideration.

Kindly,

**Regina Dick-Endrizzi | Executive Director | Office of Small Business**

[regina.dick-endrizzi@sfgov.org](mailto:regina.dick-endrizzi@sfgov.org) | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573

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**[COVID-19 Assistance for Businesses & Employees](#)**



CITY AND COUNTY OF SAN FRANCISCO  
LONDON N. BREED, MAYOR

OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

April 16, 2020

Honorable Supervisor Gordon Mar, Chair  
Honorable Supervisor Aaron Peskin  
Honorable Supervisor Matt Haney

RE: BOS File No. 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections

Dear Honorable Chair Mar:

This letter is a follow to my first letter dated April 15, 2020. I have discussed OSB's proposed amendments with Supervisor Haney's aide Abigail RivamonteMesa and support:

- **Striking Section 6 in its entirety as it addresses the Office of Small Business's (OSB) key concern for San Francisco's small businesses and local independent grocers.**
- **Not amending the definition of "Covered Employer" to include "350 or more employees" as this qualifier is no longer needed by striking Section 6.**
- **Agree to retaining "...performs at least two hours of work..." in the definition of "Employee".**

I want to thank you to Supervisor Haney and his aide Abigail RivamonteMesa for their consideration to OSB's amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi".

Regina Dick-Endrizzi  
Executive Director, Office of Small Business and Small Business Commission

cc: Members of the Board of Supervisors  
Andres Power, Policy Director, Office of Mayor London N. Breed  
Lisa Pagan, Office of Economic and Workforce Development  
John Carol, Clerk, Government Audits and Oversight Committee

**From:** [Dick-Endrizzi, Regina \(ECN\)](#)  
**To:** [Haney, Matt \(BOS\)](#); [Mar, Gordon \(BOS\)](#); [Peskin, Aaron \(BOS\)](#)  
**Cc:** [Carroll, John \(BOS\)](#); [Donovan, Dominica \(ECN\)](#); [RivamonteMesa, Abigail \(BOS\)](#); [Wright, Edward \(BOS\)](#); [Angulo, Sunny \(BOS\)](#); [Hepner, Lee \(BOS\)](#)  
**Subject:** RE: Item #4 - GAO- 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections  
**Date:** Thursday, April 16, 2020 2:33:39 AM  
**Attachments:** [200360\\_OS Letter to GAO.pdf](#)

---

Letter attached

Kindly,

**Regina Dick-Endrizzi | Executive Director | Office of Small Business**

[regina.dick-endrizzi@sfgov.org](mailto:regina.dick-endrizzi@sfgov.org) | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573

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### **COVID-19 Assistance for Businesses & Employees**

---

**From:** Dick-Endrizzi, Regina (ECN)  
**Sent:** Thursday, April 16, 2020 2:31 AM  
**To:** Haney, Matt (BOS) <[matt.haney@sfgov.org](mailto:matt.haney@sfgov.org)>; Mar, Gordon (BOS) <[gordon.mar@sfgov.org](mailto:gordon.mar@sfgov.org)>; Aaron Peskin <[aaron.peskin@sfgov.org](mailto:aaron.peskin@sfgov.org)>  
**Cc:** Carroll, John (BOS) <[john.carroll@sfgov.org](mailto:john.carroll@sfgov.org)>; Dominica Donovan ([dominica.donovan@sfgov.org](mailto:dominica.donovan@sfgov.org)) <[dominica.donovan@sfgov.org](mailto:dominica.donovan@sfgov.org)>; RivamonteMesa, Abigail (BOS) <[abigail.rivamontemesa@sfgov.org](mailto:abigail.rivamontemesa@sfgov.org)>; Wright, Edward (BOS) <[edward.w.wright@sfgov.org](mailto:edward.w.wright@sfgov.org)>; Angulo, Sunny (BOS) <[sunny.angulo@sfgov.org](mailto:sunny.angulo@sfgov.org)>; Hepner, Lee (BOS) <[lee.hepner@sfgov.org](mailto:lee.hepner@sfgov.org)>  
**Subject:** Item #4 - GAO- 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections  
**Importance:** High

Dear Supervisors,

Attached is letter from me as Director, of the Office of Small Business. Due to the Emergency Ordinance, the Small Business Commission is not able to hear. I have one key amendment request so that small businesses, predominately our local independent grocers are hamstrung by Section 6 but still retains the core component requirements for formula retailers. Formula retailers have a very different way handling scheduling than our small and local brick and mortar business. This is why there is the <https://sfgov.org/olse/formula-retail-employee-rights-ordinances>. My recommendation is to modify the definition of "Covered Employer" to be an employer of a business that is 350+ employees. I am happy to speak with you directly on how I came to 350+ employees.

Below are the Legacy Business Registry that would be impacted by Section 6, should the definition of covered employer not change.

**Legacy Business local grocers:**

Avedano's Holly Park Market  
Bi-Rite Market  
Courtney's Produce  
Haight and Fillmore Whole Foods

Le Beau Nob Hill Market  
 Lucca Delicatessen  
 Lucca Food & Wine Shop  
 Marina Supermarket  
 New World Market  
 Noriega Produce  
 Other Avenues  
 Pearl Market  
 Real Food Company  
 S & S Grocery  
 Ted's Market and Delicatessen  
 Valencia Whole Foods

**Legacy Businesses restaurants cafés**

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	Original Joe's	

Thank you for your time and consideration.

Kindly,

**Regina Dick-Endrizzi | Executive Director | Office of Small Business**

[regina.dick-endrizzi@sfgov.org](mailto:regina.dick-endrizzi@sfgov.org) | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573

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**[COVID-19 Assistance for Businesses & Employees](#)**



CITY AND COUNTY OF SAN FRANCISCO  
LONDON N. BREED, MAYOR

OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

---

April 15, 2020

Honorable Supervisor Gordon Mar, Chair  
Honorable Supervisor Aaron Peskin  
Honorable Supervisor Matt Haney

RE: BOS File No. 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections

Dear Honorable Chair Mar:

First, thank you to you and your colleagues for your significant leadership in responding to the needs of all San Franciscans during this crisis. And, thank you for being responsive to and mindful of small business needs. I am writing to you regarding BOS File No. 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections which is scheduled to be heard at the Government Audit and Oversight Committee on Thursday April 16.

The Office of Small Business has received concerns from the small business community, primarily small and independent grocers, since last week's introduction of this emergency ordinance. While the Commission would normally have an opportunity to publicly opine on this matter, in lieu of that privilege we would like to submit the following for your consideration and discussion:

- **Section 3:**
  - Modify the definition of "Covered Employer" to: "Covered Employer" means any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs, suffers or permits to work, or exercises control over the wages, hours, or working conditions **of 350 employees or more** for any of the following: (a) a grocery store, supermarket, convenience store, restaurant, cafe, or other establishment primarily engaged in the retail sale of food; or (b) a drug store, pharmacy, or other establishment primarily engaged in the retail sale of medication, pharmaceuticals, or medical supplies;
  - Modify the definition of "Employee" to "in a particular week performs at the **eight** hours of work. It is very rare for small service sector business schedule for less than 8 hours in one week.



CITY AND COUNTY OF SAN FRANCISCO  
LONDON N. BREED, MAYOR

OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

- **Section 6 (a)(b)(c)(d)** applies only to businesses with 350+ employees. Section 6 prescribes how a Covered Business, as defined in the Ordinance, must notify their employees of the opportunity for additional hours. Section 6(c) requires that employees must accept the offer within 72 hours of it being made. Most small and independently owned grocers need their employees to respond to requests for additional work within 24 hours or less. This is particularly true due to the expanded eligible Paid Sick Leave uses necessary to contain the COVID-19 virus under the declaration of the Public Health Emergency.

Amending the covered employee definition by employee size allows Section 6 to be retained but only applies to business with 350+ employees.

Below is data gathered on San Francisco grocers and supermarkets. This data is presented to support the suggested amendment to the definition of a "Covered Employer" to an employer with 350+ employees:

1. San Francisco has 625 groceries
2. 76% are business with under 10 employees
3. 95% are business with less than 50 employees.
1. 12,251 employees are employed by 625 grocery stores and supermarkets.
4. 47% of the total employees are employed by businesses that have 350+ employees

While the data provided is intended to focus on local independent grocers, restaurants, corner stores and small independent pharmacies experience similar challenges in having to work with reduced staff during the COVID-19 crisis.

Amending the definition of covered employer retains the core components of the legislation and still provides the key supports for the employees it is intended to help, without impacting San Francisco's neighborhood serving local independent grocers and small business identified in the ordinance.

Thank you for your attention to this and for your thoughtful consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi".

Regina Dick-Endrizzi  
Executive Director, Office of Small Business and Small Business Commission

cc: Members of the Board of Supervisors  
Andres Power, Policy Director, Office of Mayor London N. Breed  
Lisa Pagan, Office of Economic and Workforce Development  
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**From:** [Dick-Endrizzi, Regina \(ECN\)](#)  
**To:** [Haney, Matt \(BOS\)](#); [Mar, Gordon \(BOS\)](#); [Peskin, Aaron \(BOS\)](#)  
**Cc:** [Carroll, John \(BOS\)](#); [Donovan, Dominica \(ECN\)](#); [RivamonteMesa, Abigail \(BOS\)](#); [Wright, Edward \(BOS\)](#); [Angulo, Sunny \(BOS\)](#); [Hepner, Lee \(BOS\)](#)  
**Subject:** Item #4 - GAO- 200360 - Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections  
**Date:** Thursday, April 16, 2020 2:31:06 AM  
**Importance:** High

---

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	Original Joe's	Zazie Restaurant

Thank you for your time and consideration.

Kindly,

**Regina Dick-Endrizzi | Executive Director | Office of Small Business**

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**[COVID-19 Assistance for Businesses & Employees](#)**



**From:** [Roxane Auer](#)  
**To:** [Carroll, John \(BOS\)](#)  
**Subject:** Submitting comment to Item. 4 of Agenda for Thursday, April 16  
**Date:** Thursday, April 16, 2020 11:05:28 AM

---

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello,

I just read this comment into the record, but also wanted to submit it in writing. I am submitting this for a McDonald's workers who was not able to get off work to speak at the meeting, and does not have internet access at home.

---

Hello my name is Juliana Ojeda, I work in McDonalds on 1100 Fillmore St in SF and I am organizing with the Fight for 15, I strongly support the workers First Emergency Ordinance, it's necessary to protect the health of the workers and the public.

In my case I have 3 kids, my daughter is 7yrs old, a son with special needs 3yrs old, and a baby girl who is 11 months old , I am afraid to get sick and bring it to my family. My husband works in another McDonalds too, it would be good for both of us to feel protected at work.

For example at Fillmore we have ran out of sanitizer in different occasions, there is not a plan or reinforcement to keep social distance with customers or between us, I understand there is not enough space in the kitchen but, they have never provided mask for us, McDonalds only provide mask to the managers, this is not fair. They also allow more than 10 customers in the lobby with out reinforcement of the social distance requirement.

McDonalds workers recently went on strike to demand the company protect the workers and the the public, we are still waiting. I am proud to be an essential worker in this time, but we also deserve protection, help us get McDonalds to do the right thing.

Thank You

# Introduction Form

By a Member of the Board of Supervisors or 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  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:

For Clerk's Use Only