

[Trans Fat Free Program Ordinance.]

Ordinance amending the San Francisco Health Code by adding Article 37, sections 3701 through 3711, to: (1) encourage restaurants located in the City and County of San Francisco to discontinue the use of artificial trans fat in food served to customers by creating an incentive program, and (2) provide regulations for the voluntary trans fat free program.

Note: Additions are single-underline italics Times New Roman;
deletions are ~~strikethrough 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. Findings.

The Board of Supervisors and Mayor of the City and County of San Francisco wish to authorize the creation of a Trans Fat Free Restaurant Program in order for the City to encourage and recognize restaurants that demonstrate a commitment to consumer health; voluntarily exceed minimum regulatory requirements, and take steps to reduce artificial trans fats in available menu items and further the prevention of common health problems related to the consumption of food containing trans fat, including obesity and heart disease.

Section 2. The San Francisco Health Code is hereby amended by adding Article 37, Section 3701 through 3711, to read as follows:

SEC. 3701. SHORT TITLE.

This Ordinance shall be entitled the "Trans Fat Free Restaurant Program Ordinance."

SEC. 3702. DEFINITIONS.

For the purposes of this Ordinance, the following words shall have the following meanings:

1 (a) "Department" means the Department of Public Health.

2 (b) "Director" means the Director of the Department of Public Health.

3 (c) "Food" means any article intended for use for food, drink, confection, or condiment, or
4 any article that is used or integrated for use as a component of any such article.

5 (d) "Restaurant" means any retail eating establishment serving food to the general public,
6 including a restaurant, coffee shop, cafeteria, cafe, luncheonette, sandwich stand, or soda fountain.

7 (e) "Trans Fat" or "Artificial Trans Fat" means trans fatty acid, which is produced by
8 partial hydrogenation of vegetable oil. Trans fat, or partially hydrogenated oil, is commonly found in
9 processed foods and used as cooking oil for frying in restaurants. A food shall be deemed to contain
10 artificial trans fat if the food is labeled as, lists an ingredient, or has vegetable shortening, margarine
11 or any kind of partially hydrogenated vegetable oil. A food whose nutrition facts label or other
12 documentation from the manufacturer lists the trans fat content of the food at less than 0.5 grams per
13 serving, shall not be deemed to contain artificial trans fat.

14 **SEC. 3703. TRANS FAT FREE RESTAURANT PROGRAM.**

15 In compliance with this Ordinance, the Department is authorized to develop and implement a
16 City-wide Trans Fat Free Restaurant Program to encourage and recognize restaurants that discontinue
17 storing, distributing, serving, or using any food, oil, shortening, or margarine containing artificial
18 trans fat.

19 **SEC. 3704. REGULATIONS.**

20 The Director, after a public hearing, shall adopt and may amend guidelines, rules, regulations
21 and forms to implement a Trans Fat Free Restaurant recognition program, including the application
22 process, eligibility criteria, and qualification as a Trans Fat Free Restaurant. Eligibility and
23 qualifications shall include, without limitation, thresholds and standards for storing, distributing,
24 serving, or using trans fat. The regulations shall include the following:

1 (a) Qualified restaurants shall apply to participate in the Trans Fat Free Restaurant
2 program and pay an annual registration fee of \$250.00 and any related cost for time and materials
3 above the \$250.00.

4 (b) The Department will provide an official standardized decal to be posted at participating
5 restaurants based on certification by the Department.

6 (c) The Department will periodically inspect participating restaurants to determine
7 compliance with the program and the department shall charge an amount not to exceed
8 appropriate cost of any related inspection cost.

9 (d) Restaurants qualifying for certification shall meet the criteria set for by the Department
10 in the Regulations.

11 **SEC. 3705. NOTICE.**

12 The Director shall conduct outreach to all restaurants that are eligible to participate in
13 programs established under this Ordinance and shall afford all eligible restaurants the same
14 opportunities to participate in the program. The Director shall periodically post a list of Trans Fat
15 Free Restaurants certified through the program on the Department's website.

16 **SEC. 3706. OPERATIVE DATE.**

17 This Ordinance shall become operative ~~on January 1, 2008~~ upon adoption by the City and
18 County of San Francisco.

19 **SEC. 3707. DISCLAIMER.**

20 Recognition, including certification, by the City of a restaurant as a "Trans Fat Free
21 Restaurant" shall not be construed as an endorsement by the City of the restaurant or confer any legal
22 right or privilege onto the restaurant. The Department may discontinue any program established under
23 this Ordinance at any time.

24 **SEC. 3708. PENALTIES.**

1 Intentional false or misleading statements or misrepresentations made by any person applying
2 to the program regarding a restaurant's eligibility or qualifications for or compliance with the Trans
3 Fat Free Restaurant program is a violation of this Ordinance and is subject to an administrative
4 penalty up to \$500 per violation in addition to any other available remedies. Whenever the Director
5 finds that information in a business's application or any required submission is inaccurate or
6 misleading or a business that has Trans Fat Free Restaurant recognition is violating or has violated
7 the terms of the Trans Fat Free Restaurant program eligibility or qualifications, the Director may
8 revoke that restaurant's recognition as a Trans Fat Free Restaurant, which revocation shall be final.

9 **SEC. 3709. SEVERABILITY.**

10 If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held
11 to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
12 shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors
13 hereby declares that it would have passed this Ordinance and each and every section, subsection,
14 sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any
15 portion of this Ordinance would be subsequently declared invalid or unconstitutional.

16 **SEC. 3710. NO CONFLICT WITH FEDERAL OR STATE LAW.**

17 Nothing in the Ordinance shall be interpreted or applied so as to create any requirement,
18 power, or duty in conflict with any federal or state law.

19 **SEC. 3711. UNDERTAKING FOR THE GENERAL WELFARE.**

20 In adopting and implementing this Ordinance, the City and County of San Francisco is
21 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on
22 its officers and employees, an obligation for breach of which it is liable in money damages to any
23 person who claims that such breach proximately caused injury.

1 APPROVED AS TO FORM:

2 DENNIS J. HERRERA, City Attorney

3 By:

4 Aleeta M. Van Runkle
Deputy City Attorney