[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

Mayor Newsom
BOARD OF SUPERVISORS
social gathering, though the caterer may engage in limited food preparation at the location where the
caterer serves the food. A caterer is not a private chef or chef for hire who prepares food in a private
home.

(e) "Catering facility" shall mean any food preparation and service establishment
wherein a caterer prepares food on a contractual basis within a fixed location for
service at another location.

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

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

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

(i) "Food preparation and service establishment" as defined in this Section shall mean
and include any restaurant, itinerant restaurant, guest house, boardinghouse, special events,
school food concessions, bar or tavern, take-out establishment, fast food establishment,
caterer, catering facility, temporary facility, food demonstration, commissary, pushcart, stadium
concession, vending machine, bed and breakfast establishment, private school cafeteria, hospital kitchen, and licensed health care facility, as those terms are defined herein.

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

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

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

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

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

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

(3) Skilled Nursing Facility as defined in Cal. Health and Safety Code Section 1250 (c) or any successive statutes;
(4) Intermediate Care Facility as defined in Cal. Health and Safety Code Section 1250 (d) or any successive statutes;

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

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

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

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

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

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

(q)(b) "Restaurant" means any coffee shop, cafeteria, short-order cafe, luncheonette, cocktail lounge, sandwich stand, soda fountain, public school cafeteria or eating establishment, in-plant or employee eating establishment and any other eating establishment, organization, club, including Veterans' Club, boardinghouse, bed and breakfast establishments, or guest house, eater, which gives, sells or offers for sale, food to the public, guests, patrons, or employees as well as kitchens or other food preparation areas in which food is prepared on the premises for serving or consumption on or off the premises, and requires no further preparation and also includes manufacturers of perishable food products.
that prepare food on the premises for sale directly to the public. The term "restaurant" shall not include itinerant restaurants, cooperative arrangements made by employees who purchase food or beverages for their own consumption and where no employee is assigned full time to care for or operate equipment used in such arrangement, or private homes; nor shall the term "restaurant" include churches, church societies, private clubs or other nonprofit associations of a religious, philanthropic, civic improvement, social, political, or educational nature, which purchase food, food products, or beverages, or which receive donations of food, food products, or beverages for service without charge to their members, or for service or sale at a reasonable charge to their members or to the general public at occasional fundraising events, for consumption on or off the premises at which the food, food products, or beverages are served or sold, if the service or sale of such food, food products or beverages does not constitute a primary purpose or function of the club or association, and if no employee or member is assigned full-time to care for or operate equipment used in such arrangements.

"School food concessions" means any food preparation, food service or food products intended for consumption by students attending or participating in activities within a school facility.

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

"Stadium concession" shall means any food preparation and/or service facility operating within a stadium, arena, or auditorium with a seating capacity of 25,000 or more.

"Take-out establishment" shall means any food preparation and service establishment which primarily prepares food for consumption off premises.
"Temporary facility" shall mean any food preparation and service facility operating out of temporary facilities approved by the Director of Public Health at a fixed location for a period of time not to exceed 25 days in any 90-day period in conjunction with a single event or celebration.

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

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

SEC. 249.1. FOOD PREPARATION AND SERVICE ESTABLISHMENTS.

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

(a) Class Fee

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

Less than 1,000 square feet $777
1,000 square feet to 2,000 square feet: 1,028
Greater than 2,000 square feet 1,179

Class B. Bar or tavern 923

Class C. Take-out establishment 932

Class D. Fast food establishment 1,056

Class E. Catering facility 908

Class F. Temporary facility 145

Class G. Food demonstrations 105
Class H. Commissary 884
Class I. Pushcart on private property 737
Class J. Stadium concession 625
Class K. Vending machines 177
Class L. Bed and breakfast establishment 999
Class M. Boarding house 241
Class N. Private school cafeteria 294
Class O. Hospital kitchen, with food service to the general public and staff only 940
Class P. Licensed Health Care Facility 1050

Class Q. Caterer 350

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

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

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

For the purpose of this subsection, a "day care facility for children" shall mean a "community care facility" licensed pursuant to the provisions of Chapter 3, Division 2 of the California Health and Safety Code (commencing at Section 1500) which provides nonmedical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis, or a "family day care home for children" licensed pursuant to the provisions of Chapter 3.6, Division 2 of the California Health and Safety Code (commencing at Section 1597.50).
(2) Food preparation and service establishments funded through the San Francisco Commission on Aging for nutrition projects for older individuals.

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

SEC. 249.22. CATERERS.

Caterers are required to submit an application for a Class Q permit to the Department of Public Health with an application fee of $323. The application shall include 1) a verification form demonstrating that the caterer prepares food at a commissary or other facility permitted by the Department of Public Health, 2) an operational procedure form, 3) a copy of a valid food safety certificate, and 4) any other documents required by the Director of the Department of Public Health. The application fee in this section may be adjusted annually as provided in Section 249.1(c). A caterer who also owns a catering facility must pay the catering facility fee but is not required to pay the caterer fee unless that caterer also prepares food at another catering facility where the caterer has no ownership interest.
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Cecilia T. Mangoba
Deputy City Attorney
Ordinance amending San Francisco Health Code, Article 8, by amending Section 451, and amending San Francisco Business and Tax Regulations Code, Article 2, by amending Section 249.1, and adding 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.

June 29, 2010 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

July 13, 2010 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/13/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom
Date Approved