



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2017 FEB 16 PM 6:20

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Darin Ranelletti
Interim Director, PBD

SUBJECT: Adoption Of New Citywide Mobile
Food Vending Program

DATE: February 6, 2017

City Administrator Approval

Date:

2/16/17

RECOMMENDATION

Staff Recommends That Council Conduct A Public Hearing, And Upon Conclusion, Adopt A New Citywide Food Vending Permit Program. Action Requires Replacing Existing Oakland Municipal Code ("O.M.C.") Chapters 5.49 "Pushcart Food Vending Pilot Program," 5.51 "Food Vending Group Site Pilot Program" And 8.09 "Vehicular Food Vending" With A New Citywide Food Vending Program In O.M.C. Chapter 5.51; Making Various Conforming Changes To The O.M.C. And Planning Code; And Adopting California Environmental Quality Act (CEQA) Findings.

EXECUTIVE SUMMARY

The new Citywide food vending program is proposed to replace Oakland's existing food vending permit types and programs. The main goals of the new Citywide food vending program are to:

- Expand the areas in Oakland where food vending can be permitted with a focus on public health and safety;
- Fix problems with the existing food vending regulations and programs;
- Add vitality to commercial areas, and contribute to the richness of Oakland's culinary and cultural offerings;
- Promote community economic development with new living-wage jobs and local business ownership opportunities for Oaklanders; and
- Bring access to healthy, affordable food in many underserved Oakland neighborhoods.

The proposed new Citywide food vending program would permit, with certain restrictions, individual food vending on private property and from the public right-of-way (streets and sidewalks) in selected commercial and industrial areas. The new program would also permit group site food vending (events with two or more food vendors) in more areas throughout the City. The proposal revises the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code; and deletes the following Chapters in the Oakland Municipal Code (OMC) and replaces them with one new OMC Chapter containing the new mobile food vending program: Chapter 5.51 ("Food Vending Group Site Pilot Program"); Chapter 5.49 ("Pushcart Food Vending Pilot Program"); and Chapter 8.09 ("Vehicular Food

Item: _____
Community and Economic Development Committee
February 28, 2017

Vending”). The proposal also includes revisions to other Planning and Municipal Code sections as minor conforming changes.

The proposal will require additional city resources to help administer and enforce the new food vending program, including new positions in the City Administrator’s Nuisance Abatement Division under a new job classification to be created called “Business Permits Enforcement Officer”. New permit fees for the food vending program will be proposed in separate legislation amending the Master Fee Schedule, which will help fund the cost of these staff positions.

BACKGROUND / LEGISLATIVE HISTORY

In 2001, the City of Oakland adopted its first pilot program to permit vehicular food vending on private property and pushcart vending on sidewalks¹ (per Oakland Municipal Code (OMC) Chapters 5.49 and 8.09). The 2001 pilot program was limited to individual food truck and pushcart operators, and to areas along certain major corridors east of Lake Merritt. The 2001 program was then revised and made permanent in 2004², when the Council decided to establish permanent pushcart and vehicular food vending programs in the same limited areas. Then, in 2011, the City adopted the Group Site “pilot” program, which allowed groups of vendors to sell together on a single site within limited areas of Council Districts 1, 2, 3 and 4.³ More recently, in 2013, the City Council made the Group Site “pilot” program effective until “the City Council adopts permanent mobile food vending regulations.”⁴

Outside of the permitted program areas specified above, Mobile Food Vending in the City of Oakland currently requires either:

- (1) A Major Conditional Use Permit (CUP) for fast food activities, and review and approval by the Planning Commission; or
- (2) A Special Event Permit, issued by the Oakland Police Department (with the participation of the City Administrator’s office) for a limited duration event.

At the March 19, 2015 Rules and Legislation Committee, Councilmember Gallo recommended, and the Committee moved, to place an item on the July 14, 2015 Community and Economic Development (CED) Committee agenda to: “adopt an ordinance amending Ordinance No. 12579 C.M.S. which establishes a permanent vehicular food vending program, and for staff to provide recommendations on expanding the vehicular food vending program Citywide.”

¹ Ordinance No. 12310 C.M.S. and Ordinance No. 12311 C.M.S. established eighteen-month pilot pushcart and vehicular vending programs, respectively.

² Ordinance No. 12582 C.M.S. and Ordinance No. 12583 C.M.S. established a permanent Pushcart Vending Program and amended the Master Fee Schedule, respectively. Ordinance Nos. 12579, 12580 and 12581 C.M.S. which, respectively, established a permanent Vehicular Vending program in Chapter 8.09 O.M.C., amended the Master Fee Schedule and made conforming changes to the Oakland Planning Code.

³ See OMC Chapter 5.51. See Ordinance No. 13098 C.M.S. adopted December 20, 2011.

⁴ Ordinance No. 13152 C.M.S., adopted February 5, 2013. The Group Site program is currently limited to Council Districts 1, 2, 3 and 4.

At the July 14, 2015 CED meeting, staff presented a number of recommendations which would create a Citywide food vending program; and heard from stakeholders as well as the Council committee members about their concerns (particularly about enforcement of the current program). The CED Committee directed staff to meet with stakeholders and return to Council with a comprehensive food vending program. Staff held a series of eight community meetings and made presentations to business improvement districts, commercial business associations, food vendors, residents and other stakeholders. Staff prepared initial proposals, summarized them for the public to review, and the proposed regulations on the project website, in English and in Spanish translation⁵.

On June 1, August 3, and December 21, 2016, the Planning Commission held three public hearings to consider the proposed new Citywide food vending permit program. At the December 21st hearing, after considering the comments made by the public speakers, the Planning Commission recommended adoption of the program as drafted by staff (**Attachment A**).

Under a separate legislative process, on January 17, 2017, the Council adopted Ordinance No. 13414 C.M.S., legislation that added 85th Avenue between Edes Avenue and San Leandro Boulevard to the current food vending program. That legislation authorized, for the first time, vending from the street right-of-way. That legislation also made certain administrative changes to the City's food vending program. Food vending permits for trucks and carts are now issued at the Planning and Zoning counter, a change from the last ten years of administration, when these permits were issued by the Building Bureau.

Over the last year as part of the current food vending programs, the City of Oakland has issued 11 Food Vehicle (FV) permits for individual food trucks, and 17 Food Cart (FC) permits for pushcarts. However, the Alameda County Environmental Health Division indicates that there are currently 75 food trucks and 43 pushcarts with an Oakland address that have been issued an Alameda County Environmental Health permit. Additionally, there are an unknown number of vendors who may be operating in Oakland without either an Alameda County Environmental Health permit or a City of Oakland Food Vehicle/Food Cart permit.

The feedback from mobile food vendors in particular during the past two years of program development, has been that the City should establish a new permanent citywide program that will allow for food vendors to vend beyond the areas of the Fruitvale and other central and east Oakland neighborhoods in the existing program. At the same time, owners whose families have a long history of mobile food vending in the City want assurances that the City will enforce the new regulations, and prevent un-permitted vendors from creating unsafe selling conditions for pedestrians.

⁵ See www.oaklandnet.com/foodvending

ANALYSIS AND POLICY ALTERNATIVES

This section highlights details of the proposed new Citywide food vending program, comparing the proposal to the existing regulations. **Attachment B** to this report contains four tables which summarize the major differences between the existing program, and the proposed comprehensive program.

Municipal Code and Administration of new program

1. Municipal Code Amendments. In order to establish one unified vending program for the entire City, the regulation of mobile food vending will need to be consolidated into a single municipal code chapter, and the following code amendments will be required, as detailed in the adopting ordinance (**Attachment C**):

a. Replace Oakland Municipal Code (OMC) Chapters 5.49 ("Pushcart Food Vending Pilot Program"); 5.51 ("Food Vending Group Site Pilot Program"), and 8.09 ("Vehicular Food Vending") with one consolidated set of new food vending regulations, which will be located in OMC Chapter 5.51 ("Food Vending Program") (**Attachment C**);

b. Authorize the City Administrator, or her designee, to adopt a new Food Vending Program Permitted Area map (**Attachment D**);

c. Revise the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code, to remove the portions referring to vehicular food vending;

d. Revise other Planning and Municipal Code sections as minor conforming changes (see **Exhibit A** to the Ordinance);

2. Bureau of Planning to administer food vending permits. The proposal is for the Bureau of Planning staff to issue all new food vending permits, except those related to Special Events. This administrative arrangement would replace the current application process where individual food truck and pushcart vendors apply to the Bureau of Building, and group site organizers apply to the City Administrator's office. Special Event applicants will continue to apply to the Police Department.

3. Administrative Guidelines. The Bureau of Planning has prepared, separate from the adopting ordinance, administrative guidelines to implement the new food vending program (**Attachment E**). The guidelines provide the detailed requirements, procedures and regulations which explain how the new food vending program will be administered. They will also provide the flexibility necessary to make timely changes to effectively implement the new food vending program. The guidelines were prepared in coordination with Oakland Public Works, the Oakland Police Department, the Oakland Fire Department, and the City Administrator's Office. The Guidelines are authorized by the adopting ordinance.

4. Limits to number of available permits. In the first year of the new program (2017-2018), there would be a maximum of 100 food vending permits issued for food trucks operating on

private property; and 100 food vending permits issued for pushcarts / stationary carts operating on sidewalks, plazas and on private property.

If all allowable food vending permits are issued during year one of the program, the City Administrator can consider revising the Administrative Guidelines to allow for more permits in future years.

The new program would also allow for up to 50 street parking spaces Citywide to be pre-selected for "food vending activities only" during designated days and hours. There will be no initial limit on the number of vendors who can apply for one of the street right-of-way parking spaces. This is because some of the potential street parking vending spaces could feature up to five different food trucks throughout the week.

5. Enforcement. Currently, there is no dedicated department or City staff tasked solely with enforcing food vending complaints and violations, particularly in the right-of-way. To enforce the new food vending program, staff proposes the creation of a new job classification in the City Administrator's office, likely to be titled a "Business Permits Enforcement Officer." Human Resources Management staff is engaging with the applicable union to meet its mandatory bargaining obligations regarding the proposed new job classification. Following the meet and confer process, the classification will be submitted to the Civil Service Board for review and approval, and to the City Council as part of the salary ordinance amendment process.

The proposed job description for this position states that the classification "enforces regulations pertaining to business permits and operations of businesses, including but not limited to those listed in Title 5 of the Oakland Municipal Code, such as: food vending outside of restaurants and other businesses. The incumbent will educate vendors as to permit requirements, will inspect and investigate allegations of un-permitted vending, and has the authority to issue administrative citations".

The selection of the City Administrator's Office for the new enforcement staff was made after reviewing existing job classifications, and which department(s) had the capacity and expertise to enforce a new food vending program. Staff determined that the City Administrator's Office has both the capacity and expertise to manage food vending enforcement staff. Staff also determined that no existing job classification in the City has the breadth of duties and authority necessary to properly enforce food vending regulations, so it was necessary to create a new classification as proposed, "Business Permits Enforcement Officer."

6. Notification of vending applications: Currently, food vending applications which are complete are issued over the counter, without public notice. The new program will require that vending applicants notify neighboring property owners of an application for a food vending location. Following a similar noticing procedure in the Oakland Planning Code⁶, neighbors on either side of the proposed vending location and across the street from the location will be notified that a food vending application is being considered by the City. Notification will only be required prior to the initial approval of a vending location; permit renewals for the same location will not require additional notification. Also, Group Site organizers will no longer have to seek a

⁶ The procedure is for Small Project Design Review.

“proof of consent” from a Business Improvement District (BID) or Community Benefit District (CBD) board to operate.

Program changes and requirements

7. Expansion of Citywide permitted vending areas: The new program expands the areas of the City where food vendors can locate, by permitting food vending beyond the current limit to certain major commercial streets, east of Lake Merritt (***Attachment D***). Currently, the areas where an individual vendor can sell are limited to private property in the Fruitvale neighborhood and commercial streets in central and east Oakland (International Blvd, Fruitvale, Foothill, E. 12th and San Leandro Boulevard). Under the proposal, these central and east Oakland streets will continue as permitted food vending areas. The program will now include streets downtown, West Oakland and North Oakland, as well as expand food vending in central and east Oakland to limited new locations.⁷

8. Permitting vending from the street right-of-way. Current regulations limit food vending from trucks to private property only, and pushcarts are intended to roam along sidewalks, but not remain stationary. The new program would allow vending from a parking space on the street, and stationary cart vending on certain sidewalks which meet public safety standards.

The program would allow for up to 50 street parking spaces to be pre-selected for “food vending activities only” during designated days and hours. With the exception of permits that the City may issue for a limited duration, such as for Special Events or Group Sites, food vending from any other parking space in the street right-of way will be prohibited. Also, the City parking enforcement staff will cite automobiles parking in the designated food vending locations, during the permitted hours of operation. This limitation of up to 50 street parking spaces for extended duration food vending will allow the City to effectively enforce the street vending portion of the new Citywide program by limiting the number of potential locations where a food truck or trailer can operate legally in the street right-of-way. Vendors will need to pay the parking meter, if one is at the location. Standards for sidewalk vending from carts include minimum sidewalk width, and prohibitions on blocking building entrances and parking red zones.

California Vehicle Code Section 22455(b) limits a City’s authority to regulate food vending in a street right-of-way. Under Vehicle Code section 22455, the City may adopt public safety requirements regulating the type of vending and the time, place, and manner of vending. The Administrative Guidelines specify that the City will prioritize and pre-select parking spaces in areas of Oakland which are currently underserved by other food outlets. There are public health benefits to having more food choices in areas of Oakland which are currently underserved; as people require less auto trips to acquire food and have food options which are healthier than pre-packaged and highly processed foods. Also, vending is already occurring in the street right-of-way today, but without a City of Oakland permit. By creating a permitted program which is more easily enforced, the City can control the time, place and manner of vending in the street

⁷ The proposed central and east Oakland additions are proposed to be: High Street between I-880 and the waterfront; First Avenue and First Avenue Place between International Boulevard and East 15th Street; East 18th Street, between 2nd Avenue and Park; Park Blvd. between East 18th Street and Newton; and private property on Hegenberger Drive between Coliseum BART parking lots and Doolittle.

right-of-way. A public safety benefit for vending in the right-of-way is that residents participate in neighborhood-based commercial activity which can activate blocks of the City which do not currently have "eyes on the street" due to a lack of commercial businesses.

For different reasons, the City has removed certain street rights-of-way from the permitted program area. Broadway is removed from Embarcadero (Jack London) to 27th Street. This proposed change ensures that food vending does not interfere with Broadway's role as a major transit corridor for the City; and that food vending doesn't create a public safety conflict between food vendors, their customers, and the significant number of regularly scheduled buses serving the corridor. Also, International Boulevard street right-of-way is removed, because of the significant changes being made to the roadway and medians as part of AC Transit's Bus Rapid Transit (BRT) project. Administrative Guidelines clarify that this restriction on International will last up to one year after the BRT street improvements are complete.

9. Location of vendors. Individual food vending facilities or Group Sites will not be permitted to block or impede access to:

- Required parking or driveways;
- Bicycle racks;
- Signal crossings;
- Required on-site parking;
- Parking meters;
- Pedestrian or bicycle routes;
- Emergency vehicle routes;
- Building ingress and egress;
- Required handicapped accessibility routes and curb cuts;
- Easements;
- Trash enclosure areas or access to trash bins/trash enclosures; or
- Other City facilities, as determined by the City Administrator.

Individual food vending facilities and Group Sites must maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).

All food vending facilities on public sidewalks will need to be located so that a minimum of five and one half (5½) feet of improved sidewalk or 50 percent of the overall improved sidewalk width, whichever is greater, is open and unobstructed for pedestrians. Sidewalks with greater than 10 feet of width will be given preference for pushcart vending.

In accordance with Health and Safety Code Section 114315, each individual food vending facility and Group Site will need to locate within 200 feet of a restroom facility that employees have permission to access.

10. Distance between food vendors. The current regulations require food trucks to be located 200 feet from another food truck; and pushcarts to be located 100 feet from any other food vendor. The new program will require a distance of 300 feet between all food vendors that are not part of a "group site". When compared to existing food vending regulations, this 300-foot buffer distance would increase the required distance between food truck vendors by 100 feet

and between pushcart vendors by 200 feet. There are public health and safety benefits to having a buffer distance between food vendors, since the smaller number of potential vending locations ensures that the City can enforce the program within its limited resources, and can verify through its own permit that all vendors who sell food in Oakland have an Alameda County health permit and the proposed vending location meet all operational requirements.

While some stakeholders have called for much larger buffer distances between two vendors, even up to 1,500 feet, the City's analysis shows that this would restrict the number of potential vending sites in the permitted area to less than 160 sites, which the City considers an undue burden on vendors to find a viable site in which to operate. A shorter buffer distance, such as 500 feet, would allow for 300 vending site choices throughout the permitted area. The recommended buffer distance, 300 feet, allows for 600 vending site choices throughout the permitted area. In each case, a vendor must find a willing private property owner to lease a space from, which makes any new vending area inherently limited. In general, a smaller buffer distance between vendors allows for more potential sites for the vending community to choose from throughout the permitted program area, resulting in more vending opportunities.

11. Distance from "brick and mortar" restaurants. As stated above, the Vehicle Code limits the City's ability to specifically regulate mobile food vendors on public streets unless there is a public safety concern. The new food vending program would require a minimum 100-foot buffer distance between any food vendor and the main entrance to a brick and mortar restaurant. The 100-foot buffer distance between food vendors and restaurants was chosen to protect public safety by ensuring that customer queuing for both establishments doesn't limit pedestrian access to a sidewalk, particularly access for the disabled, due to outdoor seating, utilities, street furniture and other obstructions typically found on sidewalks near restaurants. This buffer distance also allows for regular turnover of street parking spaces, and reduces the risk of customer double parking which could lead to potential bicycle collisions. An Administrative Guideline clarifies that vending will be permitted on the same lot with a restaurant, with the permission of the restaurant owner, subject to certain findings for pedestrian safety; and where vendors are permitted by the City to operate only during the hours that a restaurant is closed.

The distance in the current food vending program is 200 feet from a restaurant for a food truck on private property, and there is no distance requirement for pushcarts. The new program would require a 100-foot buffer distance from restaurants based on the public safety requirements described above, and apply this distance requirement to all vendors, not just food trucks.

12. Distance from OUSD Schools, and "Healthy food" vending. The current regulations and the new program restrict all food vendors from being within 500 feet of OUSD schools. The new program allows food trucks and pushcarts to locate closer to schools if the vendors agree to limit their selection to a basic set of "healthy" food choices and are approved by OUSD Nutrition Services (or, the operating entity of a private or charter school). Public health is improved when school-age children eat healthy meals and snacks, which is why OUSD has set up twenty farmer's markets at their schools to sell fresh fruit and vegetables. With the proposal, the City is creating a permit process to incentivize vendors who want to sell healthy food to school-age children. A public safety benefit of the new regulations is that the 500-foot school buffer will help prevent accidents involving school children and food vendors near schools, by reducing the

chance of collisions between trucks and children, or customers in automobiles and children, because fewer vendors will be selling near schools.

13. Distance from Special Events and Farmer's Markets. The City of Oakland is a popular host City for special events and festivals throughout the year; it is common for these events to feature permitted mobile food vendors. In addition to the City-sponsored events, such as "Art and Soul" (August), there are a number of annual privately-funded events that often include food vendors, such as "First Fridays", as well as 13 farmer's markets, some of which include prepared food sold by vendors. In each case, the festival or event organizer must pay for a special event permit from the Police Department (with assistance from the City Administrator's Office), which allows a select group of food vendors to operate within the event's "footprint."⁸ There currently is no distance buffer required between a food vendor and a Farmer's Market or Special Event. In the Administrative Guidelines for the new program, there will be a 100-foot public safety-related buffer distance from weekly farmer's markets and from weekly and annual Special Events for individual food vendors. The new program described in this report makes no changes to the current permitting of food vendors who have permission to vend with a Farmers Market or Special Event organizer, and these Markets and Events will continue to have food vendors as they do now.

14. Late-night vending. Current regulations state that the "hours of operation shall be determined by the City but shall not exceed: 7 a.m. to 3 a.m., everyday". While this provision has clearly always provided the City with the authority to restrict a vendor's hours of operation, restrictions or conditions on a vendor's allowed hours have rarely been specified by the City to date. As a result, many existing food truck vendors sell for the maximum period, until 3 a.m., every day of the week. The new program will require an additional level of review for food vendors to operate after 10 p.m. Applicants seeking to vend during "late night" hours, which is between the hours of 10 p.m. and 3 a.m., will need to show how the vending activity will not become a public nuisance. The City has a public safety concern with vending after 10 p.m., particularly in areas which haven't historically allowed permitted food vending late at night. At the same time, there has been successful permitted late night food vending in Fruitvale and in other neighborhoods which have not resulted in calls for police service or other nuisances, and the City seeks to allow the continuation of late night vending in areas where it is deemed appropriate. Late night food vending which results in verified complaints to the enforcement staff, or calls for service to the Oakland Police Department, will result in the vendor losing the privilege of vending after 10 p.m.

15. "Grandfathering". "Grandfathering" is the concept that existing and past City permit holders should be given priority when the new program permits are issued. Staff supports the concept of creating permitting priorities for long-standing vendors. Administrative Guidelines have been drafted that establish the order of priority for permit issuance under the proposed new food vending program. The first priority will be to issue new permits to vendors who currently hold City food vending permits (i.e. 2016/2017 Food Cart "FC" or Food Vehicle "FV" permits). The second priority will be to issue new permits to vendors with a history of prior Oakland Food

⁸ The First Fridays Festival "footprint" doesn't just include the blocks of Telegraph Avenue where the event is held; it also includes the numbered side streets which are "soft closed" to local traffic only, between Telegraph and Broadway.

Vending permits, but whose permits have since expired. The third priority will be to issue permits to vendors applying for City-designated parking spaces in the street right-of-way. All other applications for new food vending permits will be considered equally, regardless of an applicant's longevity of vending in Oakland. Thus, vendors who don't have either a current or previous City food vending permit will not be given a "grandfathering" privilege, and will have to apply for their preferred locations in the newly adopted permitted program area. If there are multiple applications submitted for the same location, the City will institute a lottery system to ensure fairness. The City is not proposing a ten-year operation requirement for the first priority ranking, as has been suggested by some vendors. Other groups, such as the Fruitvale BID, do not think the City should have a "grandfathering" provision at all.

16. Fire Department inspections. The public is safer when food vending facilities which use gas for cooking are regularly inspected. The proposal adds an annual fire inspection of food trucks, trailers and carts, as a requirement for the permit to be issued by the City for vendors using fuels.⁹

17. Insurance. The new program specifies "appropriate liability insurance shall be required for vending" in the public right-of-way. This requirement will apply to pushcarts, stationary carts, and food trucks and trailers, as advised by the Risk Management Division of the City.

18. Annual and Temporary permits: The program will create two types of permits, annual permits renewed every 12 months, and temporary permits which are effective for 90 days. There will be a reduced fee for the temporary permit. This is intended to create an opportunity for vendors new to Oakland to try different areas of the City, or to sell seasonally. In the first year of the program, however, no temporary permits will be issued.

19. Expanded number of Group Site locations. Group sites are two or more food vendors selling together on the same site. The proposed Administrative Guidelines will allow organizers to apply for up to five different group site locations in all Council Districts in Oakland. Currently, group sites are limited to two locations per organizer. On private property, group sites would be allowed to sell with no limitation on the number of days (current restrictions limit selling to two days a week). This is to encourage the establishment of long-term food vending "pods" on vacant lots or surface parking lots, similar to those in San Francisco¹⁰ and in Portland, OR.

20. Trash and litter control. Vendors are required to have their own trash receptacles for disposable plates, cups and utensils, and to dispose of the day's trash privately, not in a City trash can. Every vendor will be required to pay a fee to contribute to the City's Excess Litter Fee program.

21. Permit Fees: The current annual permit fee for a food truck to operate on private property had been approximately \$1,800; for a pushcart on the sidewalk in the permit area, the fee had been approximately \$850.¹¹ The fee for Group Sites is approximately \$800 (with additional weekly administrative fees).

⁹ The City of Philadelphia in 2014 experienced a gas tank explosion in a mobile food truck.

¹⁰ The SoMA StrEat Food Park, at 11th Street and Division, is one example.

¹¹ Both amounts include the cost of "tech" and "records" fees.

The proposed new food vending program fees are:

Facility	Administration	Enforcement	Notice	Other fees (Fire/litter)	Total annual permit fee
Food Truck	\$300	\$600	\$250	\$400	\$1,550
Push Cart	\$200	\$450	\$250	\$100	\$1,000
Group Site	\$200	\$450	\$250	\$100	\$1,000

A proposed amendment to the Master Fee Schedule including these food vending fees is being adopted under a separate City action to adopt a Master Fee Schedule for the years 2017-2018.¹² Amendments to the Master Fee Schedule, which include the proposed new food vending fees in the table above, are a part of the 2017-2018 Master Fee Schedule Ordinance. Renewal of food vending permits will be less expensive than the cost of the initial permit, because the noticing fee will not be required.

22. Advisory Task Force: At Council's direction, staff could return to Council with the framework for convening a "Food Vending Working Group: whose purpose would be, in the first year of the new vending program, to monitor the program's implementation, to make recommendations to staff, and to inform the larger vending community of the new program.

FISCAL IMPACT

Revenues from food vending program fees are intended to contribute to the costs of administration and enforcement of the new program.

The revenue assumptions are based on approximately 140 food trucks, 100 pushcarts, and 10 Group Site permits that would be issued in any given year. That is based on the number of currently permitted vendors in the Alameda County Environmental Health program who are already located in Oakland. Additional vendors in the Bay Area will likely want to vend in Oakland, once there are more opportunities and a streamlined permit program. This assumed number of permittees would generate approximately \$267,000 in annual revenue, which would be applied to the administrative and enforcement costs of the program.

The annual revenue would cover the additional costs of the Bureau of Planning to administer the program. There will be a need for the City Administrator's office to budget for the new Business Permits Enforcement staff required to enforce the program. It is predicted that up to two new Enforcement staff, at approximately \$145,000 per position, will be needed in the first year of the program's operation, which results in a total personnel cost of approximately \$290,000. The expected revenue from the new food vending program (\$267,000) would be combined with the fee revenue from other permits issued by the City Administrator's office to cover the full cost of the proposed new Business Permits Enforcement Officer positions.

¹² The Master Fee Schedule adoption is expected to go to Council in Spring, 2017.

The cost of inspections by the Fire Department, which is required of vendors in the new program at their initial application, and during annual permit renewal, will be fully covered by the fee the Fire Department charges an applicant for a "Fire Clearance."

PUBLIC OUTREACH / INTEREST

There is interest in a new food vending program in Oakland, with coverage of this proposal in the *East Bay Express* and the *Oakland Tribune*. There are over 1,000 subscribers on the City's email list on this topic, and staff has received dozens of inquiries from current and future food vendors. Since July 2015, the City held eight community meetings and workshops for the public and interested parties to discuss the Citywide mobile food program.

In addition to the community meetings, Planning Bureau staff met with a variety of stakeholders to gain diverse perspectives on the current food vending programs, and to brainstorm ideas for an expanded Citywide program. Meetings and presentations were held with the following parties:

- African-American Chamber of Commerce
- Alameda County Environmental Health Department
- Business improvement or community benefit districts in Downtown, Koreatown/Northgate, Fruitvale, Montclair, Dimond, Jack London District, Lake Merritt, Laurel, and Temescal
- Chinatown Chamber of Commerce
- Community groups, including West Oakland Neighbors and Hoover Residents Advisory Committee, Food vending commissaries
- Group Site organizers (e.g. Off the Grid)
- HOPE Collaborative
- Individual food truck and pushcart vendors
- Neighborhood Crime Prevention Councils in Central and East Oakland precincts
- Oakland Food Policy Council
- Oakland Food Truck Association
- Oakland Metropolitan Chamber of Commerce
- Oakland Unified School District Nutrition Services staff
- Restaurant owners
- The Unity Council
- Vietnamese Chamber of Commerce
- West Oakland Commerce Association

In addition to these organizations and groups, staff met with both the Oakland Food Truck Association (comprised of many of the long-standing trucks in the Fruitvale neighborhood) and La Placita, a commercial commissary for pushcarts and some trucks, which advocates for their tenants, as well as for all vendors, promoting the expansion of food vending throughout the City. There is no one organization that represents the interests of all food vendors in Oakland, who are in most cases, independent small businesses concerned more with day-to-day operations than policy or procedural changes. Some individual food vendors have been more vocal than

others during the public adoption process for these new regulations. Following a Boston, Massachusetts initiative, staff believes there would be value in the formation of an advisory task force, made up of food vendors, who can review the new program, make operational suggestions, and advise City staff on future updates of these regulations.

When staff met with the Oakland Food Truck Association (OFTA) to discuss their concerns and suggestions for the new program, the OFTA members recommended the following program elements: a 1,500- foot buffer distance between mobile food vendors and "brick and mortar" restaurants, which was subsequently changed to a request for a 1,000-foot buffer distance; prohibition of food vending in the public right-of-way; noticing of neighbors of food vending applications; making "late night vending" permitted without additional regulation; prioritizing Oakland-based business; requiring a ten year operational history before any "grandfathering" privilege is granted; and further limiting the number of permits issued during the first year of the program. Staff has made some revisions to the food vending program based on these comments, but has not included other OFTA suggestions, as they have been determined to be inconsistent with the overall intent of increasing opportunities for mobile food vendors to vend legally in Oakland.

COORDINATION

Planning staff have also met with the other City departments who are currently involved with the food vending program, and those that will be involved with developing a Citywide program: the Bureau of Building, City Administrator's office, City Attorney's office, Oakland Police Department, Oakland Parks and Recreation, Oakland Public Works and the Neighborhood Services Coordinators, as well as staff of Alameda County Environmental Health Division.

Staff recommends that the new food vending program become effective no sooner than 60 days after final adoption, to allow time for application material preparation, translation of materials, decal production, public outreach & education, and staff training, as well as new programming in the City's permit tracking software. Under this timeline, Planning staff envisions that new permits could be issued by June 2017 under the new Citywide food vending program.

SUSTAINABLE OPPORTUNITIES

Economic: Meet the clear demand for additional mobile food vendors in Oakland - both within the existing program area and in the proposed new areas throughout the City. Promote community economic development by fostering the creation of new living-wage jobs and local business ownership opportunities. For a modest investment, an entrepreneur can develop a track record in food sales and develop a loyal clientele.

In order to understand the economic benefits to the City from an expanded food vending program, staff performed an analysis of sales tax and Oakland business tax revenue for the last fiscal year. Based on a sample of 25 food trucks, the average amount a single food truck brought to the City in sales taxes was \$3,100. Assuming that the City permits (and legalizes)

100 food trucks in year one of a new program, those food vending vehicles could generate approximately \$300,000 in sales tax revenue per year to the City.

Environmental: Encourage the provision of low-cost, culturally-diverse food for Oakland residents, employees, and visitors.

Social Equity: Encourage greater access to healthy, affordable food in underserved Oakland neighborhoods, while encouraging self-employment opportunities. Food vending is a particularly attractive business for immigrant entrepreneurs.

CEQA

The Project relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents").

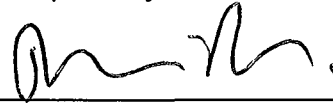
No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That Council Conduct A Public Hearing, And Upon Conclusion, Adopt A New Citywide Food Vending Permit Program. Action Requires Replacing Existing Oakland Municipal Code ("O.M.C.") Chapters 5.49 "Pushcart Food Vending Pilot Program," 5.51 "Food Vending Group Site Pilot Program" And 8.09 "Vehicular Food Vending" With A New Citywide Food Vending Program In O.M.C. Chapter 5.51; Making Various Conforming Changes To The O.M.C. And Planning Code; And Adopting California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Devan Reiff, Planner III, at (510) 238-3550.

Respectfully submitted,



Darin Ranelletti
Interim Director, Department of Planning and
Building

Reviewed by: Ed Manasse
Strategic Planning Manager

Prepared by: Devan Reiff, AICP
Planner III
Bureau of Planning

Attachments

Attachment A: December 21, 2016 Planning Commission staff report

Attachment B: Summary tables of regulations

Attachment C: Adopting Ordinance – Section 5.51 OMC (new)

Exhibit A: Planning Code and Oakland Municipal Code conforming changes

Attachment D: Food Vending Program Permitted Area maps

Attachment E: Administrative Guidelines

Oakland City Planning Commission

STAFF REPORT

Case File Number ZA16009

December 21, 2016

Location:	CITYWIDE
Proposal:	Establish a new citywide food vending permit program that would replace Oakland's existing food vending permit types and programs. This revised proposal for a new citywide food vending program would permit, with certain restrictions, individual and group site food vending on private property and from the public right-of-way in selected commercial and industrial areas. The proposal would also revise the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code; and revise the following sections of the Oakland Municipal Code (OMC): Section 5.51 ("Food Vending Group Site Pilot Program"); Section 5.49 ("Pushcart Food Vending Pilot Program"); and Section 8.09 ("Vehicular Food Vending"). The proposal would also include revisions to other Planning and Municipal Code sections as minor conforming changes. <i>This is a continued item from a previously scheduled hearing on December 7, 2016.</i>
Applicant:	City of Oakland
Case File Number:	ZA16009
Environmental Determination:	The Project relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
City Council District:	All Council Districts
Action to be Taken:	Recommendations to the City Council
Staff Recommendation:	Recommend forwarding proposal to the City Council
For Further Information:	Contact case planner Devan Reiff at 510-238-3550 or dreiff@oaklandnet.com

SUMMARY

There has been a strong interest on the part of mobile food vendors, members of the general public and various advocacy groups to increase opportunities for mobile food vendors to vend legally in Oakland. When located appropriately, mobile food vending can add vitality to the street, contribute to the richness of Oakland's culinary and cultural offerings, and provide economic opportunities for small business persons.

The feedback from mobile food vendors, in particular, has been that the City should establish a permanent citywide program that will allow for food vendors to vend beyond the areas of the Fruitvale and other central and east Oakland neighborhoods, where it has been concentrated by law since the first city permit programs were created in 2001.

On June 1 and August 3, 2016, the Planning Commission held two public hearings to consider a proposed new citywide food vending permit program to replace Oakland's existing food vending permit types and programs (see **Attachment A** for the August 3rd staff report). The proposed new Citywide Food Vending program will require the following city code amendments:

1. Revise the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code, to remove the portions referring to vehicular food vending (see **Attachment B** to this report);
2. Replace Oakland Municipal Code (OMC) Chapters 5.51 ("Food Vending Group Site Pilot Program"), 5.49 ("Pushcart Food Vending Pilot Program"), and 8.09 ("Vehicular Food Vending") with new citywide food vending program regulations, which will be located in OMC Chapter 5.51;
3. Adopt a new Food Vending Program Map; and
4. Revise other Planning and Municipal Code sections as minor conforming changes.

The proposed program would permit, with certain restrictions, individual and group site food vending on private property and from the public right-of-way in selected commercial and industrial areas citywide.

The proposed new citywide Food Vending Program (see **Attachment C** to this report) would consolidate and replace the City's existing food vending pilot programs in Oakland Municipal Code (OMC) Chapters 5.51, "Food Vending Group Site Pilot Program", 5.49, "Pushcart Food Vending Pilot Program", and 8.09, "Vehicular Food Vending". The proposed new citywide food vending program would be accompanied by a map of the "Food Vending Program Permitted Area" (see **Attachment D**), which is a part of the Administrative Guidelines (see **Attachment E** to this report for the latest administrative draft).

The proposed amendment to the definition of "Fast Food Restaurant Commercial Activities" in the Planning Code, coupled with the proposed elimination of the other existing food vending-related regulations in various chapters of the Municipal Code, would consolidate the various mobile food vending "pilot" programs into one unified Food Vending Program for the entire city.

At the August 3rd public hearing on this item, staff presented a number of revisions and changes to the proposal to address stakeholder and other concerns. Those proposals are discussed in the "Revisions to the Citywide Food Vending Program" section of this report.

After hearing public speakers, and making comments and inquiries, the Planning Commission made a motion to continue the item to October 5th.

The August 3rd Commission motion directed staff to return on October 5th with additional changes to the program, including a consideration of changes in the buffer distances between two food vendors; an explanation of how the City will prioritize long-standing vendors in the issuance of new permits; clarification of the term "longevity"; and an explanation of what is meant by the term "underserved" when referring to community food options. The Commissioners also requested that staff meet with groups that feel they have not yet been included in the process to develop this legislation.

Staff sought, and was granted, a continuation of the Planning Commission hearing from October 5th to December 7th, because a major revision to the proposal for vending from vehicles in the right-of-way was recommended and needed further development: limiting food vending in the street right-of-way to designated parking spaces only throughout the permitted areas map. The process of selecting designated parking spaces for street vending is currently underway by city staff, with the participation of the general public through a mapping program available on the City's food vending project website.¹

This report represents changes to the proposed new food vending program that reflect comments made at the August 3, 2016 Planning Commission meeting. Staff revised the proposed amendments to OMC Chapter 5.51 to reflect the latest version of the proposal, which is shown as **Attachment C** of this report.

Staff has also prepared a draft of the administrative rules and procedures to serve as guidelines for permit issuance and conflict resolution. These Administrative Guidelines, which will be separate from and authorized by the ordinance amending OMC Chapter 5.51, will provide the detailed requirements, procedures and prohibitions under which the new food vending program will be operated. They will also provide the flexibility necessary to allow for timely changes to effectively implement the new food vending program. Following the August 3rd public hearing, staff met with several neighborhood and business organizations and Neighborhood Crime Prevention Council (NCPC) groups, and based on feedback received at these meetings, and from other public comments, staff has revised the proposal and the Administrative Guidelines, as shown in **Attachment E** to this report.

Following the stakeholder discussions, several significant revisions are proposed, for which staff is seeking Planning Commission and public comment. Each change is detailed further, below, but the significant revisions are summarized as follows:

¹ See: www.oaklandnet.com/foodvending

- 1) Limit expansion of the current food vending permitted area in Central and East Oakland neighborhoods to only certain recommended streets (such as 85th Avenue between Edes Avenue and San Leandro Blvd.);
- 2) Remove the CN-1 zones from the proposed permitted areas map;
- 3) Limit food vending from trucks in the public right-of-way to no more than 50 parking spaces pre-selected by the City with stakeholder input. Each selected parking space would be signed and striped for *food vending activities only* during allowed hours of operation. This provision will facilitate the City's ability to effectively enforce the right-of-way portion of the new food vending program. (See Attachment D).
- 4) Limit the number of permits issued for individual food vending facilities and group sites on private property, and for pushcarts or stationary carts on public or private property in year one of the program (2017) to no more than 100 private property permits for food trucks; and 100 public or private property permits for stationary carts and pushcarts.
- 5) Change the buffer distance between two vendors from the current 200 feet for trucks and 100 feet for pushcarts to a proposed 300 feet between all food vendors.
- 6) Add requirement for noticing of neighboring properties.
- 7) Create a 75 foot buffer distance between food vendors and restaurants.

BACKGROUND

The legislative history of mobile food vending in Oakland is explained in detail in the June 1, 2016 Planning Commission staff report (see Attachment F to this report).

ECONOMIC IMPACT OF FOOD VENDING IN OAKLAND

Mobile food vending is one of the "hottest trends in the restaurant industry" according to the National Restaurant Association. The projection for 2016 is that "projected sales for the mobile caterer segment are \$914 million, up 5% over 2015."² The benefits to Oakland from this business sector are expected to increase with a new permit program.

In order to understand what the economic benefits would be to the City from an expanded food vending program, staff performed an analysis of sales tax and Oakland business tax revenue for the last fiscal year. Based on a sample of 25 food trucks, the average amount a single food truck brought to the City in sales taxes was \$3,100. Assuming that the City permits (and legalizes) 100 food trucks in year one of a new program, those food vending vehicles could generate over \$300,000 in sales tax revenue per year to the City.

² National Restaurant Association, email correspondence with Christin Fernandez, |Director, Media Relations & Public Affairs, on 9/6/16. See also results from a 2011 survey, <http://www.restaurant.org/Pressroom/Press-Releases/Food-Trucks-Gaining-Momentum,-According-to-Nationa>.

EXAMPLES FROM OTHER CITIES

Staff reviewed recent reports and scholarly papers on mobile food vending which support the City's proposal for a comprehensive food vending program. One report in 2015 by the Economic Roundtable in Los Angeles studied pushcarts and other sidewalk vendors, and found that:

“...legitimizing street vendors through a citywide comprehensive ordinance creating a permit system for sidewalks sales will bring vendors into the mainstream economy and contribute to local, state and federal tax revenue. Los Angeles will continue to lose public revenue if vending is not legalized and continues to operate informally.”³

The National League of Cities reported in 2013 that:

“...mobile vending is commonly used as a means to expand economic opportunity, and enrich communities by improving access to goods and produce not otherwise available through area merchants.”⁴

This National League of Cities report also found that:

“...for city government, balancing the interests of stakeholders is a key priority, but so is a desire for economic vibrancy and revitalization, administrative ease, effective enforcement through regulatory clarity, and options that are budget-friendly and cost-effective.”⁵

The City of Oakland has tried to work in collaboration with the local food vending community, as well as with other stakeholders, as recommended by a 2016 article in the *George Washington Law Review* referring to New York City's vending program:

“...although its services come with social costs, mobile food vending should still be nurtured. It undoubtedly occupies an important economic niche for its employees and customers. It has also inspired tourism while bolstering the City's reputation for creativity. These benefits justify collaborative efforts by local governments and mobile vendors to solve the industry's regulatory problems.”⁶

Another recent report staff has reviewed, titled “Food Trucks, Incremental Innovation, and Regulatory Ruts,” notes that:

³ Yvonne Yen Liu, *Sidewalk Stimulus: Economic and Geographic Impact of Los Angeles Street Vendors*; Economic Roundtable, 2015, pg. 20.

⁴ “Food on Wheels: Mobile Vending Goes Mainstream” 2013. National League of Cities. See <http://www.nlc.org/media-center/news-search/new-nlc-report-highlights-mobile-vending-best-practices>

⁵ “Food on Wheels: Mobile Vending Goes Mainstream” 2013. National League of Cities. See <http://www.nlc.org/media-center/news-search/new-nlc-report-highlights-mobile-vending-best-practices>

⁶ Nora Wong, “Cost of Creativity: An Economic Analysis of Mobile Vending Regulations”. *George Washington Law Review*, January 2016, Volume 84, pg. 11.

“Food trucks are a rapidly growing sector of the restaurant industry, thanks to the grassroots innovation that began [with a famous Los Angeles food truck that created a following using social media].”⁷

In terms of economic impact, a recent study titled “Information Technology and Product Variety in the City: The Case of Food Trucks” found that:

“...in practice, food trucks do provide a large increase in variety, in part because they tend to choose locations that appear to be under served by brick-and-mortar restaurants (perhaps due to zoning restrictions, high rents, or lack of available land). In addition, using household-level data from the Consumer Expenditure Survey, we provide evidence that the growth in food trucks has increased the aggregate consumption of food-away-from-home for urban consumers. This implies that food trucks did not simply cannibalize the market for brick-and-mortar restaurants, but actually expanded the market for food-away-from-home by increasing the net variety of available food options.”⁸

COMMUNITY OUTREACH

Following the August 3, 2016 Planning Commission hearing, staff spoke with a number of associations and organizations which have commercial stakeholders, to hear more comment and to engage in dialogue about the proposals. Staff met with the following organizations, and presented to several Neighborhood Crime Prevention Council (NCPC) groups:

- *Montclair Village Association*
- *Dimond Professionals and Merchants Association*
- *Vietnamese Chamber of Commerce*
- *Lake Merritt Business Association*
- *Oakland Metropolitan Chamber of Commerce*
- *Laurel District Association*
- *West Oakland Commerce Association*
- *West Oakland Neighbors*
- *Oakland African American Chamber of Commerce*
- *Fruitvale Business Improvement District*

In addition to these organizations, staff met with the Oakland Food Truck Association (OFTA) twice to discuss their concerns and suggestions for the new program. The OFTA members recommended the following program elements: a 1,500 foot buffer distance between mobile food vendors and “brick and mortar” restaurants, which was subsequently changed to a request for a 1,000 foot buffer distance; prohibition of food vending in the public right-of-way; noticing of

⁷ Elizabeth Kregor, “Food Trucks, Incremental Innovation, and Regulatory Ruts,” 82 *University of Chicago Law Review Dialogue* 1 (2015).

⁸ Anenberg, Elliot and Kung, Edward, “Information Technology and Product Variety in the City: The Case of Food Trucks” (June 24, 2015). *Journal of Urban Economics*, Volume 90, November 2015, Pages 60–78

neighbors of food vending applications; making “late night vending” permitted without additional regulation; prioritizing Oakland-based business for new permit program; and further limiting the number of permits issued during the first year of the program. Staff has made some revisions to the proposal based on these comments, as detailed in sections below, but has not included other OFTA suggestions, as they have been determined to be inconsistent with the overall intent of increasing opportunities for mobile food vendors to vend legally in Oakland.

PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM

The following tables present in summary format the major provisions of the proposed new food vending program, as compared with the current vending programs. Each table compares the various food vending permit configurations: vending from private property; vending from the designated spaces in the public right-of-way; vending from sidewalks in pushcarts; and group site vending. These tables are not a substitute for either the proposed revisions (Attachment C), or the Administrative Guidelines (Attachment E).

Table 1. Food Trucks and Trailers Vending from Private Property

Provision	Current Regulation	Proposed Regulation
Location	Limited to private property on central and east Oakland streets: Fruitvale, High, Foothill, International, San Leandro, East 12 th , and 14 th Avenue.	Allowed in all existing program permitted areas in Central and East Oakland, plus a few selected new Central and East Oakland street corridors; and adds new commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland. Food vending would be allowed on both public and private property in selected commercial and industrial areas, as shown on the new permitted program areas map.
Regular Hours of Operation	Hours of operation shall be determined by the City, but shall not exceed: 7 a.m. to 3 a.m. every day.	7 a.m. to 10 p.m., daily.

PROVISIONS	EXISTING REGULATIONS	PROPOSED REGULATIONS
Late night vending	No criteria in current regulations for establishing hours of operation that end earlier than 3 a.m.	Permission for "late night vending" (past the regular permitted 10 p.m. limit to a time as determined by the City, not to exceed 3a.m.) will be considered in the following areas: Downtown (including Jack London); Eastlake; Uptown; Fruitvale; and Central and east Oakland streets formerly in the permitted food vending area. "Late night vending" requests in these areas will be reviewed based on: the location's proximity to residences; any history of complaints or police calls against the applicant; whether there is adequate space for customer parking/queuing; and whether vending operation is likely to create noise, odors, or crowds which could cause a public nuisance.
Duration at site	Any time and duration during allowed hours of operation	Any time and duration during allowed hours of operation.
Required distance between two vendors	200 feet	300 feet
Required distance from schools	500 feet	500 feet. With permission from OUSD Nutrition Services for selling healthy food, vending closer than 500 feet to schools will be allowed.
Required distance from restaurants	200 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)	75 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)
Insurance	No requirement	Per Schedule Q: Evidence of: worker's compensation (if vending facility owner has employees); automobile liability (if the vending facility is a motorized vehicle); and / or Commercial General Liability (naming the City of Oakland as an insured).

Requirement	Permitting Requirement	Inspection/Regulation
Fire Department Inspections	No requirement	Fire Department annual inspection if using liquid petroleum gas.
Number of permits per operator	One permit per operator.	Up to four permits can be issued to one operator
Number of permits overall	No limit	Limited to 100 permits in first year

Table 2. Food Trucks and Trailers Vending from Street Right-Of-Way

Requirement	Permitting Requirement	Inspection/Regulation
Location	Not permitted.	Food vending from trucks and trailers in the street right-of-way would be allowed at no more than 50 parking spaces citywide, pre-selected by the City with stakeholder input. Each selected parking space would be signed and striped for food vending activities only during allowed days and hours of operation.
Hours of Operation	--	Days and hours allowed at each parking space to be determined, based on input from the Dept. of Transportation, proximity to residences, and other factors.
Duration at site	--	Limited to hours of operation; vendor applies for a permit to operate either: 5 days a week; 3 days a week, 2 days a week, or 1 day a week.
Vehicles / Facilities	--	Motorized vehicles or towed trailers only
Distance from restaurants	--	Reserved parking spaces will be selected in areas that are generally underserved by existing food outlets.
Fire Department Inspections		Fire Department annual inspection if using liquid petroleum gas.

Table 3. Push Carts and Stationary Carts Vending from Sidewalks

Current Regulation	Current Regulation	Proposed Regulation
Location	Limited to sidewalks on Central and East Oakland streets: Fruitvale, High, Foothill, International, San Leandro, East 12 th , and 14 th Avenue.	Allowed in all existing program permitted areas in Central and East Oakland, plus a few selected new Central and East Oakland street corridors; and adds new commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland.
Sidewalk width	No regulation.	Preference for streets with 10' sidewalk width or greater
Stationary / traveling	No regulation	Stationary and traveling (roaming)
Hours of Operation	Vending shall only occur within the hours of seven a.m. to ten p.m. Monday through Friday, and eight a.m. to ten p.m. Saturday and Sunday.	7 a.m. to 10 p.m., daily
Late night vending	Not permitted; hours limited to 10 p.m.	Not permitted; hours limited to 10 p.m.
Vehicles / Facilities	<p>No definition of "Stationary Cart"</p> <p>"Pushcart" is a piece of vending equipment with a maximum length of eight (8) feet, maximum depth of six (6) feet, and a maximum height of eight (8) feet. Pushcarts are intended to store all materials and merchandise related to the vending activity, and to be easily moved by a person or vehicle."</p>	<p><i>New definition for "Stationary Carts":</i></p> <p>"Stationary cart" means a type of non-motorized food vending facility that is typically larger than pushcarts; pulled or delivered by a vehicle into position; and stationary at a specific site during hours of operation."</p> <p>"Pushcart" is a type of non-motorized food vending facility that, because of its small size and operable wheels, can be easily moved by a single person during operation. This definition may also include a food vending facility integrated or pulled by non-motorized, pedal-powered vehicle such as a bicycle or tricycle.</p>

Provisions	Existing Regulations	Proposed new regulations
Distance between two vendors—including food trucks	100 feet	300 feet
Distance from schools	200 feet (limitations for primary and middle school only)	500 feet. With permission from OUSD Nutrition Services for selling healthy food, vending closer than 500 feet to schools will be allowed.
Distance from restaurants	No regulation	75 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant).
Fire Department Inspections	No regulation	Fire Department annual inspection required if using liquid petroleum gas.
Insurance	No regulation	Per Schedule Q: Evidence of: Commercial General Liability (naming the City of Oakland as an insured).
Number of permits per operator	No regulation	Four permits can be issued to one operator
Number of permits overall	Maximum of 60 permits within the “pilot area” (sidewalks on Central and East Oakland streets: Fruitvale, High, Foothill, International, San Leandro, East 12 th , and 14 th Avenue)	Maximum of 100 permits in the first year of the program for the entire expanded program area, which includes the original “pilot area”, plus a few selected new Central and East Oakland street corridors; and adds new commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland.

Table 4. Group Sites (i.e. "Food Pods")

Condition	Current Regulation	Proposed Regulation
Location	Limited to Council Districts 1, 2, 3 and 4; in those districts, certain commercial and industrial zones.	Allowed in existing Food Vending permitted areas in Central and East Oakland, plus a few selected new Central and East Oakland street corridors; and includes commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland.
Hours of Operation	Limited to four (4) hours of vending a day; Between 7:00 a.m. - 3:00 a.m. on any day of the week.	Limited to five (5) hours of vending a day; Between 7:00 a.m. - 10:00 p.m. on any day of the week.
Minimum Number of Food Vending Facilities	Three (3) or more "trucks, trailers, or other movable wheeled equipment or vehicles" clustered together on a single site, and operating at the same time.	Two (2) or more "trucks, trailers, or other movable wheeled equipment or vehicles" clustered together on a single site, and operating at the same time.
Distance between two vendors/group sites	300 feet between two group sites; No regulation between group site and single vendor	300 feet from another group site or individual food vendor
Distance from schools	100 feet from a public school, unless written consent	500 feet. With permission from OUSD Nutrition Services for selling healthy food, vending closer than 500 feet to schools will be allowed.
Distance from restaurants	100 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)	75 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)
Insurance	Proof of liability insurance in the amount required by the City.	Per Schedule Q: Evidence of: worker's compensation (if vending facility owner has employees); automobile liability (if the vending facility is a motorized vehicle); and/or Commercial General Liability (naming the City of Oakland as an insured).
Maximum Sites per operator	Two locations	Five locations
Days of operation	Two days per week	Two days per week on public right-of-way. No limit to days of operation on private property.
"Proof of consent" from CBD/ BID	Required	Not required

August 3, 2016 Planning Commission Motion and staff response. The motion made by the Planning Commission on August 3, 2016 to continue the hearing until October 5, 2016 included five recommendations; each item from the Planning Commission motion is addressed below, shown in italics.

1. *Study increasing the buffer distances between two permitted vendors.*

Staff response: Buffer distances between two vendors are necessary to limit the overall number of permitted vendors and potential locations in the City. Larger buffer distances mean fewer potential vending locations, since all vendors must fit within the permitted areas map, and will not be allowed to overlap each other's buffer distance. Limiting the overall number of potential vending locations in the City promotes public health and safety because the public's health is protected when only permitted vendors sell food in Oakland. It is staff's opinion that the proposed 300-foot buffer distance between vendors is sufficient to limit the number of potential vending locations to a number that can be enforced for compliance with the program. Public health and safety is protected when the City can verify through its own permit that all vendors who sell food in Oakland have an Alameda County health permit and the proposed vending location meets all operational requirements.

In order to learn how many potential locations would be available under different buffer distances, staff prepared maps analyzing different scenarios, to evaluate how many potential locations would be available in the program permitted area. Under the scenario initially proposed by the Oakland Food Truck Association of a 1,500-foot buffer between vendors, (and avoiding the 500-foot buffer area around schools), there would only be 120 potential locations for all types of vendors in the entire permitted area citywide. Subsequently, the Association changed its request to a 1,000-foot buffer distance between vendors, which could result in 160 potential locations. The 120 –160 potential locations under the OFTA's two buffer scenarios is less than the total number of permits that staff is recommending for issuance in year one of the new food vending permit program. In addition, staff assumes that many of the site options in this limited pool would be viewed by vendors as a poor location to run a successful business. Therefore, in order to provide the vending community with a sufficient number of viable site options, staff feels that the program area must include a much larger set of potential sites than the actual number of vending permits the City will be issuing (*the proposed limit on the total number of permits the City will be issuing outside of the street ROW in year one of the program is 100 private property permits for food trucks, and 100 public or private property permits for stationary carts and pushcarts*).

In contrast, under a 500-foot buffer scenario between vendors, there would be up to 300 potential location options for food vendors in the program permitted area. And under the recommended 300-foot buffer between vendors, there would be up to 590 potential location options for food vendors. It is staff's opinion that a 300- to 500-foot buffer distance is likely the maximum that could be required and still allow for a sufficient number of viable site options for the vending community. Therefore, considering that

one of the overall purposes of the new food vending program is to increase opportunities to vend legally in Oakland, staff recommends a buffer distance of 300 feet between vendors. When compared to existing food vending regulations, a 300-foot buffer distance would increase the required distance between vehicular food vendors by 100 feet, and between pushcart vendors by 200 feet.

2. *What are the different prioritization scenarios? Can the City incentivize Oakland-based businesses, or healthy food vending as it grants new permits?*

Staff response: Staff proposes to work with the City's existing Oakland Business Assistance Center and the Alameda County Environmental Health department and other job-training organizations to offer trainings to potential Oakland-based vendors; staff is also in discussion with an economic development non-profit organization, to explore the concept of a loan pool for the start-up costs associated with food vending businesses.

Healthy food vending is incentivized in one provision in the proposal: vendors seeking to sell food closer than 500 feet of a school may be granted a permit if they have a menu with healthy foods and if they have the permission of Oakland Unified School District (OUSD).

3. *Further define "underserved" communities, in terms of access to food.*

Staff response: At the August 3rd public hearing, staff noted that a new priority in the Administrative Guidelines would be to grant permits in areas of the city which are currently underserved by other food choices, including grocery stores and other food outlets. For the purpose of this regulation, "underserved" means areas of the city with no more than one existing approved food outlet within a 300-foot radius. There are public health and safety benefits when food choices are in close proximity to all residential neighborhoods: people require less auto trips to acquire food; have food options which are healthier than pre-packaged and highly processed foods; and participate in neighborhood-based commercial activity which can activate vacant or underused sites which, without food vending, might be used for illegal dumping or possibly, criminal activity.

4. *Consider the longevity of a current vendor when establishing the priority for who is granted a permit under the proposed administrative guidelines.*

Staff response: Administrative Guidelines have been drafted that establish the order of priority for permit issuance under the proposed new food vending program. The first priority will be to issue new permits to vendors who currently hold City food vending permits (i.e. 2016 Food Cart "FC" or Food Vehicle "FV" permits). The second priority will be to issue new permits to vendors with a history of prior Oakland Food Vending permits, but whose permits have expired. The third priority will be to issue permits to vendors applying for City-designated parking spaces in the street right-of-way. All other applications for new food vending permits will be considered equally, regardless of an

applicant's longevity of vending in Oakland. Thus, vendors who don't have either a current or previous City food vending permit will not be given a "grandfathering" privilege, and will have to apply for their preferred locations in the newly adopted permitted program area. If there are multiple applications submitted for the same location, the City will institute a lottery system to ensure fairness.

City staff does not agree with the premise, held by many long-time vendors and some stakeholders, that lack of enforcement of the current permitted vending area map over the last ten years means the City has granted tacit approval for vending in unpermitted locations, and that the City now should give priority in the new program to long-time vendors that have operated without city permits at these unpermitted locations.

Upon adoption of a new comprehensive food vending program, it is the city's intent to establish a new, level, "playing field" that allows food vending in only permitted locations and only by permitted vendors.

5. Staff to hold additional stakeholder meetings with interested parties and groups.

Staff response: As noted above and in previous reports, City staff has met with a broad spectrum of stakeholders and business associations, who have presented their comments on an expanded food vending program. A letter alerting food vendors of this hearing was sent in English and Spanish in November. In response to these comments, staff has made a number of changes to the proposal, as detailed below.

Changes made to the proposed ordinance, the Administrative Guidelines, and the program permitted areas map following the August 3rd hearing. Following the August 3rd Planning Commission hearing, staff met with stakeholders and subsequently revised the proposal, the Administrative Guidelines, and the program permitted areas map. The revised mapping criteria removes areas where a restaurant requires a conditional use permit (i.e. CN-1 zones). Changes to the proposal and guidelines include:

- 1) Limiting the new program permitted areas in Central and East Oakland to the existing "pilot areas", plus a few selected new Central and East Oakland street corridors, such as 85th Avenue between Edes Avenue and San Leandro Boulevard; High Street between I-880 and the waterfront; First Avenue and First Avenue Place between International Boulevard and East 15th Street; E. 18th Street, between 2nd Avenue and Park; Park Blvd between E. 18th Street and Newton; and private property on Hegenberger Drive between Coliseum BART parking lots and Doolittle. This current proposal limits the areas where new food vending can be permitted in Central and East Oakland neighborhoods compared with earlier proposals.
- 2) Limiting food vending from trucks and trailers in the street right-of-way to selected curbside parking spaces throughout the program permitted area. The City believes the public right-of-way can be an appropriate place for food vending. The new proposal is to

allow for up to 50 street parking spaces to be pre-selected by the City with stakeholder input, and to be signed and striped for “food vending activities only” during designated days and hours. This will allow the City to effectively enforce the street vending portion of the new citywide program by limiting the number of potential locations where a food truck or trailer can operate legally in the street right-of-way. The previous proposal would have given food vendors the ability to select their locations in the public right-of-way within a set of limitations. Instead, the current proposal will allow the City to pre-select those spaces which are most appropriate for food vending in the public right-of-way. Vending from the pre-selected spaces would be limited certain hours, no more than five days a week—and made available to one to five vendors per space per week, depending on whether the city receives requests for the available days split between multiple vendors. During the food vending hours posted on the sign, no automotive parking would be allowed at these locations.

- 3) Limiting the number of permits issued in year one of the program (2017) to: 100 private property permits for food trucks; and 100 stationary cart and pushcart permits on sidewalks, parks, plazas and on private property. If all allowable permits are issued after year one, the City Administrator can consider revising the Administrative Guidelines to allow for more permits to be issued.
- 4) After discussions with various stakeholder groups, the buffer distance between two vendors is proposed to be 300 feet. When compared to existing food vending regulations, this 300-foot buffer distance would increase the required distance between food truck vendors by 100 feet and between pushcart vendors by 200 feet. As noted in a previous section of this report, when the city limits the number of potential vending locations and the total number of issued permits, there is a public health and safety benefits, since the smaller number of potential vending locations ensures that the city can enforce the program within its limited resources, and can verify through its own permit that all vendors who sell food in Oakland have an Alameda County health permit and the proposed vending location meets all operational requirements.
- 5) In West Oakland, the Adeline Street corridor would be removed from the program permitted areas map between 30th Street and West Grand Avenue. Staff has determined that much of the private property on this section of Adeline Street is already within the 500-foot buffer distance to a school, or is in a predominantly residential section of the street. In addition, the City is expecting to start significant roadway work on Adeline Street soon that will reduce auto lanes and add bike lanes, thereby restricting the availability of many viable street-side vending options. Therefore for these public safety reasons, food vending has been determined to not be appropriate in this area.
- 6) In Downtown Oakland, remove the Broadway street right-of-way from Embarcadero (Jack London) to 27th Street. This proposed change ensures that food vending does not interfere with Broadway’s role as a major transit corridor for the City; and food vending doesn’t create a public safety conflict between food vendors, their customers, and the

significant number of regularly scheduled bus service and operation of the "Free B" shuttle system.

- 7) Certain underpass areas under Caltrans facilities (I-880 and I-980) will be either included or excluded from the permitted areas maps. There are many sites at major intersections under the two freeways where mobile food vending may be appropriate.

California Vehicle Code section 22455(b) limits a City's authority to regulate food vending in a street right-of-way. Under Vehicle Code section 22455, the City may adopt public safety requirements regulating the type of vending and the time, place, and manner of vending. The proposal adds, for the first time, the street right-of-way as a site for food vending. The proposed Administrative Guidelines specify that the city will prioritize and pre-select parking spaces in areas of Oakland which are currently underserved by other food outlets. There are public health benefits to having more food choices in areas of Oakland which are currently underserved; as noted above, people require less auto trips to acquire food and have food options which are healthier than pre-packaged and highly processed foods. Also, vending is occurring in the right of way today, without the public health benefit of a City of Oakland permit. By creating a permitted program which is enforced, the City can control the time, place and manner of vending in the right-of-way. A public safety benefit for vending in the right of way is that residents participate in neighborhood-based commercial activity which can activate vacant or underused areas of the City.

As previously discussed, there are public health and safety benefits when food choices are in close proximity to all residential neighborhoods: people require less auto trips to acquire food; have food options which are healthier than pre-packaged and highly processed foods; and participate in neighborhood-based commercial activity which can activate vacant or underused sites which, without food vending, might be used for illegal dumping or criminal activity.

- 8) Insurance: Add new language that specifies "appropriate liability insurance shall be required for vending" in the public right-of-way. This will apply to pushcarts, stationary carts, and food trucks and trailers, as advised by the Risk Management Division of the City. Insurance costs for General Liability are approximately \$450 per year, and for Worker's Compensation, which are based on a percentage of payroll, start at approximately \$500 per year.
- 9) "Late night vending" is proposed to be a request made by the applicant to the City, a privilege granted and potentially revoked if a public nuisance emerges during the hours after 10 p.m. The City has a public safety concern with vending after 10 p.m., particularly in areas which haven't had permitted food vending late at night. Food vending during hours after other neighboring commercial activity has ceased creates a potential for noise and pedestrian activity close to residences, where there is an expectation of peace and quiet during the evening hours. At the same time, there has been a history of successful permitted late night food vending in Fruitvale and in other neighborhoods which have not

resulted in calls for police service or other nuisances, and the City seeks to allow the possibility of late night vending with this proposal, in areas where it is deemed appropriate.

Additionally, late night vending is not proposed for pushcarts because of increased safety and enforcement concerns. For example, the safety of late night vending by pushcarts is compromised, because pushcarts may lack proper lights and other visibility mechanisms. Enforcement is complicated by a pushcart's inherent ability to move around and not maintain a fixed vending location.

- 10) Fire Department inspections. The public is safer when food vending facilities which use gas for cooking are regularly inspected. The proposal adds an annual fire inspection of food trucks, trailers and carts, as a requirement for the permit to be issued by the city for vendors using gas fuel.
- 11) Healthy food vending, and vending near schools. The proposal allows food trucks and pushcarts to locate closer to schools if they agree to a basic set of "healthy" food choices and are approved by OUSD Nutrition Services (or, the operating entity of a private or charter school). Public health is improved when school-age children eat healthy meals and snacks, which is why OUSD has set up twenty farmer's markets at their schools to sell fresh fruit and vegetables. In contrast, many unpermitted food vendors today seek school-age children as customers for sale of unhealthy meals and snacks. With the proposal, the city is creating a permit process to limit these unhealthy food sales, and instead, offers an incentive for vendors who want to sell healthy food. A public safety benefit of the new regulations is that the 500-foot school buffer will help prevent accidents involving school children and food vendors near schools, by reducing the chance of collisions between trucks and children, or customers in automobiles and children, because fewer vendors will be selling near schools.
- 12) Group site vending program changes. There are public safety advantages to a permitted program of active group vending sites throughout the city. Food vending from a collection of food vending facilities a few days a week adds community livability, and activates underused lots and streets with new pedestrian activity. The vending rules for group sites are standardized to match that of individual food vendors, and to promote public health and safety by limiting the potential impacts from food vending from two or more trucks (i.e. potential noise, odors, customer queueing and automobile parking).
- 13) Noticing. The revised proposal adds a noticing procedure for every vending application: following a similar noticing procedure in the Oakland Planning Code for Small Project Design Review, neighbors on either side of the proposed vending location and across the street from the location will be notified that a food vending application is being considered by the City. Neighbors will have the opportunity to review the application prior to its approval or denial.

- 14) Finality of Decision. The decision by the City on an applicant’s permit approval or denial will be final immediately and not appealable.
- 15) Buffer distance from restaurants. The City is proposing to add a minimum 75-foot buffer distance between food vendors and restaurants. For food vending in the street right-of-way, the City will select parking spaces which are in areas underserved by other food choices, as well as at least 75 feet from restaurants.

A 75-foot buffer distance between food vendors and restaurants will protect public safety by ensuring that customer queuing for both establishments doesn’t limit pedestrian access to a sidewalk, particularly access for the disabled, due to outdoor seating, utilities, street furniture and other obstructions typically found on sidewalks near restaurants. This buffer distance also allows for regular turnover of street parking spaces, and reduces the risk of customer double parking which could lead to potential bicycle collisions. An Administrative Guideline clarifies that vending closer than 75 feet to a restaurant will be permitted on the same lot, with the permission of the restaurant owner, subject to certain findings for pedestrian safety; or, where vendors are permitted by the city to operate only during the hours that a restaurant is closed.

For background purposes, the Oakland Food Truck Association inquired as to the amount of revenue generated from the last ten years of permit fees for food trucks (“FV”) and pushcarts (“FC”) at the City. In order to share this information widely, and to correct misunderstandings about the amount collected, this table shows the permit fees collected for ten years of the program. The totals equal approximately \$425,000 for trucks, and \$110,000 for pushcarts. All of these funds paid for staff in the Building Division to administer the program, and for Code Enforcement staff to enforce the regulations.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
FV	\$58,415	\$58,294	\$68,700	\$55,976	\$47,080	\$30,307	\$2,900	\$44,652	\$34,474	\$12,378	\$8,961
FC	\$11,857	\$12,720	\$13,677	\$4,831	\$14,678	\$9,819	\$9,100	\$10,465	\$4,095	\$8,650	\$10,472

ENVIRONMENTAL DETERMINATION

The Project relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General

Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents").

No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

CONCLUSION

Staff has revised the food vending map and proposal after hearing testimony from the June 1 and August 3, 2016 Planning Commission hearings, and after meeting with stakeholders. Staff believes this new food vending program and enforcement proposal meets the intent of increasing opportunities for mobile food vendors to vend legally in Oakland, while ensuring the public's health and safety.

Staff recommends the Planning Commission forward the food vending proposal and related Planning Code amendment to the City Council.

RECOMMENDATION

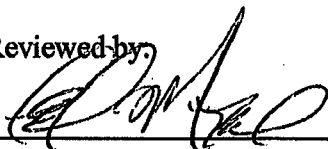
- 1) Affirm staff's environmental determination; and
- 2) Recommend that the City Council adopt the revised proposed food vending program and revised permitted areas map, and consider the Planning Commission's comments.

Prepared by:



DEVAN REIFF, AICP
Planner III

Reviewed by:



ED MANASSE
Strategic Planning Manager

Approved for forwarding to the
City Planning Commission:



DARIN RANELLETTI
Interim Director
Department of Planning and Building

ATTACHMENTS:

- A. August 3, 2016 Planning Commission Staff Report
- B. Amendment to the definition of "Fast-Food Restaurant Commercial Activities" in Planning Code Section 17.10.280
- C. New proposed Oakland Municipal Code (OMC) Chapter 5.51 text
- D. Maps of the proposed Food Vending Program Permitted Area
- E. Draft of proposed Administrative Guidelines
- F. June 1, 2016 Planning Commission Staff Report

**Attachment B to February 28, 2017 CED Hearing
PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

The following tables present in summary format the major provisions of the proposed new food vending program, as compared with the current vending programs. Each table compares the various food vending permit configurations: vending from private property (Table 1); vending from the designated spaces in the public right-of-way (Table 2); vending from sidewalks in pushcarts (Table 3); and group site vending (Table 4).

Table 1. Food Trucks and Trailers Vending from Private Property

Provisions	Existing Regulations	Proposed new regulations
Location	Limited to private property on central and east Oakland streets: Fruitvale, High, Foothill, International, San Leandro, East 12 th , and 14 th Avenue.	Allowed in all existing program permitted areas in Central and East Oakland, plus a few selected new Central and East Oakland street corridors; and adds new commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland. Food vending would be allowed on both public and private property in selected commercial and industrial areas, as shown on the new permitted program areas map.
Regular Hours of Operation	Hours of operation shall be determined by the City, but shall not exceed: 7 a.m. to 3 a.m. every day.	7 a.m. to 10 p.m., daily.
Late night vending	No criteria in current regulations for establishing hours of operation that end earlier than 3 a.m.	Permission for "late night vending" (past the regular permitted 10 p.m. limit to a time as determined by the City, not to exceed 3 a.m.) will be considered in the following areas: Downtown (including Jack London); Eastlake; Uptown; Fruitvale; and Central and east Oakland streets formerly in the permitted food vending area. "Late night vending" requests in these areas will be reviewed based on: the location's proximity to residences; any history of complaints or police calls against the applicant; whether there is adequate space for customer parking/queuing; and whether vending operation is likely to create noise, odors, or crowds which could cause a public nuisance.

**Attachment B to February 28, 2017 CED Hearing
 PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Provisions	Existing Regulations	Proposed new regulations
Duration at site	Any time and duration during allowed hours of operation	Any time and duration during allowed hours of operation.
Required distance between two vendors	200 feet	300 feet
Required distance from schools	500 feet	500 feet. With permission from OUSD Nutrition Services for selling healthy food, vending closer than 500 feet to schools will be allowed.
Required distance from restaurants	200 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)	100 feet, measured to the restaurant entrance (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)
Insurance	No requirement	Per Schedule Q: Evidence of: worker's compensation (if vending facility owner has employees); automobile liability (if the vending facility is a motorized vehicle); and / or Commercial General Liability (naming the City of Oakland as an insured).
Fire Department Inspections	No requirement	Fire Department annual inspection if using liquid petroleum gas.
Number of permits per operator	One permit per operator.	Up to four permits can be issued to one operator
Number of permits overall	No limit	Limited to 100 permits in first year

**Attachment B to February 28, 2017 CED Hearing
 PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Table 2. Food Trucks and Trailers Vending from Street Right-Of-Way

Provisions	Existing Regulations	Proposed new regulations
Location	Not permitted.	Food vending from trucks and trailers in the street right-of -way would be allowed at no more than <u>50 parking spaces</u> citywide, pre-selected by the City with stakeholder input. Each selected parking space would be signed and striped for food vending activities only during allowed days and hours of operation.
Hours of Operation	--	Days and hours allowed at each parking space to be determined, based on input from the Dept. of Transportation, proximity to residences, and other factors.
Duration at site	--	Limited to hours of operation; vendor applies for a permit to operate either: 5 days a week; 3 days a week, 2 days a week, or 1 day a week.
Vehicles / Facilities	--	Motorized vehicles or towed trailers only
Distance from restaurants	--	Reserved parking spaces will be selected in areas that are generally underserved by existing food outlets.
Fire Department Inspections		Fire Department annual inspection if using liquid petroleum gas.

**Attachment B to February 28, 2017 CED Hearing
PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Table 3. Push Carts and Stationary Carts Vending from Sidewalks

Provisions	Existing Regulations	Proposed new regulations
Location	Limited to sidewalks on Central and East Oakland streets: Fruitvale, High, Foothill, International, San Leandro, East 12 th , and 14 th Avenue.	Allowed in all existing program permitted areas in Central and East Oakland, plus a few selected new Central and East Oakland street corridors; and adds new commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland.
Sidewalk width	No regulation.	Preference for streets with 10' sidewalk width or greater
Stationary / traveling	No regulation	Stationary and traveling (roaming)
Hours of Operation	Vending shall only occur within the hours of seven a.m. to ten p.m. Monday through Friday, and eight a.m. to ten p.m. Saturday and Sunday.	7 a.m. to 10 p.m., daily
Late night vending	Not permitted; hours limited to 10 p.m.	Permission for "late night vending" (past the regular permitted 10 p.m. limit to a time as determined by the City, not to exceed 3 a.m.) will be considered in the following areas: Downtown (including Jack London); Eastlake; Uptown; Fruitvale; and Central and east Oakland streets formerly in the permitted food vending area. "Late night vending" requests in these areas will be reviewed based on: the location's proximity to residences; any history of complaints or police calls against the applicant; whether there is adequate space for customer parking/queuing; and whether vending operation is likely to create noise, odors, or crowds which could cause a public nuisance.

**Attachment B to February 28, 2017 CED Hearing
PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Provisions	Existing Regulations	Proposed new regulations
Vehicles / Facilities	<p>No definition of "Stationary Cart"</p> <p>"Pushcart" is a piece of vending equipment with a maximum length of eight (8) feet, maximum depth of six (6) feet, and a maximum height of eight (8) feet. Pushcarts are intended to store all materials and merchandise related to the vending activity, and to be easily moved by a person or vehicle."</p>	<p><i>New definition for "Stationary Carts":</i></p> <p>"Stationary cart" means a type of non-motorized food vending facility that is typically larger than pushcarts; pulled or delivered by a vehicle into position; and stationary at a specific site during hours of operation."</p> <p>"Pushcart" is a type of non-motorized food vending facility that, because of its small size and operable wheels, can be easily moved by a single person during operation. This definition may also include a food vending facility integrated or pulled by non-motorized, pedal-powered vehicle such as a bicycle or tricycle.</p>
Distance between two vendors—including food trucks	100 feet	300 feet
Distance from schools	200 feet (limitations for primary and middle school only)	500 feet. With permission from OUSD Nutrition Services for selling healthy food, vending closer than 500 feet to schools will be allowed.
Distance from restaurants	No regulation	100 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant).
Fire Department Inspections	No regulation	Fire Department annual inspection required if using liquid petroleum gas.
Insurance	No regulation	Per Schedule Q: Evidence of: Commercial General Liability (naming the City of Oakland as an insured).
Number of permits per operator	No regulation	Four permits can be issued to one operator

**Attachment B to February 28, 2017 CED Hearing
 PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Provisions	Existing Regulations	Proposed new regulations
<p>Number of permits overall</p>	<p>Maximum of 60 permits within the “pilot area” (sidewalks on Central and East Oakland streets: Fruitvale, High, Foothill, International, San Leandro, East 12th, and 14th Avenue)</p>	<p>Maximum of 100 permits in the first year of the program for the entire expanded program area, which includes the original “pilot area”, plus a few selected new Central and East Oakland street corridors; and adds new commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland.</p>

**Attachment B to February 28, 2017 CED Hearing
PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Table 4. Group Sites (i.e. “Food Pods”)

Provisions	Existing Regulations	Proposed new regulations
Location	Limited to Council Districts 1, 2, 3 and 4; in those districts, certain commercial and industrial zones.	Allowed in existing Food Vending permitted areas in Central and East Oakland, plus a few selected new Central and East Oakland street corridors; and includes commercial and industrial areas west of Lake Merritt in Downtown, West Oakland, and North Oakland.
Hours of Operation	Limited to four (4) hours of vending a day; Between 7:00 a.m. - 3:00 a.m. on any day of the week.	Limited to five (5) hours of vending a day; Between 7:00 a.m. – 10:00 p.m. on any day of the week.
Minimum Number of Food Vending Facilities	Three (3) or more “trucks, trailers, or other movable wheeled equipment or vehicles” clustered together on a single site, and operating at the same time.	Two (2) or more “trucks, trailers, or other movable wheeled equipment or vehicles” clustered together on a single site, and operating at the same time.
Distance between two vendors/group sites	300 feet between two group sites; No regulation between group site and single vendor	300 feet from another group site or individual food vendor
Distance from schools	100 feet from a public school, unless written consent	500 feet. With permission from OUSD Nutrition Services for selling healthy food, vending closer than 500 feet to schools will be allowed.
Distance from restaurants	100 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)	100 feet (with exception allowed if vendor receives written consent from restaurant owner to vend on same lot as restaurant)
Insurance	Proof of liability insurance in the amount required by the City.	Per Schedule Q: Evidence of: worker’s compensation (if vending facility owner has employees); automobile liability (if the vending facility is a motorized vehicle); and/or Commercial General Liability (naming the City of Oakland as an insured).

**Attachment B to February 28, 2017 CED Hearing
 PROPOSED NEW CITYWIDE FOOD VENDING PROGRAM**

Provisions	Existing Regulations	Proposed new regulations
Maximum Sites per operator	Two locations	Five locations
Days of operation	Two days per week	Two days per week on public right-of-way. No limit to days of operation on private property.
"Proof of consent" from CBD/ BID	Required	Not required

OAKLAND CITY COUNCIL
ORDINANCE No. _____ C.M.S.

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE (“OMC”) TO ADOPT A NEW CITYWIDE FOOD VENDING PROGRAM, DELETE CHAPTERS 5.49 PUSH CART FOOD VENDING PILOT PROGRAM, 5.51 FOOD VENDING GROUP SITE PILOT PROGRAM AND 8.09 VEHICULAR FOOD VENDING, ADOPT NEW CHAPTER 5.51 FOOD VENDING PROGRAM AND VARIOUS CONFORMING CHANGES TO THE OMC AND CITY PLANNING CODE, AND ADOPTING CEQA FINDINGS

WHEREAS, on February 6, 2001, the City Council adopted Ordinance No. 12312 C.M.S., which established the Vehicular Food Vending Pilot Program, allowing food trucks to sell from private property in certain industrial and commercial areas of Central and East Oakland; and

WHEREAS, on February 17, 2004, the City Council adopted two pieces of legislation related to food vending, Ordinance No. 12579 C.M.S., which created a permanent Vehicular Food Vending Program, codified in Oakland Municipal Code (“OMC”) Chapter 8.09, Vehicular Food Vending, and Ordinance No. 12582 C.M.S., which created a permanent Pushcart Food Vending Program, codified in OMC Chapter 5.49, Pushcart Food Vending Pilot Program; and

WHEREAS, on December 20, 2011, the City Council adopted Ordinance No. 13098 C.M.S., establishing interim regulations to allow three or mobile food vendors (“Group Sites”) to operate legally in a limited area in the City of Oakland defined, in part, by Council Districts 1, 2, 3 and 4, codified in OMC Chapter 5.51, Food Vending Group Site Pilot Program; and

WHEREAS on February 5, 2013, the City Council adopted Ordinance No. 13152 C.M.S., extending the effective date of the Group Site Food Vending Pilot Program regulations until City Council adopts permanent mobile food vending regulations; and

WHEREAS, on January 17, 2017, the City Council adopted Ordinance No. 13414 C.M.S., which permitted food vending on private property and, for the first time, in the public right of way on 85th Avenue, between Edes Avenue and San Leandro Boulevard; and

WHEREAS, the City seeks to expand food vending opportunities with a comprehensive citywide expansion of the food vending program, with the goals of adding vitality to neighborhoods,

contributing to the richness of Oakland's culinary and cultural offerings, and provide economic opportunities for small business owners, many of whom are Oakland residents; and

WHEREAS, City staff has worked with stakeholders to develop a proposed new comprehensive citywide food vending program that would expand the areas in Oakland where food vending will be permitted, and address problems with the existing food vending regulations and programs; and

WHEREAS, staff from the Bureau of Planning met with many of the stakeholders who are involved with food vending in Oakland, including mobile food vendors, restaurant owners, business improvement district leaders, City staff, chambers of commerce, residents and community groups, and considered stakeholders' comments in developing new food vending legislation; and

WHEREAS, the new citywide food vending program would permit, with certain restrictions, individual food vending on private property and from the public right of way in selected commercial and industrial areas of Oakland. The new program would also permit group site vending citywide; and

WHEREAS, in connection with the new citywide food vending program, the City seeks to (1) revise the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code, (2) replace Oakland Municipal Code Chapters 5.51 (Food Vending Group Site Pilot Program), 5.49 (Pushcart Food Vending Pilot Program) and 8.09 (Vehicular Food Vending) with a new Chapter 5.51 (Food Vending Program); (3) revise other Municipal Code sections as minor conforming changes; and (4) adopt CEQA findings; and

WHEREAS, it is in the City's interest to regulate food vending to protect public health and safety, including pedestrian and bicyclist safety at the new vending sites in the street right-of-way; and

WHEREAS, space on sidewalks adjacent to restaurants may be limited by crowded pedestrian areas at entrances, with customers required to stand outside, as well as by the use of outdoor seating, which warrants the inclusion of buffer distances in the regulations and administrative guidelines; and

WHEREAS, narrow sidewalk width, and existing obstructions in the sidewalk can limit accommodations for the disabled and other pedestrians to follow a safe path of travel; and

WHEREAS, regulations that limit a single food vending facility's days to use a particular location in the public right-of-way, during the course of a week will encourage and provide for greater opportunities for diversity of mobile food vending facilities in the locations where different vendors will appear on a rotating basis; and

WHEREAS, location restrictions and buffer distances are included in the regulations and administrative guidelines to minimize conflict between pedestrians and customers of food vending facilities; and to avoid double-parking and vehicular congestion which may occur when limited on-street parking is occupied by food vending facilities; and

WHEREAS, the proposed amendments to the Oakland Municipal Code and Oakland Planning Code were considered, after a duly noticed public hearing, at a regular meeting of the City Planning Commission on December 21, 2016, and the Planning Commission recommended adoption of the proposed new comprehensive food vending program to the City Council; and

WHEREAS, this Ordinance was considered, after a duly noticed public meeting of the Community and Economic Development Committee on February 28, 2017, and the Committee recommended adoption of this Ordinance; and

WHEREAS, this Ordinance was considered, after a duly noticed public hearing, at a regular meeting of the City Council on March 7, 2017, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, property, and general welfare will be improved with a new comprehensive food vending program; now therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision, and are hereby adopted as findings.

Section 2. Repeal of the Existing Food Vending Program, Located in Oakland Municipal Code Chapters 5.51 (Food Vending Group Site Pilot Program), 5.49 (Pushcart Food Vending Pilot Program) and 8.09 (Vehicular Food Vending). The existing food vending program, which is located in Oakland Municipal Code Chapters 5.51 (Food Vending Group Site Pilot Program), 5.49 (Pushcart Food Vending Pilot Program), and 8.09 (Vehicular Food Vending), is hereby expressly repealed in its entirety.

Section 3. Adopt New Comprehensive Food Vending Program by Adding Language to Chapter 5.51 of Oakland Municipal Code. Chapter 5.51 of the Oakland Municipal Code is amended to read as follows (additions are shown as underlined text):

CHAPTER 5.51 FOOD VENDING PROGRAM

Sections:

Article I – General Provisions

Article II – Standards and Requirements

Article III – Enforcement, Revocation and Abatement

Article I – General Provisions

5.51.010 – Title and Purpose.

5.51.020 – Definitions.

5.51.025 – Administrative Regulations.

5.51.030 – Permit required.

5.51.040 – Conflicting Provisions.

5.51.050 – Permitted Area.

5.51.060 – Transference of a Food Vending Permit.

5.51.070 – Food Vending Permit Not a Land Use Entitlement.

5.51.080 – Maximum Number of Food Vending Permits.

5.51.090 – Application requirements for all Food Vending Permits.

5.51.100 – Additional application requirements for group sites.

5.51.110 – Decisions regarding the approval and renewal of a Food Vending Permit.

5.51.120 – Inspections required prior to legal operation.

5.51.130 – Food Vending Permit expiration and renewal.

5.51.140 – Finality of Decisions

5.51.010 – Title and purpose.

This Chapter shall be known as the Food Vending Program Regulations, and establishes a citywide food vending program in Oakland.

The purpose of this Chapter is to regulate the vending of food and food products from food vending facilities on public and private property throughout the city in such a manner as to bring convenience, economic vitality, and pedestrian activity to these areas. This includes protecting the health, safety, and general welfare of the Oakland community and customers through appropriate regulation by requiring that new and existing food vendors provide the community and customers with a minimum level of cleanliness, quality and security.

5.51.020 – Definitions.

“Administrative Guidelines” means the document prepared by the City Administrator or his/her designee, used by Bureau of Planning staff to administer the Food Vending program. The document includes the “Food Vending Program Permitted Area” map, and is revised by the City Administrator or his/her designee.

“Applicant” means the responsible party who seeks a Food Vending Permit from the City of Oakland.

“Assembly area” is an indoor or outdoor place where people may gather for any permitted purpose.

“Employee” means any person hired or paid compensation by, or any person under contract to, a food vendor.

“Food vending” means the business of selling, or causing to be sold from a food vending facility, raw or cut fruit, produce, prepared foods and non-alcoholic beverages, and/or prepackaged foods and beverages, where:

1. Food is prepared off-site in a commercial commissary and/or prepared on-site within the food vending facility, per Alameda County Health Regulations;
2. Food is ordered and served from the truck, trailer, pushcart, or other equipment or vehicle as permitted by Alameda County Environmental Health;
3. Fruit and produce is sold to customers without preparation or cooking by a vendor;
4. Food is served outdoors or under a non-permanent structure;
5. Food is paid for prior to consumption; and
6. Food and beverages are prepared and sold for on-site or off-site consumption.

“Food vending facility” means a truck, trailer, pushcart, stationary cart or other equipment or vehicle from which food vending services are provided, as permitted by the Alameda County Environmental Health Department. Food vending trucks and trailers must be less than eighteen feet, six inches (18’ 6”) in length, eight feet (8’ 0”) in width, and ten feet, six inches (10’ 6”) in height, measured from bottom of tire. Not included in this definition is the preparation of food and serving of food outside of a vehicle, typically under a tent, canopy, or from a booth.

“Food Vending Permit” is the City of Oakland’s annual or temporary permit required to place, operate, maintain, or allow an individual food vending facility or group site within the Oakland city limits.

“Food Vending Program Permitted Area” is the map in the Administrative Guidelines which shows which areas and public right-of-ways are permitted for a Food Vending Permit. The Permitted Area map also shows specific parking spaces in the street right-of-way, designated by the City for Food vending facilities. Designated parking spaces are the only permitted areas allowed for Food vending on the street right-of-way.

“Food vendor” means a person who is engaged in “food vending” as governed by this Chapter.

“Group site” or “Group site food vending” means the stationary operation of two (2) or more food vending facilities clustered together on a single site and operating at the same time.

“Group site organizer” or “responsible party” means, for the purpose of determining liability for damage to City or public facilities as a result of a group site operation, the individual or legal entity who is directly responsible for organizing and/or conducting the group site and/or the facility manager, and his or her respective designees.

“Group site food vending facility” means a food vending facility that is operating at a “group site”.

“Group Site Food Vending Permit” means a Food Vending Permit for a group site.

“Healthy foods” are defined in the Administrative Guidelines.

“Individual food vending” means a food vending facility that is not operating at a group site.

“Individual Food Vending Permit” means a Food Vending Permit for an individual food vending facility.

“Mobile café” is a motorized food vending facility that serves coffee and tea drinks and pre-made pastries, and does not have cooking equipment.

“Non-food merchandise” means goods, wares, or non-food merchandise.

“Pushcart” is a type of non-motorized food vending facility that, because of its small size and operable wheels, can be easily moved by a person during hours of operation. This definition may also include a food vending facility integrated or pulled by non-motorized, pedal-powered vehicle such as a bicycle or tricycle.

“Pushcart food vendor” is a person who owns and operates a business vending from a pushcart.

“Roaming” means the movement of a food vending facility to multiple locations during vending hours.

“School” means any public, charter, or private school serving children between kindergarten and high school. For the purposes of this Chapter, pre-schools, community colleges and universities are not included in this definition.

“Site” means the specific public or private property location, including any public right-of-way, for which an applicant or responsible party has been issued a Food Vending Permit.

“Stationary” means a food vending facility which does not move during vending hours.

“Stationary cart” means a type of non-motorized food vending facility that generally has a maximum length of eight (8) feet, maximum depth of six (6) feet, and a maximum height of eight (8) feet. Stationary food carts are typically larger than pushcarts; pulled or delivered by a vehicle into position; and stationary at a specific site during hours of operation, and then removed by a vehicle after operating hours. Umbrellas nine (9) feet in diameter or less are permitted with these carts.

“Stationary food cart vendor” is a person who owns and operates a business vending from a stationary food cart.

5.51.025 – Administrative Regulations.

The City Administrator or his/her designee is hereby authorized to adopt rules and regulations consistent with this Chapter as needed to implement this Chapter, subject to the review and

approval of the Office of the City Attorney, and to develop all related forms and/or other materials and take other steps as needed to implement this Chapter, and make such interpretations of this Chapter as he or she may consider necessary to achieve the purposes of this Chapter.

5.51.030 – Permit required.

- A. Except as may be allowed by a previously granted Conditional Use Permit for the use under Title 17, or by any ordinance or resolution establishing and regulating a street market or farmer's market in the City; or for a limited period by a Special Event Permit issued in accordance with Chapter 9.52, it shall be unlawful for any individual, group, or legal entity to sell, offer for sale, or solicit offers to purchase food from food vending facilities in the City of Oakland without first obtaining a Food Vending Permit as specified in this Chapter. Conducting a food vending operation in the City of Oakland without such a valid form of city permission is a public nuisance, as defined in this Code.
- B. Any individual, group, or legal entity desiring to engage in food vending in the City shall first file an application with the Bureau of Planning pursuant to procedures established in this Chapter and/or in the Administrative Guidelines to this Chapter.
- C. Issuance of an Encroachment or Obstruction Permit from the City of Oakland is not required to operate an individual food vending facility or group site in the public right-of-way.
- D. The individual, group, or legal entity desiring to engage in food vending shall obtain and maintain all required permits from the Alameda County Environmental Health Department the City of Oakland, and other regulatory agencies, including, but not limited to Electrical Permits or Fire Department permits.

5.51.040 – Conflicting provisions.

Where a conflict exists between the regulations or requirements in this Chapter and applicable regulations or requirements contained in other Chapters and Titles of the Oakland Municipal Code, including but not limited to the Oakland Planning Code (Title 17), the applicable regulations or requirements in this Chapter shall prevail.

5.51.050 – Permitted area.

Individual food vending facilities and group sites shall be subject to the following location requirements:

- A. Food vending shall only be located in the Food Vending Program Permitted Area, and may be located on private property, on publicly-owned property, or in the public right-of-way. Food vending in the street right-of-way is restricted to designed parking spots as shown on the Food Vending Program Permitted Area map. The City Administrator or his or her designee is authorized to adopt a Food Vending Program Permitted Area Map and make amendments or correct administrative errors to such map.
- B. A location for an individual food vending facility or group site shall not be permitted if it is proposed to be closer than the distances specified below.

1. Three hundred (300) feet from another individual food vending facility or group site, unless individual food vending facilities or group sites are permitted to operate at designated parking spaces on the street right-of-way, or separate individual vending facilities or group sites are permitted to operate on different days of the week from the same location;
 2. Vending within five hundred (500) feet from the parcel boundary of a school serving children between kindergarten and high school between the hours of 7 a.m. and 6 p.m. Monday through Friday is restricted as per the Administrative Guidelines to this Chapter;
 3. One hundred (100) feet from the primary entrance of a Full Service or Limited Service Restaurant; as an exception, food vending facilities may locate within one hundred (100) feet of a Full Service or Limited Service Restaurant if the restaurant owner has provided the vehicular food vendor with permission to locate on the same lot; or if the restaurant is closed during the permitted hours of food vending operation; and
 3. Any additional location requirements, as determined by the City Administrator or his/her designee, per Section 5.51.030(B) of this Chapter.
- C. Individual food vending facilities or group sites cannot block or impede access to:
1. Required parking or driveways;
 2. Bicycle racks;
 3. Signal crossings;
 4. Required off street parking;
 5. Parking meters;
 6. Pedestrian or bicycle routes;
 7. Emergency vehicle routes;
 8. Building entrances and exits;
 9. Required accessibility routes and curb cuts;
 10. Easements;
 11. Trash enclosure areas or access to trash bins/trash enclosures; or
 12. Other City facilities, as determined by the City Administrator or his/her designee.
- D. Individual food vending facilities and group sites shall maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).
- E. Each stationary individual food vending facility and group site shall be located within two hundred (200) feet of a restroom facility that employees can legally access.
- F. All stationary food vending facilities on public sidewalks shall be located and operated such that a minimum of five and one-half (5½) feet of unobstructed improved sidewalk or fifty percent (50%) of the overall improved sidewalk width, whichever is greater, is provided and maintained at all times from all building entrances, as well as from parking meters, traffic signs, trees, tree wells, sidewalk planter strips, and all similar sidewalk obstacles.

5.51.060 – Transferability of a Food Vending Permit.

A Food Vending Permit cannot be transferred or conveyed from the permit applicant, or otherwise assigned to another person or entity without written permission from the Director of City Planning or his or her designee.

5.51.070 – Food vending permit not a land use entitlement.

No City action related to issuance and/or renewal of a Food Vending Permit for an individual food vendor or a group site shall be interpreted to confer any form of permanent land use entitlement to the person, group, entity, or property associated with such permit.

5.51.080 – Maximum number of Food Vending Permits.

The maximum number of the different types of Food Vending Permits which may be issued shall be set by the City Administrator in the Administrative Guidelines to this Chapter, and reviewed annually. At no time shall more than the maximum number of the specified types of Food Vending Permits be active.

5.51.090 – Application requirements for all Food Vending Permits

Application for an Individual Food Vending Permit shall be made by the owner of the affected food vending facility, or his or her authorized agent, or in the case of a Group Site Food Vending Permit, by the group site organizer, or his or her authorized agent, on a form prescribed by the Bureau of Planning. Each application for an Individual or Group Site Food Vending Permit shall include:

- A. Name, contact information, and copy of a photo ID of the applicant;
- B. A non-refundable application fee in an amount set in the Master Fee Schedule;
- C. If proposed location is on private property, written consent in a form approved by the City from the property owner (if other than self) permitting the individual food vending facility or group site to locate on the property; or, if owned by applicant, proof of ownership;
- D. A map or illustration, showing:
 - 1. The proposed location(s);
 - 2. The address and Assessor's Parcel Number of the subject or nearest parcel, and/or specific section of the public right-of-way in a designated parking space; and
 - 3. The two (2) nearest street intersections.
- E. A site plan for each proposed location, containing:
 - 1. If on a parcel, the location and dimensions of all proposed food vending facility(s), any public seating or other site amenities (including chairs and tables), buildings or other structures on site, paved areas, driveways, trash receptacles, garages, parking spaces, maneuvering aisles, and pavement striping;
 - 2. If in the public right-of-way in a designated parking space, location and dimensions of the proposed food vending facility(s), sidewalks, curb cuts, trash receptacles, and obstructions such as parking meters, telecommunication boxes, street trees, and light poles.
- F. Photographs of the site(s) and food vending facility(s);
- G. Sample, photo, or rendering of proposed signs;
- H. The proposed menu of items to be offered at the food vending facility(s);
- I. Proof of all required approvals from the Alameda County Department of Environmental Health for the proposed food vending facility(s) and/or group site;

- J. Proof that the food vendor(s) and, if applicable, group site organizer, has a valid City of Oakland Business Tax Certificate;
- K. The proposed schedule for the individual food vending facility or group site, including dates, and starting and ending times of the vending period;
- L. Maintenance plan, including litter pickup and cleaning in the vicinity of the individual food vending facility or group site;
- M. The address where the food vending facility(s) will be stored and serviced during non-operating hours;
- N. The following information shall be provided regarding the commercial kitchen or commissary to be used by the applicant, if any:
 - 1. Proof of all required approvals from the Alameda County Department of Environmental Health;
 - 2. A valid lease between the facility operator(s) and a commercial kitchen or commissary; and
 - 3. For a commissary in Oakland, evidence of a valid City of Oakland Business Tax Certificate and Zoning Clearance.
- O. A signed statement from the applicant that they will abide by all local, state and federal requirements, including, but not limited to, those relating to the minimum wage and sick leave.
- P. Proof of liability insurance in the amount required by the City's Administrative Guidelines.
- Q. Any other reasonable information regarding time, place, and manner of the individual food vending facility or group site operation that the City Administrator or his/her designee requires to evaluate the proposal.

5.51.100– Additional application requirements for group sites.

- A. The application for a Group Site Food Vending Permit shall include the items in Section 5.51.090, and the following additional information:
 - 1. Legal and business name and mailing address for each food vendor; and
 - 2. Designation of a manager to be responsible for the day-to-day site management of the group site.

5.51.110 – Decisions regarding the approval, approval with conditions, or denial of a Food Vending Permit.

- A. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for a Food Vending Permit as set forth in this Chapter and/or in the Administrative Guidelines to this Chapter.
 - 1. During the first year of the program, the Director of City Planning, or his or her designee, shall review and issue Food Vending Permits in the following order of priority:
 - i. Priority Group One: Vendors with valid, unexpired Oakland Food Vending permits (i.e. 2016-2017 Food Cart “FC” or Food Vehicle “FV” permits);
 - ii. Priority Group Two: Vendors with expired Oakland Food Vending permits (i.e. 2001-2015 Food Cart “FC” or Food Vehicle “FV” permits);
 - iii. Priority Group Three: Vendors applying for City-designated parking spaces in the

street right-of-way; and

iv. Priority Group Four: All other vending applicants.

2. During this first year of the program, applicants with current or expired Oakland Food Vending permits shall have their applications reviewed based on the buffering standards that applied at the time of their initial issuance of an Oakland Food Vending permit, as described in the Administrative Guidelines to this Chapter. As a result, permits may be granted for a previously permitted location that does not meet the current buffer distances in Section 5.51.050.

3. After the first year of the program, all new permit applications shall be reviewed with equal priority and according to the current requirements for a Food Vending Permit as set forth in this Chapter and/or in the Administrative Guidelines to this Chapter. However, all permits that are renewed on an annual basis shall continue to be evaluated according to the standards that applied at the time of the initial permit issuance.

B. At the time of Food Vending Permit application, the applicant vendor or group site organizer shall obtain from the Bureau of City Planning, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; and a Notice to Neighboring Property Owners form which includes the project description and contact information.

C. Prior to the subject application being deemed complete, the applicant shall provide by certificate of mailing or certified delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a site plan that shows the proposed vending location.

D. All required notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application.

E. Decision by the Director of City Planning. The Director of City Planning or his/her designee shall approve, approve with conditions, or deny a Food Vending Permit application based on the standards and criteria set forth in this Chapter and/or in the Administrative Guidelines to this Chapter. The Director of City Planning or his/her designee may impose conditions of approval on a Food Vending Permit in the exercise of his or her reasonable discretion. The applicant shall be notified of any conditions of approval in writing.

F. A Food Vending Permit application may be denied upon evidence that:

1. Information contained in the application, or supplementary information requested from the applicant, is false in any material detail; or

2. The applicant has failed to ensure conformity with the operating standards in this Chapter and/or in the Administrative Guidelines to this Chapter; or

3. The applicant has failed to provide a complete application form after having been notified of the requirement of producing additional information or documents; or

4. The applicant has previously been cited by the City of Oakland for causing a public nuisance, or causing an unlawful or criminal activity during the operation of a food vending activity; or

5. The applicant has previously had a food vending permit revoked in Oakland or in another jurisdiction, for violating food vending permit conditions or for unlawful conduct relating

thereto; or

6. The granting of the Food Vending Permit will have an adverse impact upon the public health, safety, or order.

5.51.120 – Inspections required prior to legal operation.

Upon issuance of the permit, the applicant shall not commence business activities until:

- A. An Oakland Fire Department designee has inspected all food vending facilities for safety that involve the use of gas for cooking onsite, and a liquid petroleum gas permit has been received by the applicant.
- B. Once the food vending facility or group site has passed all required inspections and can legally operate, the applicant shall affix an issued City of Oakland Food Vending Permit seal/placard/sticker at a clearly visible location on the individual food vending facility, or display such Permit seal/placard/sticker at a prominent place at a group site. The City of Oakland Food Vending Permit seal/placard/sticker shall contain the permit number, the expiration date, and an indication that the individual food vending facility or group site is legal to operate.

5.51.130 – Food Vending Permit expiration and renewal.

- A. Unless renewed as described in Subsection B. below, each Annual Food Vending Permit shall be valid for twelve (12) months from the month of issuance, and expire and become null and void annually on the anniversary of its month of issuance. Each Temporary Food Vending Permit shall expire and become null and void after ninety (90) days, and may be renewed for one additional consecutive 90-day time period.
- B. An individual food vending facility or group site organizer may apply to the Director of City Planning, or his or her designee, for a Food Vending Permit renewal on a form provided by the City prior to the expiration of their active Food Vending Permit. All renewal applications shall be filed with the Bureau of Planning pursuant to procedures established in this Chapter and/or in the Administrative Guidelines to this Chapter. As stated in Section 5.51.110.A, all Food Vending Permits that are renewed on an annual basis shall continue to be evaluated according to the standards that applied at the time of the initial permit issuance.

5.51.140 – Finality of decisions

Decisions regarding a Food Vending Permit application shall be effective immediately and are not appealable.

Article II – Standards and Requirements

5.51.150 – Hours of operation

5.51.160 – Appearance and Operating Standards

5.51.170 – Liability and Indemnification

5.51.150 – Hours of operation

- A. The regular permitted hours of operation for all individual food vending facilities and group sites are 7 a.m. to 10 p.m., daily.
- B. If an applicant is granted permission for late night vending, as described in the Administrative Guidelines to this Chapter, the City may allow an individual food vending facility or group site to operate later than the regular permitted hours, but no later than 3 a.m.
- C. For Group Sites in the public right-of-way, the specific hours of operation shall be determined by the City, and shall not exceed more than five (5) hours of food vending operation on any day of permitted group site activity, unless specified otherwise at the discretion of the Director of City Planning or his or her designee.

5.51.160 – Appearance and operating standards.

- A. Appearance and condition of the food vending facility.
 - 1. All food vending facilities and group sites shall clearly display a current City of Oakland business tax certificate, Alameda County Environmental Health permit (and decal), and City of Oakland Food Vending Permit (and decal) in plain view and at all times on the exterior of the food vending facility or at the group site.
 - 2. No more than three (3) signs shall be attached to any food vending facility, with a maximum aggregate display surface of thirty (30) square feet of signage per food vending facility.
- B. Utilities.
 - 1. Individual food vending facilities and group sites shall either be entirely self-sufficient in regards to gas, electricity, water, and telecommunications, or the food vending facility shall be required to apply for appropriate permits for any utility hook-ups or connections to on-site utilities to ensure building and public safety and consistency with applicable building codes.
- C. Refuse, trash and litter maintenance.
 - 1. The food vending facility or group site organizer shall not throw, deposit, discharge, leave, or permit to be thrown, deposited, discharged, or left, any fat, oil, grease, refuse, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, gutter, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private lot of land in the City, so that the same might be or become a pollutant.
 - 2. Other than roaming food vending facilities, a minimum of one thirty-two (32)-gallon litter receptacle shall be within fifteen (15) feet of each individual food vending facility for customers and employees.
 - 3. Individual food vending facilities and group site organizers shall maintain the subject site and adjacent public right-of-way free of litter on and within one hundred (100) feet of their site.
 - 4. At a minimum, all refuse shall be removed from the individual food vending facility location or group site, and properly disposed of after each vending period.
 - 5. Failure to adequately clean up after a food vending operation date shall be grounds for denying an applicant's request for permit renewal as set forth in Section 5.51.130.

D. Seating, chairs and tables.

1. Depending on site size, configuration and location, a plan for site amenities, including but not limited to tables and chairs, portable restroom facilities, and/or temporary shade structures, may be permitted in conjunction with the operation of a food vending site. A site plan depicting the proposed location of any site amenities shall be submitted for review and approval in conjunction with a food vending permit application.

E. Performance standards.

1. Noise levels from food vending facilities shall not exceed the City's noise ordinance standards. Vendors should use low-noise emission generators.
2. Noise and odors from food vending facilities shall be contained within immediate area of the permitted food vending location.
3. The vehicular food vendor shall maintain site circulation for pedestrians and access consistent with the Americans with Disabilities Act.

F. Security.

1. The site shall be maintained in a safe and clean manner at all times.
2. Food vending facilities and group sites shall have adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.

G. Other requirements.

1. Food vending facilities shall be maintained in operating condition at all times, and shall be movable at all times.
2. No food vending vehicle shall become a permanent fixture on the site and shall not be considered an improvement to real property.
3. The food vendor shall maintain a valid Alameda County Environmental Health Permit at all times. If the permit expires, or is suspended or revoked, then all food sales shall cease until the permit is reinstated.
4. The organizer of a group site or their representative shall be personally present at all times during group site operations.
5. Proof of liability insurance in the amount required by the City shall be maintained by the individual food vendor or group site organizer.
6. The posting of the food vending permit at the site is required at all times.
7. The individual food vendor or group site organizer shall have a working telephone where he/she can be reached directly at all times during food vending.
8. The vending site shall be paved.

5.51.170 – Liability and Indemnification

- A. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the City.
- B. To the maximum extent permitted by law, the permittees under this Chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Oakland, the Oakland City Council, the Oakland City Planning Commission, and their respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called

“City”) from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys’ fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called “Action”) against the City to attack, set aside, void or annul, any food vending- related approvals and actions or implementation of such approvals and actions, including conditions of approval, if any. The City may elect, in its sole discretion, to participate in the defense of said Action and the permittee shall reimburse the City for its reasonable legal costs and attorneys’ fees.

C. Within ten (10) calendar days of the service of the pleadings upon the City of any Action as specified in Subsection B above, the permittee shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the food vending-related approval. Failure to timely execute the Letter of Agreement does not relieve the permittee of any of the obligations contained in this Section or any other requirements or performance or operating standards that may be imposed by the City.

Article III. Enforcement, Revocation and Abatement

5.51.180 – Enforcement.

5.51.190 – Violation.

5.51.200 – Responsibility.

5.51.210 – Revocation of Food Vending Permits.

5.51.220 – Penalties for violation of Food Vending Permit requirements.

5.51.230 – Abatement generally.

5.51.240 – Notice to abate.

5.51.250 – Abatement procedure.

5.51.260 – Violations constituting infractions.

5.51.270 – Penalty for violation.

5.51.180 – Enforcement.

The City Administrator or his/her designee shall be responsible for enforcing this Chapter. If periodic inspections are necessary to monitor compliance, reinspection fees per the Master Fee Schedule shall be assessed against the responsible party.

5.51.190 – Violation.

Failure to comply with any of the provisions of this Chapter is declared to be prima facie evidence of an existing violation, a continuing blight and a declared public nuisance and shall be abated by the City Administrator or his/her designee, in accordance with the provisions of this

Chapter. Any person in violation will be subject to administrative penalties, citations, civil action and/or other legal remedies, including seizure of a food vending facility, and/or food and drink merchandise.

5.51.200 – Responsibility.

If a food vending facility is on a privately owned parcel, the parcel owner and the individual food vending facility or group site organizer have joint and several liability for compliance with this Chapter, including fees, administrative citations, civil actions, and/or legal remedies relating to an individual food vending facility or group site. The parcel owner remains liable for any violation of duties imposed by this Chapter even if the parcel owner has, by agreement, imposed on the individual food vending facility or group site organizer the duty of complying with the provisions of this Chapter.

5.51.210 – Revocation of Food Vending Permits.

The City of Oakland reserves the right to revoke any food vending permit at any time if it is found that the approved activity is violating any of the provisions of the City of Oakland Municipal Code or causing a public nuisance, in accordance with Section 5.02.080 OMC for:

- A. Violating any of the required operating standards set forth in Section 5.51.180; or
- B. Violating any of the imposed permit conditions; or
- C. Causing a public nuisance, or causing an unlawful or criminal activity occurring during the operation a food vending activity or group site; or any other violation of this Chapter.

Revocation shall be immediately effective upon written notice of the revocation by the City Administrator or his/her designee. Revocation hearings and appeals shall be done in accordance with OMC Sections 5.02.090 (Hearings) and 5.02.100 (Appeals).

Should a food vending permit be revoked, the vendor shall be required to cease operation immediately or be subject to action which may include impounding of vehicle and/or citation.

5.51.220– Penalties for violation of Food Vending Permit requirements.

Any violation of this Chapter may be charged as a civil penalty or administrative citation as provided for in Chapters 1.08 and 1.12 of this Code. Enforcement action specifically authorized by this Section may be utilized in conjunction with, or in addition to, any other statutory, code, administrative or regulatory procedure applicable to this Chapter, including confiscation of merchandise and food for sale, and/or impoundment of the food vending facility. In addition, nothing in this Section shall be interpreted to preclude or limit the City from seeking injunctive or other judicial relief.

5.51.230 – Abatement generally.

- A. Failure to permanently remove a food vending facility or group site and failure to cease operation as a food vending facility or group site after the termination, revocation, expiration, or suspension of any permit issued pursuant to this Chapter shall constitute a public nuisance, and shall be subject to enforcement and abatement procedures set forth in Chapter 1.16 of this Code.
- B. When the City Administrator or his/her designee determines that an individual food vending facility or a group site has been used as an instrument for, or has contributed substantially to a violation of this Chapter, the City Administrator or his/her designee may deem the violation a public nuisance and issue a notice to abate the food vending facility or group site operation, and direct the responsible party to:
 - 1. Comply with the notice to abate;
 - 2. Comply with a time schedule for compliance; and
 - 3. Take appropriate remedial or preventive action to prevent the violation from recurring.

5.51.240 – Notice to abate.

Upon declaring and deeming a violation of this Chapter a nuisance, the City Administrator or his/her designee shall send a notice of abatement to the property owner, individual food vendor, and/or responsible party. The notice of abatement shall contain the following:

- A. The street address and legal description of the site sufficient for identification of the premises or property upon which the nuisance condition(s) is located;
- B. A statement that the enforcement official has determined pursuant to this Chapter that the applicant, as well as the property owner if the activity is located on private property, are in violation of this Chapter;
- C. A statement specifying the condition that has been deemed a public nuisance;
- D. A statement ordering the property owner, individual food vendor, and/or responsible party to abate the condition(s), and specifying the manner in which the same shall be abated, and the period within which such abatement shall be accomplished.

Service of said notice may be made by delivery to the property owner, individual food vendor, and/or responsible party and to the applicant or person in possession personally or by enclosing the same in a sealed envelope, addressed to the occupant at such premises, or to the property owner at the address provided in the food vending permit application, postage prepaid, registered or certified mail, return receipt requested, and depositing same in the United States mail. Service shall be deemed complete at the time of the deposit in the United States mail.

It is unlawful for the property owner, individual food vendor, and/or responsible party to fail or neglect to comply with such order or notice of abatement. In the event that the property owner, individual food vendor, and/or responsible party shall not promptly proceed to abate said nuisance condition(s) within seven (7) days of notice to abate, as ordered by the enforcing official, the abatement procedure set forth in Section 5.51.250 may be undertaken.

5.51.250 – Abatement procedure.

Any person violating or failing to comply with any of the provisions of this Chapter shall be subject to the abatement procedure set forth in Title 1 of this Code.

5.51.260 – Violations constituting infractions.

Any person violating or failing to comply with any of the provisions of this Chapter shall be guilty of an infraction.

5.51.270 – Penalty for violation.

Any person violating any provision of this Chapter shall be punished upon a first violation by a fine of not more than \$1,000.00 and, for a second violation within a period of one year, by a fine of not more than \$2,000.00 and, for a third or any subsequent violation within a one-year period, by a fine of not more than \$5,000.00. Any violation beyond the third, within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than \$10,000.00 or by imprisonment in the county jail for a period of not more than six months or by both. Any person violating or failing to comply with any of the provisions of this Chapter shall be subject to civil penalties and administrative citations per Chapters 1.08 and 1.12 of this Code, and could be subject to confiscation of their merchandise and food for sale, and/or impoundment of the food vending facility.

Section 4. Conforming Changes in the Oakland Municipal Code and Oakland Planning Code. Chapters 5.02 (Business Permits Generally), 5.48 (Peddlers and Solicitors), and 12.08 (Encroachments) of the Oakland Municipal Code, and Chapter 17.10 (Use Classifications) of the Oakland Planning Code, are hereby amended to bring these chapters into conformity with the new comprehensive food vending program (additions are shown as underlined text and deletions are shown as ~~strikethrough~~):

Chapter 5.02 - BUSINESS PERMITS GENERALLY

Sections:

- 5.02.010 - Permits generally.
- 5.02.020 - Application.
- 5.02.030 - Procedure on application.
- 5.02.040 - Chief of Police as the investigating official.
- 5.02.050 - Notice of hearing on application.
- 5.02.060 - Action on application.

5.02.070 - Transfer of permits.

5.02.080 - Revocation and suspension of permit.

5.02.090 - Hearings.

5.02.100 - Appeals.

5.02.110 - Inspection of premises.

5.02.120 - Permits to be exhibited.

5.02.130 - ~~City Clerk~~ Planning Director, or his or her designee, to examine applications as to zone.

5.02.140 - City Administrator, or his or her designee, ~~Clerk~~ to be notified of actions on permits.

5.02.150 - Expiration of permit.

5.02.010 - Permits generally.

Whenever, by the provisions of this Cchapter, a permit from the city is a prerequisite to the operation or maintenance of any business, establishment or place, or to the furtherance of any undertaking or the doing of any thing, unless otherwise specifically provided, such permit shall be procured in the manner, and be subject to the provisions, hereinafter in this Cchapter set forth.

5.02.020 - Application.

Application for any permit referred to in Section 5.02.010 shall be filed with the City Administrator, or his or her designee, ~~City Clerk~~ in triplicate, the original of which shall be duly acknowledged before some person lawfully authorized to administer oaths, and upon forms to be furnished by said City official, ~~Clerk,~~ and shall set forth the following information:

- A. A full identification of the applicant and all persons to be directly or indirectly interested in the permit if granted;
- B. The residence and business address and the citizenship of the applicant, including all members of any firm or partnership, or all officers and directors of any corporation applying;
- C. The location of the proposed business, establishment, place, thing, etc., for which the permit is requested, and the name of the owner and the present use of such premises;
- D. The exact nature of the proposed business, establishment, place, thing, etc., for which the permit is requested, and the name under which it is to be operated;
- E. The past experience of the applicant in the matter to which the requested permit appertains; and the name, address, and past experience in such business or matter of the person to be in charge of the premises or business;
- F. Whether or not any permit has been revoked, and if so, the circumstances of such revocation;

G. Such further information as the City Administrator, Manager, or such official of the city to whom the application may be referred, may require.

5.02.030 - Procedure on application.

Immediately on the filing of any application for a permit as provided in Sections 5.02.010 and 5.02.020, the City Administrator, Clerk or his or her designee, shall place the acknowledged copy in the permanent records of his or her office, refer one copy to ~~the City Administrator and one copy to~~ such official of the city the administrative functions of whom are those primarily concerned with the granting or denying of such permit, which latter official, hereinafter in this Chapter referred to as the "investigating official," shall make such investigation of the applicant and of the facts set forth in such application as he or she shall deem advisable, and shall make a written report of such investigations, together with his or her recommendations relative to disposal of the application, to the City Administrator, who shall proceed to act upon said application after a hearing set by the City Administrator, or his or her designee, Clerk for a day certain, not more than forty-five (45) days from the date of filing completed said application. At such hearing, all persons interested shall be entitled to file objections, protests or recommendations in the premises. Such hearing may, by the City Administrator, be continued over from time to time as circumstances may require; provided, however, that if hereinafter in this Chapter specifically provided, the investigating official may grant the permit applied for without referring the same to the City Administrator, and with or without a hearing thereon, as may be provided.

5.02.040 - Chief of Police as the investigating official.

Whenever the Chief of Police is the investigating official pursuant to this Chapter, the applicant shall pay ~~to the City Clerk~~ upon filing the application or an application for renewal, a fee to pay for the cost of such investigation.

5.02.050 - Notice of hearing on application.

The City Administrator, or his or her designee, Clerk shall in every case of application for a permit notify the applicant of the time and place of such hearing to be held therein as in Section 5.02.030 provided, and such notice shall be given at least thirty (30) days before the date of such hearing.

In the event that a public notice of the hearing on any application for a permit may be hereinafter in this Chapter required, the City Administrator, or his or her designee, Clerk shall cause a notice to be published once in the official newspaper of the city at least thirty (30) days before said hearing date, and cause a copy thereof to be posted upon the premises to be primarily affected by the granting of such permit, and a copy on the bulletin board near the Council Chambers. Such notice shall set forth the fact that such application has been filed, the name of the applicant, the nature of the thing to be permitted, and the time and place of hearing upon such application.

For applications involving the ongoing use of property, notice of the hearing shall be given

by posting a notices thereof ~~on within three hundred (300) feet~~ of the property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved and to all addresses within three hundred (300) feet of the property and to registered community groups. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The fee for the notification process, as established by the master fee schedule, shall be a separate charge in addition to the application fee.

5.02.060 - Action on application.

The City Administrator, or the investigating official acting thereon, shall deny the granting of any permit applied for if it shall appear to his or her satisfaction that the applicant ~~is not a fit and proper person, either for financial, moral, or other reasons, to conduct or maintain the business, establishment, place, or other thing, to which the application appertains; that the applicant has~~ not complied with the provisions of this Code which directly appertain to the maintenance or conduct of the business, establishment, place, or other thing in question or for the violation of any law appertaining thereto; or for any other reason hereinafter in this Cehapter more specifically set forth.

In granting or denying such permit, and in specifying the conditions, if any, upon which it is granted, the City Administrator or other official acting thereon, shall consider ~~the character of the applicant as respects morality, honesty and integrity, and all~~ pertinent facts which may concern the health, safety, and general welfare of the public, and shall exercise a reasonable and sound discretion in the premises. The City Administrator, or other official acting thereon, in acting upon an application for a permit, shall notify the investigating official to whom such application was referred, of such action.

5.02.070 - Transfer of permits.

No permit in this Cehapter required shall be transferable, nor apply to any premises other than those originally specified as the location of the thing permitted, except upon written permission of the City Admistrator, ~~Manager~~, or other official originally granting such permit, granted upon written application by the transferor, made in the same manner as may be required in the instance of the original application for such permit.

5.02.080 - Revocation and suspension of permit.

Any permit granted pursuant to the provisions of this Cehapter may be revoked or suspended by the City Admistrator ~~Manager~~ as in his or her discretion may seem meet and just, for any reason for which a granting of such permit might be lawfully denied, or for any other reason hereinafter in this Cehapter specifically provided. Such revocation or suspension shall be made only upon a hearing granted to the holder of the permit so revoked or suspended, held before the City Admistrator ~~Manager~~ after five (5) days' notice to such permit holder, stating generally the grounds of complaint against him or her and stating the time and place where such hearing will be held. In the event of such revocation or suspension, any certificate issued in connection with

the granting of such permit shall, by the holder thereof, be forthwith surrendered to the City ~~Administrator. Manager.~~

Such revocation or suspension of any permit shall be in addition to any other penalties more specifically provided in this Cehapter.

5.02.090 - Hearings.

Any investigation, inquiry or hearing which the City ~~Administrator Manager~~ has power to undertake or to hold may be undertaken or held by such member of the City Administrator's ~~Manager's~~ staff as he or she may designate and to whom the matter is assigned. The person to whom a matter is assigned shall be deemed a "Hearing Officer." In any matter so assigned the Hearing Officer conducting the investigation, inquiry or hearing shall report within thirty (30) days after the conclusion of the investigation, inquiry or hearing his or her findings and recommendations to the City Administrator. Manager.

Within sixty (60) days after the filing of the findings and recommendations of the Hearing Officer, the City Administrator Manager shall confirm, adopt, modify or set aside the findings of the Hearing Officer and with or without notice enter his or her order, findings, decision or award based upon the record in the case.

In such hearings, investigations, and inquiries by the City ~~Administrator Manager~~ or a Hearing Officer, he or she shall not be bound in the conduct thereof by the common law or statutory rules of evidence and procedure but inquiry shall be made in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the public parties and carry out justly the spirit and provisions of this Cehapter.

No informality in any proceeding or the manner of taking testimony shall invalidate any other decision, award or rule made as specified in this Cehapter. No order, decision, award or rule shall be invalidated because of the admission into the record and the use as any proof of any fact in dispute or any evidence not admissible under the common law or statutory rules of evidence and procedure.

5.02.100 - Appeals.

Any person excepting to any denial, suspension or revocation of a permit applied for or held by him or her pursuant to the provisions of this Cehapter, or pursuant to the provisions of this code where the application for said permit is made to, or the issuance thereof is by the City Administrator, Manager, or any person excepting to the granting of, or to the refusal to suspend or revoke, a permit issued to another pursuant to the provisions of this Cehapter, or issued to another by the City Administrator Manager pursuant to the provisions of this Code, may appeal in writing to the City Council by filing with the City Administrator, or his or her designee, Clerk a written notice of such appeal setting forth the specific grounds thereof. Such notice must be filed within fourteen (14) days after notice of such action appealed from is posted in the United States mail. Upon receipt of such notice of appeal, the Council shall set the time for consideration thereof. The City Administrator, or his or her designee, Clerk shall cause notice

thereof to be given (A) to the appellant and (B) to the adverse party or parties, or to the attorney, spokesman, or representative of such party or parties, not less than five (5) days prior to such hearing. At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. Such hearing ~~may~~, by the Council, be ~~continued over from time to time~~ and its findings on the appeal shall be final and conclusive in the matter.

5.02.110 - Inspection of premises.

Any officer of the city charged with the enforcement or administration of any of the provisions of this Cehapter shall be permitted to enter and inspect at any reasonable time, without charge or other restraint, any premises to which any permit granted under the provisions of this Cehapter may pertain, or which are directly affected by such permit, for the purpose of ascertaining whether or not any of the provisions of this Cehapter applicable thereto are being violated.

5.02.120 - Permits to be exhibited.

Any permit required under the provisions of this Cehapter shall be exhibited in a conspicuous place in that part, to which the public has access, of the premises to which such permit appertains.

5.02.130 - City Clerk Planning Director, or his or her designee, to examine applications as to zone.

~~Upon~~ Prior to the filing of any application for a permit as in this Cehapter provided for, the City Clerk Planning Director, or his or her designee, shall examine the same for the purpose of ascertaining whether the business, establishment or place for which such permit is desired is proposed to be located within a zone in which the same is permitted pursuant to the provisions of this code and the ordinances and laws of the city. If such location is not within such approved zone, the Planning Director, or his or her designee, ~~City Clerk~~ shall refuse to accept such application.

5.02.140 - City Administrator, or his or her designee, ~~Clerk~~ to be notified of actions on permits.

Any official of the city taking any action upon any application for a permit or upon any permit to operate or maintain any business, establishment or place within the city as in this Cehapter provided for, shall notify the City Administrator, or his or her designee, ~~Clerk~~ of such action, and shall, so far as possible, supply the City Administrator, or his or her designee, ~~Clerk~~ with copies of all communications, findings and records pertaining to such applications and permits, and the City Administrator, or his or her designee, ~~Clerk~~ shall place the same on file with the applications and permits to which they pertain.

5.02.150 - Expiration of permit.

Any permit granted pursuant to the provisions of this Cehapter but under which the thing

herein permitted has not been done, carried on or maintained within six (6) months from the time of the issuance of such permit, shall expire by limitation and cease to be valid for any purpose. Provided, however, that the City Administrator, or his or her designee, Manager may renew such permit upon written application being made prior to its expiration.

Chapter 5.48 - PEDDLERS AND SOLICITORS

Sections:

5.48.020 - Peddlers and solicitors—Police certificate.

5.48.050 - Peddling foodstuffs from vehicles.

5.48.070 - Peddlers' carts, stands.

5.48.080 - Peddling in certain districts.

5.48.090 - Peddling in certain districts—Construction.

5.48.020 - Peddlers and solicitors—Police certificate.

It is unlawful for any person to solicit or take orders from house to house, or upon any public street, grounds or squares, or within any public buildings, within the city, for the sale of any article, merchandise or other thing of value; or to peddle the same or solicit in such manner any moneys, funds, articles, merchandise, or other thing of value for any charitable, religious, business or other purpose, without a police certificate, provided, however, that no such certificate shall be required of ~~drummers~~, traveling salespersons, or other persons engaged in soliciting or taking orders exclusively from the trade, or established retail dealers, for the delivery of goods, wares or merchandise by wholesale.

An application for a police certificate required by the provisions of this section shall be made in writing to the Chief of Police, shall be presented in person, and shall set forth the nature of the business of the applicant, the firm or corporation which the applicant represents, the kind of goods or property to be sold, solicited or dealt in, and such further information as the Chief of Police may require. ~~Such application shall be accompanied by the written recommendation of not less than five citizens of the city, concerning the moral character, honesty and integrity of the applicant.~~ The applicant, upon filing his or her application, may ~~shall~~ be fingerprinted by the Bureau of Identification at the request of the Oakland Police Department.

The Chief of Police, if satisfied as to the ~~moral character, honesty and integrity~~ business practices of the applicant, shall issue to him or her a police certificate to engage in the said business within the city, which certificate shall be effective for a period of one (1) year from date of issuance, and any renewal thereof shall be made upon application made as herein required in the instance of the original application. Such police certificate, together with any license otherwise required of such person by the provisions of this Code, shall be at all times carried by

the person therein certified when he or she is engaged in said business. The Chief of Police shall at all times maintain in his or her office a complete list of all persons to whom such police certificates have been issued.

5.48.050 - Peddling foodstuffs from vehicles.

It is unlawful for ~~farmers, hawksters or~~ vendors of fruits, vegetables, fish or dairy products to display for sale such goods, wares and merchandise to the passing public in or from ~~wagons, vehicles or portable stands on the streets or sidewalks of the city, except; provided, however, that nothing in this section contained shall be construed as forbidding the peddling of such goods, wares or merchandise from house to house in wagons or other vehicles as may be permitted;~~

- A. By regulations set forth elsewhere set forth in the Municipal or Planning Codes;
- B. By any ordinance or resolution establishing and regulating a farmer's market or street market in the city;
- C. Within those areas of Oakland subject to the Food Vending Program set forth in Chapter 5.51 of the Municipal Code; and this title. However, within those areas of Oakland subject to the pusheart food vending program ordinance, pusheart food vending is regulated by Chapter 5.49 of the municipal code.
- D. For a limited time in accordance with the Special Event permit program set forth in Chapter 9.52 of the Municipal Code.

5.48.070 - Peddlers' carts, stands.

It is unlawful for any person having charge or control of ~~a cart, wagon or~~ any vehicle used for the vending of goods, wares, merchandise, foods, confections, refreshments or other article, therefrom commonly known as peddlers' carts, ~~wagons or~~ vehicles to occupy, or permit to be occupied, as a stand for such cart, ~~wagon or~~ vehicle, any portion of any street, lane, alley or sidewalk in the city, or to cause or permit such cart, wagon or vehicle to stand within five hundred (500) feet of any entrance or exit to any public park, public building or public grounds for the purpose of peddling such goods or merchandise therefrom except as may be permitted:-

- A. By regulations set forth elsewhere in the Municipal or Planning Codes;
- B. By any ordinance or resolution establishing and regulating a farmer's market or street market in the city;
- C. Within those areas of Oakland subject to the Food Vending Program set forth in Chapter 5.51 of the Municipal Code; and
- D. For a limited time in accordance with the Special Event permit program set forth in Chapter 9.52 of the Municipal Code.

~~However, within those areas of Oakland subject to the pusheart food vending program ordinance, pusheart food vending is regulated by Chapter 5.49 of the municipal code.~~

~~Nothing in this section shall be so construed as to conflict with, or repeal, any provision of this code or any ordinance establishing and regulating a street market in the city.~~

5.48.080 - Peddling in certain districts.

It is unlawful for any person to traffic in, vend or sell, or attempt to, or offer to, traffic in,

vend or sell, any goods, wares, merchandise, meats, vegetables, fruits, berries, produce or any article of household, family or domestic supplies, ~~within the territory hereinafter in this section defined,~~ unless the same is done by such person at a fixed place of business conducted in a building or store lawfully occupied by him or her, or is permitted by:

- A. Regulations set forth elsewhere in the Municipal or Planning Codes;
- B. Any ordinance or resolution establishing and regulating a farmer's market or street market in the city;
- C. The Food Vending Program set forth in Chapter 5.51 of the Municipal Code; and
- D. The Special Event permit program set forth in Chapter 9.52 of the Municipal Code.

The territory above referred to in this section is bounded and particularly described as follows: ~~All that portion of the city bounded on the south by a line drawn parallel to and one hundred (100) feet southerly of the southern line of First Street, on the east by a line drawn parallel to and one hundred (100) feet easterly of the eastern line of Harrison Street, on the north by a line drawn parallel to and one hundred (100) feet northerly of the northern line of 17th Street, and on the west by a line drawn parallel to and one hundred (100) feet westerly of the western line of Jefferson Street, and also beginning at the intersection of a line drawn parallel to and one hundred (100) feet southerly of the southern line of First Street with a line drawn parallel to and one hundred (100) feet easterly of the eastern line of Alice Street; thence northerly along said last named line to a line drawn parallel to and one hundred (100) feet southerly of the southern line of 11th Street; thence easterly along said last named line to the centerline of Fallon Street; thence northerly along the centerline of Fallon Street and its production to the western shore of Lake Merritt; thence northerly and westerly along the western shore of Lake Merritt to a line drawn parallel to and one hundred (100) feet easterly of the eastern line of Harrison Boulevard; thence northerly along said last named line to a line drawn parallel to and one hundred (100) feet northerly of the northern line of 22nd Street and Grand Avenue; thence westerly along said last named line and its productions to a line drawn parallel to and one hundred (100) feet westerly of the western line of San Pablo Avenue; thence southerly along said last named line to a line drawn parallel to and one hundred (100) feet westerly of the western line of Grove Street; thence southerly along said last named line to a line drawn parallel to and one hundred (100) feet southerly of the southern line of First Street; thence easterly along said last named line to the point of beginning.~~

5.48.090 - Peddling in certain districts—Construction.

Nothing in Section 5.48.080 contained shall be construed as preventing or making unlawful the prompt delivery in good faith of any of said personal property to or at any such fixed place of business (so situated and conducted in such building or store within said territory) in any case where such personal property, so being delivered is actually and in good faith consigned goods, or has actually and in good faith been theretofore purchased at a place outside of said territory by such lawful occupant of such fixed place of business, actually doing business therein, and said property is in either such case then being delivered to him or her thereat; ~~provided, however, that the Chief of Police of the city, in his or her discretion, may at any time grant a permit to any person to sell such personal property within such district and within the fire limits of the city for a limited period only, not to exceed five days.~~

Chapter 12.08 - ENCROACHMENTS

Sections:

12.08.030 - Public sidewalk encroachments—Types and definitions.

12.08.150 - Exceptions.

12.08.030 - Public sidewalk encroachments—Types and definitions.

For the purpose of this title, encroachments upon the public street, alley, or "sidewalk area" shall be of three types: major, minor, and short term. The sidewalk area shall be defined as that area between the property line and the edge of the pavement or face of the curb. "Improved streets" shall be defined as streets with concrete curbs, gutters and sidewalks. It is unlawful for any person to use the sidewalk area in the city for the display and sale of goods, wares and merchandise, except as may be permitted:

1. By regulations set forth elsewhere in the Municipal or Planning Codes;
2. By any ordinance or resolution establishing and regulating a street market in the city;
3. Within those areas of Oakland subject to the Food Vending Program set forth in Chapter 5.51 of the Municipal Code; and
4. For a limited time in accordance with the Special Event permit program set forth in Chapter 9.52 of the Municipal Code.

~~The displaying of wares, other than flowers or other aesthetically pleasing objects, and the selling of any wares on the sidewalk area shall be specifically prohibited. However, within those areas of Oakland subject to the Pusheart Food Vending Program Ordinance, pusheart food vending is regulated by Chapter 5.49 of the Municipal Code. As defined in this title, the term "aesthetically pleasing objects" excludes furniture and other utilitarian objects. Permission to encroach shall be revocable at the pleasure of the City Council without recourse unless otherwise provided herein. Nothing in this section shall apply to the operation or maintenance of sidewalk cafes.~~

12.08.150 - Exceptions.

The requirements for encroachment permits set forth in this title do not apply to certain types of sidewalk benches, covered in Chapter 12.52; ~~nor to newspaper and periodical racks, covered in Section 12.04.080; and do not apply to existing fences or walls at the back line of sidewalks on improved streets; or to:~~ Food Vending Facilities, covered in Chapter 5.51, as amended.

Chapter 17.10 USE CLASSIFICATIONS

Sections:

Article II - Activity Types

Part 3 - Commercial Activity Types

Part 3 Commercial Activity Types

17.10.280 Fast-Food Restaurant Commercial Activities.

17.10.280 Fast-Food Restaurant Commercial Activities.

A. — Fast-Food Restaurant Commercial Activities include the retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Restaurants may also exhibit other design and operating characteristics, including: (1) a limited menu; (2) food is typically ordered and served at a service counter; (3) food is paid for prior to consumption; (4) the facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. Examples of these activities include, but are not limited to, restaurants that do not fall under Section 17.10.272 Full Service Restaurant Commercial Activities or Section 17.10.274 Limited Service Restaurant and Cafe Commercial Activities. ~~They~~ This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

B. — ~~Except as may otherwise be allowed in Oakland Municipal Code (OMC) Chapters 5.49, 5.51, 8.09, and 9.52, the sale of ready to consume prepared foods from trucks, pushcarts or other movable equipment located on public or private property on a semi-permanent basis during hours of operation. Vehicular food vending generally has the following characteristics:~~

- ~~• Food is ordered and served from a take-out counter that is integral to the catering truck;~~
- ~~• Food is paid for prior to consumption;~~
- ~~• Catering trucks, pushcarts or other movable equipment from which the food is sold typically have a take-out counter and space for customer queuing;~~
- ~~• Food and beverages are served in disposable wrappers, plates or containers; and~~
- ~~• Food and beverages are prepared and sold for off site consumption.~~

~~This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.~~

Section 5. Working Group. The Council directs staff from the Bureau of Planning to return to Council with a framework for the creation of “Food Vending Working Group,” with the purpose, in the first year of the new vending program, to monitor the program’s implementation, to make recommendations to staff, and to inform the larger vending community of the new program.

Section 6. California Environmental Quality Act. The City Council finds and determines the adoption of this Ordinance complies with the California Environmental Quality Act (“CEQA”), and relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”). Further, the Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines section 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

Section 7. Severability. The provisions of this Ordinance are severable. If a court of competent jurisdiction determines that any word, phrase, clause, sentence, paragraph, subsection, section, chapter or other provision (collectively called “Part”) is invalid, or that the application of any Part of this Ordinance to any person or circumstance is invalid, such decision shall not affect the validity of the remaining Parts of this Ordinance. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any Part of this Ordinance or its application to such persons or circumstances have expressly excluded from its coverage.

Section 8. Effective Date. This Ordinance shall take effect sixty (60) days after its adoption.

Section 9. Authority. This Ordinance serves the public interest and is necessary to protect the health, safety, and/or general welfare of the citizens of Oakland, and is enacted pursuant to the City of Oakland’s general police powers, Section 106 of the Charter of the City of Oakland, and Article XI of the California Constitution.

Section 10. Conflict. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 11. Notice of Exemption/Notice of Determination. The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Exemption/Notice of Determination with the appropriate agencies.

Section 12. Record. That the record before the City Council relating to this Ordinance includes, without limitation, the following:

1. All final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
2. All oral and written evidence received by the City staff, Planning Commission, and City Council before and during the public hearings on the amendments to the Oakland Municipal Code and Oakland Planning Code;
3. All matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code; (c) Oakland Fire Code; (d) Oakland Planning Code; other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations.

Section 13. Conforming Changes. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Municipal Code and Oakland Planning Code.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

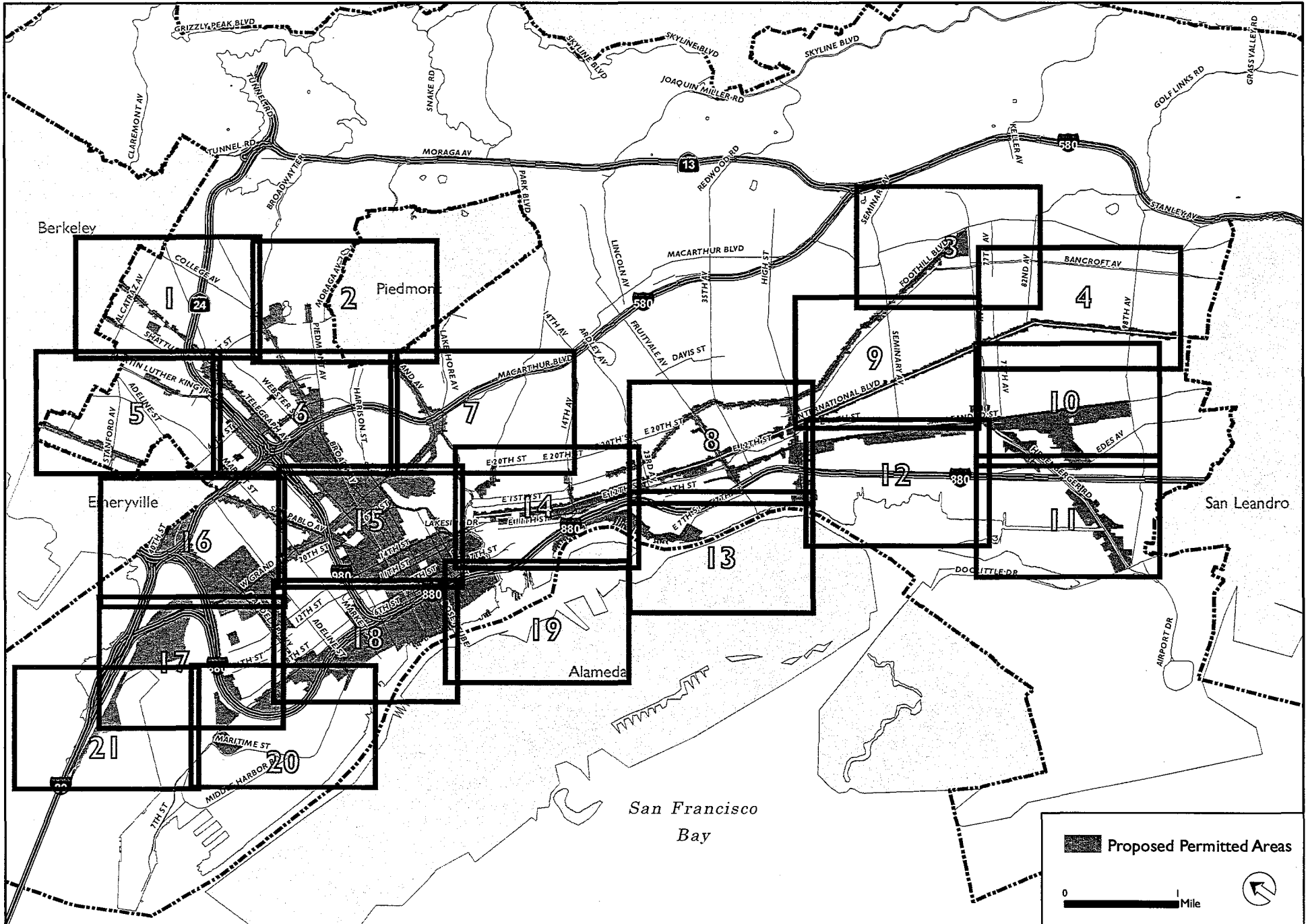
ATTEST: _____
 LaTonda Simmons
 City Clerk and Clerk of the Council
 of the City of Oakland, California

DATE OF ATTESTATION: _____

NOTICE AND DIGEST

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE (“OMC”) TO ADOPT A NEW CITYWIDE FOOD VENDING PERMIT PROGRAM, DELETE OMC CHAPTERS 5.49 PUSHCART FOOD VENDING PILOT PROGRAM, 5.51 FOOD VENDING GROUP SITE PILOT PROGRAM AND 8.09 VEHICULAR FOOD VENDING, ADOPT NEW OMC CHAPTER 5.51 FOOD VENDING PROGRAM AND VARIOUS CONFORMING CHANGES TO THE OMC AND CITY PLANNING CODE, AND ADOPT CEQA FINDINGS

This Ordinance will create a new citywide food vending program which permits, with certain restrictions, individual food vending on private property and from the public right-of-way (streets and sidewalks) in designated commercial and industrial areas. The new program will also permit group site food vending (events with two or more food vendors) in more areas throughout the city. Adoption of the Ordinance would revise the definition of “Fast Food Restaurant Commercial Activities” in Oakland Planning Code Section 17.10.280; repeal the existing food vending program, located in Oakland Municipal Code (OMC) Chapter 5.49 (“Pushcart Food Vending Pilot Program”), Chapter 5.51 (“Food Vending Group Site Pilot Program”), and Chapter 8.09 (“Vehicular Food Vending”); and adopt a new comprehensive food vending program by adding language to OMC Chapter 5.51. The proposal also includes revisions to other Planning and Municipal Code sections as minor conforming changes.

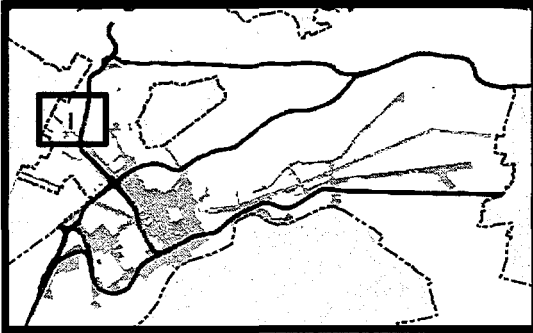




2016 Food Vending Program Permitted Area

Attachment D to 2/28/17 CED hearing

Planning and Building Department
December 16, 2016

Index Map



-  Existing Permitted Area
-  Proposed Permitted Area



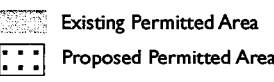
2016 Food Vending Program Permitted Area

0 500 Feet



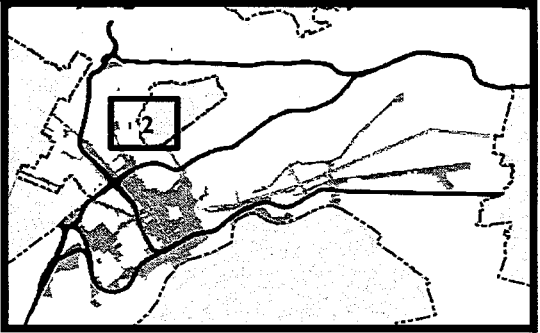
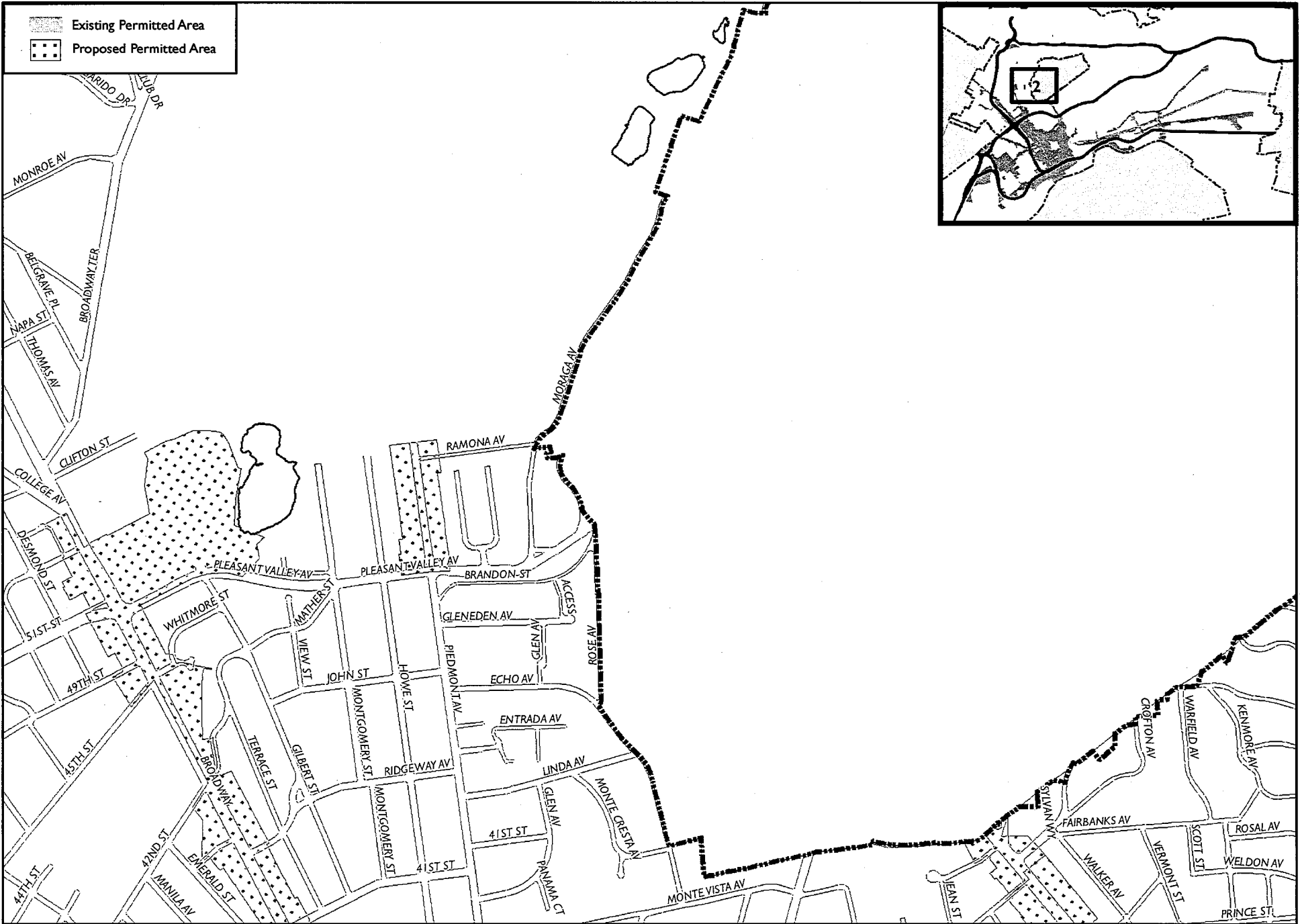
Planning and Building Department
December 16, 2016

Tile 1



 Existing Permitted Area

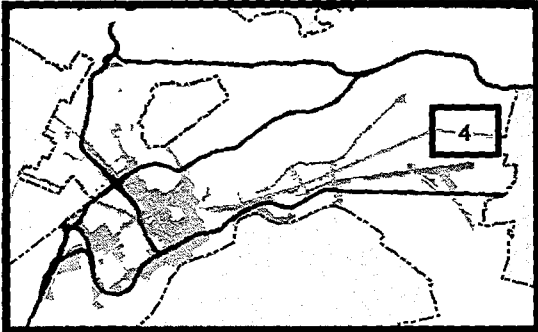
 Proposed Permitted Area





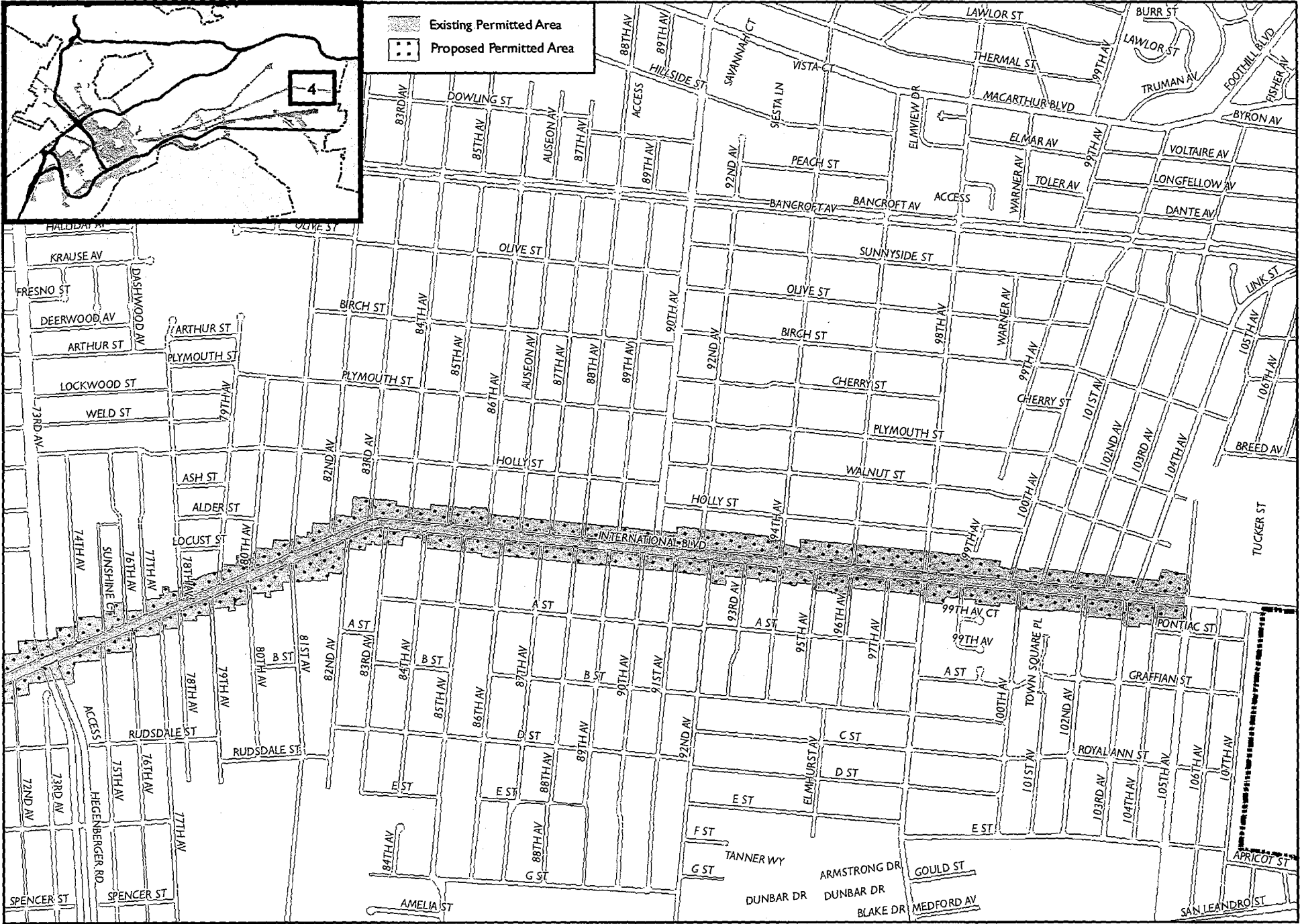
2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016



-  Existing Permitted Area
-  Proposed Permitted Area

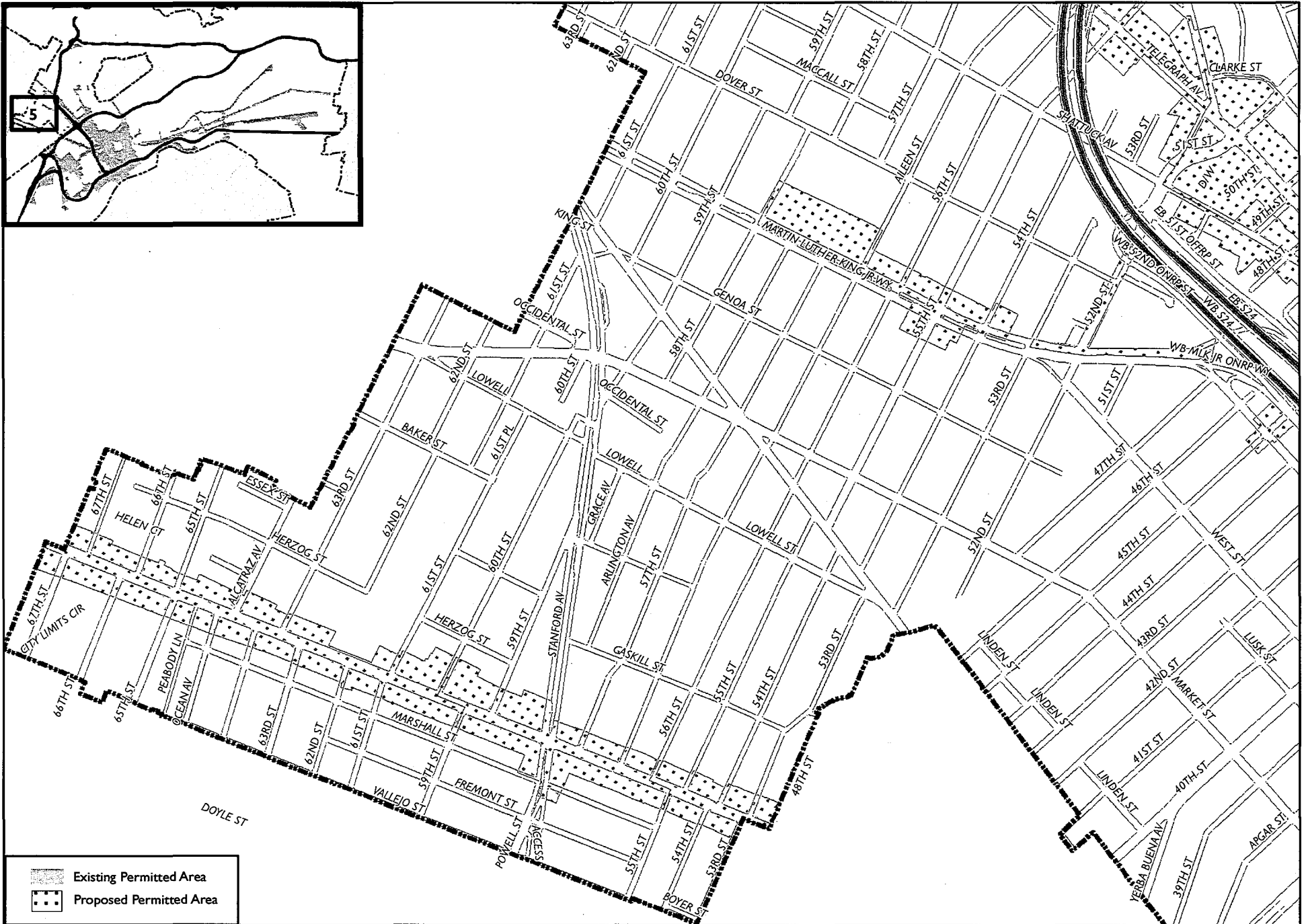
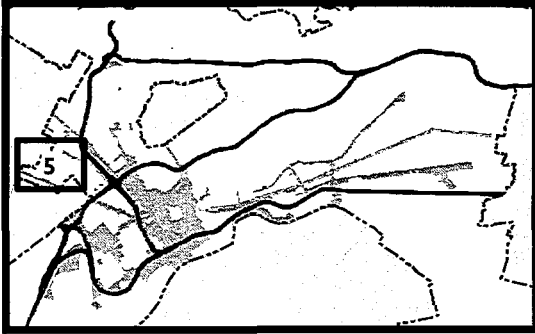




2016 Food Vending Program Permitted Area



Planning and Building Department
November 30, 2016

Tile 4



-  Existing Permitted Area
-  Proposed Permitted Area

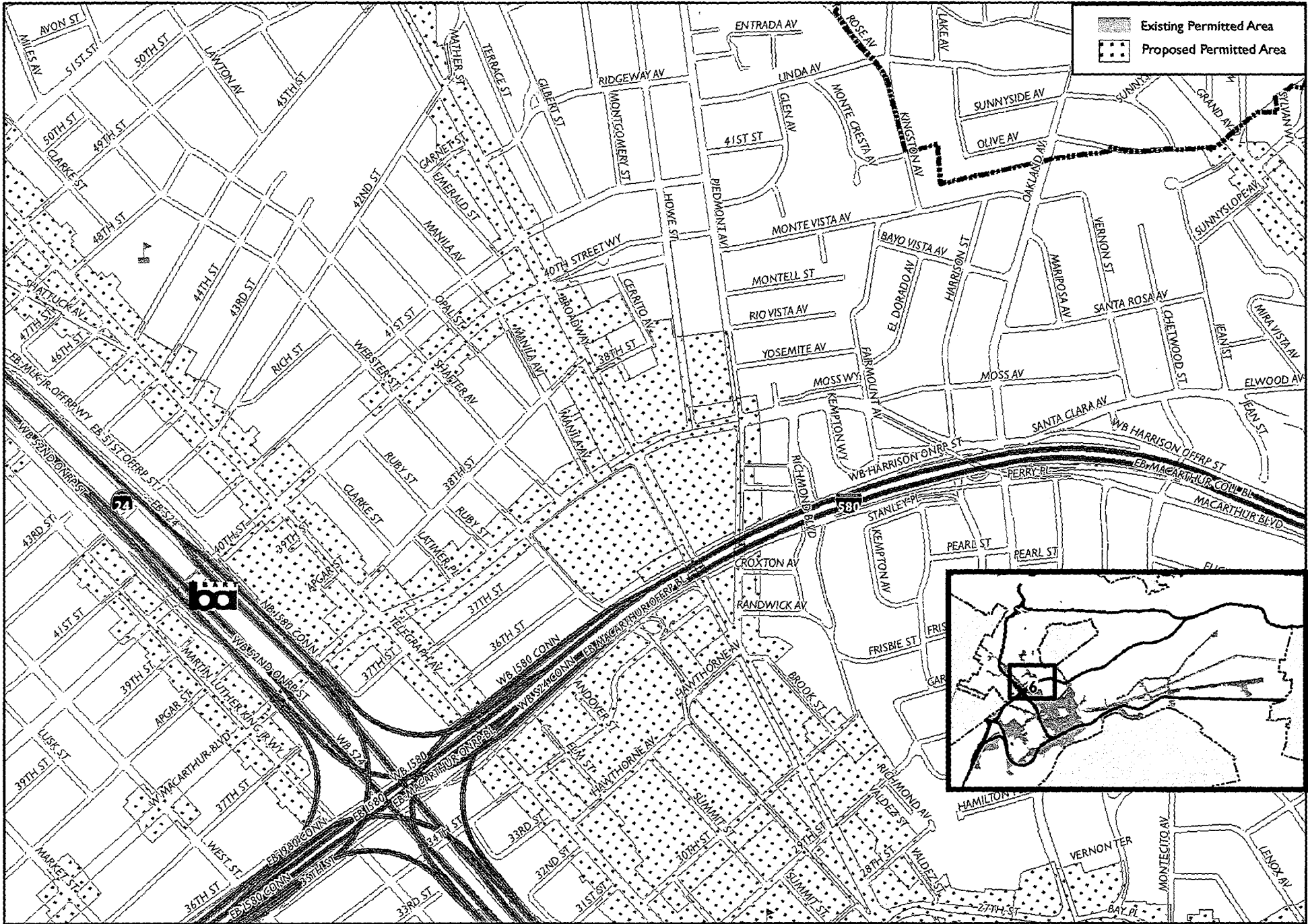


2016 Food Vending Program Permitted Area

0 500 Feet



Planning and Building Department
December 16, 2016

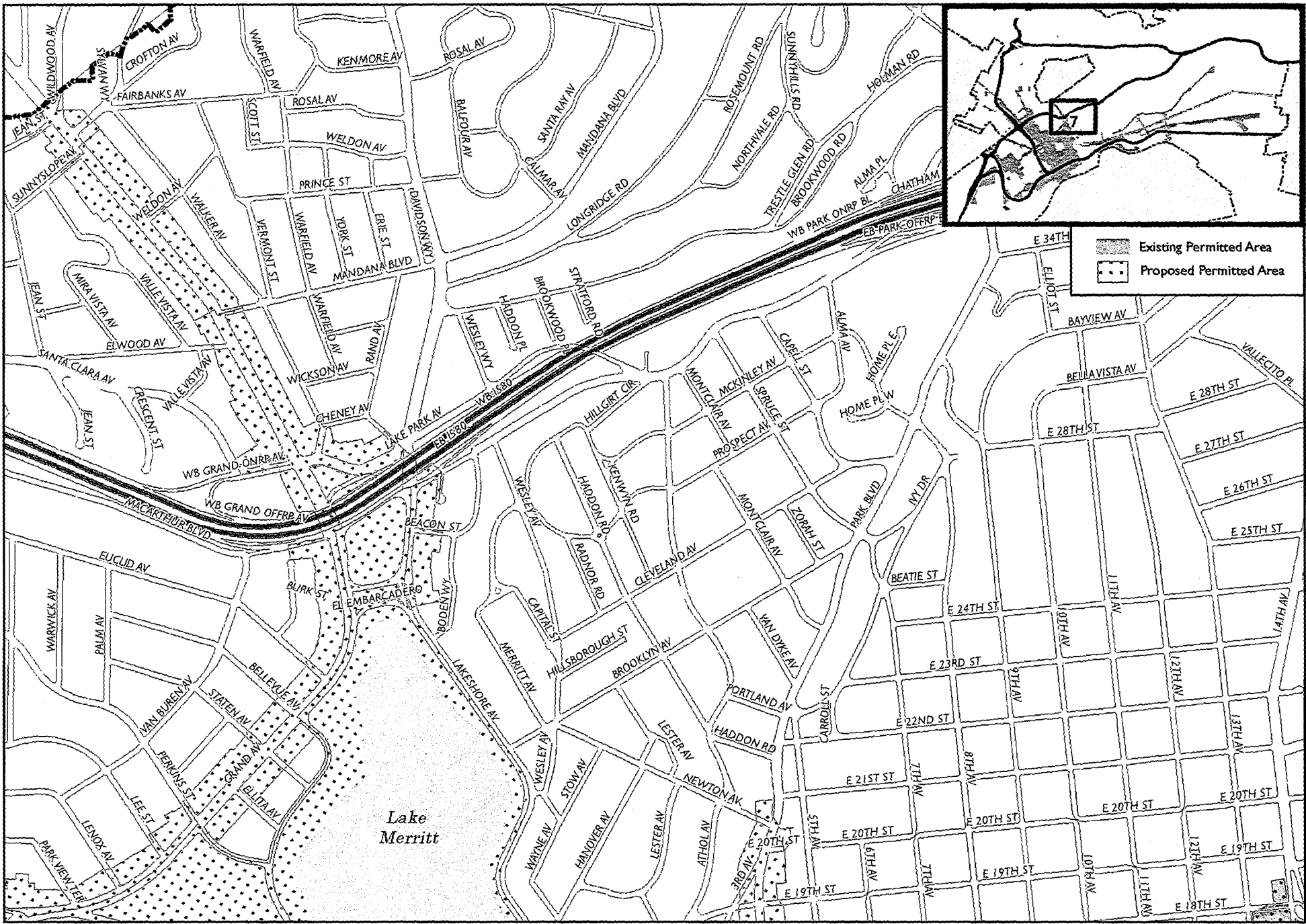


2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016

Tile 6

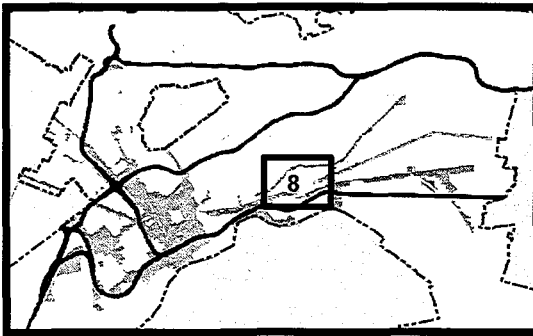


2016 Food Vending Program Permitted Area

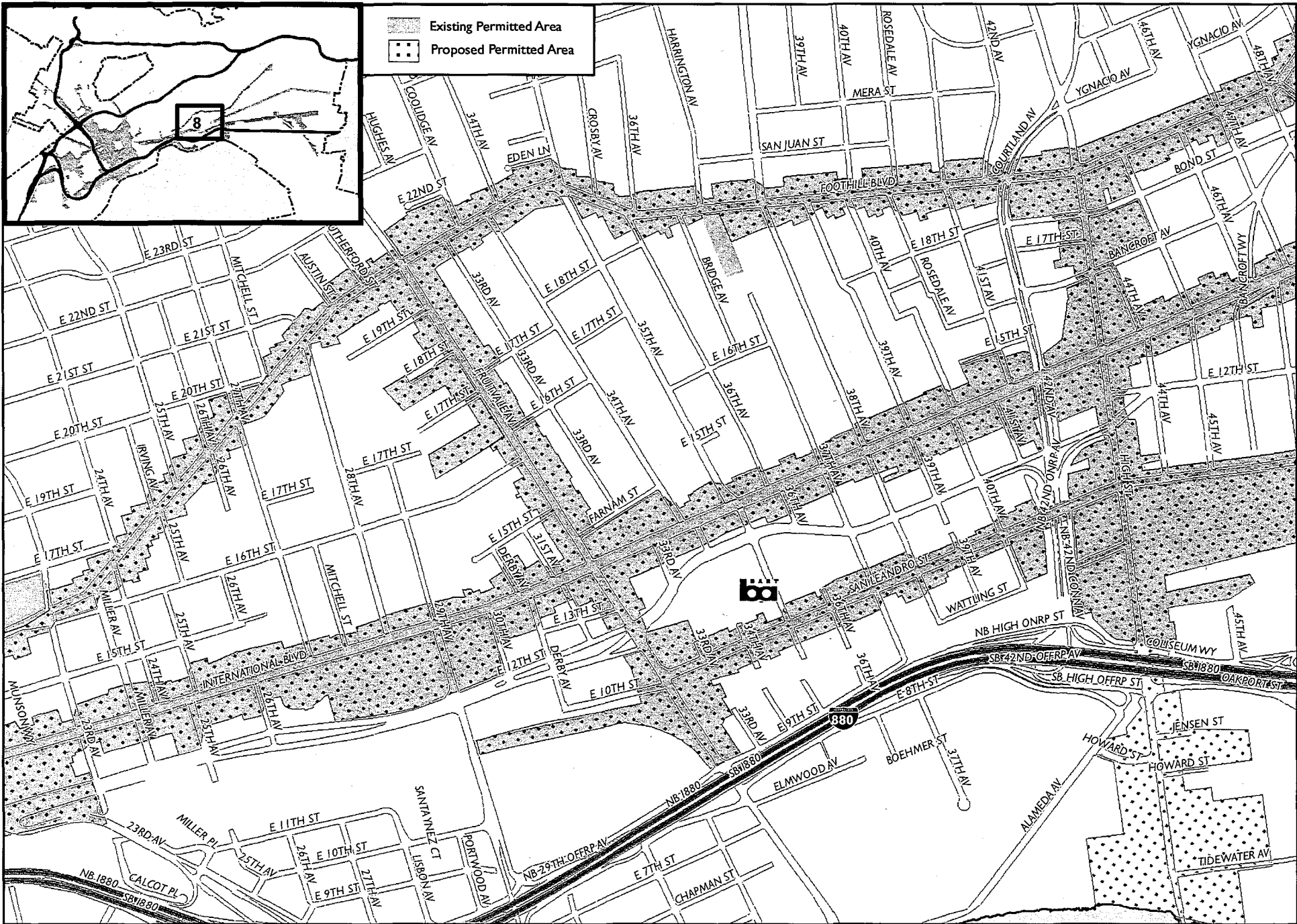


Planning and Building Department
December 16, 2016

Tile 7



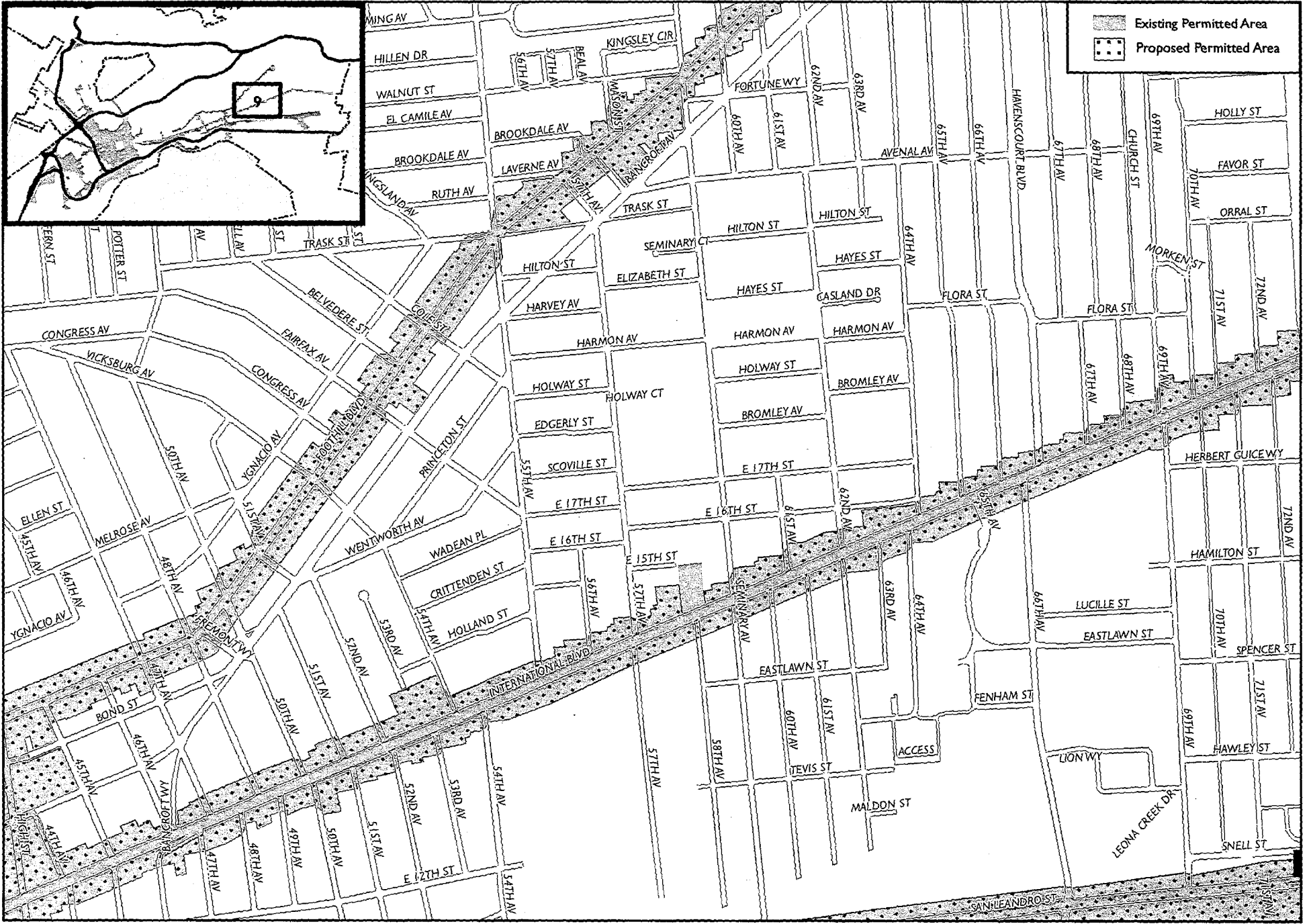
Existing Permitted Area
 Proposed Permitted Area



2016 Food Vending Program Permitted Area



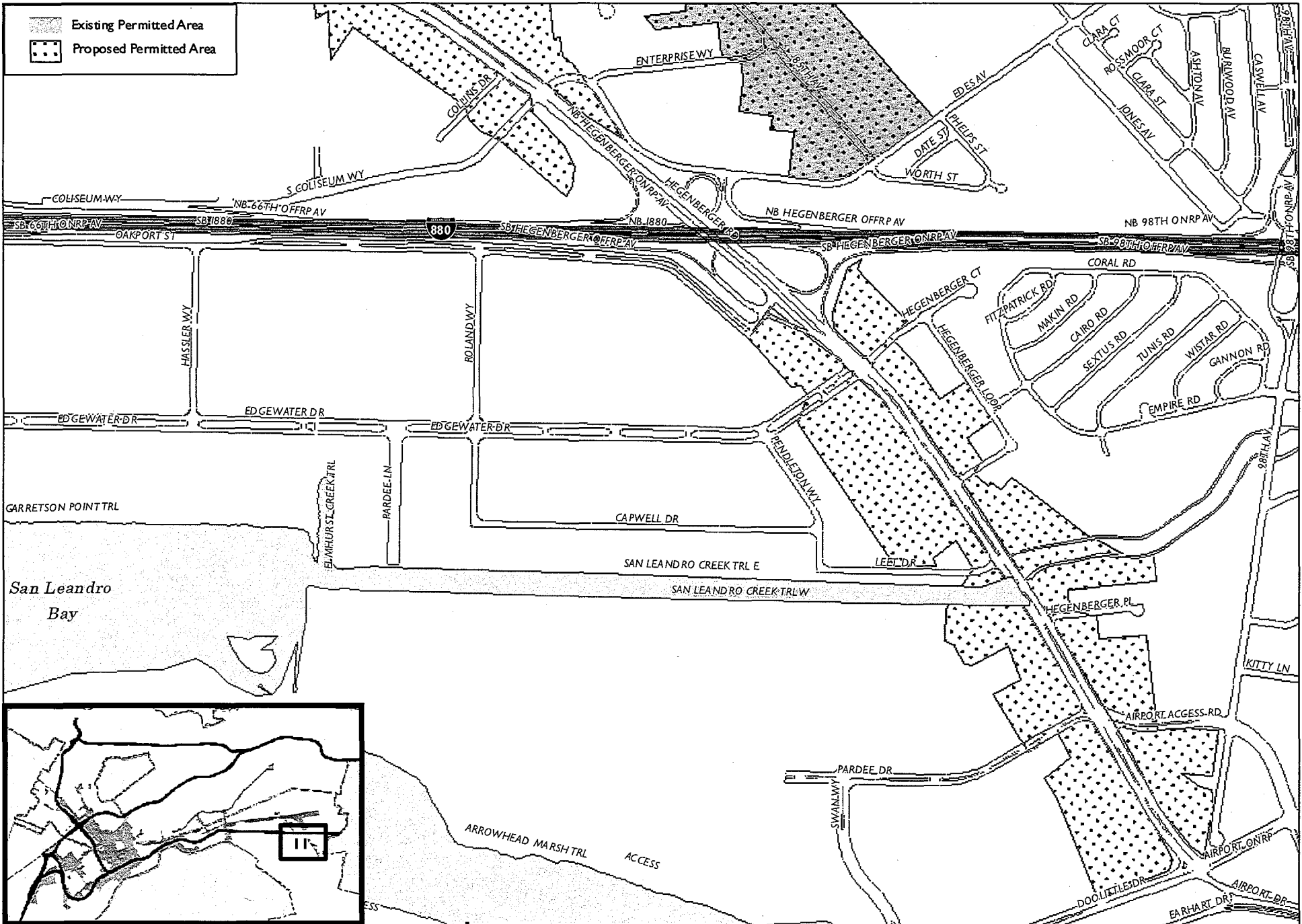
Planning and Building Department
 December 16, 2016



2016 Food Vending Program Permitted Area



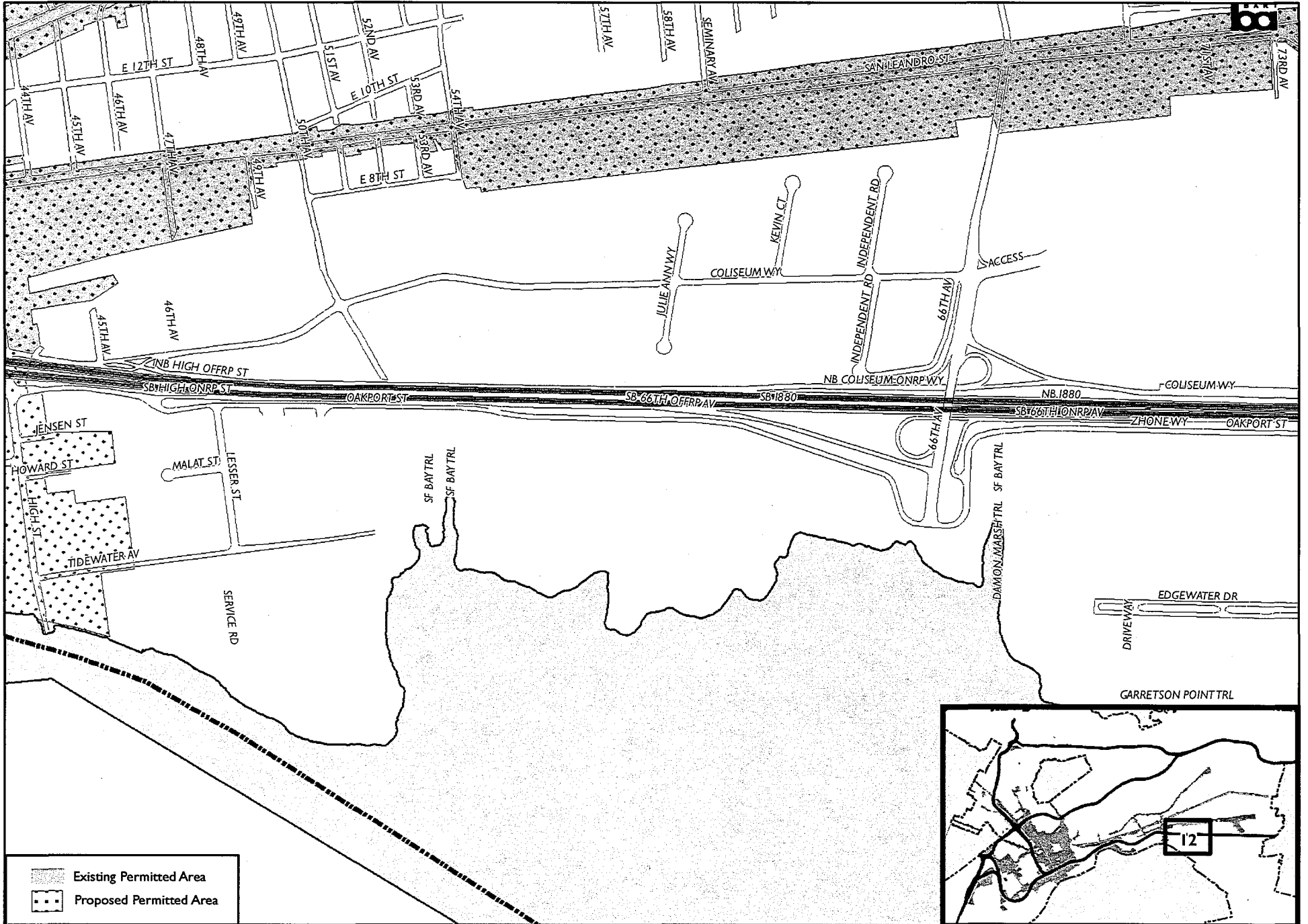
Planning and Building Department
December 16, 2016



2016 Food Vending Program Permitted Area



Planning and Building Department
 January 24, 2017



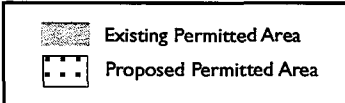
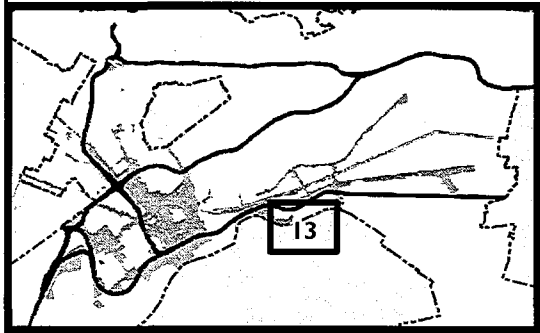
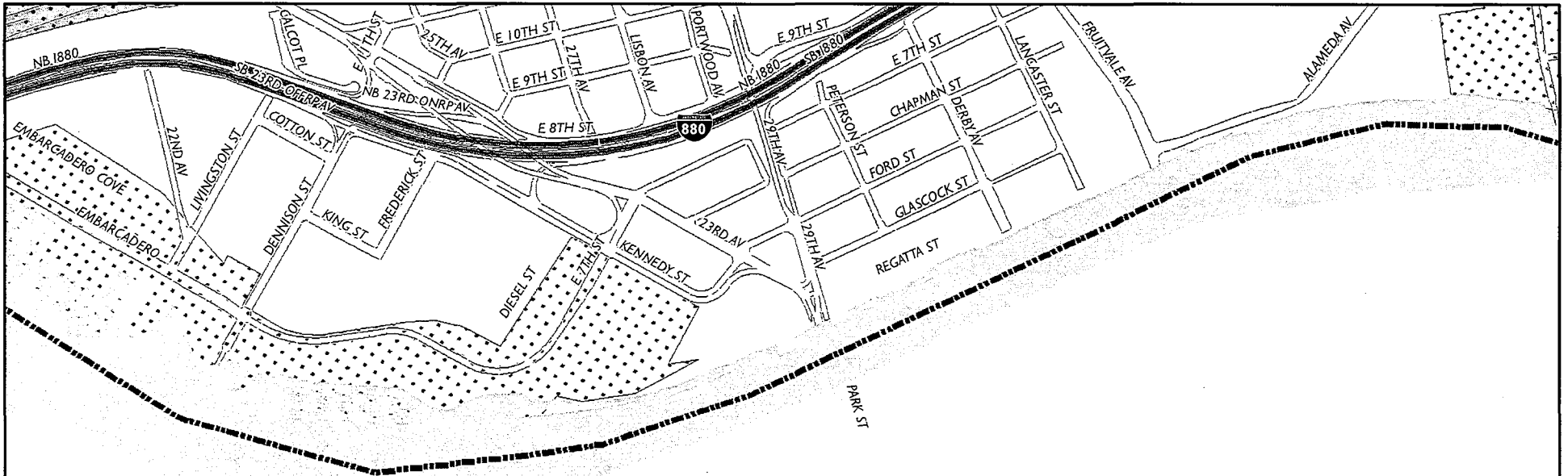
2016 Food Vending Program Permitted Area

0 500 Feet



Planning and Building Department
December 16, 2016

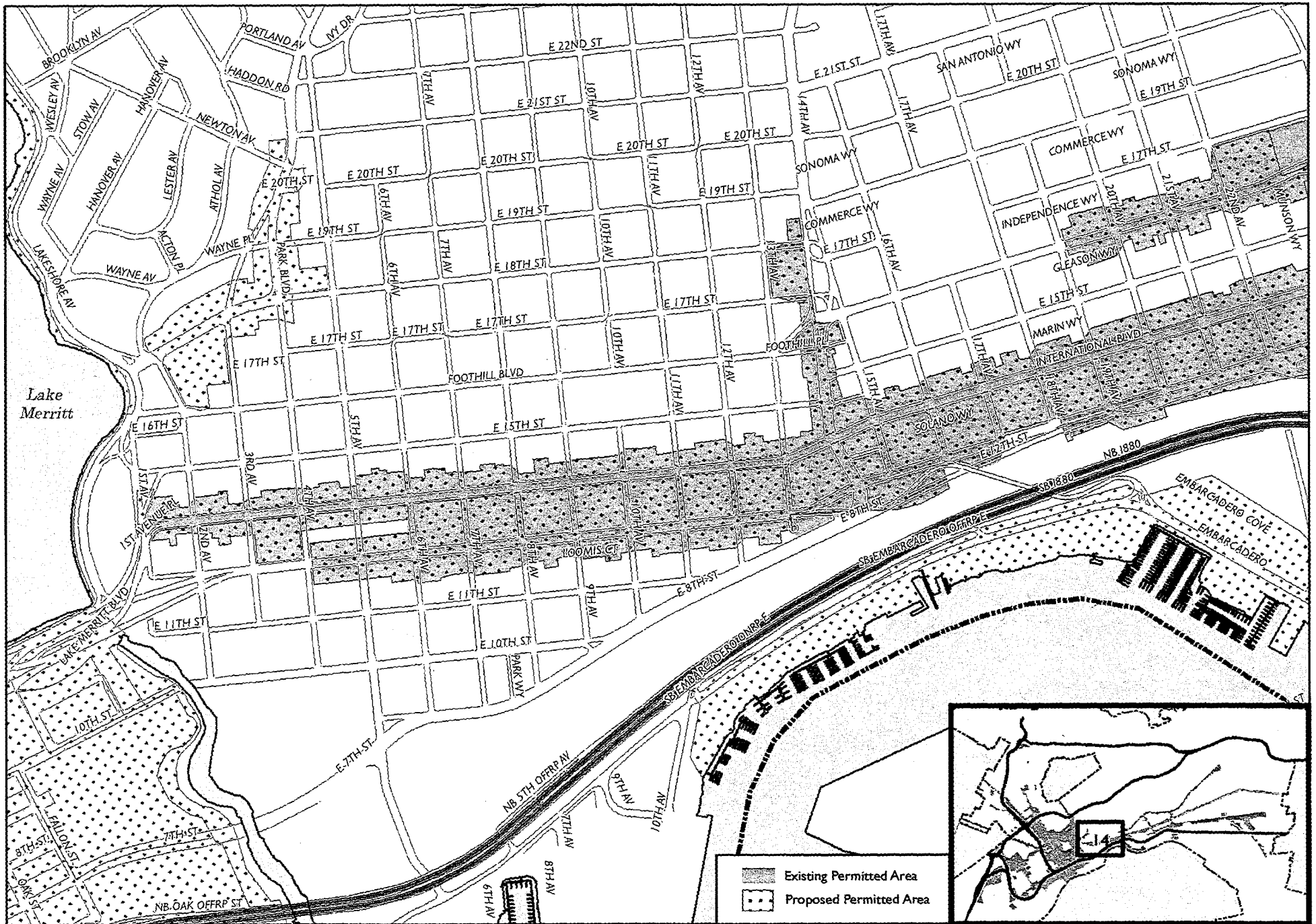
Tile 12



2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016



2016 Food Vending Program Permitted Area

0 500 Feet



Planning and Building Department
December 16, 2016

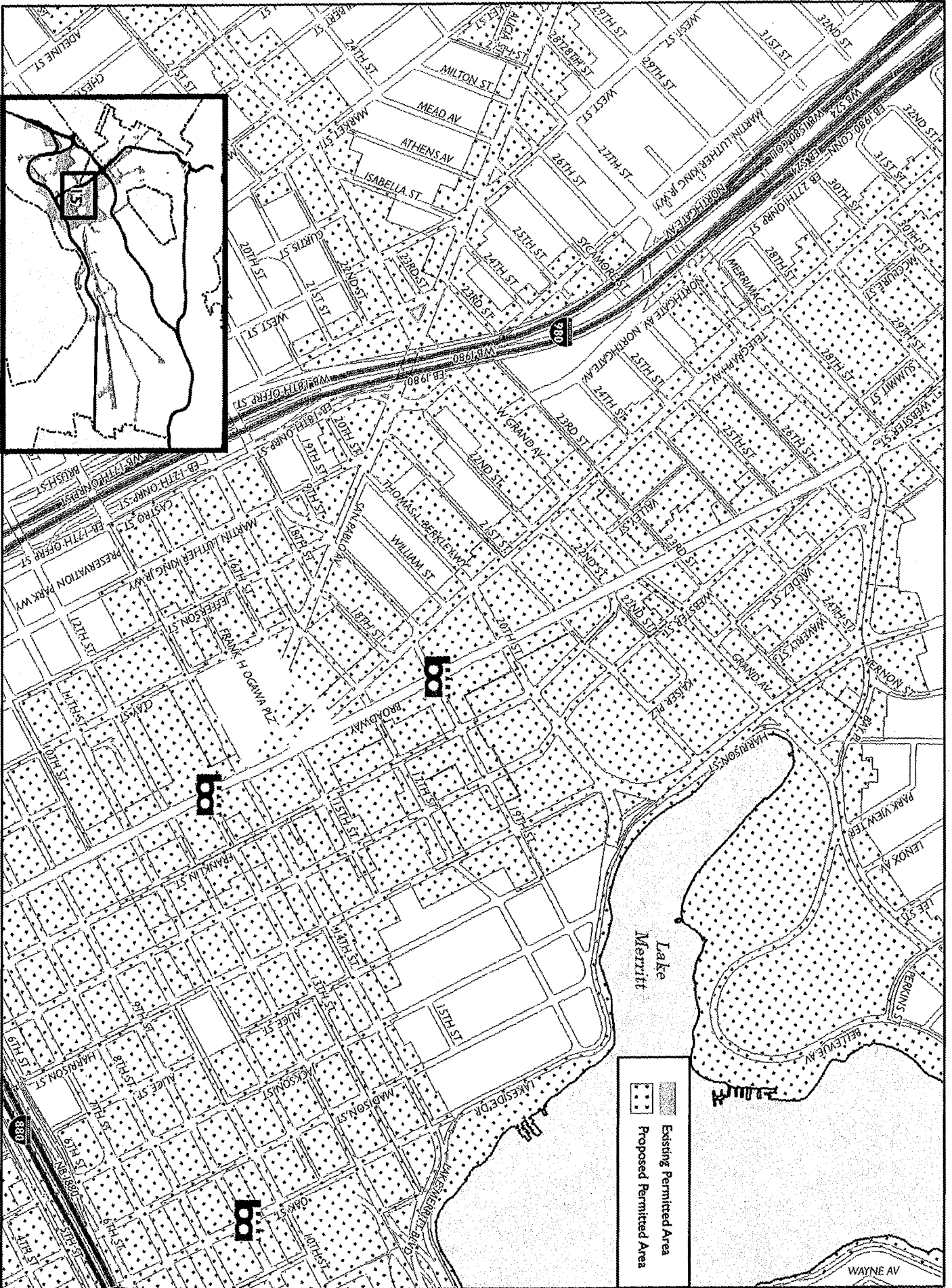
Tile 14



2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016
Tile 15

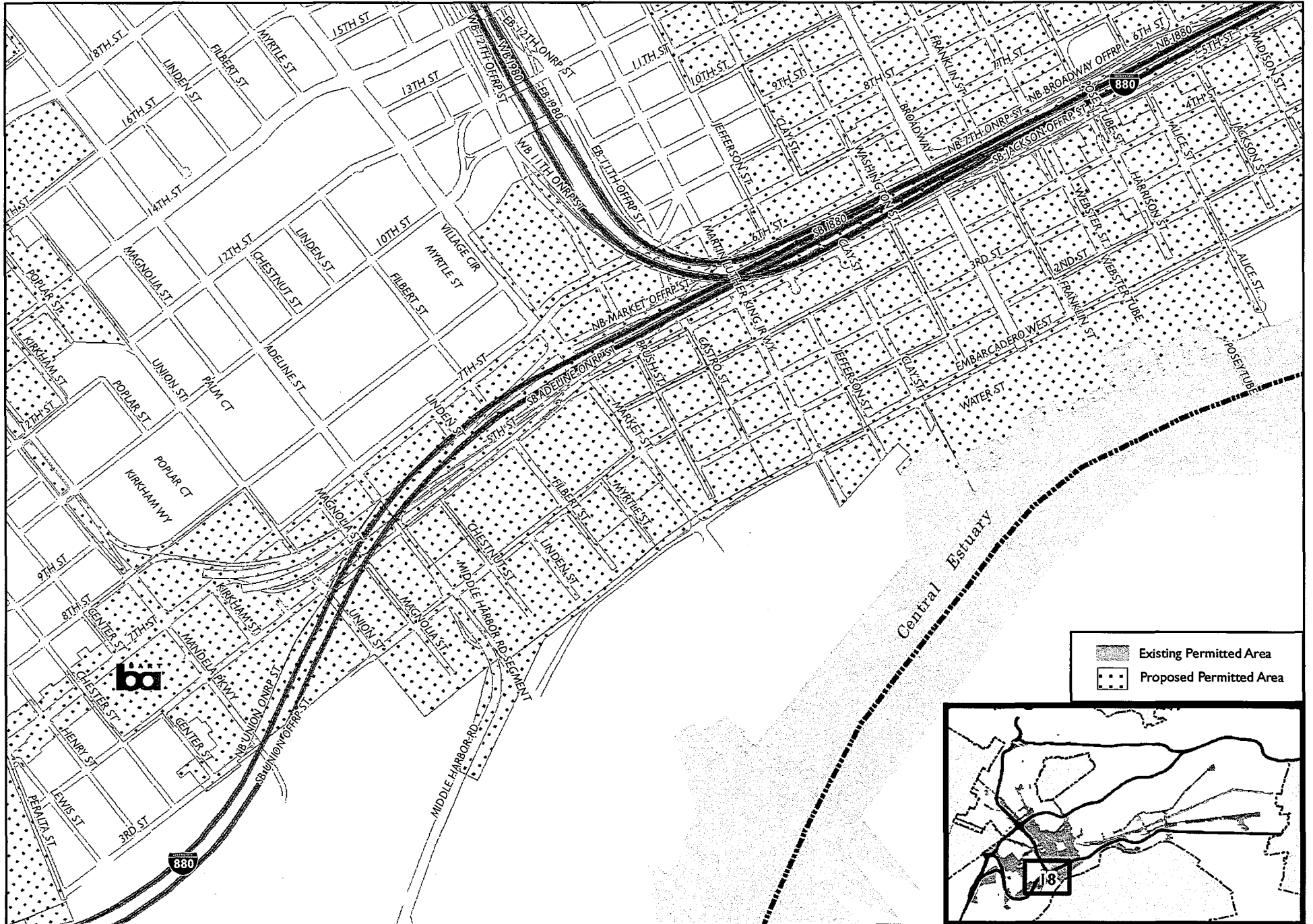




2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016

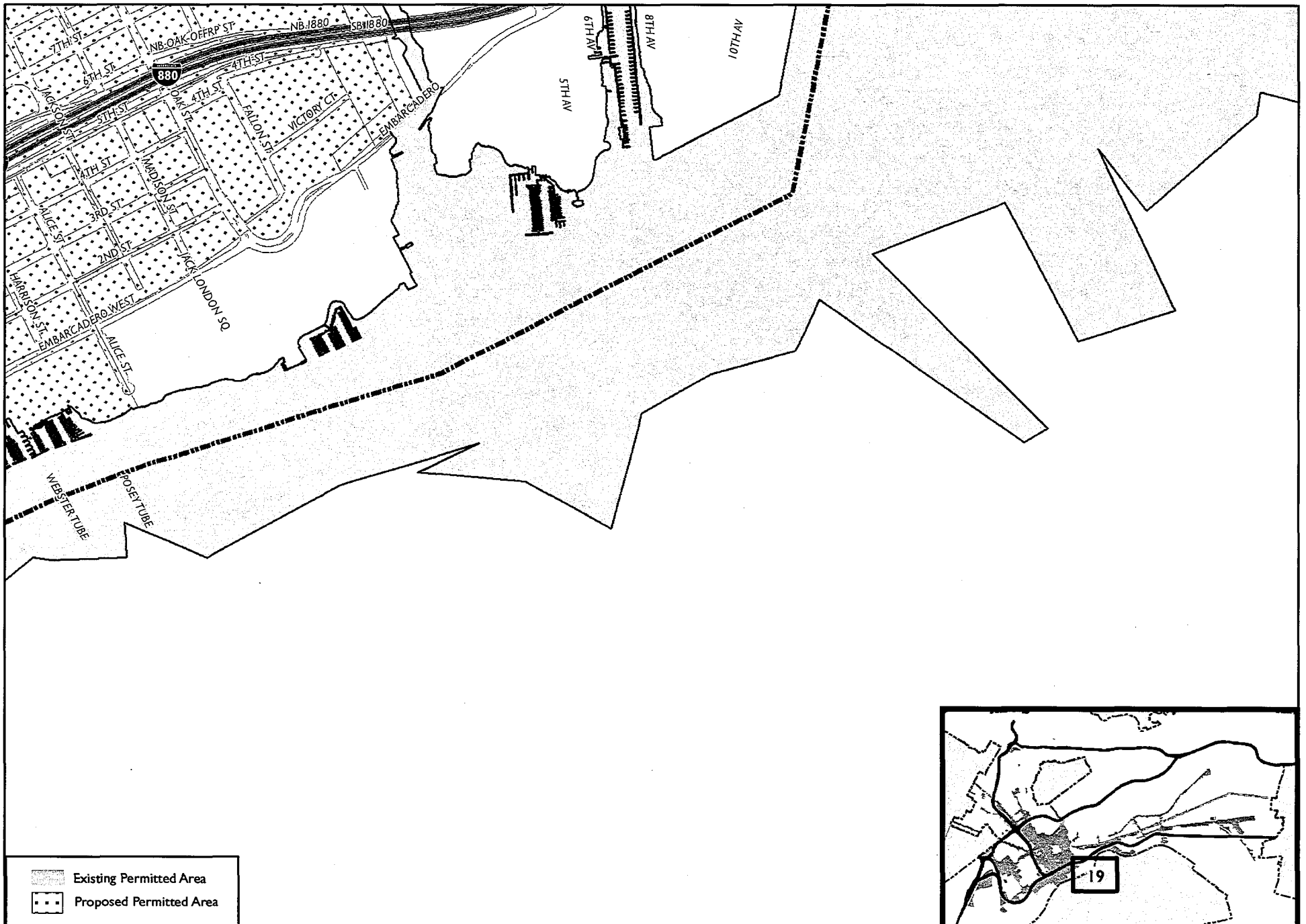




2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016

Tile 18



-  Existing Permitted Area
-  Proposed Permitted Area

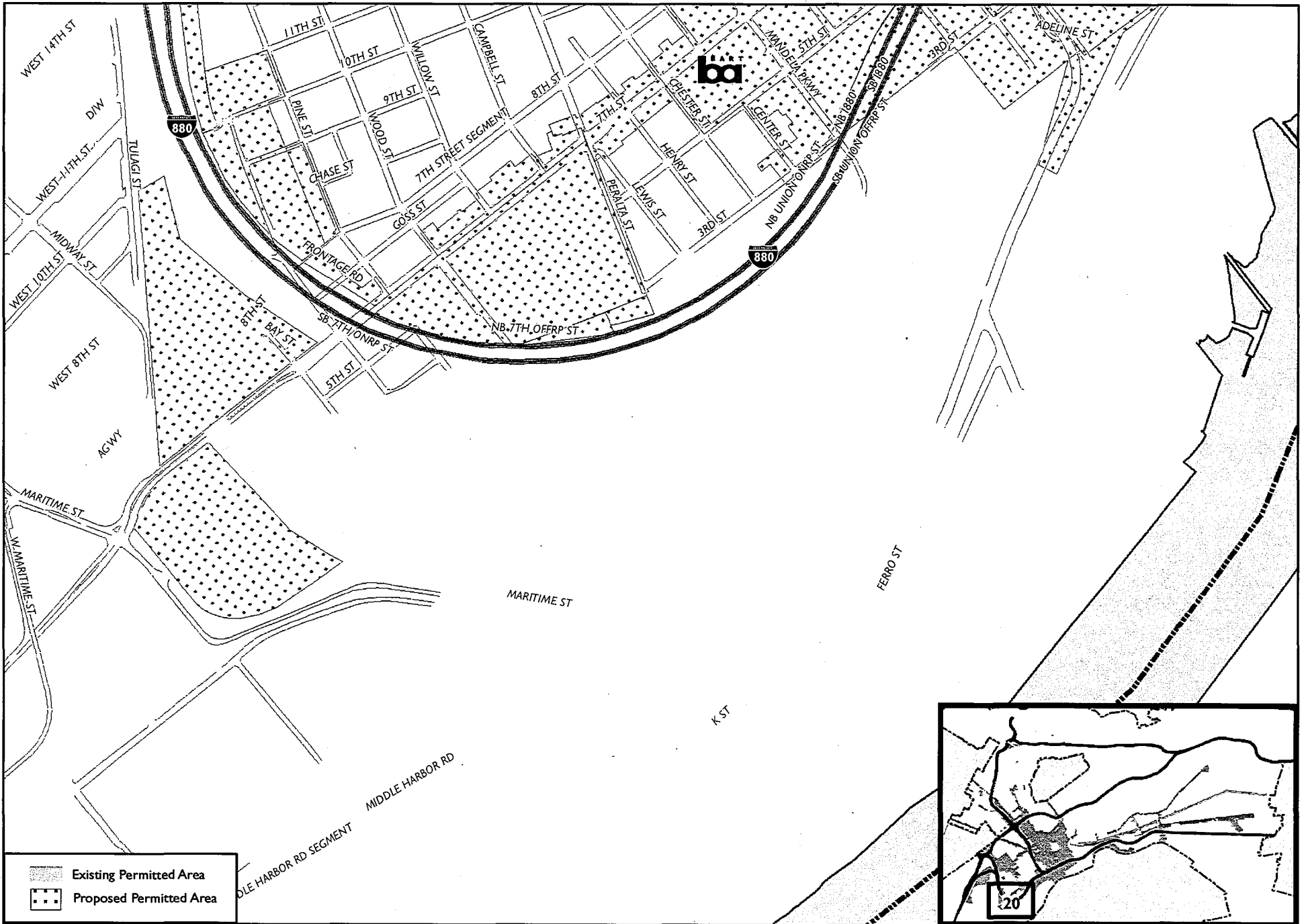


2016 Food Vending Program Permitted Area



Planning and Building Department
December 16, 2016

Tile 19



2016 Food Vending Program Permitted Area

Planning and Building Department
December 16, 2016





***Guidelines for the issuance of Food Vending Permits,
operating on private property and within public rights of way***

1. Purpose

On _____, 2017, the Oakland City Council adopted Ordinance No. _____ C.M.S., which amended the Oakland Municipal Code (OMC) and Planning Code to create a new citywide food vending program in OMC Chapter 5.51. The new regulations replace the previous interim food vending programs which were in effect in Oakland for fifteen years. The purpose of these Administrative Guidelines (“Guidelines”) is to assist staff with the issuance and enforcement of Food Vending Permits. These Guidelines provide flexibility in administering the permit program; however, the OMC prevails in cases where the Guidelines and OMC conflict. These Guidelines are to be made available to the public; are administrative in nature; and can be changed at the City Administrator’s or his or her designee’s discretion.

2. Definitions

Definitions pertaining to Food Vending are found in OMC Section 5.51.020. Below are additional explanations that supplement the adopted definitions.

- **“Healthy foods”** include, but are not limited to: Fruits; Non-fried vegetables; dairy foods; food made from nuts, seeds, legumes, cheese; foods made from whole grains (defined as 51% or more); foods which do not contain trans-fat. Beverages for sale in this definition include: water (preferred beverage); 100% fruit or vegetable juice; nonfat and 1% milk (including nonfat chocolate milk); and non-dairy milk, such as soy. No sugar-sweetened beverages are in this definition.
- **“Public right-of-way”** means City streets or sidewalks.
- **“Late night vending”** means food vending allowed past the regular permitted hour limit of 10 p.m., to a time as determined by the city, not to exceed 3 a.m.

3. Limits on Locations, Number of Permits and Hours of Operation

- a. **The Food Vending Program Permitted Area** is defined by a set of maps of locations, as referred to in OMC Section 5.51.050. These maps are attached to the end of this document and are incorporated by reference.

In general, the food vending permitted area allows food vending in selected Commercial, Industrial, and Open Space Zones. Specific exceptions are:

- i. Vending from food trucks or similar vehicles is prohibited within the International Boulevard street right-of-way and on private property, between 1st and 105th Avenues during the construction period of the Bus Rapid Transit (BRT) Line, and for one year after the start of its full operation. Only vendors with a history of permitted food vending on International Blvd. will be issued permits to continue to vend on International Boulevard in this new program.
- ii. Vending from any type of food vending facility is prohibited within the Fruitvale Avenue public right-of-way (street and sidewalk) between East 12th Street and East 22nd Street. Vending from private property on Fruitvale Avenue is permitted.
- iii. Vending from food trucks or similar vehicles is prohibited within the Broadway street right-of-way between Embarcadero and 27th Street. Other types of food vending on this portion of Broadway is permitted.
- iv. Individual food vending will not be permitted in CN-1 Zones. Only Group Site food vending applications will be considered in CN-1 Zones.
- v. Distance from schools: Per OMC Section 5.51.050, food vending is not permitted within 500 feet of any school serving children between kindergarten and high school, with the following exceptions:
 1. Food sales are permitted after 6pm, Monday through Friday and on weekends.
 2. If a food vendor receives written consent from the supervising entity of the school to serve “healthy food” (as defined in these Administrative Guidelines) during certain hours. For OUSD Schools, the supervising entity is the Executive Director of OUSD Nutritional Services.
- vi. Distance from other individual food vendors or group sites: Per OMC Section 5.51.050(B), individual vendors and group sites are not permitted to operate within 300 feet of any other food vendor or group site, with the exception of individual vendors or group sites that are permitted to operate on different days of the week from the same location. Food vendors that are “grandfathered” in to a particular location as described in Subsection 4c. below may be exempted from this distance separation requirement, as long as the granting of a

Food Vending Permit for such a location will not have an adverse impact upon the public health, safety, or order.

- vii. Distance from restaurants: Per O.M.C. Section 5.51.050(C), individual vendors and group sites are not permitted to operate within 100 feet of a Limited or Full-Service Restaurant, with the exception of individual vendors or group sites that receive written permission from a restaurant owner to operate on the same lot as the restaurant, or are permitted by the city to operate only during the hours that a restaurant is closed. Distance from a restaurant will be measured to the front door of the restaurant. Restaurants which are not street-facing, but which are within buildings (i.e. on a mezzanine), will be measured from the parcel boundary. Individual vendors and group sites that receive a city food vending permit to vend at a particular location may be exempted from this distance separation requirement if a restaurant is to open closer than 100 feet after initial issuance of the food vending permit, as long as the renewal of a Food Vending Permit for such a location will not have an adverse impact upon the public health, safety, or order.
 - viii. Distance from farmer's markets and monthly special events: There is a 100-foot distance requirement during hours of operation between a scheduled farmer's market which features food vending as part of its regular program, and any non-affiliated food vendor; there is also a 100-foot distance separation requirement between a monthly special event (e.g. "First Fridays") and any non-affiliated food vendor during hours of operation of the special event.
- b. Stationary cart locations on sidewalks:** Food carts may be stationary (OMC Section 5.51.020). The preferred location for stationary food carts vending from a fixed location are on sidewalks ten (10) feet wide or greater. A map of sidewalk widths in the permitted area is available to staff and the public. Individual food vending facilities or group sites cannot block or impede access under the Americans with Disabilities Act (ADA) to the public facilities listed in OMC Section 5.51.050(c). In addition, stationary carts must maintain a minimum clearance of:
- 1. Fifty (50) feet of any vehicle entrance of any fire station, police department, hospital, or any other building with a health and safety activity;
 - 2. Fifteen (15) feet from the angular return of any sidewalk, and may not obstruct the use of any corner or mid-block accessible curb ramps, or any access ramp designed for persons with disabilities;
 - 3. Fifteen (15) feet from any building entrance or exit, intersection, or driveway;
 - 4. Fifteen (15) feet from any delineated bus zone / bus stop;
 - 5. Fifteen (15)) feet from fire hydrants or a fire escape;
 - 6. Fifteen (15) feet from any outdoor seating area of a restaurant or café; or parklet;
 - 7. Fifteen (15) feet from a red-zone/ stripped curb;
 - 8. Ten (10) feet from the area in front of display windows of fixed location businesses;

9. Six (6) feet from existing street equipment, including but not limited to parking meters, pedestrian signal crossings, fire alarms, news racks, kiosks, benches, bike racks, etc.;
10. Two (2) foot clearance is required along the curbside for pushcarts operating adjacent to existing on-street parallel parking.

In addition to the minimum clearance regulations, the Permittee is prohibited from placing any freestanding A-frames, displays, signs, or other similar obstruction within the public right-of-way. No more than one (1) storage container or cooler, and one (1) refuse collection receptacle is allowed per vending operation within the public right-of-way.

c. Limitations of Food Vending Facilities in the street right-of-way.

- i. The City will designate, sign and stripe up to 50 curb-side parking spaces in the street right-of-way for food vehicles, within the permitted program area map. These sites will be the only sites permitted for food vending in the street right-of-way.
- ii. Food Vehicles and trailers must obey the vending limitations and regulations in these guidelines. Vendors must pay the parking meter, if any, at regular rates during their hours of vending from the designated spaces.
- iii. The City will select the designated parking spaces for food vending in the street right-of-way according to the following criteria:
 1. The buffer distances between parks, schools, farmers' markets and other vendors will be maintained.
 2. Prioritize curbside parking spaces in areas of the City which are currently underserved by food outlets (i.e. restaurants, cafes and grocery stores). For the purposes of this subsection, "underserved" means areas of the city with no more than one (1) existing approved food outlet within a 300-foot radius.
 3. Street parking spaces chosen will be at least one space away (if not further) from an AC Transit bus stop on one of AC Transit's "Major Corridors." Also, parking spaces adjacent to street corners where AC Transit buses on "Major Corridors" make regular turns will not be selected. These criteria will reduce conflict between routine transit operations, and Food Vehicles and their patrons.
- iv. Permits to vend from the designated spaces in the street right-of-way will be granted in these configurations:
 1. Five (5)-day per week permits, granted to a single vendor;
 2. Two (2)- and three (3)-day per week permits, where two individual vendors "share" five vending days per week; and
 3. One (1)-day per week permits.

At no point will vending from designated parking spaces in the street right-of-way be permitted for longer than five (5) days per week. Vendors will be allowed to apply for multiple designated street parking locations, based on the three configurations above. The City will consider whether all designated street parking spaces be eligible for the maximum 5-day per week permit.

- v. Each food vending facility at a group site must be sited in a manner to insure that the customer queue maintains a minimum five (5) feet of unobstructed clear path along any public sidewalk or right-of-way when the service window faces the street or sidewalk.
- d. Limits on the number of certain types of Food Vending Permits issued.** The following establishes a limit on the number of Food Vending Permits that the city may issue for individual food vending facilities and group sites on private property, and for pushcarts or stationary carts on public or private property during the first year of the new food vending program (2017):
- i. A maximum of one hundred (100) Food Vending Permits may be issued for individual food vending facilities and group sites on private property. No more than one hundred (100) such permits may be active at any one time.
 - ii. Separately, a maximum of one hundred (100) Food Vending Permits may be issued for pushcarts or stationary carts to operate on public or private property within the City. No more than one hundred (100) such permits may be active at any one time. In addition, no more than thirty (30) such Permits may be issued for pushcarts or stationary carts to operate within the following boundaries: Fruitvale Avenue and High Street between Interstate-880 to the west and Foothill Boulevard to the east, Foothill Boulevard between 19th Avenue to the north and MacArthur Boulevard to the south, International Boulevard between First Avenue to the north and 105th Avenue to the south, and San Leandro Street between Fruitvale Avenue to the north and 98th Avenue to the south. East 12th Street between 4th Avenue to the west and 23rd Avenue to the east, 14th Avenue between East 11th Street in the south and East 19th Street in the north.
- e. Hours of operation and late-night vending.**
- OMC Section 5.51.170 regulates hours of operation. Further administrative guidelines are:
- i. The regular permitted hours for all food vending facilities (including trucks, trailers, stationary carts and pushcarts) and group sites is 7 a.m. to 10 p.m., daily.
 - ii. Permission for “late night vending” (past the regular permitted hour limit of 10 p.m. to a time as determined by the city, not to exceed 3 a.m.) will be considered in the following geographic areas:
 - 1. Downtown (including Jack London);

2. Eastlake;
3. Uptown;
4. Fruitvale;
5. Central and east Oakland streets formerly in the permitted food vending area.

iii. “Late night vending” requests in these areas will be reviewed based on the following factors:

1. The location’s proximity to homes and residences;
2. Any history of complaints or Police calls for service against the vendor/applicant;
3. Whether there is adequate space for customer parking and queuing; and
4. Whether the vending operation is likely to create noise, odors, or crowds which could cause a public nuisance.

Stationary carts and pushcarts are excluded from late night vending, except for locations downtown.

iv. Group sites in the public right-of-way will have specific hours determined by the City Administrator or his/her designee, and may not exceed more than five (5) hours of food vending operation on any day of permitted group site activity, unless specified otherwise at the discretion of the City Administrator or his her designee. For group sites in the public right-of-way, the number of vending dates allowed under a food vending group site permit will not exceed two (2) dates per week.

There is no limit to the number of days that Group Sites can vend on private property.

f. Limits to number of Individual Vending and Group Site permits

Each food vending applicant may be granted no more than four (4) individual Food Vending Permits in one year. A separate Food Vending Permit is required for each vending apparatus under common ownership (e.g. permit #1 for a pushcart, permit #2 for a food truck, etc.).

Each Group Site Organizer may be granted no more than five (5) group site permits/locations in one year. A separate Food Vending Permit is required for each group site location.

4. Types of Permits, Priority for Issuance; “Grandfathering”; Lottery system; Proof of Insurance

a. Types of Permits

There are two types of Food Vending Permits, Annual and Temporary:

- i. Annual Food Vending Permits expire after one (1) year unless renewed under the provisions of Section 5.51.140.
- ii. Temporary Food Vending Permits expire after ninety (90) days and may be renewed for one additional 90-day time period. A renewal will require a new application and fee. *Temporary food vending permits will not be issued during year one of the program (2017).*

b. Priority for Issuance

During the first year of the program, the Bureau of Planning will review and issue Food Vending Permits in the following order of priority:

- i. Priority Group One: Vendors with valid, unexpired Oakland Food Vending permits (i.e. 2016-2017 Food Cart “FC” or Food Vehicle “FV” permits);
- ii. Priority Group Two: Vendors with expired Oakland Food Vending permits (i.e. 2001-2015 Food Cart “FC” or Food Vehicle “FV” permits);
- iii. Priority Group Three: Vendors applying for City-designated parking spaces in the public right-of-way; and
- iv. Priority Group Four: All other vending applicants.

During this first year of the program, applicants with current or expired Oakland Food Vending permits will have their applications reviewed based on the buffering standards that applied at the time of the initial permit issuance (that is, a 200-foot distance between two trucks and a 100-foot distance between a pushcart and all other food vendors). As a result, permits may be granted for a previously permitted location that does not meet the current buffer distances in OMC Section 5.51.050.

After the first year of the program, all new permit applications will be reviewed with equal priority and according to the current requirements for a Food Vending Permit in OMC Chapter 5.51 and/or in these Administrative Guidelines. However, all permits that are renewed on an annual basis will continue to be evaluated according to the standards that applied at the time of the initial permit issuance.

c. “Grandfathering”

In the process of administering the criteria above for issuing Food Vending Permits during the first year of the program the city may issue permits for vending locations that do not meet the current buffer distance requirements, as long as the vending applicant already possesses a valid, unexpired Oakland Food Vending permit for the requested location (i.e. 2016 Food Cart “FC” or Food Vehicle “FV” permits), or has a history of prior Oakland Food Vending permits for the requested location, but which have since expired.

During the first year of the program, staff will review the new applications by current or previous food vending permit holders based on the buffering standards that applied at the time of the initial permit issuance; that is; a 200-foot distance between two trucks; and a 100-foot distance between a pushcart and all other food vendors. Staff will only “grandfather” in locations which were permitted within the original program permit area. The details of this procedure are in OMC Section 15.51.110.

If multiple applications are submitted for the same vending location, staff will first issue Food Vending Permits in the order of priority above in Section 4b. If applications submitted for the same location meet the same level of permit priority, the City will institute a lottery system to ensure fairness and equity.

d. Lottery system

The Planning Bureau will administer a lottery procedure for applications for sites where two (2) or more vendors are seeking to locate, and none have established previous permit approvals for that specific site, per Section 4c, above.

e. Proof of Insurance

Vendors who operate in the public right-of-way (streets and sidewalks) must show proof of, and maintain adequate commercial general liability insurance, automobile liability insurance, and, worker’s compensation insurance (if there are employees). The City of Oakland sets insurance requirements in “Schedule Q”¹ which are summarized here for reference:

- i. “Commercial General Liability insurance shall cover bodily injury, property damage and personal injury liability for premises operations, independent contractors, products-completed operations personal & advertising injury and contractual liability.” And, vendor “shall provide insured status naming the City of Oakland, its Councilmembers, directors, officers, agents, employees and volunteers as insured’s under the Commercial General Liability policy.”
- ii. Vendor “shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident.”
- iii. Vendor “certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to provide Workers’ Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code.”

¹ See Schedule Q, at the City’s website, <http://www2.oaklandnet.com/oakca1/groups/contracting/documents/form/oak023255.pdf>

5. Food Vending Permit approval, approval with conditions, or denial.

- a. For the first calendar year of the program, the Bureau of Planning will accept Food Vending Permit applications during one or more designated application periods only. The application period(s) during the first year of the program will be one (1) calendar month in length; and if more than one application period is designated, will be set at different times throughout the first calendar year at approximately 2- to 6-month intervals.
- b. After the first year of the program and ongoing, the Bureau of Planning will accept new Food Vending Permit applications at any time throughout the calendar year.
- b. At the time of Food Vending Permit application, the applicant vendor or group site organizer will obtain from the Bureau of City Planning, a list of names and mailing addresses of all persons shown on the last available assessment roll as owning the City of Oakland lot or lots adjacent to the vending site and directly across the street; and a Notice to Neighboring Property Owners form which includes a description of the proposed vending operation and contact information.
- c. Prior to the subject application being deemed complete, the applicant must provide a completed copy of the Notice form, as well as a site plan that shows the proposed vending location to all persons shown on the last available assessment roll as owning the City of Oakland lot or lots adjacent to the vending site and directly across the street.
- d. All required notification of adjacent and across the street property owners must be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application.
- e. The Bureau of Planning will determine whether the subject application meets the requirements for a Food Vending Permit in OMC Chapter 5.51 and/or in these Administrative Guidelines.
- f. Decision by the Director of City Planning. The Director of City Planning or his/her designee will approve, approve with conditions, or deny a Food Vending Permit application based on the standards and criteria in OMC Chapter 5.51 and/or in these Administrative Guidelines. The Director of City Planning or his/her designee may impose conditions of approval on a Food Vending Permit in the exercise of his or her reasonable discretion. The applicant will be notified of any conditions of approval in writing.

6. Food Vending Permit expiration and renewal.

- a. Each Annual Food Vending Permit will be valid for twelve (12) months from the month of issuance, and expire and become null and void on the anniversary of its issuance if not renewed as described in Subsection b. below.
- b. Holders of an Annual Food Vending Permit who wish to vend in the city on a multi-year or ongoing basis will need to apply annually to the Bureau of Planning for a Food Vending Permit renewal prior to the expiration of their active Food Vending Permit. All renewal applications need to be filed with the Bureau of Planning pursuant to the procedures in OMC Chapter 5.51 and/or in these Administrative Guidelines. As stated in OMC Section 5.51.110.A, all Food Vending Permits that are renewed on an annual basis will continue to be evaluated according to the standards that applied at the time of the initial permit issuance.
- c. Each Temporary Food Vending Permit will expire and become null and void after ninety (90) days, and may only be renewed for one additional consecutive 90-day time period. As

mentioned earlier in these Administrative Guidelines, Temporary Food Vending Permits will not be issued during year one of the program (2017).

7. City Departments—Responsibilities

- a. **City Administrator.** Under OMC Section 5.51.030, “the City Administrator or his/her designee is authorized to issue such Administrative Guidelines, not inconsistent with this Chapter, governing the issuance of Food Vending Permits.” The City Administrator has designated the Bureau of Planning, within the Planning and Building Department, to administer and issue Food Vending Permits. The City Administrator or his/her designee may periodically revise these Administrative Guidelines and the Program Permitted Areas map, following the procedure described in Section 11 of these Guidelines.
- b. **City Administrator’s Office, Special Activities and Nuisance Abatement staff.** The Special Activities and Nuisance Abatement staff of the City Administrator will enforce the regulations, including citation and possible impoundment for violations. Newly created and newly hired Enforcement officers are to be hired for this role.
- c. **Bureau of Planning.** The Bureau of Planning will administer and issue Food Vending Permits, through the planning and zoning counter, at 250 Frank Ogawa Plaza, 2nd Floor. The Bureau will maintain the website, www.oaklandnet.com/foodvending, provide outreach and informational materials, and will conduct trainings for the public and interested parties, and publicize a phone number and email address for people to contact for more information. The Bureau will maintain an “applications on file” list for interested parties. The Bureau will recommend to the City Administrator when revisions to the Guidelines, or to the Program permitted areas map are necessary, and report back to City Planning Commission and the City Council on such revisions, as well as the permit and enforcement activity of the Food Vending Program during the previous year.
- d. **Business Tax Office (Revenue):** The Business Tax Office will issue Business Tax Certificates to individual food vendors/applicants.
- e. **Oakland Fire Department:** The Oakland Fire Department will inspect propane and other gas tanks on a vehicle, during an initial inspection, before the City’s permit is granted. One annual inspection will be completed at the time of application or renewal.
- f. **Oakland Police Department (OPD):** OPD will be on call to support the enforcement efforts of the City Administrator’s Office. The OPD is not expected to initiate enforcement efforts, but rather to coordinate as needed with the City Administrator and/or Alameda County Environmental Health.
- g. **Oakland Parks and Recreation (OPR):** OPR will issue a separate parks permit, for an additional fee, to vendors who seek a permit to vend in a park within the permitted area (such as Lakeshore Park/Lake Merritt). See Section 8, below.

- h. Department of Transportation – parking enforcement division:** will assist with identifying and citing violations of parking meter usage and painted curbs, along with permit placards identification.

8. Good Neighbor Policies

Permit holders will manage their food vending facility according to the following good neighbor policies:

- a. Vendor will maintain a quiet, safe and clean selling location.
- b. Vendor will provide adequate storage and disposal of garbage and trash.
- c. Noise and odors will not become a nuisance or burden on neighbors. This includes noise from food truck generators, motors and fans, and from customer's automobiles and radios, particularly at night.
- d. Vendors or their employees will walk a one hundred (100) foot radius from the food vending site after close of business, and dispose of beverage and serving materials or other trash left by their customers.

9. Parks

Food vending is allowed in, and adjacent to, larger Oakland parks, and neighborhood parks Downtown with the permission of the Central Reservation office of Oakland Parks and Recreation. There will be an additional fee for food vending in and adjacent to Parks. Food vending applications for locations in Parks will be evaluated and permitted by staff under the following criteria:

- a. The Park must be within the permitted vending area.
- b. Any proposed vending location in a Park which is also within 500 feet of a school will be evaluated according to the OUSD procedure in Section 3(a) of these Administrative Guidelines.
- c. Vending inside Parks is limited to four (4) hours daily.
- d. The vending location in a Park should be oriented away from residences (some Parks are adjacent to residences); locations for vending should preferably be in the section of a Park which front onto a major street, or on the public right-of-way (parking spaces) that are adjacent to Parks, when possible.
- e. Fees to OPR are those in the 2017-2018 Master Fee Schedule.

10. Revisions and changes to Food Vending Program, including Program Permitted areas map

Changes to the adopted Food Vending Program in Chapter 5.51 O.M.C. may only be done by an ordinance adopted by the City Council. Changes to these Administrative Guidelines and to the Program Permitted areas map will follow a separate adoption sequence, to ensure the public has an opportunity to review and comment on the changes:

- a. Any proposed changes to the Administrative Guidelines and to the Program Permitted areas map will be coordinated by the City Administrator or his/her designee with the departments listed in Section 6 of this report.
- b. Any proposed changes will be posted on the city Food Vending web page, and made available for inspection and copying by the public at the Bureau of Planning.
- c. A copy of any proposed changes to the Administrative Guidelines and to the Program Permitted areas map will also be mailed to each holder of a permit or license issued under this program.
- d. A thirty-day (30) public comment period to receive comments on the proposed changes to the Administrative Guidelines and to the Program Permitted areas map will commence on the date the notice of the proposed changes is sent to those permitted or licensed under this program. During the comment period, any person may submit written comments regarding the proposed changes to the City Administrator or his/her designee.
- e. After the close of the public comment period, the City Administrator or his/her designee will consider all reasonable public comments on the proposed changes to the Administrative Guidelines and to the Program Permitted areas map; and will approve the final changes.
- f. The final changes to the Administrative Guidelines and to the Program Permitted areas map approved by the City Administrator or his/her designee will become final on the date the changes are posted on the City's food vending webpage.

11. Reports to Planning Commission and City Council

Planning Bureau staff agreed during the public hearing process to make annual presentations of informational reports at public hearings before the Planning Commission and the full City Council. The informational report will contain at least the following information:

- Numbers of Food Vending permits issued and outstanding in the previous year;
- Revenue collected from permit fees, from enforcement action and from business tax;
- Changes made by staff to the Administrative Guidelines;
- Changes made by staff to the Program Permitted Area maps;
- Summary of community meetings, staff discussions with vendors and the public ;
- Recommendations from Staff for future changes and adjustments to the program.

12. Contacts for further information

- City Administrator Office/Special Activities: 510-238-3294
- Planning Bureau: Devan Reiff, 510-238-3550/ Aubrey Rose, 510-238-2071
- Fire Department: Inspector, 510-238-3851
- Alameda County Environmental Health: 510-567-6700

Attachments

Program Permitted Area maps

--