

CITY OF OAKLAND
AGENDA REPORT

2011 NOV 22 AM 10: 05

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Community and Economic Development Agency
DATE: December 6, 2011

RE: An Ordinance Establishing Interim Regulations For The Review Of Mobile Food Vending Group Sites Within The Limited Area Of The City Of Oakland Defined, In Part, By Council Districts 1, 2, 3, And 4. The Interim Regulations Contained Herein Shall Remain In Place And Be Effective Through January 1, 2013, Or Until The City Council Adopts New Permanent Mobile Food Vending Regulations, Whichever Comes First; and

An Ordinance Amending The Master Fee Schedule (Ordinance No. 13024 C.M.S. As Amended) To Establish An Interim Food Vending Group Site Application Fee, Notification Fee And Permit Fee.

SUMMARY

“Mobile Food Vending” refers to the sale of prepared foods from a truck, trailer, or other movable wheeled equipment or vehicle during hours of operation. Currently, Mobile Food Vending is only permitted with a Food Vending Permit in limited areas in the City, as designated by Oakland Municipal Code (OMC) Chapters 5.49 Pushcart Food Vending and 8.09 Vehicular Food Vending, respectively; or with the granting of a Major Conditional Use Permit (CUP) in all other areas of the City where a “Fast Food Restaurant Commercial Activity” (as defined by the Oakland Planning Code) is conditionally allowed. Mobile Food Vending within the public right-of-way (e.g. parking a food truck on the street) is not currently allowed anywhere in the City, except through the granting of a Special Event Permit by the Oakland Police Department, or by passage of an ordinance or resolution establishing and regulating a street market in the city.

In April and June 2011, Planning staff presented preliminary proposals to comprehensively update the City’s regulations relating to Mobile Food Vending to the Community and Economic Development (CED) Committee of the City Council. The CED Committee provided direction to staff to conduct more outreach to affected stakeholders, including vendors, “brick and mortar” restaurants, and other City and County staff that could play a role in implementing the regulations, in order to develop a proposal that would accommodate the growing demand for more Mobile Food Vending, while also addressing concerns. The expressed concerns related to adequate enforcement, public health and safety, competition with established “brick and mortar” restaurants, and the ability of the City to recover costs associated with implementation and

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enforcement of any proposed regulations. Since then, staff has been meeting with stakeholders and other City and County staff to develop permitting, operating, and enforcement standards for a comprehensive mobile vending program that addresses vending on both private and public property, and in the public right-of-way (streets and sidewalks). Staff anticipates bringing new citywide draft Mobile Food Vending regulations to the CED Committee in early 2012.

Until permanent regulations can be adopted, Planning Staff have been directed by the CED Committee at their November 8th, 2011 meeting to develop an *interim* pilot program for the review of Mobile Food Vending "Group Site" or "Pod" events in Council Districts 1, 2, 3 and 4. A food vending "Group Site" or "Pod" refers to the stationary operation of three (3) or more mobile food vendors clustered together on a single site. Food Vending "Group Sites" or "Pods" typically include a specified arrangement and maximum number of vending unit spaces for use by individual mobile food vendors during hours of operation.

As directed by the CED Committee, Staff has developed a proposed interim Food Vending Group Site Pilot Program that would create a new permitting process under the City of Oakland's Municipal Code Title 5: "Business, Taxes, Permits and Regulations," for limited Mobile Food Vending "Group Site" events in Council Districts 1, 2, 3 and 4. This interim permitting process for limited mobile vending events in Districts 1, 2, 3 and 4 would sunset upon adoption of new comprehensive Citywide Mobile Food Vending regulations.

FISCAL IMPACT

The proposed interim Food Vending Group Site Pilot Program includes an amendment to the City of Oakland's Master Fee Schedule for a new application fee, notification fee, and a per event fee. As described in further detail below under Program Description, the permit applicant would be the organizer of the event for a specified location, size, frequency and duration; once a permit is issued, a specified number of individual mobile food vendors would be allowed to operate at the Group Site location under the applicant's single "umbrella" permit, with submittal of Proof of valid City of Oakland business tax certificate and Alameda County Health Permit.

A nonrefundable application fee of \$421.66 would be assessed upon application for an interim Food Vending Group Site Permit. If an application is approved, a notification fee of \$200.00 would also be charged to cover the cost of preparing a one-time required noticing of property owners, business owners, and building occupants located within three hundred (300) feet of the Group Site location.

After an Applicant is issued a Group Site Permit that specifies the first approved vending date at the Group Site location, the Applicant may apply at any time during the same 12-month period for additional vending dates, not to exceed the maximum allowed vending frequency per Permit

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of up to two (2) dates per week or forty (40) total vending dates per 12-month period, upon payment of a per event fee of \$100.00 for each additional vending date.

In addition, there may be other permits and inspection fees that are required, including but not limited to, from the Oakland Police Department if a proposed event would require short-term encroachments into the public right-of-way or street closures; or from the Fire Department if use of propane or an open flame is proposed. The fees for these permits and inspections are already part of the City's Master Fee Schedule (and are described further below under Program Description).

Proposed fees are set at a level that staff believes will recover costs associated with implementation of the interim Pilot Program, and the permitting and review of food vending activities by the City Administrator, or his or her designee. Fees will be reassessed as part of the development of a new permanent citywide program regulating mobile food vending. Any fees collected by the City of Oakland's Community Economic Development Agency (CEDA) will be deposited into the "Development Services Fund" (2415).

BACKGROUND

In 2001, the Council adopted regulations to establish an eighteen-month pilot program for both pushcart and vehicular food vending.¹ The City's pilot program regulations were then revised and made permanent in 2004, when the Council decided to establish ongoing pushcart and vehicular food vending programs in limited areas along certain major corridors east of Lake Merritt.² These areas and regulations are specified in O.M.C. Chapter 5.49, Pushcart Food Vending Pilot Program and Chapter 8.09, Vehicular Food Vending. Outside of the permitted areas specified in O.M.C. Chapters 5.49 and 8.09, Mobile Food Vending requires a Major Conditional Use Permit (CUP), and review and approval by the Planning Commission, except in instances where a Special Event Permit has been issued by the Oakland Police Department for a limited duration event, or by an ordinance or resolution establishing and regulating a street market in the city. (See *Attachments A and B* for a Summary of Oakland's Existing Mobile Vending Regulations and a Map of the Existing Mobile Food Vending Pilot Program Permitted Areas).

In the last few years, one of the more noteworthy food trends to emerge in cities like Portland, Seattle, New York, San Francisco, and Los Angeles, is the increasing number and popularity of high-quality mobile vendors offering a diversity of food choices from around the world. This

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

² Ordinance No. 12582 C.M.S. and 12583 established a permanent Pushcart Vending Program and amended the Master Fee Schedule, respectively; Ordinance No. 12580 and 12581 amended the Master Fee Schedule and established a permanent Vehicular Vending program, respectively.

food sales model has had a difficult time blossoming in Oakland though, due to the City's current regulations. Based on staff's research, mobile food vending can provide the following benefits:

- It has been shown to be an effective entry point to owning one's own business. For a comparatively modest investment, an entrepreneur can develop a track record in retail sales and develop a loyal clientele; some food vendors have stated a desire to eventually own "brick and mortar" restaurants at some point down the road.
- The experience of other cities shows that food vendors help activate "dead space" and tend to attract foot traffic to existing commercial districts— which means increased sales and more vibrant retail business overall.
- Food vendors also provide many business employees with convenient breakfast or lunch options in areas underserved by nearby restaurants.

At the same time, a number of concerns have been expressed about the City's existing pushcart and vehicular vending programs, and the potential of expanding the permitted areas for these activities, in particular in relation to such issues as:

- Potential competition with existing "brick and mortar restaurants";
- Ensuring proper public health permitting and inspections;
- Ensuring public safety, litter and cleanliness is maintained;
- The legitimacy of any associated commercial commissaries; and
- The ability of the city to enforce its regulations.

In April and June 2011, Planning staff presented preliminary proposals and a process to comprehensively update the City's regulations relating to mobile food vending to the Community and Economic Development (CED) Committee of the City Council. At that time, Staff proposed to focus, as a first phase of work, on developing solutions to identified problems with the current Pilot Program regulatory system; as well as creating potential new Program Permitted Areas outside of the existing Pilot Program Area that would allow for more food vending opportunities on private or public property — not including any street right-of-way.

Since then, Planning staff has met with a Technical Advisory Committee (TAC) composed of City and County staff from departments that currently do or could play a role in permitting and enforcement of mobile food vending including staff from the Community and Economic Development Agency (CEDA) - Planning and Zoning, CEDA-Building Services, the Finance Management Agency (FMA) - Business Tax, FMA - Parking, the Public Works Agency-Transportation Services, the Police and Fire Departments, and the offices of the City Administrator and the City Attorney. Staff has also met with stakeholders representing vendors, mobile food event organizers that have experience vending/organizing events in multiple jurisdictions, the City's business improvement and community benefit districts, and "brick and mortar" restaurants. Staff is also consulting with other cities that have been working on, or have recently adopted, mobile food regulations. In response to these meetings, staff has broadened the

initial phase of work to also include addressing individual mobile food vendors vending within the public right-of-way. Because of the additional number of departments involved and the additional complexity posed by regulating vending in the street, staff anticipates that they will bring a comprehensive set of regulations to the CED Committee for consideration by early 2012.

At their Nov 8th meeting, the CED Committee directed staff to develop an interim pilot program for the review of Mobile Food Vending “Group Sites” or “Pods” in Council Districts 1, 2, 3 and 4 prior to completion of new citywide Mobile Food Vending regulations. A food vending “Group Site” or “Pod” refers to the stationary operation of three (3) or more mobile food vendors clustered together on a single site. Food Vending “Group Sites” or “Pods” typically include a specified arrangement and maximum number of vending unit spaces for use by individual mobile food vendors during hours of operation; and may also include site amenities, such as public seating areas and/or restroom facilities.

As directed by the CED Committee, Staff has developed the proposed interim Food Vending Group Site Pilot Program described in this report that would create a new permitting process for limited Mobile Food Vending “Group Site” events in Council Districts 1, 2, 3 and 4.. This interim permitting process for limited mobile vending events would sunset upon adoption of new comprehensive Citywide Mobile Food Vending regulations.

KEY ISSUES AND IMPACTS

Staff has identified a number of key issues and impacts which are described below:

1. **Relationship of proposed interim Mobile Food Vending Group Site Pilot Program to existing regulations for Vehicular Food Vending and Pushcart Food Vending (O.M.C. Chapters 8.09 and 5.49, respectively).** The proposed interim Food Vending Group Site Pilot Program will not contradict or supersede the existing regulations pertaining to food vending areas established by OMC Chapters 8.09 and 5.49, which will remain in place. It is anticipated that both the interim Food Vending Group Site Pilot Program and the regulations in O.M.C. Chapters 8.09 and 5.49 will be replaced by new comprehensive citywide regulations that staff is the process of developing.
2. **Relationship of interim Group Site Pilot Program to proposed permanent Citywide regulations.** The proposed interim Group Site Pilot Program would amend O.M.C. Title 5: “Business Taxes, Permits and Regulations”, and create a new form of “special activity permit” administered through the City Administrator’s office. To the extent that there is any express conflict between the regulations in this proposed new interim OMC chapter (OMC Chapter 5.51) and other regulations in the Oakland Municipal and Zoning Codes, the regulations in this new chapter shall supersede. Planning staff is in the process of developing a comprehensive set of regulations related to additional aspects of Mobile Food Vending

including: individual mobile food vendors—food trucks, trailers and pushcarts—vending during hours of operation on private and public property, and vending from the public right-of-way. To the extent possible, staff will fold as much of the interim Group Site Pilot Program regulations into the permanent regulations. Modifications are expected based on an assessment of what components of the pilot program worked and what didn't work. No City action relating to the issuance and/or renewal of permits under the interim Group Site Pilot Program will be interpreted to confer any form of right or preference to the permit holder when the permanent citywide regulations are adopted.

3. **Enforcement.** Currently, enforcement of food vending regulations is difficult because CEDA Building Services enforcement authority is limited to *private property* and to issuing monetary penalties for violating the permit process, which does not address a number of locations where food trucks currently park in the public right of way. Violations of food vending regulations in the *public right-of-way* are enforced by the Police Department, which are a low priority due to current staffing levels and the need to respond to patrol calls. Enforcement is also made difficult because the current food vending regulations have conflicting and/or unclear language related to separation requirements.

In response to these current enforcement limitations, the interim Group Site Pilot Program will be limited to Group Site Events that will occur at well-defined and -publicized locations, dates, times of operation, and size/composition of participating vendors; which will make it easier for staff that play a role in enforcement, as well as the public, to identify illegal activity. In addition, program components are proposed, such as posting a map and list of permitted vendors on the City's website, to enable collaborative monitoring and enforcement reduces nuisance activities that occur within the vicinity of vehicular food vending businesses. Moreover, Parking Division staff could be temporarily authorized by the City Administrator to assist the Police Department in enforcement of unpermitted mobile food vendors in the public right-of-way.

Addressing staffing capacity, in particular with respect to enforcement of individual mobile food vendors in the public right-of-way (in curbside parking spaces), will be a key issue addressed as part of the new permanent Mobile Food Vending program that Planning staff is in the process of developing. Staff will also incorporate improvements to the proposed citywide program based on experience and feedback received about the interim Group Site Pilot Program.

4. **Cost Recovery.** Permit fees are based on staffing required for the administration and enforcement of the proposed interim program. Fees may be revisited as part of the development of a permanent citywide program regulating mobile food vending.
5. **Required notice.** Per CED Committee direction, Applicants will be required to send notice of the proposed Group Site operation, in a form approved by the City, to all property owners,

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business owners, and building occupants (including renters) located within three hundred (300) feet of the Group Site location. Notice will also be given to any Business Improvement District (BID) or Community Benefit District (CBD) in the area and to the applicable Council District office. Notification must be provided by certified mail or delivery, and be completed by the Applicant not less than ten (10) days prior to the first proposed Group Site operation date.

6. Concerns of “brick and mortar” restaurants. The proposed interim Group Site Pilot Program regulations require a separation requirement of 100 feet from “brick and mortar” restaurants - unless the Applicant obtains written consent from each applicable restaurant owner within 100 feet, indicating that he or she has no objections to the proposed Food Vending Group Site locating within 100 feet of their restaurant. The proposed interim regulations tie the separation requirement to *active* Full Service or Limited Service Restaurant Commercial Activities (as defined by the Oakland Planning Code). The proposed regulations also includes specific direction that the 100 feet separation should be measured from the location of the closest proposed food vending unit along the path of travel to the front door of any Full Service or Limited Service Restaurant.
7. Opportunity to activate areas with additional foot-traffic. Staff research indicates that temporary mobile food vending Group Site events, if well-executed, have the potential to activate areas by creating additional foot-traffic. These occasional “people generator” events can potentially benefit the surrounding businesses and/or activate an area at a time of day that is not currently capitalized upon by existing businesses. Staff believes that temporary Group Site events in targeted areas could serve as an effective short-term economic development tool to bring additional customers to an area, ultimately making the targeted areas more attractive to those interested in “brick and mortar” development projects.

PROGRAM DESCRIPTION

The proposed interim Food Vending Group Site Pilot Program only addresses the stationary operation three (3) or more mobile food vendors clustered together on a single private property site, public property site, or within a specific section of public right-of-way. (See *Attachment C: Examples of Mobile Food Group Site Scenarios*)

No more than two (2) Food Vending Group Site Permits will be issued for any single site location at any given time, including any specific portion of public right-of-way; and only if determined to be complementary to any surrounding business district, and the operating dates for the Group Sites occur on different days of the week.

Unless permitted to operate from the same site but on different days of the week, Group Sites will not be allowed to locate within three hundred (300) feet of any other Food Vending Group Site.

Group Sites will also not be allowed within 100 feet of a school, park, or restaurant - unless written consent is received from the owner.

(See **Attachment D**: Flow Chart for Proposed Interim Food Vending Group Site Pilot Program)

1. **Municipal Code Organization and Permitting Authority.** The Interim Group Site Pilot Program is proposed as an amendment to OMC Title 5: Business Taxes, Permits and Regulations. The City Administrator's Office would issue the permit; other City departments would also be involved, as necessary, in the permit review and enforcement process.
2. **Permitted locations.** Within Oakland City Council Districts 1, 2, 3 and 4 *and* in certain commercial, industrial, central business district, higher density mixed-use, open space and institutional zones as follows:
 - in a CN Neighborhood Center Commercial zone; CC Community Commercial zone; CR Regional Commercial zone; C-40 or C-45 Commercial zone; CBD Central Business District -C, -X, or -P zone; CIX, IG, IO, M-20, M-30, or M-40 Industrial zone (not including any such designation on Port of Oakland property); OS Open Space -RSP, -CP, -NP, -AMP, -PMP, -LP, -SU, or -AF zone (not including any such designation north of Highway 13); S-1 Medical Center zone; S-2 Civic Center zone; or RU Urban Residential -4 or -5 zone.³

No later than thirty (30) days after submittal of a complete application, the City Administrator will approve, conditionally approve, or deny Food Vending Group Site Permit applications based on the standards and criteria established as part of the proposed Group Site Pilot Program.

3. **Duration of Interim Group Site Pilot Program.** The program is proposed to be in place until January 1, 2013 or until the City Council adopts permanent citywide mobile food regulations, whichever comes first.
4. **Who can apply?** Only the Food Vending Group Site Event Organizer ("Applicant") will be able to apply for the permit. Individual mobile food vendors that participate as part of the event would not have to obtain separate Group Site permits, but rather only need to provide proof of a valid City of Oakland business tax certificate and Alameda County Health Permit. The Group Site Event Organizer would be both the Applicant on the Permit and the Responsible Party to ensure that all conditions of the Permit are met (which are elaborated

³ Except for areas of Oakland subject to either the pushcart food vending program set forth in Chapter 5.49 of the Municipal Code, or the vehicular food vending program set forth in Chapter 8.09 of the Municipal Code.

upon below), as well as for the purpose of determining liability for any damage to City or public facilities.

5. **Frequency.** An Applicant may apply for a Permit to operate Group Site events that occur no more than two (2) days per week or up to forty (40) days over a twelve-month period. No more than two (2) Food Vending Group Site Permits will be issued for any single site location at any given time, including any specific portion of public right-of-way; and only if operating dates for each Group Site occur on different days of the week.
6. **Maximum number of permits per Applicant.** No single Applicant may hold more than two (2) Group Site Permits at any one time.
7. **Not Transferable.** Food Vending Group Site Permits will not be transferable in any form to any other person.
8. **Application Procedure.** Upon submittal of a complete application, the City Administrator, in consultation with other applicable city staff, will review the submitted application based on a weighted point system that takes into consideration the required operating standards, as well as additional criteria, including but not limited to:
 - *Whether the location of the proposed Food Vending Group Site is likely to add vitality, pedestrian activity, and spillover economic activity to the surrounding district, including any Business Improvement District (BID) or Community Benefit District (CBD) in the area;*
 - *The organization and layout of proposed food vending unit spaces at the Group Site; and*
 - *The variety and quality of the food items to be offered by participating food vendors.*

The City Administrator will review and score the applications according to the adopted standards and criteria, and may reject applications that are unacceptable.

Once a Food Vending Group Site Permit has been issued, the maximum number of individual food vendors allowed to operate as part of the Group Site may not be increased. However, an applicant may request a change in the specific mix of food vendors approved under the original Permit, but only if such request is submitted for review and approval by City Administrator at least 3 days before the proposed date of new vendor participation.

9. **Submittal Requirements.** An Applicant must submit the following information to apply for a Permit:
 - a. Name of Applicant and mailing address for notification;
 - b. Maximum number of mobile food vendors to operate at the proposed Food Vending Group Site, legal names for each, and mailing address for notification;
 - c. Location of the proposed Mobile Food Vending Group Site (indicated by Address, Assessor Parcel Number (APN), and/or specific section of public right-of-way);

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- d. Four (4) photographs (showing different views) of the proposed Mobile Food Vending Group Site;
- e. If location is on private property; written consent in a form approved by the City from the property owner (if other than self) in a form approved by the City permitting the Mobile Food Vending Group Site to locate on the proposed site; or copy of encroachment permit or license application if location is on public property;
- f. All proposed dates for Group Site food vending, and starting and ending times for each;
- g. Sample menu or itemized list for each mobile food vendor to operate at the proposed Food Vending Group Site;
- h. The size and description of each food vending unit (truck, trailer, or other movable wheeled equipment or vehicle); plus four (4) photographs (showing different exterior views) of each food vending unit;
- i. Sample, photograph, or rendering of business signs;
- j. Scaled or dimensioned site plan depicting the proposed location and arrangement of all participating food vending units, any proposed public seating or other site amenities; and any existing structures on site, driveways, or required parking spaces for other businesses;
- k. Designation of a Food Vending Group Site Manager (if different than Event Organizer) to be responsible for the day-to-day site management;
- l. Proof of valid City of Oakland Business Tax Certificate for the Food Vending Group Site Event Organizer (aka. Applicant), and for each mobile food vendor to operate at the proposed Food Vending Group Site;
- m. Proof of valid Alameda County Health Permit for each mobile food vendor to operate at the proposed Food Vending Group Site;
- n. Food Vending Group Site events shall be located within two hundred (200) feet of a restroom facility and shall provide documentation to the City demonstrating applicant has access to such restrooms for its food vendors and their employees. Documentation may include a letter from a property owner within two hundred (200) feet of the Food Vending Group Site location authorizing use of his or her restroom facilities by food vendors and their employees;
- o. Signed statement that the Applicant accepts total responsibility for cleaning up after the event. Failure to adequately clean up shall be grounds that applicant would not be given future permits for such events. City shall require Applicant to pay for cleaning, and/or post clean-up expenses; and
- p. Any supplementary information which the City Administrator shall find reasonably necessary to determine whether to approve, deny or conditionally approve the Permit.

10. **Enforcement.** The following tools are proposed to aid enforcement:

- Group Site Events that will occur at well-defined and -publicized locations, dates, times of operation, and size/composition of participating vendors; which will make it easier for staff that play a role in enforcement, as well as the public, to identify illegal activity;

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- A list and a map of all legally permitted Food Vending Group Sites will be posted on the City's website to help inform the public, as well as City/County staff; and
 - Parking Division staff could be temporarily authorized by the City Administrator to assist the Police Department in enforcement of unpermitted mobile food vendors in the public right-of-way.
11. Fees. A nonrefundable application fee of \$421.66 would be assessed upon application for an interim Food Vending Group Site Permit. If an application is approved, a notification fee of \$200.00 would also be charged to cover the cost of preparing a one-time required noticing of property owners, business owners, and building occupants located within three hundred (300) feet of the Group Site location.

After an Applicant is issued a Group Site Permit that specifies the first approved vending date at the Group Site location, the Applicant will need to apply to the City Administrator, or his or her designee, for each additional vending date, not to exceed the maximum number and frequency of vending dates per Permit allowed by this chapter, and pay the required per event fee of \$100.00 for each additional vending date.

In addition, there may be other permits and inspection fees that are required, including but not limited to, from the Oakland Police Department if a proposed event would require short-term encroachments into the public right-of-way or street closures; or from the Fire Department if use of propane or an open flame is proposed. The fees for these permits and inspections are already part of the City's Master Fee Schedule.

The application fee would cover the cost of staff time to review the application submittal; the notification fee covers the cost of preparing the one-time required noticing of surrounding businesses, business improvement districts, property owners and residents. The 'per event' fee for the second or more Group Site event would cover the staff cost of ongoing compliance; and a small amount of staff time to review and issue the additional vending dates. The fees for the Interim Food Vending Group Site Pilot Program Permit would not include the fees for any additional city permits that may be required, such as from the Fire Department for use of liquid petroleum gas or open flame; or permits required for on-site hook ups to water or electrical service that may be required by the Building Services Division; or those required for any right-of-way encroachment, temporary street closure, or use of public property.

SUSTAINABLE OPPORTUNITIES

Economic:

- Meet the clear demand for additional mobile food vendors in Oakland - both within the existing pilot program area and in potentially new permitted areas throughout the city;
- Promote community economic development by fostering the creation of new living-wage jobs and local ownership opportunities;
- Attract additional foot traffic to commercial districts - which means increased sales and more vibrant retail business overall;
- Support an effective entry point to owning one's own business. For a modest investment, an entrepreneur can develop a track record in retail sales and develop a loyal clientele.

Environmentat:

- 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.

DISABILITY AND SENIOR CITIZEN ACCESS

Under the interim Food Vending Group Site Pilot Program Ordinance, applicants for permits will be required to comply with the Americans with Disabilities Act (ADA), the Older Americans Act, and all other applicable laws that ensure adequate access for senior citizens and people with disabilities.

RECOMMENDATION(S) AND RATIONALE

Staff recommends adoption of the Ordinance establishing Interim Regulations for the review of Mobile Food Vending Group Sites within the limited area of the City Of Oakland defined, in part, by Council Districts 1, 2, 3, And 4; and approval of the enabling Municipal Code amendments. The advantages of regulating vehicular food vending at group sites through the proposed pilot program are as follows:

- The location of groupings of vehicular food vending businesses is controlled in order to allow for adequate monitoring by City staff, in addition to avoid unfair competition and oversaturation of an area;
- Program components are proposed, such as the posting a map and list of permitted vendors on the City's website, to enable collaborative monitoring and enforcement that reduces the potential for nuisance activities within the vicinity of vehicular food vending businesses;

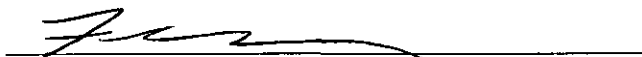
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- Increased opportunities to allow for mobile food vending businesses to operate legally in Oakland;
- The permit criteria establish a means for ensuring health standards and general food quality, in addition to adequate maintenance of site conditions;
- Permit fees have been calculated to recover costs for program administration and enforcement; and
- The opportunity for City staff to revise and modify regulations based on empirical evidence as part of the permanent citywide mobile food vending regulations that are expected to be developed in the early part of next year.

ACTION REQUESTED OF THE CITY COUNCIL

1. Adopt the Ordinance Establishing Interim Regulations For The Review Of Mobile Food Vending Group Sites Within The Limited Area Of The City Of Oakland Detined, In Part, By Council Districts I, 2, 3, And 4
2. Amend the Master Fee Schedule to establish the non-refundable \$421.66/Group Site application fee, the \$200.00 notification fee, and \$100/per Group Site operation date fee.

Respectfully submitted,



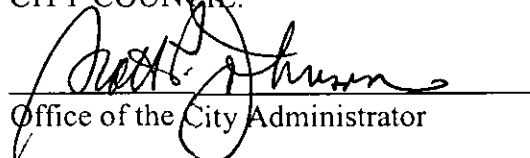
Fred Blackwell, Assistant City Administrator
Community and Economic Development Agency

Reviewed by:
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Ed Manasse, Strategic Planning Manager

Prepared by:
Alisa Shen, Planner III
Strategic Planning – Planning and Zoning Division

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

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Attachments:

- A. Summary Table of Oakland's Existing Mobile Vending Regulations
- B. Map of the Existing for Mobile Food Vending Pilot Program Permitted Areas
- C. Examples of Mobile Food Group Site Scenarios
- D. Flow Chart for Proposed Interim Mobile Food Vending Group Site Pilot Program

Public Right-of-Way (Streets and Sidewalks)

Activity	Description	Regulations
Peddling (Food & Non-Food; without pushcart or vehicle)	Moving from place to place along city streets selling items to non-regular customers.	<u>Downtown</u> : Prohibited (OMC Sec. 5.48.080) <u>Other areas</u> : Peddler permit required from Police Department (OMC Chap. 5.48)
Pushcart Food Vending	Selling food from carts and stands along city streets.	<u>Pushcart Vending Area (Fruitvale/East Oakland)</u> : Pushcart vending permit required from Building Services (OMC Chap. 5.49) <u>Other areas</u> : Prohibited (OMC Sec. 5.48.050)
Pushcart Non-Food Vending	Selling non-food items from carts and stands along city streets.	<u>Downtown</u> : Prohibited (OMC Sec. 5.48.080) <u>Other areas</u> : Peddler permit required from Police Department (OMC Chap. 5.48)
Vehicular Food Vending	Selling food from vehicles along city streets.	<u>All areas</u> : Prohibited (OMC Sec. 5.48.050)
Vehicular Non-Food Vending	Selling non-food items from vehicles along city streets.	<u>Downtown</u> : Prohibited (OMC Sec. 5.48.080) <u>Other areas</u> : Peddler permit required from Police Department (OMC Chap. 5.48)

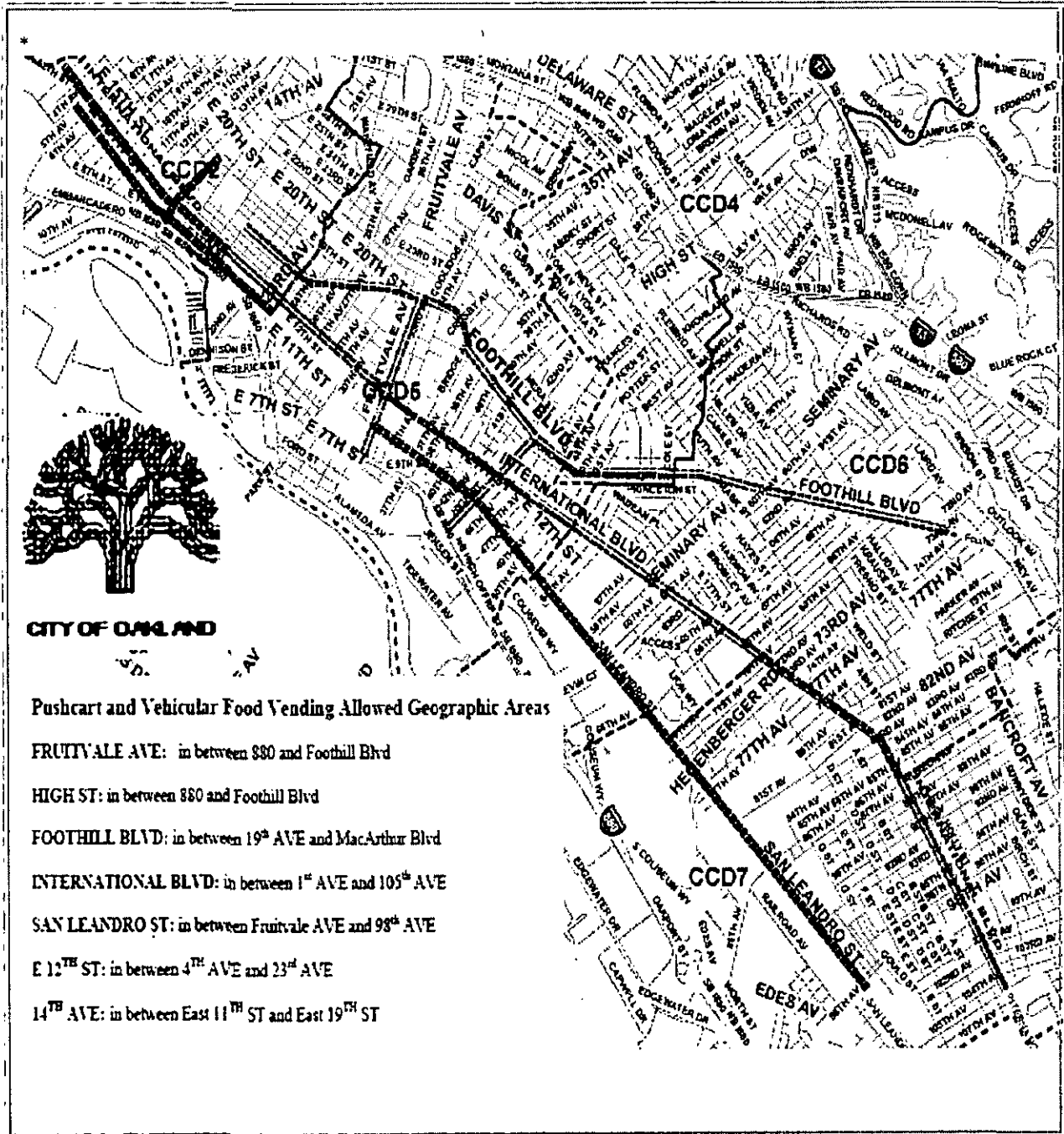
Private Property

Activity	Description	Regulations
Pushcart Food Vending	Selling food from carts and stands on private property.	<u>All areas</u> : Considered Fast Food Commercial Activity and Open Nonresidential Facility by zoning regulations; generally requires major c.u.p. in nonresidential zones and prohibited in residential zones (check individual zone)
Pushcart Non-Food Vending	Selling non-food items from carts and stands on private property.	<u>All areas</u> : Considered General Retail Sales Commercial Activity and Open Nonresidential Facility by zoning regulations; requires zoning review (regulations vary by zone)
Vehicular Food Vending	Selling food from vehicles on private property.	<u>Vehicle Food Vending Area (Fruitvale/East Oakland)</u> : Vehicle food vending permit required from Building Services (OMC Chap. 8.09) <u>Other areas</u> : Considered Fast Food Commercial Activity and Open Nonresidential Facility by zoning regulations; generally requires major c.u.p. in nonresidential zones and prohibited in residential zones (check individual zone)
Vehicular Non-Food Vending	Selling non-food items from vehicles on private property.	<u>All areas</u> : Considered General Retail Sales Commercial Activity and Open Nonresidential Facility by zoning regulations; requires zoning review (regulations vary by zone)

Notes:

1. Mobile food vending is also regulated by the Alameda County Health Department. Mobile food vendors must have a permit from the County and food must be prepared in a commissary approved by the County. Commissaries in Oakland are classified as Custom Manufacturing Activities (less than 10,000 sq. ft.) or Light Manufacturing Activities (10,000 sq. ft. or more), unless they are associated with a restaurant and are considered an Accessory Activity to the restaurant.
2. Special events related to mobile vending are not addressed by the zoning regulations. Special events require a permit from the Police Department (OMC Chap. 9.52). Special event permit information is on the Police Department website: <http://www2.oaklandnet.com/Government/o/OPD/s/sefaqs/index.htm>.
3. In City parks, mobile food vending would be considered Community Assembly Civic Activity – Food Service or Other Concessions; allowed in certain OS zones (RSP, CP, NP, SU, AF) with granting of a minor c.u.p. from Planning and Zoning and must also follow the Special Use Permit procedures for an OS Zone per OMC 17.135.

Existing Vehicular and Pushcart Food Vending Areas
 (Per O.M.C. Chapter 5.49 and Chapter 8.09)



CITY OF OAKLAND

Pushcart and Vehicular Food Vending Allowed Geographic Areas

FRUITVALE AVE: in between 880 and Foothill Blvd

HIGH ST: in between 880 and Foothill Blvd

FOOTHILL BLVD: in between 19th AVE and MacArthur Blvd

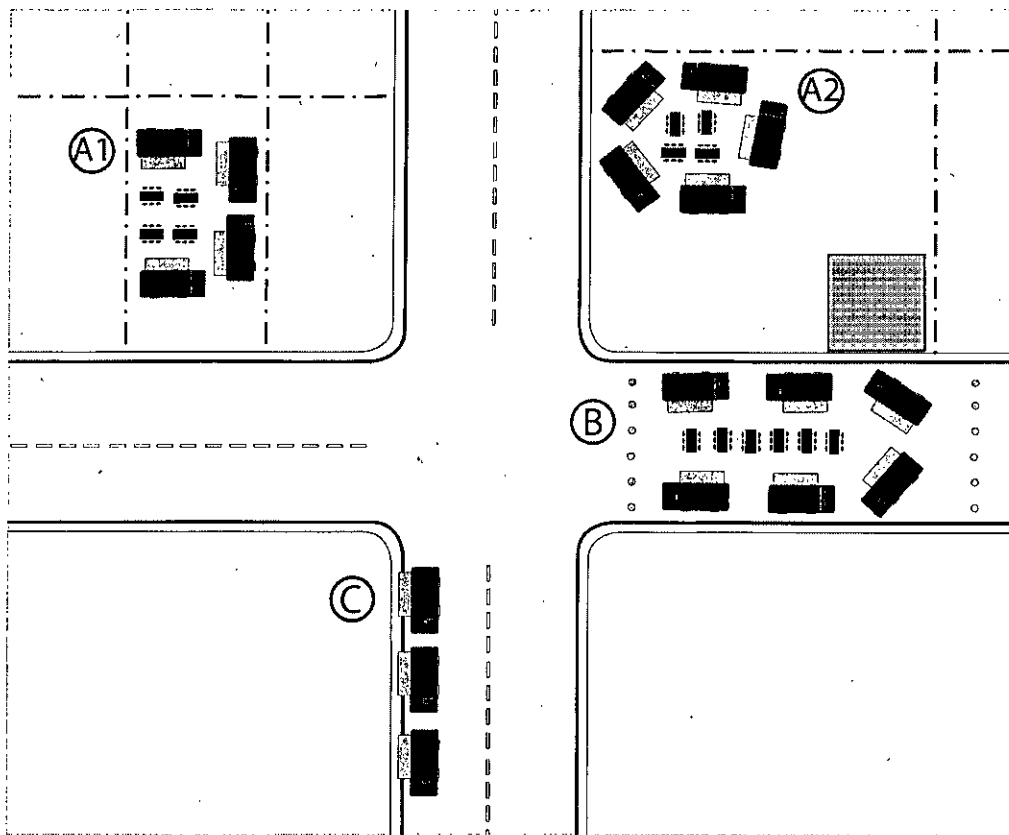
INTERNATIONAL BLVD: in between 1st AVE and 105th AVE

SAN LEANDRO ST: in between Fruitvale AVE and 98th AVE

E 12th ST: in between 4th AVE and 23rd AVE

14th AVE: in between East 11th ST and East 19th ST

Examples of Food Vending Group Site Scenarios*



*Note: This diagram is for illustrative purposes only.

A. Private and Public (non-right-of-way) Property

1. Cluster of mobile food vendors taking up an entire parcel
2. Cluster of mobile food vendors occupying part of larger parcel

B. Right-of-Way (ROW) – Street Closure

- Short-term encroachment permit from the Oakland Police Department is also required

C. ROW – Street Curbside Parking

- Short-term encroachment permit from the Oakland Police Department is also required
- Additional review of appropriateness related to traffic, bicycle, pedestrian safety, and American with Disability Act (ADA) requirements

FLOW CHART FOR PROPOSED INTERIM FOOD VENDING GROUP SITE PILOT PROGRAM

DEFINITION OF FOOD VENDING "GROUP SITE":

- A food Vending "Group Site" refers to the stationary operation of three (3) or more mobile food vendors clustered together on a single site.
- Each approved "Group Site" or "Pod" will include a specified arrangement and maximum number of vending unit spaces for use by individual food vendors during hours of operation; and may include site amenities, such as seating areas and/or restroom facilities.
- Group Sites will not be allowed within 100 feet of a school, park, or restaurant - unless written consent is received from owner. No more than two (2) Group Site Permits will be issued for any single location at any given time, including any portion of public ROW; and only if vending dates for each Group Site occur on different days of the week.
- The max. number of vending dates allowed under a Group Site Permit may not exceed two (2) dates per week or a total number of forty (40) dates per 12-month period.

FOLLOWING ADOPTION OF INTERIM PILOT PROGRAM, THE CITY ADMINISTRATOR WILL BEGIN ACCEPTING APPLICATIONS:

- Applicants must 18 years or older, and be the individual directly responsible for organizing and/or conducting the Food Vending Group Site.

APPLICATION PROCEDURE:

- A nonrefundable application fee of \$421.66 would be assessed upon application for an interim Food Vending Group Site Permit.
- Upon submittal of a complete application, the City Administrator, in consultation with other city staff, will review the application based on a weighted point system that takes into consideration required operating standards, as well as additional criteria, including:
 - *Whether the location of the proposed Food Vending Group Site is likely to add vitality, pedestrian activity, and spillover economic activity to the surrounding district;*
 - *The level of site amenities proposed at the Food Vending Group Site, such as seating areas and/or restroom facilities;*
 - *The organization and layout of proposed food vending unit spaces at the Group Site; and*
 - *The variety and quality of the food items to be offered by participating food vendors.*
- If an application is approved, a notification fee of \$200.00 would also be charged to cover the cost of preparing a one-time required noticing of property owners, business owners, and building occupants located within three hundred (300) feet of the Group Site location.

ACTION ON APPLICATION:

- The City Administrator will approve, conditionally approve, or deny Food Vending Group Site Permit applications based on the Pilot Program's required standards and criteria. Applicants with approved or conditionally approved applications will be issued a Food Vending Group Site Permit upon completion of public notice, and issuance of any other required city permits - including those for any utility connection, ROW encroachment, temporary street closure, or use of public property.
- After an Applicant is issued a Group Site Permit that specifies the first approved vending date at the Group Site location, the Applicant will need to apply to the City Administrator, or his or her designee, for each additional vending date, not to exceed the maximum number and frequency of vending dates per Permit allowed by this chapter, and pay the required per event fee of \$100.00 for each additional vending date.
- Once a Group Site Permit has been issued, the maximum number of individual food vendors allowed to operate as part of the Group Site may not be increased. However, an applicant may request a change in the specific mix of food vendors approved under the original Permit, but only if the request is submitted for review and approval by City Administrator at least 3 days before the proposed date of new vendor participation.
- No single applicant may hold more than two (2) Group Site Permits at the same time. Group Site Permits will not transferable in any form to any other person.
- Permit Fees: Application- \$421.66 / Public Notice- \$200.00 / Per additional date after 1st operation date- \$100.00 (plus any other applicable city fees, such as short-term ROW encroachment)

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OAKLAND

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6 VOTES REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBERS JANE BRUNNER AND REBECCA KAPLAN

K. Jain

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE ESTABLISHING INTERIM REGULATIONS FOR PERMITTING MOBILE FOOD VENDING GROUP SITES WITHIN A LIMITED AREA OF THE CITY OF OAKLAND DEFINED, IN PART, BY CITY COUNCIL DISTRICTS 1, 2, 3, AND 4. THE INTERIM REGULATIONS CONTAINED HEREIN SHALL REMAIN IN PLACE AND BE EFFECTIVE THROUGH JANUARY 1, 2013, OR UNTIL THE CITY COUNCIL ADOPTS NEW PERMANENT MOBILE FOOD VENDING REGULATIONS, WHICHEVER COMES FIRST.

WHEREAS, changes in the economy and the growing popularity of mobile food vending have increased mobile food vending in both the public and private right of way in the City of Oakland; and

WHEREAS, the City of Oakland's existing Vehicular Food Vending program established in 2001 does not adequately address the current landscape of mobile food vending, which includes new concepts such as the clustering of mobile food vendors into "Group Sites" or "Food Pods" on a single site instead of a single vendor at a single site; and

WHEREAS, there is a need for interim regulations during the period of development of a new citywide mobile food vending program to allow review of currently pending requests to establish mobile food vending "Group Sites" or "Food Pods"; and

WHEREAS, such interim regulations are required to allow permitted food vending "Group Sites" or "Food Pods" to operate legally in the City, and avoid certain public health & safety risks to Oakland residents, including but not limited to, traffic concerns, safely accessing mobile food vendors, pedestrians walking into the streets to avoid mobile food vending customers, and parked mobile food vendors obstructing law enforcement access; and

WHEREAS, the interim regulations will apply to a limited area in the City of Oakland defined, in part, by Council Districts 1, 2, 3, and 4; and

WHEREAS, the interim regulations will remain in place and be effective only through January 1, 2013, or until the City Council adopts permanent mobile food vending regulations, whichever

comes first; and

WHEREAS, the interim regulations limit the length and frequency of mobile food vending “Group Site” or “Food Pod” activities under any single Permit to no more than two (2) dates per week and up to forty (40) dates in any one 12-month period; and

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA) under several CEQA Guidelines, including without limitation Section 15061(b)(3) (known as the “General Rule,” that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment) and Section 15183 (projects consistent with the with a Community Plan, General Plan and/or Zoning); and

WHEREAS, for the reasons set forth above, the Council declares that this ordinance is necessary to preserve the public peace, health, welfare or safety, and to protect the health, safety, and welfare of the community, and the “Whereas” clauses above taken together constitute the City Council’s statement of the reasons constituting such necessity and emergency; now, therefore

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

Section 1. The following section of the Oakland Municipal Code is hereby added:

Chapter 5.51

FOOD VENDING GROUP SITE PILOT PROGRAM

Sections:

5.51.010 – Title and purpose.

5.51.020 - Applicability.

5.51.030 – Expiration of the Food Vending Group Site pilot program.

5.51.040 - Definitions.

5.51.050 – Food Vending Group Site Permit required.

5.51.060 - Contents of application form.

5.51.070 - Application procedure.

5.51.080 - Action on application.

5.51.090 - Conditional approval of Food Vending Group Site Permit.

5.51.100 - Grounds for denial of application.

5.51.110 – Transferability of Food Vending Group Site Permits and requests for changes in food vendor participants.

5.51.120 – Requests for Additional Vending Dates and Annual Renewal.

5.51.130 – Operating standards.

5.51.140 - Revocation of Food Vending Group Site Permit.

5.51.150 - Penalties for violation of Food Vending Group Site Permit requirements.

5.51.160 - Enforcement.

5.51.170 - Abatement generally.

5.51.180 - Order to abate.

- 5.51.190 - Abatement procedure.
- 5.51.200 - Violations constituting infractions.
- 5.51.210 - Penalty for violation.

5.51.010 – Title and purpose.

This chapter shall be known as the Food Vending Group Site Pilot Program ordinance, and establishes an interim pilot program for issuing Food Vending Group Site Permits until a more comprehensive set of permanent mobile food vending regulations are adopted.

The general purpose of these interim regulations is to allow permitted food vending “group sites” or “food pods” to operate legally in the City, and to bring vitality, pedestrian activity, and spillover economic activity to surrounding districts while protecting the health, safety, comfort, convenience, prosperity, and general welfare of the Oakland community and customers with a minimum level of cleanliness, quality and security.

5.51.020 – Applicability.

A. The interim regulations contained in this chapter shall only apply to properties located:

1. Within Oakland City Council Districts 1, 2, 3, and 4; and
2. In a CN Neighborhood Center Commercial zone; CC Community Commercial zone; CR Regional Commercial zone; C-40 or C-45 Commercial zone; CBD Central Business District -C, -X, or -P zone; CDX, IG, IO, M-20, M-30, or M-40 Industrial zone (not including any such designation on Port of Oakland property); OS Open Space -RSP, -CP, -NP, -AMP, -PMP, -LP, -SU, or -AF zone (not including any such designation north of Highway 13); S-1 Medical Center zone; S-2 Civic Center zone; or RU Urban Residential -4 or -5 zone, as such terms are defined in the Oakland Planning Code.

These regulations shall not apply to areas of Oakland subject to the pushcart food vending program set forth in Chapter 5.49 of the Municipal Code, or the vehicular food vending program set forth in Chapter 8.09 of the Municipal Code.

B. To the extent that there is any express conflict between the interim regulations in this Chapter and other regulations in the Oakland Municipal and Zoning Codes, the regulations in this Chapter shall take precedent.

C. To ensure public safety and consistency with applicable City codes, appropriate additional permits will be required, which include but are not limited to connecting to on-site utilities, right-of-way encroachments, temporary street closures, or use of public property.

5.51.030 – Expiration of the interim Food Vending Group Site Pilot Program.

The interim regulations contained in this Chapter shall remain in place and be effective through January 1, 2013, or until the City Council adopts new permanent mobile food vending regulations, whichever comes first.

5.51.040 - Definitions.

As used in this chapter:

"Applicant" means the Responsible Party who seeks a Food Vending Group Site Permit from the City, to conduct or sponsor a Food Vending Group Site as governed by this chapter.

"City Administrator" means the City Administrator of Oakland or his/her designee.

"City" means the City of Oakland.

"Mobile Food Vending Group Site" or "Food Vending Group Site" or "Food Vending Pod" means the stationary operation of three (3) or more mobile food vendors clustered together on a single site.

"Mobile Food Vending Group Site Pilot Program" or "Food Vending Group Site Pilot Program" means the interim regulations established in this Chapter for the review, issuance, and enforcement of Food Vending Group Site Permits in the area defined under Section 5.51.020.

"Mobile Food Vending" or "Food Vending" means the sale of prepared foods from a truck, trailer, or other movable wheeled equipment or vehicle during hours of operation. Mobile food vending includes, but is not limited to, the following characteristics:

1. Food is prepared off-site in a commercial commissary and/or prepared on-site within the mobile food vending unit kitchen, per Alameda County Health Regulations; and
2. Food is ordered and served from the truck, trailer, or other movable wheeled equipment or vehicle utilized for mobile food vending;
3. Trucks, trailers, or other wheeled vehicles from which food is sold typically have a take-out counter and space for customer queuing;
4. Food is paid for prior to consumption;
5. Food and beverages are prepared and sold for on-site or off-site consumption; and

6. Food and beverages prepared and sold for off-site consumption are served in disposable wrappers, plates or containers.

“**Mobile food vending unit**” or “**Food vending unit**” means the truck, trailer, or other movable wheeled equipment or vehicle from which “mobile food vending” occurs.

“**Mobile food vendor**” or “**Food vendor**” means a person who is engaged in “mobile food vending.”

“**Permit**” or “**Food Vending Group Site Permit**” is an interim approval by the City Administrator, or his or her designee, that enables the holder to conduct a Mobile Food Vending Group Site and vend food items at authorized locations and times, for a specified period of time with specified public health and safety conditions including, but not limited to, the maximum number of vending unit spaces for use by individual food vendors, hours of operation, and/or site amenities, such as public seating areas and/or restroom facilities.

“**Responsible Party**” or “**Mobile Food Vending Group Site Event Organizer**” means, for the purpose of determining liability for damage to City or public facilities as a result of a Mobile Food Vending Group Site, the individual or legal entity who is directly responsible for organizing and/or conducting the Mobile Food Vending Group Site and/or the facility manager, and his or her respective designees.

“**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 Permit.

5.51.050 - Food Vending Group Site Permit required.

- A. A Food Vending Group Site Permit shall be required for any Mobile Food Vending Group Site located as described in Section 5.51.020A, except as may otherwise be permitted by:
 1. A conditional use permit consistent with regulations in the Oakland Planning Code related to fast food restaurant activities;
 2. An ordinance or resolution establishing and regulating a street market in the city;
 3. A special event permit consistent with regulations in Chapter 9.52 of the Oakland Municipal Code, but only for a defined limited duration (4 or fewer dates over a 12-month period).
- B. It shall be unlawful for any person to conduct a Food Vending Group Site without first obtaining and maintaining a valid Food Vending Group Site Permit pursuant to this chapter for each location at which that activity is to occur. Conducting a Food Vending Group Site without a valid Food Vending Group Site Permit is a public nuisance, as defined in the Oakland Municipal Code. The City Administrator shall have power to adopt rules of procedure and regulations not

inconsistent with the provisions of this chapter for the purpose of carrying out the provisions of this chapter; and a copy of such rules of procedure and regulations shall be on file and available for public examination at the Department.

- C. Any Food Vending Group Site without a valid Food Vending Group Site Permit, including without limitation a person whose license has been suspended or revoked, shall be required to immediately permanently remove a food vending unit used for food vending and failure to cease operation as a Food Vending Group Site after the termination, revocation, expiration, or suspension of any Food Vending Group Site 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 the Oakland Municipal Code.
- B. **Permit Limitations.**
 - 1. No Applicant may hold more than two (2) Food Vending Group Site Permits at the same time.
 - 2. During the effective period of the Mobile Food Vending Group Site Pilot Program, any Applicant may apply for a Mobile Food Vending Group Site Permit pursuant to the requirements in this Chapter. Permit applications will be accepted and issued in the manner described in Section 5.51.070. The Applicant shall be the Responsible Party, and must be eighteen (18) years of age or older.
 - 3. The number of vending dates allowed under a Food Vending Group Site Permit shall not exceed two (2) dates per week or the maximum total number of forty (40) vending dates per 12-month period. A Food Vending Group Site Permit shall be valid for no more than one (1) year from the date of issuance, unless an annual renewal is considered, as set forth in Section 5.51.120.
 - 4. The Applicant shall specify in their Permit application the maximum number of proposed vending unit spaces to be provided for use by individual food vendors, the hours of operation, and the Group Site location.
 - 5. No more than two (2) Food Vending Group Site Permits shall be issued for any single site location at any given time, including any specific portion of public right-of-way; and only if operating dates for each Group Site occur on different days of the week.
 - 6. No City action related to issuing or renewing a Food Vending Group Site Permit shall confer any form of land use entitlement and/or vested rights to the persons, entities, or properties associated with such Permit.

5.51.060 - Contents of application form.

- A. The application for a Food Vending Group Site shall provide the following information:

1. Name of Applicant and mailing address for notification;
2. Maximum number of mobile food vendors to operate at the proposed Food Vending Group Site, legal and business names for each, and mailing address for notification;
3. Location of the proposed Mobile Food Vending Group Site (indicated by Address, Assessor Parcel Number (APN), and/or specific section of public right-of-way);
4. Four (4) photographs (showing different views) of the proposed Mobile Food Vending Group Site location;
5. 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 Mobile Food Vending Group Site to locate on the site; or copy of encroachment permit or license application if location is on public property;
6. All proposed dates for the Mobile Food Vending Group Site, and starting and ending times for each;
7. Sample menu or itemized list for each mobile food vendor to operate at the proposed Mobile Food Vending Group Site;
8. The size and description of each food vending unit (truck, trailer, or other movable wheeled equipment or vehicle); plus four (4) photographs (showing different exterior views) of each food vending unit;
9. Sample, photograph, or rendering of business signs;
10. Scaled or dimensioned site plan depicting the proposed location and arrangement of all participating food vending units; any proposed public seating or other site amenities; and any existing structures on site, driveways, or required parking spaces for other businesses;
11. Designation of a Mobile Food Vending Group Site Manager (if different than Event Organizer) to be responsible for the day-to-day site management;
12. Proof of valid City of Oakland business tax certificate for the applicant and for each mobile food vendor to operate at the proposed Mobile Food Vending Group Site;
13. Proof of valid Alameda County Health Permit for each mobile food vendor to operate at the proposed Mobile Food Vending Group Site;

14. Mobile Food Vending Group Sites shall be located within two hundred (200) feet of an approved, readily available and fully functioning restroom facility per the California Retail Food Code, as may be amended. The Applicant shall provide documentation to the City demonstrating access to such restrooms for its Food Vendors and their employees. Documentation may include a letter from the property owner within two hundred (200) feet of the Food Vending Group Site location authorizing use of his or her restroom facilities by food vendors and their employees;
15. Signed statement that the Applicant accepts total responsibility for cleaning up after each Food Vending Group Site operation date. Failure to adequately clean up after a Food Vending Group Site operation date shall be grounds for denying an Applicant's request for Permit renewal and/or additional vending dates under a Permit that might otherwise be approved as set forth in Section 5.51.120. The City shall require Applicant to pay for cleaning, and/or post clean-up expenses; provided that if the Applicant does not pay, the City has the right to clean up the Food Vending Group Site and seek reimbursement from the Applicant; and
16. Any supplementary information which the City Administrator shall find reasonably necessary to determine whether to approve, deny or conditionally approve the Permit.

5.51.070 - Application procedure.

- A. Upon submittal of a complete application, the City Administrator, in consultation with applicable City Staff, shall review the application based on a weighted point system that takes into consideration the required operating standards in Section 5.51.130, as well as the following additional criteria:
 1. The extent to which the Applicant would be personally and actively engaged in organizing and/or conducting the Food Vending Group Site;
 2. The Applicant's ability to successfully operate a Food Vending Group Site. Previous experience in food vending or comparable activity is desirable;
 3. The Applicant's history of complying with City ordinances or State laws relating to business regulation, street vending, food service, and health;
 4. The organization and layout of the proposed food vending unit spaces on the subject property;
 5. The level of site amenities proposed at the Food Vending Group Site, such as seating areas and/or restroom facilities;
 6. The variety and quality of the food items to be offered by the participating food vendors; and

7. Whether the location of the proposed Food Vending Group Site is likely to add vitality, pedestrian activity, and spillover economic activity to the surrounding district, including any Business Improvement District (BID) or Community Benefit District (CBD) in the area.
- B. The City Administrator may reject applications that are deemed incomplete.
- C. No later than thirty (30) days after submittal of a complete application, the City Administrator shall approve, conditionally approve, or deny Food Vending Group Site Permit applications based on the standards and criteria set forth in this chapter. Applicants with approved or conditionally approved applications shall be issued a Food Vending Group Site Permit upon completion of public notice, as described in subsection D below, and issuance of any other required city permits, including, but not limited to, those required for any connection to on-site utilities, right-of-way encroachments, temporary street closures, or use of public property.
- D. Applicants with approved or conditionally approved applications, as described in subsection C above, shall be required to send notice of the proposed Group Site operation, in a form approved by the City, to all property owners, business owners, and building occupants located within three hundred (300) feet of the Group Site location. Notice shall also be given to any Business Improvement District (BID) or Community Benefit District (CBD) in the area and to the applicable Council District office. Notification shall be provided by certified mail or delivery, and be completed by the applicant not less than ten (10) days prior to the first proposed Group Site operation date.
- E. Food Vending Group Site Permit applications will be accepted and issued in the manner described in this Section until such time as the interim regulations in this chapter expire, as stated in Section 5.51.030.
- F. Upon application for and/or issuance of a Food Vending Group Site Permit, the Applicant shall pay a fee or fees as established by the City Master Fee Schedule. Such fees are not inclusive of other fees the Applicant may have to pay for other necessary permits, such as, but not limited to, right-of-way encroachment permits.

5.51.080 - Action on application.

- A. The City Administrator shall determine whether an application is complete and meets the requirements for a Food Vending Group Site Permit as set forth in this chapter.
- B. The City Administrator shall approve, conditionally approve, or deny Food Vending Group Site Permit applications based on the standards and criteria set forth in this chapter. Such action shall be taken no later than thirty (30) calendar days after submittal of a complete application, as described in Section 5.51.070. The City Administrator may impose conditions of approval on a Food Vending Group Site Permit in the exercise of his or her reasonable discretion, as stated in Section 5.51.090. The Applicant shall be notified of any conditions of approval in writing.

C. Food Vending Group Site Permit applications that are denied shall be notified in writing of the specific grounds for the denial, as stated in Section 5.51.100. Any applicant whose Permit application is denied shall have the right to request reconsideration of the denial. Reconsideration requests must be submitted to the City Administrator within ten (10) days of issuance of the denial. Said request for reconsideration shall be in writing and shall state any and all reasons of any nature why the City Administrator's stated reasons for denial are in error. Within fifteen (15) days of receipt of said request for reconsideration, the City Administrator shall schedule a hearing before an independent hearing officer on the reconsideration request, and send written notice of such to the Applicant. The initial decision of the administrative hearing officer shall become final ten (10) days after the date of decision unless appealed to the City Administrator in writing within ten (10) days of the hearing officer's decision. The decision of the City Administrator on an appeal shall be final and conclusive, with no further appeal to the City Council or any other appellate body.

D. After an Applicant is issued a Group Site Permit that specifies the first approved vending date at the Group Site location, the Applicant will need to apply to the City Administrator, or his or her designee, for each additional vending date, not to exceed the maximum number and frequency of vending dates per Permit allowed by this chapter, and pay the required per event fee specified in the master fee schedule.

5.51.090 - Conditional approval of Food Vending Group Site permit.

The City Administrator may impose conditions of approval on a Food Vending Group Site Permit in the exercise of his or her reasonable discretion when conditionally granting a permit, including, but not limited to:

A. Requiring the Applicant to be personally present at all times during Food Vending Group Site operations;

B. Requiring the Applicant to provide a working telephone where he or she can be reached directly at all times during Food Vending Group Site operations;

C. Requiring the posting of the Food Vending Group Site Permit at the site;

D. Requiring the submission of copies of all promotional materials simultaneously with the posting or distribution of said materials. All promotional materials must identify the promoter, and must not be posted or affixed to or on City or public property;

E. Requiring a proof of liability insurance in the amount required by the City;

F. Requiring such other additional conditions as are reasonably believed to be necessary to protect the public health, safety, welfare and order, and to minimize adverse impacts upon the surrounding neighborhood and the general community.

5.51.100 - Grounds for denial of application.

A Food Vending Group Site Permit application may be denied upon evidence that:

- A. Information contained in the application, or supplementary information requested from the applicant, is false in any material detail; or
- B. The Applicant has failed to ensure conformity with the operating standards in Section 5.51.130; or
- C. The Applicant has failed to provide a complete application form after having been notified of the requirement of producing additional information or documents; or
- D. The Applicant has not submitted a completed Food Vending Group Site Permit application form in the time provided pursuant to Sections 5.51.070 and 5.51.080; or
- E. 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
- F. The granting of the Food Vending Group Site Permit will have a substantial adverse impact upon the public health, safety, or order; or
- G. The granting of the Food Vending Group Site Permit will result in substantial adverse impacts including, but not limited to, noise, litter, traffic and congestion upon the surrounding neighborhood or the community in general; or
- H. Another complete Food Vending Group Site Permit application has been previously filed for the same place requested by the Applicant, or so close to the previously requested place as to cause traffic congestion or a demand for police services which the Police Department is unable to meet; or
- I. The time or size of the Food Vending Group Site will substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic in the immediate vicinity of the Group Site, or disrupt the use of a street at a time when it is usually subject to great traffic congestion; or
- J. The concentration of persons and vehicles at the Food Vending Group Site will prevent proper police, fire, ambulance, or other essential public services to areas contiguous to the Group Site; or
- K. The size or duration of the Food Vending Group Site will require diversion of so great an amount of city police services that providing for the minimum level of police services to other areas of the city is jeopardized; or

L. The Food Vending Group Site operation dates will substantially interfere with construction or maintenance work scheduled to take place upon or along the city streets or a previously granted encroachment permit; or

M. The Food Vending Group Site will operate at a time and place where the noise created by the activities of the Group Site will substantially disturb or disrupt the activities of such institutions as schools and hospitals; or

N. Sponsors have failed to pay the city for previous Food Vending Permit fees and costs; or

O. The granting of the Food Vending Group Site Permit is likely to result in substantial negative impacts upon the delivery of city-wide police services and therefore pose a threat to the public health, safety and order due to the likelihood of the Food Vending Group Site resulting in a call for a police emergency response.

5.51.110 – Transferability of Food Vending Group Site Permits and requests for changes in food vendor participants.

A. Food Vending Group Site Permits are not transferable in any form to any other person, firm, association, corporation, organization, club, or ad hoc committee.

B. Once a Food Vending Group Site Permit has been issued, the maximum number of food vendors allowed to operate at the Group Site location as a condition of the Permit shall not be increased at any time. However, an Applicant may request a change in the specific mix of food vendors approved under the original Permit, but only if such request is submitted for review and approval by the City Administrator at least three (3) days before the proposed date of new vendor participation.

C. Any request for a change in participating food vendors shall include the following information:

1. Proof of valid City of Oakland business tax certificate and Alameda County Health Permit for each proposed new mobile food vendor;
2. Sample menu or itemized list for each proposed new mobile food vendor;
3. The size and description of each proposed new food vending unit (truck, trailer, or other movable wheeled equipment or vehicle); plus four (4) photographs (showing different exterior views) of each proposed new food vending unit;
4. Sample, photograph, or rendering of business signs; and
5. Facsimile of logo to be applied to all disposable paper products to be provided to customers.

5.51.120 –Requests for Additional Vending Dates and Annual Renewal.

A. After an Applicant is issued a Food Vending Group Site Permit that specifies the first approved vending date at the Group Site location, the Applicant shall apply to the City Administrator for each additional vending date, not to exceed the maximum number and frequency of vending dates per Permit allowed by this chapter, and shall pay the required per event fee specified in the master fee schedule for each approved vending date.

B. Depending on the length of time this interim Food Vending Group Site Pilot Program remains active, requests for annual renewal of a Food Vending Group Site Permit may be considered, but only if submitted on or before the one (1) year anniversary of the original Permit issuance. Applicants who do not submit an annual renewal request on or before the one (1) year anniversary of the original Permit issuance must re-apply for a new Food Vending Group Site Permit according to the procedure set forth in Section 5.51.070.

5.51.130 – Operating standards.

A. **Location.** Food Vending Group Sites shall be subject to the following location requirements unless such activities are otherwise permitted under Section 5.51.050 (A):

1. Food Vending Group Sites shall only be located in the areas and zoning districts set forth in Section 5.51.020. A Food Vending Group Site Pilot Program Area map is available at the City of Oakland Planning and Zoning counter (Zoning counter), located at 250 Frank H. Ogawa Plaza, Second Floor.
2. Use of Open Space zoned property for Food Vending Group Sites may be exempted from normally required municipal and zoning regulations at the discretion of the City Administrator, based upon evidence that the applicant has received written consent in a form approved by the City from the park owner to locate in the subject park, the maximum frequency and overall length of the Group Site activity conforms to the regulations in this chapter, and the activity will not have a detrimental affect on public health, safety or welfare.
3. Food Vending Group Sites, as described in this chapter, shall not locate within one hundred (100) feet of:
 - a. Any public school, unless the Applicant obtains written consent in a form approved by the City from the applicable public school, indicating that the school has no objections to the proposed Food Vending Group Site locating on school grounds or within one hundred (100) feet of the subject school grounds (as measured along the path of travel from the location of the closest proposed food vending unit on its address lot or site to the parcel boundary of the subject school);
 - b. Any public park, unless the Applicant obtains written consent in a form approved by the City from the applicable public park owner, indicating no

objections to the proposed Food Vending Group Site locating within the park or within one hundred (100) feet of the park (as measured along the path of travel from the location of the closest proposed food vending unit on the application site to the parcel boundary of the park); or

- c. Any active Full Service or Limited Service Restaurant (as defined in OMC Title 17, the Oakland Planning Code), unless the Applicant obtains written consent in a form approved by the City from each applicable restaurant owner, indicating that he or she has no objections to the proposed Food Vending Group Site locating within one hundred (100) feet of their restaurant (as measured from the location of the closest proposed food vending unit on its address lot or site along the path of travel to the front door of the subject restaurant).
4. Food Vending Group Sites shall be located within two hundred (200) feet of an available fully functioning restroom facility and shall provide documentation to the City demonstrating Applicant has access to such restrooms for its food vendors and their employees. Documentation may include a letter from a property owner within two hundred (200) feet of the Food Vending Group Site location authorizing use of his or her restroom facilities by food vendors and their employees;
5. Unless permitted to operate from the same site but on different days of the week, Food Vending Group Sites shall not locate within three hundred (300) feet of any other Food Vending Group Site (as measured along the path of travel between the location of the closest proposed food vending units on each Group Site address lot or site).
6. No more than two (2) Food Vending Group Site Permits shall be issued for any single site location at any given time, including any specific portion of public right-of-way; and only if operating dates for the Group Sites occur on different days of the week.
7. Food Vending Group Sites shall not locate in parking spaces required to meet minimum parking requirements for any other business.
8. Food Vending Group Sites shall not block driveways or the required parking for other businesses.
9. Each food vending unit at a Food Vending Group Site shall 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.

B. Condition/Appearance of Mobile Food Vending Unit.

1. Each food vending unit at a Food Vending Group Site shall display current business tax certificate and health department permit in plain view on or immediately adjacent to the front, left-side window.
2. The health department decal shall be located on the left rear of each mobile food vending unit.
3. Each food vending unit at a Food Vending Group Site shall maintain a valid health permit at all times. If the health permit expires, or is suspended or revoked, then all food sales shall cease until the health permit is reinstated.
4. Food vending units at a Food Vending Group Site shall display no more than three (3) signs attached to the food vending unit, with a maximum aggregate display surface of thirty (30) square feet of signage per food vending unit.
5. Food Vending Units shall be entirely self-sufficient in regards to gas, electricity, water, and telecommunications, unless appropriate permits are reviewed and approved by City Departments, including but not limited to, the Building Services Division and the Fire Department.
6. Food vending units shall be maintained in movable condition at all times.
7. No Applicant or food vendor shall 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.

C. Condition/Appearance of Site.

1. The Group Site location shall be maintained in a safe and clean manner at all times.
2. Exterior storage of refuse, equipment or materials associated with the Group Site operation and each food vending enterprise is prohibited.
3. The lot shall be paved.
4. The Food Vending Group Site shall maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).
5. 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

date of a Food Vending Group Site. A scaled or dimensioned site plan depicting the proposed location of any site amenities shall be submitted for review and approval in conjunction with a Food Vending Group Site Permit application.

D. **Lighting.** The Food Vending Group Site shall provide adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from adjacent properties.

E. **Noise Control.** Noise levels measured at the Group Site location boundary or property line shall not exceed the city's noise ordinance standards.

F. **Litter Control.**

1. Each food vendor shall provide at least one thirty-two (32)-gallon litter receptacle within fifteen (15) feet of their food vending unit.
2. The applicant shall be responsible for maintaining the subject property and adjacent right-of-way free of litter on and within one hundred (100) feet of the subject location after each Food Vending Group Site operation date.
3. The applicant shall arrange and pay for collection and disposal of the waste after each Food Vending Group Site operation date.
4. Failure to adequately clean up after a Food Vending Group Site operation date shall be grounds for denying an applicant's request for Permit renewal and/or additional vending dates under an issued Permit that might otherwise be approved as set forth in Section 5.51.120.

G. **Security.**

1. The serving or consumption of alcohol is prohibited at Food Vending Group Sites.

H. **Hours of Operation.** Hours of operation shall be determined by the city, but shall not exceed: seven (7) a.m. to three (3) a.m., on any day of permitted Group Site activity.

5.51.140 - Revocation of Food Vending Group Site Permit.

Food Vending Group Site Permits may be revoked at any time by the City Administrator in accordance with Chapter 5.02.080 for:

- A. Violating any of the required operating standards set forth in Section 5.51.130; or
- B. Violating any of the imposed Food Vending Group Site Permit conditions; or
- C. Unlawful or criminal activity occurring during the operation dates of a Food Vending Group Site; or any other violation of this Chapter

Revocation shall be immediately effective upon written notice of the revocation by the City Administrator. Revocation hearings and appeals shall be done in accordance with Chapter 5.02.090 and 5.02.100.

5.51.150 - Penalties for violation of Food Vending Group Site Permit requirements.

Any violation of this Chapter may be charged as a civil penalty or administrative citation as provided for in Chapter 1.08 of the Oakland Municipal 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. In addition, nothing in this section shall be interpreted to preclude or limit the City from seeking injunctive or other judicial relief.

5.51.160 - Enforcement.

The City Administrator 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.

5.51.170 - Abatement generally.

A. Failure to permanently remove a food vending unit used for food vending and failure to cease operation as a Food Vending 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 the Oakland Municipal Code.

B. When the City Administrator determines that a Food Vending Group Site has been used as an instrument for, or has contributed substantially to, any of the conditions stated in Sections 5.51.100 or 5.51.130 in violation of this Chapter, the City Administrator may deem the violation a public nuisance and issue a notice to abate the Food Vending 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.

5.51.180 - Notice to abate.

Upon declaring and deeming a violation of this Chapter a nuisance, the City Administrator shall send a notice of abatement to the property owner and Responsible Party. The notice of abatement shall contain the following:

A. The street address and a legal description of the property 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 property owner and applicant 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 and applicant 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 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 Group Site 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 and/or Responsible Party to fail or neglect to comply with such order or notice of abatement. In the event that the property owner and/or applicant shall not promptly proceed to abate said nuisance condition(s), that is to say within seven (7) days of notice to abate, as ordered by the enforcing official, the abatement procedure set forth in Section 5.51.190 may be undertaken.

5.51.190 - 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 the Oakland Municipal Code.

5.51.200 - Violations constituting infractions.

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

5.51.210 - Penalty for violation.

Any person convicted of an infraction under the provision of this Chapter shall be punished upon a first conviction by a fine of not more than one thousand dollars (\$1000.00) and, for a second conviction within a period of one year, by a fine of not more than two thousand dollars (\$2000.00) and, for a third or any subsequent conviction within a one-year period, by a fine of not more than five thousand dollars (\$5000.00). Any violation beyond the third conviction 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 ten thousand dollars (\$10000.00) 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 the Oakland Municipal Code.

Section 2. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 3. The City Council finds and determines that the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA"), including, but not limited to, Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning" and/or Section 15061(b)(3) of the State CEQA Guidelines, and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

Section 4. If any article, section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full force and effect.

Section 5. The controls imposed by this interim ordinance shall remain in place and be effective through January 1, 2013, or until the City Council adopts permanent mobile food vending regulations, whichever comes first.

Section 6. For the term of this ordinance, as set for the in Section 5 above, the provisions of this ordinance shall govern, and to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

Section 7. This ordinance shall be effective 30 days from the date of final passage by the City Council.

Section 8. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 of the Charter of the City of Oakland, and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 NOV 22 AM 10:06

6 VOTES REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBERS JANE BRUNNER AND REBECCA KAPLAN

K. Jain

City Attorney

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

AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13024 C.M.S. AS AMENDED) TO ESTABLISH AN INTERIM FOOD VENDING GROUP SITE APPLICATION FEE, NOTIFICATION FEE AND PERMIT FEE.

WHEREAS, when the City of Oakland's existing Vehicular Food Vending program was originally implemented in 2001, Oakland was a leader in recognizing this small business format, and creating a legal mechanism for their participation in the local economy; and

WHEREAS, in the past three years, with the changes in the economy and the growing food market, entrepreneurs have taken mobile food vending into a whole new direction; and

WHEREAS, there is greater general public acceptance and demand for mobile food vendors, and

WHEREAS, new concepts like the clustering of mobile food vendors into "Group Sites" or "Food Pods" on a single site are not covered by our existing mobile food legislation; and

WHEREAS, Planning Staff are currently working on developing the permitting and operating standards for a new citywide mobile food vending program; and

WHEREAS, there is a need for interim regulations during the period of development of a new citywide mobile food vending program to allow review of currently pending requests to establish mobile food vending "Group Sites" or "Food Pods"; and

WHEREAS, the interim regulations will apply to a limited area in the City of Oakland defined, in part, by Council Districts 1, 2, 3, and 4; and

WHEREAS, the interim regulations will remain in place and be effective only through January 1, 2013, or until the City Council adopts permanent mobile food vending regulations, whichever comes first; and

WHEREAS, the interim regulations limit the length and frequency of mobile food vending "Group Site" or "Food Pod" activities at a single site to no more than two (2) dates per week and

up to forty (40) dates in any one 12-month period; and

WHEREAS, implementation of the interim regulations would result in increased costs to the City for administration, enforcement and monitoring of the program, estimated at a cost of \$421.66 and \$200.00 per application for file processing and notification respectively; and

WHEREAS, for the reasons set forth above, the Council declares that this ordinance is necessary to establish interim regulations during the period of development of a new citywide mobile food vending program to allow review of currently pending requests to establish mobile food vending "Group Sites" or "Food Pods", and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity; now, therefore

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

Section 1. Section A. (City Administrator – Special Activities) of the Master Fee Schedule is hereby amended to add subsection A.25 Food Vending Group Site Permit which will read as follows:

A.25 Food Vending Group Site Permit

- | | |
|---------------------------|--|
| 1. Application/Processing | \$421.66/site (non-refundable application fee) |
| 2. Notification Fee | \$200.00 (to generate a list of property owners and businesses within 300 feet of proposed Group Site) |
| 3. Permit Fee | \$100/per Group Site operation date |

Section 2. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full force and effect.

Section 4. The controls imposed by this ordinance shall remain in place and be effective through January 1, 2013, or until the City Council adopts permanent mobile food vending regulations, whichever comes first.

Section 5. For the term of this ordinance, as set for the in Section 4 above, the provisions of this ordinance shall govern, and to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

Section 6. This ordinance shall be effective 30 days from the date of final passage by the City Council.

Section 7. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 of the Charter of the City of Oakland, and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

NOTICE AND DIGEST

2011 NOV 22 AM 10: 06

AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13024 C.M.S. AS AMENDED) TO ESTABLISH AN INTERIM FOOD VENDING GROUP , SITE PERMIT FEE.

This Ordinance proposes to amend the Master Fee Schedule to include fees for the administration and enforcement of the Interim Food Vending Group Site Pilot Program Ordinance. The following new fees would be established:

A non-refundable Application/Processing Fee	\$421.66/site
A non-refundable notification fee	\$200.00
A permit fee	\$100/per Group Site operation date

FILED
OFFICE OF THE CITY CLERK
OAKLAND

NOTICE AND DIGEST

2011 NOV 22 AM 10:06

AN ORDINANCE ESTABLISHING INTERIM REGULATIONS FOR THE REVIEW OF MOBILE FOOD VENDING GROUP SITES WITHIN THE LIMITED AREA OF THE CITY OF OAKLAND DEFINED, IN PART, BY COUNCIL DISTRICTS 1, 2, 3, AND 4. THE INTERIM REGULATIONS CONTAINED HEREIN SHALL REMAIN IN PLACE AND BE EFFECTIVE THROUGH JANUARY 1, 2013, OR UNTIL THE CITY COUNCIL ADOPTS NEW PERMANENT MOBILE FOOD VENDING REGULATIONS, WHICHEVER COMES FIRST.

This Ordinance proposes to establish an interim pilot permitting process creating a category under the City of Oakland's Municipal Code Chapter 5: "Business, Taxes, Permits and Regulations," for limited Mobile Food Vending "Group Site" events in specified zoning districts within Council Districts 1, 2, 3 and 4 that could be considered for adoption by the Council prior to comprehensive citywide draft regulations that Planning staff are currently in the process of developing. A "Food Vending Group Site" refers to the stationary operation of three (3) or more mobile food vendors clustered together on a single site. The proposed interim regulations are proposed to be effective through January 1, 2013 or until the City Council adopts new permanent mobile food vending regulations, whichever comes first. The proposed interim regulations would not supersede regulations pertaining to areas established by OMC Chapters 8.09 and 5.49.