

1 [Health, Business and Tax Regulations, Public Works Codes - Compact Mobile Food
2 Operation Definitions and Fees]

3 **Ordinance amending the Health and Business and Tax Regulations Codes to revise the**
4 **definition of a mobile food facility permit and add definitions for compact mobile food**
5 **operations, mobile support unit, and permitted auxiliary conveyance permits to reflect**
6 **recent amendments to the California Retail Food Code, and revise existing definitions**
7 **of various other terms to reflect State law definitions in that Code; establish annual**
8 **permit and plan check fees for auxiliary conveyance, compact mobile food operation,**
9 **and mobile support unit permits; and remove annual food facility surcharge fees;**
10 **amending the Public Works Code to include a definition for compact mobile food**
11 **operations and to expand the Department of Public Works' street vending authority to**
12 **include regulation of compact mobile food operations, and require that Department to**
13 **consult with the Department of Public Health and Fire Department when issuing rules**
14 **and regulations that regulate street vendors.**

15 NOTE: **Unchanged Code text and uncoded text** are in plain Arial font.
16 **Additions to Codes** are in single-underline italics Times New Roman font.
17 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
18 **Board amendment additions** are in double-underlined Arial font.
19 **Board amendment deletions** are in ~~strikethrough Arial font~~.
20 **Asterisks (* * * *)** indicate the omission of unchanged Code
21 subsections or parts of tables.

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

23 Section 1. Article 8 of the Health Code is hereby amended by revising Sections 451
24 and 454, to read as follows:
25

1 **SEC. 451. FOOD PREPARATION AND SERVICE ESTABLISHMENT.**

2 For purposes of this Article 8, the following terms have the following meanings:

3 **“Bar or tavern”** means any Food Preparation and Service Establishment ~~that~~^{which}
4 primarily prepares and/or serves alcoholic beverages.

5 ~~“Bed and breakfast establishment” means a “restricted food service facility” as defined in~~
6 ~~California Health and Safety Code Section 113893, as may be amended from time to time.~~

7 **“Boardinghouse”** means any building, or portion thereof, occupied or intended,
8 arranged, or designed for occupation, by six or more but less than 35 guests, where sleeping
9 rooms and meals are provided to the guests for compensation; ~~in addition,~~ Boardinghouse
10 includes, but is not limited to, all private institutional-type homes where inspection is made by
11 the Department of Public Health.

12 **“Caterer”** means a person who is in the business of providing food, beverages, and
13 sometimes service, at social gatherings. The Caterer prepares the food at a location
14 separate from the social gathering, though the Caterer may engage in Limited food
15 preparation at the location where the Caterer serves the food. A Caterer is not a private
16 chef or chef for hire who prepares food in a private home.

17 **“Catering facility”** means any Catering operation ~~Food Preparation and Service~~
18 ~~Establishment~~ where a Caterer prepares food for service at another location and includes
19 Catering facility - Cooking and Catering facility - No Cooking.

20 ~~(1)~~—**“Catering facility - Cooking”** means a Catering facility where food is cooked for
21 service at another location.

22 ~~(2)~~—**“Catering facility - No Cooking”** means a Catering facility where Limited food
23 preparation occurs, but cooking is not allowed.

24 **“Catering operation”** has the meaning set forth in California Health and Safety Code Section
25 113739.1, as may be amended from time to time.

1 **“City”** means the City and County of San Francisco.

2 **“Commissary”** ~~means any food establishment in which food, containers, equipment, or~~
3 ~~supplies are stored or handled for use in vehicles, mobile food preparation units, food carts, or vending~~
4 ~~machines—~~ has the meaning set forth in California Health and Safety Code Section 113751, as may be
5 amended from time to time. Commissary includes, but is not limited to, Commissary for cooking and
6 Commissary for Mobile Food Facility servicing.

7 —(1) **“Commissary for cooking”** means a Commissary where cooking occurs.

8 —(2) **“Commissary for Mobile Food Facility servicing”** means a Commissary
9 where food is stored for a Mobile Food Facility, and where no food preparation or cooking is
10 allowed.

11 **“Community event”** has the meaning set forth in California Health and Safety Code Section
12 113755, as may be amended from time to time.

13 **“Compact Mobile Food Operation”** means a Mobile Food Facility that operates from an
14 individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other
15 nonmotorized conveyance. Compact Mobile Food Operation includes Compact Mobile Food
16 Operation – Low Risk, Compact Mobile Food Operation – Moderate Risk, and Compact Mobile Food
17 Operation – High Risk.

18 **“Compact Mobile Food Operation – Low Risk”** means a Compact Mobile Food
19 Operation that offers for sale only Prepackaged, non-Potentially hazardous food and whole uncooked
20 produce and features more than 25 square feet of food display.

21 **“Compact Mobile Food Operation – Moderate Risk”** means a Compact Mobile Food
22 Operation that offers unpackaged foods (non-PHF or PHF) and may engage in Limited food
23 preparation. Prepackaged Potentially hazardous foods may also be offered. This operation shall not
24 include raw meat, raw poultry, or raw fish.

1 **“Compact Mobile Food Operation – High Risk”** means a Compact Mobile Food
2 Operation that offers unpackaged Potentially hazardous food and engages in Limited food preparation.
3 This operation can prepare raw meat, raw poultry, or raw fish and meets the warewashing and
4 handwashing facility requirements for mobile food facilities as stated in Chapter 10 of the California
5 Health and Safety Code (commencing on Section 114294), as may be amended from time to time.

6 **“Consumer”** has the meaning set forth in California Health and Safety Code Section
7 113757, as may be amended from time to time.

8 **“Cooking school”** means a Food facility that operates as a school where students
9 prepare and consume food products.

10 **“Director”** means the ~~“Director of Health of the City or the Director’s designee.~~
11 ~~“Inspectors” shall mean the “Inspectors of the Department of Public Health,” administered by said~~
12 ~~Director. The Director shall be responsible for the administration and enforcement of this Article 8 and~~
13 ~~the rules and regulations relating thereto. The Director shall, after a public hearing, prescribe the~~
14 ~~rules and regulations relating thereto. All Food Preparation and Service Establishments shall be~~
15 ~~operated, conducted, and maintained in accordance therewith.~~

16 **“Employee Cafeteria”** means a Food facility located within a business premises
17 where the ~~business~~ employees of the business are provided or sold food on a regular basis.
18 Food and drink are not regularly served to the public and the Food facility~~establishment~~ is not
19 subject to tax. The operators of the Food facility are either employees of the business or are
20 contracted by that business.

21 **“Food demonstrations”** means any food preparation and/or service facility operating
22 out of a Temporary food facilityies approved by the Director ~~of Health~~ for a period of time not to
23 exceed seven consecutive days for purposes of demonstrating food preparation or equipment.

24 **“Food facility”** has the meaning set forth in California Health and Safety Code Section 113789,
25 as may be amended from time to time.

1 **“Food preparation”** has the meaning set forth in California Health and Safety Code Section
2 113791, as may be amended from time to time.

3 **“Food Preparation and Service Establishment”** means any ~~R~~estaurant, ~~M~~obile
4 ~~F~~ood ~~F~~acility, Compact Mobile Food Operation, ~~guest house~~, ~~B~~oardinghouse, ~~S~~pecial events,
5 ~~S~~chool food concessions, ~~B~~ar or tavern, ~~T~~ake-out establishment, ~~fast food establishment~~,
6 ~~C~~aterer, ~~C~~atering facility – Cooking, Catering facility - No Cooking, ~~T~~emporary food facility,
7 ~~F~~ood demonstration, ~~C~~ommissary, ~~p~~usheart, ~~S~~tadium concession, ~~V~~ending machine,
8 ~~R~~estricted food service facility~~bed and breakfast establishment~~, ~~E~~mployee ~~C~~afeteria, ~~P~~private
9 school cafeteria, ~~H~~ospital kitchen, and ~~L~~icensed ~~H~~health ~~C~~are ~~F~~acility, as those terms are
10 defined herein.

11 **“Guest house”** means any building, or portion thereof, occupied or intended,
12 arranged, or designed for occupation, by 35 or more guests where sleeping rooms and meals
13 are provided to the guests for compensation and ~~shall include~~s, but is not limited to, ~~“guest~~
14 ~~house,”~~ “residence club,” “lodge,” “dormitory,” “residence cooperative,” and any of its variants.

15 **“Hospital kitchen”** means any ~~F~~ood ~~preparation and service~~ facility operating within a
16 hospital that serves food to staff or the general public, but not to patients.

17 **“Host facility”** has the meaning set forth in California Health and Safety Code Section
18 113806.1, as may be amended from time to time.

19 **“Licensed Health Care Facility”** means a Food facility located in any ~~all~~ of the following
20 health facilities ~~with~~that have 16 or more beds and are designated for the diagnosis, care,
21 prevention, and treatment of human illness, physical or mental, including convalescence,
22 rehabilitation, and perinatal care ~~during and after pregnancy~~, to which persons are admitted
23 for a 24-hour stay or longer:

24 (1) General Acute Care Hospital as defined in California Health and Safety Code
25 Section 1250(a), as may be amended from time to time ~~or any successive statutes~~;

(2) Acute Psychiatric Hospital as defined in California Health and Safety Code Section 1250(b), as may be amended from time to time ~~or any successive statutes~~;

(3) Skilled Nursing Facility as defined in California Health and Safety Code Section 1250(c), as may be amended from time to time ~~or any successive statutes~~ ;

(4) Intermediate Care Facility as defined in California Health and Safety Code Section 1250(d), as may be amended from time to time ~~or any successive statutes~~;

(5) Special Hospital as defined in California Health and Safety Code Section 1250(f), as may be amended from time to time ~~or any successive statutes~~;

(6) Intermediate Care Facility/Developmentally Disabled ~~as defined in California Health and Safety Code Section 1250(g), as may be amended from time to time~~ ~~or any successive statutes~~; and

(7) Chemical Dependency Recovery Facility as defined in California Health and Safety Code Section 1250.3, as may be amended from time to time ~~or any successive statutes~~ .

Notwithstanding the above definition, the term “Licensed Health Care Facility” does not include aAny of the health facility types listed above that are operated by the State of California Departments of Health Care Service ~~Mental Health~~, Developmental Services, or Corrections and Rehabilitation, or any respective successor agencies ~~Youth Authority are not included in this definition.~~

“Limited food preparation” has the meaning set forth in California Health and Safety Code Section 113818, as may be amended from time to time.

“Limited service charitable feeding operation” has the meaning set forth in California Health and Safety Code Section 113819, as may be amended from time to time.

“Mobile Food Facility” means any vehicle ~~or pushcart~~ used in conjunction with a commissary or other permanent Food facility upon which food is sold or distributed at retail. Mobile Food Facilities may be located on private or public property. A Mobile Food Facility does not include a Transporter used to transport packaged food from a Food facility or other

1 approved source to the Consumer. As distinguished from a Compact Mobile Food Operation,
2 ~~There are~~ two ~~five~~ categories of Mobile Food Facilities for licensing and fee payment purposes
3 under Business and Tax Regulations Code Section 249.1, Mobile Food Facility 1 and Mobile
4 Food Facility 2, as set forth below.

5 (1) **“Mobile Food Facility 1”** means a motorized Mobile Food Facility (such as, but
6 not limited to, a food truck or trailer) where a Mobile Food Facility Vendor offers only~~handles~~
7 ~~P~~prepackaged and non-potentially hazardous foods, including but not limited to, pastries, bagels,
8 ~~donuts, popcorn, chips, candies, sodas, or bottled drinks~~ and does not engage in Food preparation.

9 (2) **“Mobile Food Facility 2”** means a motorized Mobile Food Facility (such as, but not
10 limited to, a food truck or trailer) where a Mobile Food Facility Vendor offers~~handles~~ non-
11 ~~P~~prepackaged and potentially hazardous foods and engages in Food preparation, including but not
12 limited to, cold sandwiches, salads, pasta, or cold noodles.

13 ~~— (3) **“Mobile Food Facility 3”** means a Mobile Food Facility where a Mobile Food Facility~~
14 ~~Vendor handles non-prepackaged and non-potentially hazardous foods, including but not limited to,~~
15 ~~churros, salted bagels, cotton candy, lemonade, or tea.~~

16 ~~— (4) **“Mobile Food Facility 4”** means a Mobile Food Facility where a Mobile Food Facility~~
17 ~~Vendor engages in Limited food preparation.~~

18 ~~— (5) **“Mobile Food Facility 5”** means a Mobile Food Facility where a Mobile Food Facility~~
19 ~~Vendor engages in full food preparation or any food preparation not covered by Mobile Food Facility~~
20 ~~Categories 1-4, including but not limited to, tacos, burritos, crepes, or falafel.~~

21 **“Mobile Food Facility Vendor”** means any ~~P~~person engaged in the business of
22 operating a Mobile Food Facility within the City.

23 **“Mobile Support Unit”** means a motorized vehicle used in conjunction with a Commissary or
24 other permanent Food facility, that travels to, and services, Mobile Food Facilities as needed to
25

1 replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid
2 or solid wastes.

3 **“Owner”** or **“owners”** mean those ~~Ppersons, partnerships, or corporations~~ who are
4 financially interested in the operation of a Food Preparation and Service Establishment.

5 **“Operator”** means any ~~Pperson~~ engaged in the dispensing of or in assisting in the
6 preparation of food, or a ~~Pperson~~ otherwise employed in a Food Preparation and Service
7 Establishment.

8 **“Permitted Auxiliary Conveyance”** means a facility containing the necessary handwashing and
9 warewashing sinks when operating a Compact Mobile Food Operation at a site-specific location.

10 **“Person”** has the meaning set forth in California Health and Safety Code Section 113855, as
11 may be amended from time to time.

12 **“Potentially hazardous food”** has the meaning set forth in California Health and
13 Safety Code Section 113871, as may be amended from time to time.

14 **“Prepackaged food”** has the meaning set forth in California Health and Safety Code
15 Section 113876, as may be amended from time to time.

16 **“Private school cafeteria”** means any ~~Ffood preparation and service~~ facility serving
17 food to faculty and/or students of a school not operated by the San Francisco Unified School
18 District.

19 **“Restaurant”** means any Food facility, including by way of example but not limitation, any
20 coffee shop, cafeteria, short-order cafe, luncheonette, cocktail lounge, sandwich stand, soda
21 fountain, public school cafeteria or eating establishment, in-plant or employee eating
22 establishment, and any other eating establishment, organization, club, including Veterans’
23 Club, ~~fast food establishment, boardinghouse, bed and breakfast establishments,~~ or ~~G~~guest house,
24 that ~~which~~ gives, sells, or offers for sale, food to the public, guests, patrons, or employees. The
25 term Restaurant includes ~~as well as~~ kitchens or other food preparation areas in which food is

1 prepared on the premises for serving or consumption on or off the premises, and requires no
2 further preparation, and also includes manufacturers of perishable food products that prepare
3 food on the premises for sale directly to the public. The term "Restaurant" ~~shall~~does not
4 include Mmobile Ffood Ffacilities, cooperative arrangements made by employees who
5 purchase food or beverages for their own consumption and where no employee is assigned
6 full-time to care for or operate equipment used in such arrangement, or private homes; ~~nor~~
7 ~~shall the term "Restaurant"~~ does not include churches, church societies, private clubs, or other
8 nonprofit associations of a religious, philanthropic, civic improvement, social, political, or
9 educational nature, which purchase food, food products, or beverages, or which receive
10 donations of food, food products, or beverages for service without charge to their members, or
11 for service or sale at a reasonable charge to their members or to the general public at
12 occasional fundraising events, for consumption on or off the premises at which the food, food
13 products, or beverages are served or sold, if the service or sale of such food, food products,
14 or beverages does not constitute a primary purpose or function of the club or association, and
15 if no employee or member is assigned full-time to care for or operate equipment used in such
16 arrangements.

17 "Restricted food service facility" has the meaning set forth in California Health and Safety
18 Code Section 113893, as may be amended from time to time.

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

22 **"Shared kitchen complex"** means a facility that provides services and restrooms to
23 Food Preparation and Service Establishments located within the facility for the purpose of
24 cleaning, storage, refuse disposal, and wastewater disposal.

1 **“Special events”** means any organized collection of food purveyors operating
2 individually or collaboratively out of approved temporary or ~~Mmobile Ffood F~~facilities at a fixed
3 location for a period of time not to exceed 25 days in a 90-day period in conjunction with a
4 single, weekly, or monthly ~~C~~community event ~~as defined in California Health and Safety Code~~
5 ~~Section 113755, as may be amended from time to time.~~

6 **“Stadium concession”** means any ~~Ffood preparation and/or service~~ facility operating
7 within the footprint of a stadium, arena, or auditorium, with a seating capacity of 25,000 or
8 more.

9 **“Take-out establishment”** means any Food ~~facility Preparation and Service~~
10 ~~Establishment~~ that primarily prepares food for consumption off premises and does not have
11 seating for guests, patrons, or employees. The term “Take-out establishment” does not include Mobile
12 Food Facilities.

13 **“Temporary food facility”** has the meaning set forth in California Health and Safety Code
14 Section 113930, as may be amended from time to time ~~means any food preparation and service facility~~
15 ~~operating out of temporary facilities approved by the Director of Health at a fixed location for a period~~
16 ~~of time not to exceed 25 days in any 90-day period in conjunction with a single event or celebration.~~

17 **“Transporter”** has the meaning set forth in California Health and Safety Code Section 113932,
18 as may be amended from time to time.

19 **“Vending machine”** means any self-service device, which upon insertion of money,
20 credit card, bank card, mobile payment, or tokens, dispenses Potentially hazardous food or
21 beverages without the necessity of replenishing the device between each vending operation.

22 23 **SEC. 454. REGULATIONS.**

24 The Director shall be responsible for the administration and enforcement of this Article 8 and
25 the rules and regulations relating thereto. The Director may prescribe the rules and regulations

1 relating thereto. All Food Preparation and Service Establishments shall be operated, conducted, and
2 maintained in accordance with said rules and regulations. The rules and regulations to be issued
3 by ~~said~~the Director, shall, among other matters, provide for the following:

4 (a) Suitable ducts in said kitchens and elimination of obnoxious and disagreeable
5 odors from said public eating places;

6 (b) Suitable hoods for ranges;

7 (c) Proper ventilation for kitchens and dining rooms;

8 (d) Basements and storerooms to be dry, clean, and sanitary;

9 (e) Regulation of refrigeration and storage of foodstuffs;

10 (f) Installation and maintenance of proper sanitary plumbing;

11 (g) Handling, storage, and dispensing of milk;

12 (h) Receptacles for soiled linen, use of clean linens, and laundering thereof;

13 (i) Methods and manner of dishwashing;

14 (j) Collection and disposition of garbage and proper receptacles and containers
15 therefor;

16 (k) Adequate toilet facilities and the location of water closets, dressing rooms,
17 lockers, and wash basins;

18 (l) Cleanliness of the premises, utensils, and towels.

19
20 Section 2. Article 2 of the Business and Tax Regulations Code is hereby amended by
21 revising Sections 249.1 and 249.23 and deleting Section 249.21, to read as follows:
22

23 **SEC. 249.1. FOOD PREPARATION AND SERVICE ESTABLISHMENTS.**

24 Every person, firm, or corporation engaged in the business of operating food
25 preparation and service establishments, as defined in Section 451 of the Health Code, that

require permits from the Department of Public Health shall pay an annual license fee to the Tax Collector as follows:

(a)

Class	Fee
Class A. Food preparation and service establishments with a total square footage of:	
Less than 1,000 square feet	\$879
1,000 square feet to 2,000 square feet:	\$1,158
Greater than 2,000 square feet	\$1,326
Class B. Bar or tavern	
Without food preparation	\$750
With food preparation	\$950
Class C. Take-out establishment	\$1,051
Class D. <i>(Reserved) Fast food establishment</i>	\$1,189
Class E. Catering facility	\$1,025
Catering facility – No Cooking	\$618
Catering facility – Cooking	\$1,054
Class F. Temporary <u>food</u> facility	\$176
Class G. Commissary	\$998
Commissary for Mobile Food Facility servicing	\$618
Commissary for cooking	\$1,027

1	Cooking school	\$618
2	Limited service charitable feeding operation	\$0
3	Host facility	\$824
4	Shared Kitchen Complex, less than 2,000 square	\$824
5	feet	
6	Shared Kitchen Complex, 2,000 square feet or more	\$1,030
7	Class H. Mobile Food Facilities	
8	Class H-1. Mobile Food Facility 1	\$195 <u>893</u>
9	Class H-2. Mobile Food Facility 2	\$292 <u>893</u>
10	Class H-3. Mobile <u>Support Unit-Food Facility 3</u>	\$195 <u>781</u>
11	Class H-4. Mobile Food Facility 4	\$778
12	Class H-5. Mobile Food Facility 5	\$778
13	Class I. Stadium concession	\$710
14	Class J. Food Vending machines	\$227 per machine
15	Class K. <u>Restricted food service facility</u> Bed and	\$1,126
16	<u>breakfast establishment</u>	
17	Class L. Boarding house	\$283
18	Class M. Private school cafeteria	
19	Without food preparation	\$342
20	With food preparation	\$527
21		
22		
23		
24		
25		

Class N. Hospital kitchen, with food service to the general public and staff only	\$1,060
Class O. Licensed Health Care Facility	\$1,169
Class P. Caterer	\$376
Class Q. Employee Cafeteria	
With only Limited food preparation	\$669
With food preparation	\$1,029
<u>Class R. Compact Mobile Food Operation</u>	
<u>Class R-1. Compact Mobile Food Operation – Low Risk</u>	<u>\$188</u>
<u>Class R-2. Compact Mobile Food Operation – Moderate Risk</u>	<u>\$377</u>
<u>Class R-3. Compact Mobile Food Operation – High Risk</u>	<u>\$502</u>
<u>Class R-4. Permitted Auxiliary Conveyance</u>	<u>\$188</u>

The license fees set forth above shall be paid annually on or before March 31, in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code. Notwithstanding the chart above, for license periods beginning on or after April 1, 2026, the annual license fee for the following licenses shall be \$0:

(1) Class A: Food preparation and service establishments with a total square footage less than 1,000 square feet.

(2) Class A: Food preparation and service establishments with a total square footage 1,000 square feet to 2,000 square feet.

(3) Class A: Food preparation and service establishments with a total square footage greater than 2,000 square feet.

1 (4) Class B: Bar or tavern without food preparation.

2 (5) Class B: Bar or tavern with food preparation.

3 (6) Class C: Take-out establishment.

4 ~~(7) Class D: Fast food establishment.~~

5 (8) Class E: Catering facility – No Cooking.

6 (9) Class E: Catering facility – Cooking.

7 (10) Class H: Mobile Food Facility 1.

8 (11) Class H: Mobile Food Facility 2.

9 (12) Class H: Mobile ~~Support Unit Food Facility 3.~~

10 ~~(13) Class H: Mobile Food Facility 4.~~

11 ~~(14) Class H: Mobile Food Facility 5.~~

12 (15) Class P: Caterer.

13 (b) **Exemptions.** The following establishments are exempt from paying the fees
14 required by this Section 249.1:

15 (1) Food preparation and service establishments used exclusively by day care
16 facilities.

17 For the purpose of this subsection (b)(1), a “day care facility for children” shall
18 mean a “community care facility” licensed pursuant to the provisions of Chapter 3, Division 2
19 of the California Health and Safety Code (commencing at Section 1500), which provides
20 nonmedical care to children in need of personal services, supervision, or assistance essential
21 for sustaining the activities of daily living or for the protection of the individual on less than a
22 24-hour basis, or a “family day care home for children” licensed pursuant to the provisions of
23 Chapter 3.6, Division 2 of the California Health and Safety Code (commencing at Section
24 1597.50).

1 (2) Food preparation and service establishments funded through the Disability and
2 Aging Services Commission for nutrition projects for older individuals.

3 (3) Food preparation and service establishments owned and operated by a non-
4 profit organization for the purpose of charitable feeding.

5 (c) Beginning with fiscal year 2010-2011 and annually thereafter, the fees set forth
6 in this ~~§~~Section 249.1 may be adjusted each year, without further action by the Board of
7 Supervisors, as set forth in this subsection (c). Not later than April 1, the Director shall report
8 to the Controller the revenues generated by the fees for the prior fiscal year and the prior
9 fiscal year's costs of operation, as well as any other information that the Controller determines
10 appropriate to the performance of the duties set forth in this Article 2. Not later than May 15,
11 the Controller shall determine whether the current fees have produced or are projected to
12 produce revenues sufficient to support the costs of providing the services for which the fee is
13 assessed and that the fees will not produce revenue that is significantly more than the costs of
14 providing the services for which the fee is assessed. The Controller shall, if necessary, adjust
15 the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the
16 program recovers the costs of operation without producing revenue that is significantly more
17 than such costs. The adjusted rates shall become operative on July 1.

18
19 **~~SEC. 249.21. FOOD FACILITY SURCHARGE.~~**

20 ~~—(a) Every person, firm or corporation engaged in the business of operating a Food Facility~~
21 ~~shall pay a surcharge annually in advance to the Tax Collector in the amount of \$285. "Food Facility"~~
22 ~~for purposes of this section shall have the same meaning set forth in California Health and Safety Code~~
23 ~~Section 114094, or any successor provisions.~~

1 ~~—(b) Beginning with fiscal year 2009-2010 and annually thereafter, the surcharge set forth in~~
2 ~~this Section may be adjusted each year, without further action by the Board of Supervisors, as set forth~~
3 ~~in this Section.~~

4 ~~—(c) Not later than April 1, the Director of Health, or his or her designee, shall report to the~~
5 ~~Controller the revenues generated by the surcharge for the prior fiscal year and the prior fiscal year's~~
6 ~~costs of operation, as well as any other information that the Controller determines appropriate to the~~
7 ~~performance of the duties set forth in California Health and Safety Code Section 114094, or any~~
8 ~~successor provisions. Not later than May 15, the Controller shall determine whether the current~~
9 ~~surcharge has produced or is projected to produce revenues sufficient to support the costs of providing~~
10 ~~the services for which the surcharge is assessed and that the surcharge will not produce revenue that is~~
11 ~~significantly more than the costs of providing the services for which the surcharge is assessed. The~~
12 ~~Controller shall, if necessary, adjust the surcharge upward or downward for the upcoming fiscal year~~
13 ~~as appropriate to ensure that the program recovers the costs of operation without producing revenue~~
14 ~~that is significantly more than such costs. The adjusted rates shall become operative on July 1.~~

15
16 **SEC. 249.23. MOBILE FOOD FACILITY AND COMPACT MOBILE FOOD**
17 **OPERATION PLAN CHECK FEES.**

18 (a) Each person filing an application for an initial Mobile Food Facility permit under
19 Public Works Code Section 184.83 also shall pay the Department of Public Health
20 (“Department”) a plan check fee of ~~\$184~~ \$251 per hour. This fee is due and payable to the
21 ~~Health~~ Department at the time the applicant requests said plan check from the ~~Health~~
22 Department. The fee amount shall be based on the ~~Health~~ Department’s estimate of the time
23 required to check the applicant’s plans. The ~~Health~~ Department may refund a portion of the
24 fee payment or require additional payment if actual plan check time differs from the initial
25 estimate. The ~~Health~~ Department may withhold plan check approval until payment of the plan

check fees is received. ~~and the Department of Public Works' Mobile Food Facility permit shall not be final and effective until the Health Department issues plan check approval.~~ The Controller may adjust this fee annually as set forth in Section 249.1(c).

(b) Each person filing an application for an Auxiliary Conveyance, an initial Compact Mobile Food Operation, or a Mobile Support Unit permit under Health Code Section 452 shall pay the Department a plan check fee as follows:

<u>Auxiliary Conveyance</u>	<u>\$188</u>
<u>Compact Mobile Food Operation – Low Risk</u>	<u>\$188</u>
<u>Compact Mobile Food Operation – Moderate Risk</u>	<u>\$377</u>
<u>Compact Mobile Food Operation – High Risk</u>	<u>\$502</u>
<u>Mobile Support Unit</u>	<u>\$502</u>

This fee is due and payable to the Department at the time the applicant requests said plan check from the Department. The Department may withhold plan check approval until payment of the plan check fees is received. The Controller may adjust this fee annually as set forth in Section 249.1(c).

Section 3. The Public Works Code is hereby amended by revising Section 184.80 of Article 5.8 and Sections 5.9-2 and 5.9-8 of Article 5.9, to read as follows:

SEC. 184.80. DEFINITIONS.

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

* * * *

Mobile Food Facility. Any vehicle ~~or pushcart~~ used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. Mobile Food

1 Facility does not include a "Transporter" used to transport packaged food from a food facility
2 or other approved source to the consumer or a "compact mobile food operation" as defined in
3 California Health and Safety Code Section 113831(c), as it may be amended from time to time. A
4 Mobile Food Facility does not include any use that sells goods, wares, or merchandise other
5 than food or drink intended for human consumption, or a Vendor eligible for or holding a valid
6 permit pursuant to Article 5.9, ~~who sells pre-packaged food, foodstuffs, confectionary, condiment, or~~
7 ~~beverage for human consumption that is being resold in its original packaging.~~ For purposes of this
8 Article, ~~a pushcart or a mobile caterer~~ is ~~are both~~ referred to as a Mobile Food Facility unless
9 specifically stated otherwise.

10 * * * *

11 12 **SEC. 5.9-2. DEFINITIONS.**

13 For the purpose of this Article 5.9, the following words and phrases have the following
14 meanings:

15 * * * *

16 **Food.** Any raw, cooked, or processed edible substance, ice, beverage, or any ingredient used
17 or intended for use or sale in whole or in part for human consumption, or chewing gum. ~~pre-packaged~~
18 ~~food, foodstuffs, confectionary, condiment, or beverage for human consumption that a Vendor is~~
19 ~~reselling in its original packaging.~~

20 * * * *

21 **SEC. 5.9-8. DELEGATION OF AUTHORITY FOR RULEMAKING.**

22 (a) **Rules and Regulations Authorized.** The Department, in consultation with the
23 Department of Public Health, Fire Department, Office of Economic and Workforce Development,
24 and ~~the~~ Human Rights Commission, may adopt Rules and Regulations related to the
25 administration and enforcement of this Article 5.9, in order to further the purposes of this

Article 5.9, and to promote public health, safety, or welfare. The Rules and Regulations may include but are not necessarily limited to:

* * * *

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Bess Ibtisam Hanish
BESS I. HANISH
Deputy City Attorney

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