

1 [Mobile Caterers Regulations]

2

3 **Ordinance amending the San Francisco Police Code and San Francisco Public Works**
4 **Code by repealing Police Code Article 17.2, Sections 1320 through 1326 (Regulations**
5 **for Mobile Caterers; Permit and License Provisions), transferring the regulations to a**
6 **new Article 5.9 of the Public Works Code, commencing with Section 184.100, making**
7 **other amendments to implement the transfer, including new fee and penalty**
8 **provisions; streamlining the notice and hearing procedures; and adopting**
9 **environmental findings.**

10 NOTE: Additions are *single-underline italics Times New Roman*;
11 deletions are ~~*strike-through italics Times New Roman*~~.
12 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. Environmental Finding. The Planning Department has determined that the
15 actions contemplated in this ordinance comply with the California Environmental Quality Act
16 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
17 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
18 by reference.

19 Section 2. The San Francisco Police Code is hereby amended by repealing in its
20 entirety Article 17.2, Sections 1320 through 1324 (Regulations for Mobile Caterers; Permit
21 and License Provisions).

22 Section 3. The San Francisco Public Works Code is hereby amended by adding Article
23 5.9, to read as follows:

24 ARTICLE 5.9 REGULATIONS FOR MOBILE CATERERS; PERMIT AND LICENSE
25 PROVISIONS.

1 SEC. 184.100. DEFINITIONS.

2 For the purpose of this Article the following words and phrases mean and include:

3 (a) Mobile Caterer. Any vehicle wherein or wherefrom wrapped food, foodstuffs, products,
4 liquids or material intended or food or drink for human consumption are sold, served, distributed, or
5 offered for sale at retail or given away to the public on a public right-of-way as defined in Public
6 Works Code Section 2.4.4(t); provided, however, the term "Mobile Caterer," for the purposes of
7 securing a Department of Public Works permit under the provisions of this Article, does not include
8 those mobile caterers distributing food and/or drink for human consumption that operate wholly, and
9 exclusively on streets, drives, alleys, squares, parks, piers, loading facilities, schools, colleges or
10 universities under the jurisdiction of the Recreation and Park Commission of the City and County of
11 San Francisco, the Board of Education of the City and County of San Francisco or the San Francisco
12 Port Commission and are authorized by said Commissions or Board to maintain stopping places to
13 conduct sales of food and/or drink for human consumption at locations under the authority of said
14 Commissions or Board, and has been issued a certificate of sanitation by the Director of Public Health
15 as an "Itinerant Restaurant."

16 (b) Person. An individual, firm, partnership, joint venture, association, social club, fraternal
17 organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate,
18 or any other group or combination acting as a unit, excepting the United States of America, the State of
19 California, and any political subdivision of either thereof.

20 (c) Operator. Any person, including an assistant mobile catering permittee, who operates a
21 mobile catering vehicle wherefrom food products and material intended for food or drink for human
22 consumption are sold, served, distributed or offered for sale at retail or given away to the public.

23 (d) Director. The Director of Public Works of the City and County of San Francisco or a
24 designated representative of the Director.

1 (e) DPH Director or Director of Public Health. The Director of Public Health of the City and
2 County of San Francisco or a designated representative of the DPH Director.

3 (f) Tax Collector. Tax Collector of the City and County of San Francisco.

4 (g) City. The City and County of San Francisco.

5 SEC. 184.101. PERMIT REQUIRED.

6 It shall be unlawful for any person to operate or to cause or permit to be operated any mobile
7 catering vehicle without first having obtained a permit from the Director after approval by the Director
8 of Public Health.

9 SEC. 184.102. FILING AND FEE PROVISION.

10 Every person desiring a permit pursuant to this Article shall file an application with the
11 Director upon a form provided by said Director and shall pay a filing fee of \$XX.00, which shall not be
12 refundable. This fee shall cover the cost that the Department of Public Works and other City
13 departments, including, but not limited to the Department of Public Health, incur in processing the
14 permit application. Half of this fee amount shall be paid at the time of application submission and the
15 remainder paid at the time of the Director's decision on the permit.

16 SEC. 184.103. APPLICATION FORM.

17 Except as otherwise provided herein, an application for a permit pursuant to the provisions of
18 this Article shall specify:

19 (a) The name, business and residence address of the applicant and the address where the
20 mobile catering vehicle is stored during nonoperating hours. If the applicant is a corporation, the name
21 of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and
22 residence addresses of each of the officers, directors and each stockholder owning more than 10
23 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth
24 the name and residence address of each of the partners, including limited partners. If one or more of
25

1 the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply. A
2 natural person shall not acquire a stock interest in more than one corporate permittee.

3 (b) A description of the mobile catering vehicle, including the following data: The make, model
4 and type of body; the number of cylinders; the vehicle identification number or any other identifying
5 number as may be required by the Director.

6 (c) Whether or not the applicant intends to operate a mobile catering business under a
7 fictitious name.

8 (d) Such information pertinent to the operation of the proposed activity, including information
9 as to management and authority control, as the Director or DPH Director may require of an applicant
10 in addition to the other requirements of this section.

11 (e) The address to which notice, when required, is to be sent or mailed, and the name and
12 address of a person authorized to accept service or process, if not otherwise set forth herein.

13 (f) A photograph will be required to accompany the application.

14 (g) Whether the application is for a new permit or for the renewal of an existing permit.

15 (h) The applicant must provide the route that he or she intends to serve and the locations where
16 the operator intends to park the mobile catering vehicle for his sales activities.

17 SEC. 184.104. CORPORATE APPLICANTS; EXEMPTION.

18 The provisions of Sections 184.103(a) relating to requirements for corporate applicants shall
19 not apply to any of the following:

20 (1) A corporation, the stock of which is listed on a stock exchange in the State of California or
21 in the City of New York, State of New York.

22 (2) A bank, trust company, financial institution or title company to which application is made
23 or to whom a license is issued in a fiduciary capacity.

24 (3) A corporation which is required by law to file periodic reports with the Securities and
25 Exchange Commission.

1 SEC. 184.105. APPLICATIONS—REFERENCE TO DIRECTOR OF PUBLIC HEALTH.

2 No permit to operate any mobile catering vehicle in the City shall be originally issued or
3 renewed unless said mobile catering vehicle has been inspected by the Director of Public Health and a
4 Sanitation Certificate has been issued. The DPH Director shall make or cause to be made an
5 investigation of such mobile catering vehicle so that said vehicle conforms with the provisions of this
6 Article and to all applicable State laws and statutes regarding the operation of mobile catering
7 vehicles. Upon a conclusion of his investigation, the DPH Director shall make his recommendation to
8 the Director within 30 days after the filing of such application with the Department of Public Works.

9 SEC. 184.106. NOTICE OF HEARING.

10 When an application is filed for a new permit under this Article, the Director shall fix a time
11 and place for a public hearing thereon within 20 days from the date of report by the DPH Director. Not
12 less than 10 days before the date of such hearing the Director shall cause to be published a notice of
13 such hearing in the official newspaper of the City and County of San Francisco. Such notice shall set
14 forth the following: The name and business address of the applicant; the name and type of vehicle to be
15 used; any fictitious name the applicant desires to use; the proposed hours of operation; the proposed
16 route and location(s) of the mobile catering business.

17 SEC. 184.107. ISSUANCE OF PERMIT.

18 (a) The Director may issue a permit within 14 days following a hearing as provided herein,
19 based upon his investigation and the investigation of the Director, if he or she finds:

20 (1) That the operation, as proposed by the applicant, would comply with all applicable laws,
21 including but not limited to the City's Municipal Codes;

22 (2) That the applicant has not made any false, misleading or fraudulent statement of facts in the
23 permit application or any other document required by the Director or the DPH Director in conjunction
24 therewith.

1 (3) That the applicant's proposed operation is not located within two blocks or 600 feet,
2 whichever is greater, of an established business which sells the same type of food product or other
3 merchandise or similar service as intended by said applicant, or of any location previously established
4 and currently being operated by a licensed peddler or pushcart peddler or mobile catering vehicle
5 selling the same type of food product or other merchandise or similar service as intended by said
6 applicant. The Director may grant an exception to this requirement if the mobile catering site is
7 adjacent to a construction site with active construction operations.

8 (4) The mobile catering truck location(s) conforms to the locational requirements for pushcart
9 peddlers as set forth in Public Works Code Section 184.85(b)(1).

10 (b) The Director's decision to approve, approve with conditions, or disapprove a permit is
11 appealable to the Board of Appeals within 15 days of the Director's decision.

12 SEC. 184.108. MOBILE CATERING VEHICLES—IDENTIFICATION.

13 Mobile catering vehicles shall be maintained in good repair, in good sanitary condition and
14 shall have permittee's name and address painted on both sides of the door in letters at least three
15 inches in height.

16 SEC. 184.109. SELLING FROM VEHICLES IN DISTRICTS OTHER THAN RESIDENTIAL
17 DISTRICTS.

18 An operator of a mobile catering vehicle shall be allowed to offer for sale at retail or give away
19 any food or drink for human consumption in any district other than a residential district subject to the
20 requirements of this Article.

21 SEC. 184.110. PROHIBITION OF SELLING FROM VEHICLES IN "P" DISTRICTS AND
22 OPEN SPACE DISTRICTS ON TWIN PEAKS.

23 No operator of a mobile catering vehicle shall offer for sale or give away any food or drink for
24 human consumption adjacent to the curb of any "P" district as defined in Section 234 of the City
25 Planning Code located on Twin Peaks or in any areas in or adjacent to Open Space districts located on

1 Twin Peaks, except pursuant to a permit duly issued and in force upon the effective date of this
2 amended ordinance, and further except as may be authorized from time to time by the Recreation and
3 Park Commission in appropriate areas under the jurisdiction of said Commission.

4 SEC. 184.111. PROHIBITION AGAINST SELLING WITHIN 1500 FEET OF A PUBLIC
5 SCHOOL.

6 No operator of a mobile catering vehicle shall offer for sale or give away any food or drink for
7 human consumption within 1,500 feet of the property line of any public middle school, junior high
8 school, or high school between the hours of 7:00 a.m. and 5:00 p.m., unless the Director has approved
9 such sales in accordance with Section 184.118 of this Article.

10 SEC. 184.112. EMPLOYMENT OF AN ASSISTANT MOBILE CATERING OPERATOR.

11 (a) Every person holding a permit as a mobile caterer shall be permitted to employ assistant
12 mobile catering operators who shall be subject to the same rules and regulations herein provided for a
13 mobile catering operator. The assistant mobile catering operators shall not be permitted to operate a
14 mobile catering vehicle during the same hours as the licensed operator unless multiple permits have
15 been issued to a mobile catering operator.

16 (b) Each assistant mobile catering operator shall be required to fill out an application on a
17 form prescribed by the Director and shall pay a filing fee of \$XX.00 and shall receive a similar
18 identification card as specified in Section 184.116 and shall be required to have this card in his or her
19 possession at all times during operation of the mobile catering vehicle. The identification number
20 assigned by the Director to the mobile catering operator shall be endorsed on the identification card.

21 SEC. 184.113. LUNCH SERVICE LABELING REQUIREMENT.

22 Every box lunch or sandwich prepared for sale or distribution shall be securely wrapped and
23 labeled at the place where prepared.

24 SEC. 184.114. MOBILE CATERING VEHICLES—ANNUAL INSPECTION AND RENEWAL
25 OF PERMIT.

1 All mobile catering vehicles having a permit and the DPH Director's approval to operate within
2 the City shall be subject to an annual inspection and issuance of new Certificate of Sanitation at a time
3 and place designated by the DPH Director. Failure to appear for vehicle inspection as described above
4 shall be deemed a violation of this Article and may be cause for revocation of said permit to operate.
5 All mobile catering permits shall be renewed annually and are subject to a renewal fee of \$XX.00.

6 SEC. 184.115. RULES AND REGULATIONS BY DIRECTOR.

7 The Director, after a public hearing, may adopt such orders, policies, regulations, rules, or
8 standard plans and specifications as he or she deems necessary in order to preserve and maintain the
9 public health, safety, welfare, and convenience. Such orders, policies, regulations, or rules may
10 include, but are not limited to, permit application materials, placement of and information contained on
11 signs, site conditions, accessibility of sidewalks and streets. When such orders, policies, regulations, or
12 rules will affect the operations and enforcement of the Department of Parking and Traffic, the Director
13 shall consult with and provide an opportunity to comment to the Director of the Department of Parking
14 and Traffic prior to adoption of such orders, policies, regulations, or rule. When such orders, policies,
15 regulations, or rules will affect the operations and enforcement of the Department of Health, the
16 Director shall consult with and provide an opportunity to comment to the Director of the Health prior
17 to adoption of such orders, policies, regulations, or rules.

18 SEC. 184.116. IDENTIFICATION CARD.

19 The Director shall issue to each permittee and to each assistant mobile caterer an identification
20 card which shall contain a photograph of the permittee with the number of the permit in figures plainly
21 discernible. The Director shall determine the manner and form of any other information that may be
22 placed upon this identification card. Such identification card must be in the possession of the operator
23 or the assistant mobile catering operator, if permitted, at all times during hours that the mobile
24 catering vehicle is in operation and shall be produced upon request of a police officer, Health
25

1 Department inspector, or the Director. A fee of \$XX.00 shall be charged for each identification card
2 issued.

3 SEC. 184.117. MOBILE CATERING VEHICLES—DECAL AND PERMIT AND DISPLAY
4 THEREOF.

5 The Director of Public Health shall annually issue a Certificate of Sanitation as a decal which
6 shall be affixed to the lower right-hand corner of the windshield. The number assigned to each vehicle
7 shall be forwarded to the Director. In addition, the permit, business license, and identification card
8 shall be displayed in a manner where it is in plain view of the public at all times.

9 SEC. 184.118. ROUTE APPROVAL BY DIRECTOR.

10 The Director shall review and approve the routes submitted by the permittee in his or her
11 application for permit. The approved route and stops thereon shall be available for inspection within
12 the vehicle at all times during hours of operation. Requests for route changes shall be made by
13 application to the Director upon a form provided by said Director and a filing fee of \$XX.00 shall be
14 charged therefor.

15 SEC. 184.119. SUSPENSION AND REVOCATION OF PERMIT.

16 The Director may suspend or revoke any permit issued hereunder if he finds, after a noticed
17 public hearing, that any of the following conditions exist:

18 (a) Fraud, misrepresentation or false statement contained in the application for permit.

19 (b) Violation of provisions of this Article, the San Francisco Municipal Code, or any of the
20 laws of the State of California regarding mobile catering vehicles.

21 (c) Violations of provisions of the State Vehicle Code.

22 (d) Any violations occur as specified herein for another mobile catering permit issued to the
23 same permittee.

24 SEC. 184.120. LICENSE FEES.

1 (a) Every person, firm or corporation who operates a mobile catering vehicle as defined herein
2 shall pay to the Tax Collector an annual license fee, payable in advance.

3 (b) The license fee prescribed in this Section is due and payable on a calendar year basis
4 starting 30 days after the first day of January, 1977, or in any subsequent calendar year shall be
5 prorated with regard to the calendar year on a monthly basis.

6 (c) No permit or license shall be initially issued pursuant to this Article unless all applicable
7 fees have been paid.

8 SEC. 184.121. TRANSFER OF PERMIT.

9 No permit shall be transferable except with the written consent of the Director with the
10 approval of the Director of Public Health. The application for such transfer shall contain the same
11 information as requested herein for an initial application for such a permit and shall be accompanied
12 by the same filing fees as for an initial application.

13 SEC. 184.122. FORFEITURE OF LICENSE FEE.

14 On revocation of the permit no part of the annual license fee shall be returned but the said
15 license fee shall be forfeited to the City.

16 SEC. 184.123. TIME LIMIT FOR FILING APPLICATION FOR PERMIT—

17 NONRETROACTIVE APPLICATION TO EXISTING PERMIT.

18 All persons who possess an outstanding permit to operate a mobile catering vehicle heretofore
19 issued by the Police Department must file for a new permit within 90 days of the effective date of this
20 Ordinance. Failure so to do shall make continued operation of said place of business a violation of
21 Section 184.24 hereof. The Director shall reissue new permits to all persons presently holding
22 outstanding permits to operate mobile catering vehicle at no cost subject to the requirement for annual
23 renewal of the permit from the date the reissuance of the permit and compliance with the terms and
24 conditions of this Article.

25 SEC. 184.124. PENALTY.

1 (a) If the Director determines that the permittee has exceeded the scope of the permit, either in
2 terms of duration or area, or determines any other violation of the permit terms or conditions has
3 occurred, the Director shall order the permittee to correct the violation within a specified time period.
4 If any person has occupied the public right-of-way or any other area without a permit, the Director
5 shall immediately order the violator to vacate the occupied area. Should the violation not be corrected
6 as ordered or in the case of occupation without a permit, the permittee or person shall pay a penalty
7 fee of up to \$1,000 per day for each day of violation. Failure to pay any fee assessed under these
8 provisions shall constitute good cause for immediate revocation of the permit or removal of
9 unpermitted obstructions.

10 (b) Criminal Penalty.

11 (1) Any person who shall violate any of the provisions of this Section shall be guilty of an
12 infraction at each location where such violation occurs. Every violation determined to be an infraction
13 is punishable by (A) a fine not exceeding \$100 for the first violation within one year; (B) a fine not
14 exceeding \$200 for a second violation within one year from the date of the first violation; (C) a fine not
15 exceeding \$500 for the third and each additional violation within one year from the date of the first
16 violation.

17 (2) When a government official authorized to enforce this Section has reasonable cause to
18 believe that any person has committed an infraction in the official's presence that is a violation of this
19 Section, the official may issue a citation to that person pursuant to California Penal Code, Part II, Title
20 3, Chapters 5, 5C, and 5D.

21 (c) Administrative Penalty. In the alternative to the criminal penalty authorized by Subsection
22 (b) of this Section for violations of Subsection (a), Department of Public Works officials designated in
23 Section 38 of the Police Code may issue administrative citations for such violations. Except as
24 provided in Subsection (a), the administrative penalty shall not exceed \$300 for each violation. Such
25 penalty shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

1 SEC. 184.125. REMOVAL OR IMMOBILIZATION OF MOBILE CATERING VEHICLES.

2 (a) Removal or immobilization By Director, public nuisance or emergency. The Director of
3 Public Works is authorized to order the immediate removal of a mobile catering vehicle when, in his or
4 her opinion, the vehicle has no permit, constitutes a safety hazard or public nuisance, or when the
5 presence of an emergency requires removal of the vehicle. The Director also may order the
6 immobilization of the vehicle in lieu of or prior to removal. After notification by the Director of the
7 removal order, the vehicle shall be removed immediately from the street area by its owner. If the owner
8 does not remove the vehicle immediately, the Director may order the Department or work with the
9 Police Department or the San Francisco Municipal Transportation Agency to remove or immobilize the
10 vehicle. The owner shall pay to the City the costs of removal or immobilization. No mobile catering
11 vehicle shall be placed at that location until the conditions which have caused the removal order shall
12 have been abated to the satisfaction of said Director.

13 (b) The Director is authorized to remove, or cause to be removed, or immobilize, or cause to be
14 immobilized, any mobile catering vehicle placed in a street, sidewalk, or other area in violation of any
15 other provision of this Article. Removal or immobilization shall take place no earlier than 48 hours
16 after notice is given describing the violation(s). The notice shall be both mailed to the vehicle owner
17 and placed in a conspicuous manner on the vehicle, and shall contain the following:

18 (1) The condition(s) violated,

19 (2) The date and time of posting,

20 (3) The location of the vehicle,

21 (4) The identify of the person giving the notice,

22 (5) A statement giving notice of 48 hours to remedy the violation(s).

23 (c) Vehicles that have been removed may be recovered within ninety (90) days upon payment of
24 a sum equal to the cost of removing said vehicle including a 20 percent charge for administrative costs
25 as determined by the Department, and any costs incurred by the Department in disposing of any

1 materials contained in the vehicle. Costs incurred as a result of removal or immobilization under this
2 Section are in addition to any fines or penalties incurred under Section 184.124.

3 SEC. 184.126. SEVERABILITY.

4 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or
5 any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of
6 competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining
7 portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would
8 have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof
9 irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences,
10 clauses or phrases be declared unconstitutional or invalid or ineffective.

11
12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By: _____
15 John D. Malamut
16 Deputy City Attorney