

File No. 240333

Committee Item No. 2

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: October 17, 2024

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU - FY2022-2024 - Clean
- MOU - FY2022-2024 - Redline
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

#### OTHER

- FYI Referral 041024
- PAM Transfer 071024
- Comment Ltr
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: Monique Crayton

Date: October 11, 2024

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Police Code - Notice of Supermarket Closure]

2

3 **Ordinance amending the Police Code to require large supermarkets to provide six**  
4 **months notice to their customers and the City before permanently closing, and to**  
5 **explore ways to allow for the continued sale of groceries at the location.**

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 font*.  
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
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

15 Section 1. The Police Code is hereby amended by adding Article 57, consisting of  
16 Sections 5700 through 5705, to read as follows:

17

18 **ARTICLE 57: SUPERMARKET CLOSURE ORDINANCE**

19

20 **SEC. 5700. FINDINGS.**

21 *(a) Supermarkets are the main points of distribution for food and daily necessities for the*  
22 *residents of San Francisco and are essential to the vitality of a community. The closure of a*  
23 *supermarket can have widespread effects on a community’s wellbeing by reducing access to food and*  
24 *creating food insecurity.*

25 *(b) Food insecurity contributes to poor health and health disparities through multiple*  
*pathways: stress, trauma, poor diet quality, and malnutrition. Food insecurity increases the risk of*

1 multiple chronic conditions, including diabetes, heart disease, and hypertension; exacerbates existing  
2 physical and mental health conditions; and can impair child development.

3 (c) Supermarket closures can have an especially dire impact on senior citizens, people with  
4 disabilities, and people who lack the means to travel by car or public transportation to supermarkets  
5 located outside their neighborhood.

6 (d) To safeguard the interests of workers, including the employees of some supermarkets,  
7 federal and state laws require large businesses to notify their employees of their intent to close or  
8 transfer ownership of the business.

9 (e) The Board of Supervisors recognizes that a supermarket owner may conclude that it is  
10 to its economic advantage to close when it is no longer profitable to continue the supermarket in  
11 operation. This Article 57 does not preclude the owner from making such a decision.

12 (f) Nevertheless, given the life-sustaining services a supermarket provides to residents in  
13 the neighborhood, and the important role it plays in strengthening and stabilizing the community it  
14 serves, an owner has a responsibility as an integral part of that community to undertake a reasonable  
15 effort to work with neighborhood residents and the City to explore opportunities to remain open for  
16 business, or to identify a replacement supermarket. Through this Article 57, the City seeks to leverage  
17 community and City resources to ensure that neighborhoods are not left devoid of supermarkets and  
18 residents are not left without access to supermarkets; that supermarkets continue to serve the  
19 community even when there is the possibility of a supermarket closure.

20  
21 **SEC. 5701. DEFINITIONS.**

22 For purposes of this Article 57, the following definitions apply:

23 “Close for Business” or “Close” or “Closure” means to permanently discontinue operation as  
24 a Supermarket at a given location.

1 “Supermarket” has the meaning set forth in Health Code Section 440, as may be amended from  
2 time to time.

3 “Supermarket Owner” means the individual or entity that owns the Supermarket, or their agent.

4  
5 **SEC. 5702. NOTIFICATION OF INTENT TO CLOSE.**

6 (a) A Supermarket shall not Close for Business unless the Supermarket Owner has:

7 (1) Provided six months’ written notice of the Supermarket’s intention to Close to  
8 the Director of the Office of Economic and Workforce Development (OEWD) and the Board of  
9 Supervisors; and

10 (2) Provided six months’ notice of the Supermarket’s intention to Close to its  
11 customers and the public by posting prominent notices at all entries and exits to the Supermarket.

12 (b) Notwithstanding subsection (a), a Supermarket may Close after having provided less  
13 than six months’ notice to the Director of OEWD, the Board of Supervisors, and the Supermarket’s  
14 customers and the public if:

15 (1) The Closure is caused by business circumstances that were not reasonably  
16 foreseeable as of the time that notice would have been required; or

17 (2) The Closure is due to a natural disaster or emergency; or

18 (3) As of the time that notice would have been required, the Supermarket was  
19 actively seeking capital or business which, if obtained, would have enabled the Supermarket to avoid or  
20 postpone the Closure, and the Supermarket reasonably and in good faith believed that giving the notice  
21 required would have precluded the Supermarket from obtaining the needed capital or business.

22 (c) A Supermarket relying on subsection (b) to provide less than six months’ notice shall  
23 give as much notice as is practicable, and at that time shall articulate in writing the basis for having  
24 reduced the notification period.

1           **SEC. 5703. GOOD FAITH EFFORTS TO ENSURE CONTINUITY OF SERVICES.**

2           During the period between the issuance of the notices required under Section 5702 and  
3 Supermarket's Closure, the Supermarket shall meet and work in good faith with neighborhood  
4 residents and OEWD to find a workable solution to allow for the continued availability of groceries at  
5 the Supermarket location. Solutions may include, but are not limited to, identifying strategies and  
6 resources to allow the Supermarket to remain open, helping the residents organize and open a  
7 cooperative, and identifying another Supermarket operator capable of continuing grocery sales.

8  
9           **SEC. 5704. ENFORCEMENT.**

10          (a) The Director of OEWD may issue regulations necessary or appropriate to implement  
11 this Article 57.

12          (b) Any person affected by a Supermarket's failure to comply with the requirements of this  
13 Article 57 may institute proceedings for damages, injunctive relief, declaratory relief, or writ of  
14 mandate to remedy the violation, in any court of competent jurisdiction. It shall be a defense to an  
15 action brought under this Section 5704 that compliance with this Article 57 would have required the  
16 disclosure of information that is proprietary, a trade secret, or is otherwise protected from disclosure  
17 under Government Code Section 7930.205, Civil Code Section 3426 et seq., or Evidence Code Section  
18 1060, as such provisions may be amended from time to time.

19  
20          **SEC. 5705. UNDERTAKING FOR THE GENERAL WELFARE.**

21          In enacting and implementing this Article 57, the City is assuming an undertaking only to  
22 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
23 obligation for breach of which it is liable in money damages to any person who claims that such breach  
24 proximately caused injury.

1           Section 2. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor’s veto of the ordinance.

5  
6 APPROVED AS TO FORM:  
7 DAVID CHIU, City Attorney

8 By: \_\_\_\_\_/s/  
9 ANNE PEARSON  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Police Code - Notice of Supermarket Closure]

**Ordinance amending the Police Code to require large supermarkets to provide six months' notice to their customers and the City before permanently closing, and to explore ways to allow for the continued sale of groceries at the location.**

Existing Law

Currently, there is no law requiring supermarkets to provide notice of their intent to close permanently to their customers, the public, or to the City.

Amendments to Current Law

This ordinance would require large supermarkets to provide six months' notice of their intent to close permanently to the Board of Supervisors, the Director of the Office of Economic and Workforce Development, their customers, and the public. For purposes of the notice requirement, a supermarket is defined to mean a food product and marketing establishment that sells a variety of food and is greater than 20,000 square feet in size.

A supermarket owner would be exempted from the notice requirement if the store closure is due to an emergency or circumstances that were not foreseeable at the time that notice would have been required, and where the owner is actively seeking financing to keep the store open, and believes that compliance with the notice requirement would compromise those efforts.

The ordinance would be enforceable by a private right of action. It would be a defense to an action brought under the ordinance that compliance would have required disclosure of proprietary information or trade secrets.

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BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: William Scott, Police Chief, SF Police Department  
Sarah Dennis-Phillips, Executive Director, Office of Economic and Workforce Development

FROM: Monique Crayton, Assistant Clerk, Public Safety and Neighborhood Services Committee, Board of Supervisors

DATE: April 10, 2024

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Dean Preston on April 2, 2024.

**File No. 240333**

### **Police Code - Notice of Supermarket Closure.**

If you have any additional comments or reports to be included with the file, please forward them to Monique Crayton at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at [monique.crayton@sfgov.org](mailto:monique.crayton@sfgov.org).

CC:  
Offices of Chair Stefani and Supervisor Preston  
Lisa Ortiz, Police Department  
Diana Aroche, Police Department  
Lili Gamero, Police Department  
Rima Malouf, Police Department  
Carl Nicita, Police Department  
Anne Taupier, Office of Economic and Workforce Development  
Alesandra Lozano, Office of Economic and Workforce Development



President, District 3  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
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Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 544-6546

**Aaron Peskin**

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**PRESIDENTIAL ACTION**

Date: July 10, 2024

To: Angela Calvillo, Clerk of the Board of Supervisors

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Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title.

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Transferring (Board Rule No 3.3)

File No. 240333 Preston  
(Primary Sponsor)

Title. [Police Code - Notice of Supermarket Closure]

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From: Public Safety & Neighborhood Services Committee

To: Government Audit & Oversight Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: \_\_\_\_\_ Replacing Supervisor: \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

Start Time: \_\_\_\_\_ End Time: \_\_\_\_\_

Temporary Assignment:  Partial  Full Meeting

  
\_\_\_\_\_  
Aaron Peskin, President  
Board of Supervisors



235 Montgomery St., Ste. 760, San Francisco, CA 94104  
tel: 415.392.4520 • fax: 415.392.0485  
sfchamber.com

August 27, 2024

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

**RE: File #240333: Police Code - Notice of Supermarket Closure**

Dear Members of the Board of Supervisors,

We write to you today to share feedback on Supervisor Dean Preston's proposed ordinance on grocery store closures - File #240333. While we understand the intent behind the proposed ordinance, we believe that if it is not amended as described below it will discourage new grocery stores from opening, and could even push existing grocery stores to close. In its current form, the ordinance adds more layers of bureaucracy at a time when small businesses in San Francisco need less. We suggest the following changes to better balance the intended protections with the realities of operating a business.

We request you consider the following changes to the proposed ordinance:

1. Reduce required notice from six to two months in Section 5702: The current requirement of a six-month notice period prior to the closure of a grocery store places an undue burden on businesses, particularly smaller grocery stores.
2. Strike Section 5703, the "Good Faith Efforts" provision: this requirement could lead to expensive legal challenges and uncertainties, hurting businesses that are already struggling.
3. Strike Section 5704(b), the "Private Right of Action" Provision: creating a private right of action invites unnecessary lawsuits from the public and easily leads to litigation abuse.

We believe these amendments will create a more balanced approach to grocery store closure notification and will benefit both the community and business owners. We urge you to consider these changes to ensure that the ordinance supports sustainable business practices while honoring the proposal's original legislative intent. We welcome the opportunity to work with you to support our businesses and residents.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney Fong", written over a faint circular stamp or watermark.

Rodney Fong  
President & CEO  
The San Francisco Chamber of Commerce

## Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor  inquires..."
- 5. City Attorney Request
- 6. Call File No.  from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission       Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: