

File No. 101352

Committee Item No. 5

Board Item No. 30

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee CITY OPERATIONS AND
NEIGHBORHOOD SERVICES

Date 11/8/10

Board of Supervisors Meeting

Date 11/16/10

Cmte Board

☐	☐	Motion
☐	☐	Resolution
☒	☒	Ordinance
☒	☒	Legislative Digest
☐	☐	Budget Analyst Report
☐	☐	Legislative Analyst Report
☐	☐	Introduction Form (for hearings)
☒	☒	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER

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Completed by: Gail Johnson

Date 11/4/10

Completed by: [Signature]

Date 11/10/10

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The complete document is in the file.

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FILE NO. 101352

[Various Code Amendments - Mobile Food Facilities – Department of Public Works Permitting Authority]

Ordinance amending the San Francisco Police Code and San Francisco Public Works Code by repealing Articles 17.2 (Regulations for Mobile Caterers; Permit and License Provisions) and 17.3 (Permit Regulations for Pushcart Peddlers), transferring the regulations to a new Article 5.8 of the Public Works Code commencing with Section 184.80, redefining Mobile Caterers and Pushcart Peddlers as Mobile Food Facilities; making other amendments to implement the transfer, including new fee and penalty provisions and new notice and hearing procedures; amending Sections 440 and 451 of the San Francisco Health Code and repealing Section 249, amending Section 249.1, and adding Section 249.23 to the San Francisco Business and Tax Regulations Code to update definitions and add annual fees and plan check fees for Mobile Food Facilities; and adopting environmental findings.

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

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

Section 1. Environmental Finding. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 101352 and is incorporated herein by reference.

Section 2. The San Francisco Police Code is hereby amended by repealing in their entirety Article 17.2, Sections 1320 through 1324 (Regulations for Mobile Caterers; Permit

1 for Pushcart Peddlers and Pushcart Operators Concerning Products for Human
2 Consumption).

3 Section 3. The San Francisco Public Works Code is hereby amended by adding Article
4 5.8, to read as follows:

5 ARTICLE 5.8 PERMIT REGULATIONS FOR MOBILE FOOD FACILITIES CONCERNING
6 PRODUCTS FOR HUMAN CONSUMPTION.

7 SEC. 184.80. DEFINITIONS.

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

9 (a) BART. San Francisco Bay Area Rapid Transit District.

10 (b) Department. The Department of Public Works.

11 (c) Director. The Director of the Department of Public Works or his or her designated
12 representative.

13 (d) Director of Health. The Director of the Public Health Department of the City and County of
14 San Francisco or a designated representative of the Director of Health.

15 (e) Location. A Mobile Food Facility location is a fixed point or defined route including an
16 approximate duration at specific fixed points and approximate time of day at specific fixed points along
17 the route.

18 (f) Mobile Caterer. Any motorized vehicle wherein or wherefrom wrapped food, foodstuffs,
19 products, liquids or material intended or food or drink for human consumption are sold, served,
20 distributed, or offered for sale at retail or given away to the public.

21 (g) Mobile Food Facility. Any vehicle or pushcart used in conjunction with a commissary or
22 other permanent food facility upon which food is sold or distributed at retail. Mobile Food Facility
23 does not include a "Transporter" used to transport packaged food from a food facility or other
24 approved source to the consumer. For purposes of this Article, a pushcart or a mobile caterer are both
25 referred to as a Mobile Food Facility unless specifically stated otherwise.

1 (h) Mobile Food Facility Vendor. Any person or entity engaged in the business of operating a
2 Mobile Food Facility within the City and County of San Francisco.

3 (i) Person. An individual or natural person.

4 (j) Pushcart. Any wagon, cart, or any other food-serving device, whether stationary or
5 movable, wherein or wherefrom any food or foodstuffs are sold, served, distributed, offered for sale at
6 retail, or given away to the public, whether consumed at said pushcart or elsewhere.

7 (k) Pushcart Peddler. Any person or entity engaged in the business of operating a pushcart
8 within the City and County of San Francisco.

9 SEC. 184.81. PERMIT REQUIRED.

10 It shall be unlawful for any person, firm or corporation to engage in or carry on the business of
11 a Mobile Food Facility, or to operate, or cause or permit to be operated any Mobile Food Facility
12 upon any public street, sidewalk, alley, or any other public place in the City and County of San
13 Francisco, without first having obtained a permit from the Director accompanied by approval by the
14 Director of Health and the Fire Marshal. This Article shall apply only to Mobile Food Facilities on
15 public right-of-way under the jurisdiction of the Department of Public Works and as defined in Public
16 Works Code Section 2.4.4(t).

17 SEC. 184.82. EXCLUSIONS.

18 (a) The provisions of this Article do not apply to those Mobile Food Facilities distributing food
19 and/or drink for human consumption that operate wholly, and exclusively on streets, drives, alleys,
20 squares, parks, piers, loading facilities, schools, colleges or universities under the jurisdiction of the
21 Recreation and Park Commission of the City and County of San Francisco, the Board of Education of
22 the City and County of San Francisco, or the San Francisco Port Commission and are authorized by
23 said Commissions or Board to maintain stopping places to conduct sales of food and/or drink for
24 human consumption at locations under the authority of said Commissions or Board.

1 **(b) A Pushcart Peddler who applies for and receives a permit from BART for operation of a**
2 **Pushcart at the 16th St. and 24th St. BART stations and the street level plazas adjacent thereto shall**
3 **not be required to obtain a permit from the Director for that Location, and shall be exempt from the**
4 **fee, application, and hearing procedures provided for in this Article for that Location. The Pushcart**
5 **Peddler, however, shall be subject to the provisions set forth in Sections 184.91, 184.92, and 184.94.**

6 **(c) When an application for a permit to operate a Pushcart is filed with BART, BART shall**
7 **inform the Director of Health so that the Director of Health may make an investigation into the**
8 **applicant's proposed Mobile Food Facility. In order to operate the Pushcart, the Peddler shall first**
9 **obtain an annual Certificate of Sanitation from the Director of Health and pay Department of Public**
10 **Health fees as set forth in Section 184.83.**

11 **SEC. 184.83 MOBILE FOOD FACILITY APPLICATION AND FEE PROVISIONS.**

12 **(a) Every person desiring a Mobile Food Facility permit pursuant to this Article shall file an**
13 **application with the Director upon a form provided by the Director and shall pay a filing fee of**
14 **\$125.00, a notification fee of \$200.00, and an inspection fee of \$383.00 for a single Location for the**
15 **Mobile Food Facility. Each additional Location shall require payment to the Department of a**
16 **notification fee of \$200.00 per Location, an inspection fee of \$383.00 for the first additional Location**
17 **and an inspection fee of \$191.50 per each additional Location. Separate fees shall be paid to the**
18 **Department of Health and the Fire Marshal for the annual approvals required by each department for**
19 **a valid permit under this Article. The fees for the Department of Public Health are set forth in the**
20 **Business and Taxation Code.**

21 **(b) Half of the required fees for a single Location and half of the fees for any additional**
22 **Location(s) shall be paid at the time of application submission and the remainder of the total fee**
23 **amount shall be paid at the time of the Director's decision on the permit. No refunds are available if**
24 **the Department disapproves a permit or a Permit Location.**

1 (c) Every Permittee desiring to change the Location of the Mobile Food Facility, modify the
2 hours of operation to allow service after 8 p.m., or add a new Location(s) during the term of the annual
3 permit, shall file an application with the Director upon a form provided by the Director and shall pay a
4 filing fee of \$85.00 for each Location change or addition of a new Location(s), a notification fee of
5 \$200.00 per Location, and an inspection fee of \$191.50 per Location. Such requests shall be processed
6 in the same manner as a new permit.

7 (d) Permit Renewal and Annual Renewal Fee. (1) Every Mobile Food Facility permit is
8 subject to an annual renewal filing fee of \$125.00 per permit. In addition, if during the course of the
9 preceding year the Department received one or more substantiated complaints against the permit
10 Location(s) or filed one or more notices of violation against the Permit, the Department shall assess an
11 additional processing fee of \$159.50 per permit. The Department also shall charge inspection fees as
12 follows: \$576.00 the first two (2) Locations where substantiated complaints were received or notices
13 of violation filed and \$288.00 per each additional Location where substantiated complaints were
14 received or notices of violation filed. Said fees are payable to the Department. Separate annual fees
15 shall be paid to the Department of Health and the Fire Marshal for the approvals required by each
16 department for a valid renewal permit under this Article. The annual renewal fees for the Department
17 of Public Health are set forth in the Business and Taxation Code.

18 (2) Any Mobile Food Facility permit that the Director renews is not final and effective unless
19 and until the Mobile Food Facility Vendor has obtained an annual renewal of his or her Certificate of
20 Sanitation for the Department of Public Health and approval from the Fire Marshal.

21 (3) The permit issuance date shall be when the permit is final and effective.

22 (4) Permits are automatically renewed each year so long as the Mobile Food Facility remains
23 in compliance with this Article. Renewal of the permit does not require notice under Section 184.88,
24 unless the permittee is changing the Location that the Mobile Food Facility serves, adding a new
25

1 Location(s), changing the hours of operation to serve a Location later than 8 pm, or making other
2 changes to the Mobile Food Facility that the Director determines requires public notice.

3 (e) The fees set forth in this Section are subject to the fee review and adjustment procedures of
4 Section 2.1.2.

5 (f) Each Mobile Food Facility shall require a separate permit pursuant to this Article. Each
6 permit issued pursuant to this Article shall be valid for only those Locations and hours of operation
7 that the Department approves as set forth in this Article.

8 (g) Notwithstanding Subsection (f), the Director may issue a single permit or permits to an
9 assigned Location(s) for multiple Mobile Food Facilities. The fees for such permit shall be the filing,
10 notification, and inspection fees for a single Location. Under such circumstances, Director also may
11 charge additional permit fees as set forth in Section 2.1.3. All Mobile Food Facilities operating under
12 a single Location permit shall comply with all other provisions of this Article.

13 (h) The Board of Supervisors reserves the right to charge a public right-of-way assessment fee
14 for occupation of the right-of-way by a Mobile Food Facility.

15 SEC. 184.84. MOBILE FOOD FACILITY APPLICATION FORM.

16 Except as otherwise provided herein, an application for a Mobile Food Facility permit pursuant
17 to the provisions of this Article shall specify or include:

18 (a) The name, business and residence address of the applicant and the address where the
19 mobile catering vehicle is stored during nonoperating hours. If the applicant is a corporation, the name
20 of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and
21 residence addresses of each of the officers, directors and each stockholder owning more than 10
22 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth
23 the name and residence address of each of the partners, including limited partners. If one or more of
24 the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.
25 A natural person shall not acquire a stock interest in more than one corporate permittee.

1 **(b) A description of the Mobile Catering Vehicle, including the following data: The make,**
2 **model and type of body; the number of cylinders; the vehicle identification number or any other**
3 **identifying number as may be required by the Director.**

4 **(1) If this information is not know at the time of permit application, this requirement**
5 **can be satisfied as a condition of obtaining a final and effective permit.**

6 **(c) Whether or not the applicant intends to operate a Mobile Food Facility under a fictitious**
7 **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, Director of Health, or Fire Marshal may**
10 **require of an applicant 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 of the permit applicant.**

14 **(g) Whether the application is for a new permit, renewal of an existing permit, a change to the**
15 **Location that the Mobile Food Facility serves, a change in hours of operation, or the addition of a**
16 **Location(s).**

17 **(h) A description of the food product, products, services the applicant intends to sell.**

18 **(i) The specific Location(s) of the activity, including a detailed description of where the**
19 **applicant intends to place his or her Mobile Food Facility.**

20 **(j) The proposed hours of operation and days of operation for each Location that the Mobile**
21 **Food Facility proposes to serve.**

22 **SEC. 184.84.1. CORPORATE APPLICANTS; EXEMPTION.**

23 **The provisions of Sections 184.84 relating to requirements for corporate applicants shall not**
24 **apply to any of the following:**

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

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

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

7 SEC. 184.85. REGULATING MOBILE FOOD FACILITY LOCATIONS.

8 (a) Every person desiring a permit pursuant to this Article shall conform to the requirements
9 set forth in this Section 184.85 and any regulations and rules that the Director adopts pursuant to this
10 Article.

11 (b) The Director may issue a Mobile Food Facility permit only when the Director finds that
12 the following location and time requirements are met:

13 (1) The Location shall:

14 (A) Leave unobstructed path for pedestrian passage on any sidewalk a space not less
15 than 8 6 feet wide.

16 (B) Satisfy all other locational requirements of the Department.

17 (2) No Mobile Food Facility or Mobile Food Facility Vendor shall peddle goods, wares or
18 merchandise between the hours of 3:00 a.m. (midnight) and 6:00 a.m., unless the Director has
19 approved such sales after consulting with the Planning Department and the Chief of Police.

20 (3) Notwithstanding any other provision of this Code, no Mobile Food Facility or Mobile Food
21 Facility Vendor shall peddle goods, wares or merchandise:

22 (A) In any residential ("R") district other than a residential-commercial combined
23 ("RC") district as defined in the Planning Code.

24 (B) In the "P" districts, as defined in Section 234 of the Planning Code, that are
25 located on Twin Peaks or in any areas in or adjacent to Open Space Districts located on Twin Peaks.

1 (C) On the north side of Jefferson Street between Jones and Taylor.

2 (D) Within 1,500 feet of the property line of any public middle school, junior high
3 school, or high school between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday.

4 (c) Notwithstanding the ~~above~~ locational requirements of Subsection (b)(1), if a Pushcart
5 Peddler has a valid permit for a specific Location dated as of July 19, 1995, said Peddler is exempt
6 from this Section's locational requirements other than Subsections (b)(1)(A) concerning
7 pedestrian passage and (b)(2) concerning hours of operation; provided, however, that
8 Subsection (b)(1)(B) and the Director may issue an exception to Subsection (b)(1)(A) for such
9 Peddler as long as the permitted pedestrian passage satisfies applicable federal and State access
10 requirements.

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

20 SEC. 184.86. MOBILE FOOD FACILITIES, MAXIMUM PERMISSIBLE. (a) In no case may
21 a single permittee obtain more than seven (7) separate Mobile Food Facility permits.

22 (b) If a Pushcart Peddler has seven (7) or more valid permits for specific Locations dated as of
23 July 19, 1995, said permits shall not be counted toward the maximum permissible number of Facilities
24 in Subsection (a).

25 SEC. 184.87. SINGLE DAY OF OPERATION FOR A MOBILE FOOD FACILITY.

1 (a) A Mobile Food Facility that otherwise meets the all the Locational requirements
2 other than Section 184.85(b)(3)(A), has a San Francisco Business License, has an active Certificate
3 of Sanitation by the Department of Health and necessary approvals from the Fire Marshal, shall be
4 eligible to obtain single day permits for a Location pursuant to the review, permit fee, and permit
5 approval process for single day non-construction permits under Sections 724 et seq.

6 SEC. 184.88. NOTICE OF INTENT; APPEAL OF PROTEST OR DENIAL OF PERMIT.

7 (a) Notice of Intent; Contents of Notice. Following the filing of an application for a new Mobile
8 Food Facility permit under this Article, change of Location of an existing permit, change in hours of
9 operation so that service occurs after 8 p.m., or addition of a Location(s), the Department shall mail
10 Notice of Intent to operate the proposed Mobile Food Facility business at the Location(s) identified in
11 the application. The form for the Notice of Intent shall be provided to each applicant by the
12 Department. Said notice shall include the Location(s) the Mobile Food Facility intends to serve, the
13 days of the week and times for service at each Location, a description of the goods to be sold under the
14 permit, the procedure for obtaining any additional information, and the procedure for filing any protest
15 or opposition to the proposed permit. The applicant also shall provide the Department with a list of all
16 required recipients of the mailed notice and stamped envelopes with the addresses of all such
17 individuals for the purpose of providing mailed notice. Notice shall be provided as follows:

18 (1) If the Mobile Food Facility will operate between the hours of 6 a.m. and 8 p.m., mailed
19 notice shall be sent to all businesses within the area set forth in Subsection (3) below.

20 (2) If the Mobile Food Facility will operate at any Location between the hours of 8 p.m. and 3
21 a.m. the following day, mailed notice shall be provided to all property owners, businesssestenants, and
22 residential tenants within the area set forth in Subsection (3) below.

23 (3) (A) If the Mobile Food Facility is a Mobile Caterer, notice shall be given within a 300 foot
24 radius from the mid-point of the block face for the Location(s) to be served, or all of the block face of
25

1 the Location(s) to be served and the block face on the opposing side of the street, whichever area is
2 larger.

3 (B) If the Mobile Food Facility is a Pushcart, notice shall be given within a 300 foot
4 radius of the boundaries of the street address(s) in front of which the Pushcart will be located. If there
5 is no street address, the notice shall be given within a 300 foot radius of the boundaries of the
6 Assessor's Block(s) and Lot(s) in front of which the Pushcart will be located.

7 (b) Appeal of Protest or Denial of Permit. (1) Any person or persons who deem their interests
8 or property or that of the general public will be adversely affected by the issuance of the Mobile Food
9 Facility permit at its intended Location may protest the issuance of said permit by writing to the
10 Director within 30 calendar days from the date listed on the Notice of Intent. Upon receipt of any such
11 written protest during the term of the protest period, the Director will schedule a public hearing to hear
12 all protests or opposition to the issuance of the permit. If there are multiple protests for a single
13 Location or protests for multiple Locations, then the Director shall strive to consolidate all protests at
14 a single hearing. The Director's decision to approve, approve with conditions, or disapprove a permit
15 is appealable to the Board of Appeals within 15 days of the Director's decision.

16 (c) Notice of Hearing. Not less than 10 days before the date of a Departmental hearing
17 scheduled under subsection (b) above, the Director shall cause to be published a notice of such hearing
18 in the official newspaper of the City and County of San Francisco. The Director shall maintain a file of
19 the names and addresses of all persons wishing to receive notice by mail of any application filed
20 pursuant to this Article and of all persons previously notified of the proposed application. Not less than
21 10 days before the date of such hearing, the Director shall cause to be mailed notice of such hearing to
22 all persons requesting to be so notified. The cost of publishing said notice and any additional mailed
23 notice shall be borne by the Mobile Food Facility permit applicant if the cost exceeds the notification
24 fee set forth in Section 184.83. Such notices published or mailed pursuant to this Section shall contain
25 the following: the name and business address of the applicant, the product or products to be sold, the

1 Location(s) of the proposed sales activity, the days and hours of operation, and whether the application
2 is for a new permit, for a change of an existing permit, or for addition of a new Location(s).

3 (d) At the hearing, the Director may consider the following:

4 (1) Whether the applicant's proposed operation is located within 200300 feet of an
5 established business which sells the same type of food product or other merchandise or similar service
6 as intended by said applicant, or of any Location previously established and currently being operated
7 by a Mobile Food Facility selling the same type of food product or other merchandise or similar
8 service as intended by said applicant.

9 (2) The number of Mobile Food Facilities on the same block or adjacent blocks.

10 (3) Other information deemed relevant to the determination of whether the proposed
11 Location is appropriate.

12 (e) If an administrative hearing officer conducts the hearing, such officer shall make a
13 recommendation concerning the proposed permit to the Director, who, in his or her discretion, may
14 disapprove, approve, or conditionally approve the proposed permit.

15 SEC. 184.89. ISSUANCE OF MOBILE FOOD FACILITY PERMIT.

16 (a) The Director may issue a Mobile Food Facility permit within 14 days if no hearing is
17 requested pursuant to this Article, if he or she finds:

18 (1) That the operation, as proposed by the applicant, would comply with all applicable laws,
19 including but not limited to, the provisions of this Article and the San Francisco Municipal Code.

20 (2) That the applicant has not made any false, misleading or fraudulent statements of facts in
21 the permit application or any other document required by the Director or the Director of Health in
22 conjunction therewith.

23 (b) The Director may issue a Mobile Food Facility permit within 14 days following a
24 Departmental hearing as provided herein, based on his investigation and the investigation of the
25 Director of Health, if he or she makes the findings specified above in Subsection (a).

1 (c) Any Mobile Food Facility permit that the Director issues is not final and effective unless
2 and until the Mobile Food Facility Vendor has obtained a Certificate of Sanitation for the Department
3 of Public Health and approval from the Fire Marshal. If the Certificate of Sanitation and Fire Marshal
4 approval are not obtained within 3 months of the date the Director issues his or her permit decision,
5 the permit shall be automatically deemed disapproved.

6 (d) Notwithstanding the issuance of a Permit for a specific Location(s), such Permit shall be
7 temporarily suspended if any City Department issues a permit for occupancy of the subject Location for
8 street fairs, farmers market, temporary use, street or building construction, or other permitted
9 activities. At the request of the Permittee, the Director may, but is not required, to authorize a
10 temporary relocation of the Mobile Food Facility under such circumstances. Any such authorization
11 shall be in writing and available at the Mobile Food Facility for review by City officials.

12 (e) No permit shall be required under this Article if any City Department issues a permit for
13 occupancy of the subject Location for street fairs, farmers market, temporary use, or other permitted
14 activities as long as the Mobile Food Facility has a Certificate of Sanitation and Fire Marshal
15 approval.

16 SEC. 184.90. IDENTIFICATION CARD.

17 The Director shall issue to each permittee an identification card which shall contain the number
18 of the permit in figures plainly discernible. The Director shall determine the manner and form of any
19 other information that may be placed upon this identification card. Such identification card must be in
20 the possession of the operator at all times during hours that the mobile catering vehicle is in operation.

21 SEC. 184.91. MOBILE FOOD FACILITY— INSPECTION AND ANNUAL CERTIFICATE OF
22 SANITATION AND FIRE MARSHAL APPROVAL.

23 All Mobile Food Facilities having a permit issued pursuant to this Article and the approvals of
24 the Director of Health and Fire Marshal to operate with the City shall be subject to inspection at any
25 time during operating hours. All Mobile Food Facilities shall obtain an annual Certificate of

1 Sanitation and Fire Marshal approval on or before the annual renewal of the Mobile Food Facility
2 permit for the Location(s) of said Mobile Food Facility as specified in said permit. The annual
3 Certificate of Sanitation and Fire Marshal approval shall be at a time and place designated by the
4 Director of Health and Fire Marshal, respectively. Failure to appear for the annual renewal as
5 described above shall be deemed a violation of this Article and may be cause for suspension or
6 revocation of said permit.

7 SEC. 184.92. MOBILE FOOD FACILITY--DECAL AND DISPLAY.

8 (a) The Director of Health shall annually issue a Certificate of Sanitation as a decal. In the
9 case of a Pushcart, the decal shall be affixed to a permanent holder designed to display such decal. In
10 the case of a Mobile Caterer, the decal shall be affixed to the lower right-hand corner of the
11 windshield. The number assigned to each Mobile Food Facility shall be forwarded to the Director
12 and/or BART depending on the Location of the Mobile Food Facility.

13 (b) Mobile Food Facilities shall be maintained in good repair and in good sanitary condition
14 at all times.

15 (c) Mobile Food Facilities shall have the permittee's name and address painted on both sides of
16 the Facility in letters at least three inches in height. In the case of Pushcarts, the Director may waive
17 or modify this requirement based on size constraints of the Pushcart.

18 SEC. 184.93. EXHIBITION OF MOBILE FOOD FACILITY PERMIT AND OTHER
19 INFORMATION.

20 (a) Upon demand by any police officer, the Director, the Director of Health, or the Fire
21 Marshal, each Mobile Food Facility Vendor or Mobile Food Facility employee shall produce the
22 Mobile Food Facility permit, a valid San Francisco business license, a valid Certificate of Sanitation,
23 an identification card, a description of the approved Location(s) and hours of operation for a Mobile
24 Food Facility, and all other documents required under this Article so that the Location of the Mobile
25 Food Facility may be checked and verified.

1 (b) The permit, business license, decal confirming a valid Certificate of Sanitation,
2 identification card, and a description of the approved Location(s) and hours of operation for a Mobile
3 Food Facility shall be displayed in a manner where it is in plain view of the public at all times.

4 SEC. 184.94. GOOD NEIGHBOR POLICIES. Mobile Food Facilities shall be managed in
5 accordance with the following good neighbor policies:

6 (a) The quiet, safety, and cleanliness of the Mobile Food Facility Location and its adjacent
7 area shall be maintained;

8 (b) Proper and adequate storage and disposal of debris and garbage shall be provided;

9 (c) Noise and odors shall be contained within immediate area of the Mobile Food Facility
10 Location so as not to be a nuisance to neighbors;

11 (d) Notices shall be prominently displayed urging patrons to leave the Mobile Food Facility
12 premises and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block
13 driveways in the neighborhood; and,

14 (e) Employees of the Mobile Food Facility shall walk a 100-foot radius from the Location some
15 time within 30 minutes after closing and shall pick up and dispose of any discarded beverage
16 containers and other trash left by patrons.

17 SEC. 184.96. TRANSFER OF PERMIT.

18 No permit shall be transferable except with the written consent of the Director with the
19 approval of the Director of Health, such consent and approval shall not be unreasonably withheld. The
20 application for such transfer shall contain the same information as requested herein for an initial
21 application for such a permit and shall be accompanied by the same filing and inspection fees as for an
22 initial application. Upon approval of said transfer, the transferee shall retain the original permit
23 granting date and all of the transferor's rights under this Article.

24 SEC. 184.97. SUSPENSION AND REVOCATION OF PERMITS.

1 (a) The Director may suspend or revoke for good cause any permit or any permit Location,
2 which has been issued pursuant to this Article, if he finds, after a noticed public hearing, that such
3 permit holder has engaged in or been found guilty of any of the following acts:

4 (1) Fraud, misrepresentation, or false statement contained in the application for permit.

5 (2) Violation of provisions of State law regarding Mobile Food Facilities, the State Vehicle
6 Code, this Article or any of the regulations or rules adopted pursuant to this Article, the San Francisco
7 Municipal Code, or a determination of violation by the Director of Public Health under Subsection (b).

8 (3) Any violations occur as specified herein for another Mobile Food Facility permit issued to
9 the same permittee.

10 (4) The Mobile Food Facility Vendor is operating in a manner that negatively impacts the
11 public health, safety, convenience, or welfare.

12 (5) The Mobile Food Facility Vendor habitually violates the Good Neighbor Policies set forth
13 in Section 184.94.

14 (6) The Mobile Food Facility Vendor substantially modifies the food product, products, or
15 services the applicant intends to sell so that it duplicates the same type of food product or other
16 merchandise or similar service of a previously established business or Mobile Food Facility located
17 within 200 feet of the Mobile Food Facility.

18 (7) The Mobile Food Facility has not operated in the permitted Location for a period of six (6)
19 months or more.

20 (b) The Director of Health also is authorized to revoke a Certificate of Sanitation if he or she
21 finds violations of the Health Code or State law regarding Mobile Food Facility uses. This revocation
22 may be in addition to or separate from any action that the Director takes.

23 SEC. 184.98. PENALTY.

24 (a) If the Director determines that the permittee has exceeded the scope of the permit, either in
25 terms of duration or area, or determines any other violation of the permit terms or conditions has

1 occurred, the Director shall order the permittee to correct the violation within a specified time period.
2 If any person has occupied public right-of-way without a permit, the Director shall immediately order
3 the violator to vacate the occupied area.

4 (b) Failure to pay any fee assessed under these provisions shall constitute good cause for
5 immediate revocation of the permit or removal of unpermitted obstructions.

6 (c) Criminal Penalty.

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

13 (2) When a government official authorized to enforce this Section has reasonable cause to
14 believe that any person has committed an infraction in the official's presence that is a violation of this
15 Section, the official may issue a citation to that person pursuant to California Penal Code, Part II, Title
16 3, Chapters 5, 5C, and 5D.

17 (d) Civil Penalties. (1) The Director may call upon the City Attorney to maintain an action for
18 injunction to restrain or summary abatement to cause the correction or abatement of the violation of
19 this Article, and for assessment and recovery of a civil penalty and reasonable attorney's fees for such
20 violation.

21 (2) Any person who violates this Article may be liable for a civil penalty, not to exceed \$500 for
22 each day such violation is committed or permitted to continue, which penalty shall be assessed and
23 recovered in a civil action brought in the name of the people of the City by the City Attorney in any
24 court of competent jurisdiction. In assessing the amount of the civil penalty, the court may consider any
25 one or more of the relevant circumstances presented by any of the parties to the case, including, but not

1 limited to, the following: the nature and seriousness of the misconduct, the number of violations, the
2 persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of
3 the defendant's misconduct, and the defendant's assets, liabilities, and net worth. The City Attorney also
4 may seek recovery of the attorneys fees and costs incurred in bringing a civil action pursuant to this
5 Section.

6 (e) Administrative Penalty. In the alternative to the criminal or civil penalties authorized by
7 Subsections (c) and (d) of this Section, Department of Public Works officials designated in Section 38
8 of the Police Code may issue administrative citations for such violations. The administrative penalty
9 shall not exceed \$300 for each violation. Notwithstanding the above limitation, should a violation not
10 be corrected as the Director has ordered or in the case of occupation without a permit, the permittee or
11 person shall pay a penalty fee of up to \$1,000 per day for each day of violation. Such penalty shall be
12 assessed, enforced, and collected in accordance with Section 39-1 of the Police Code.

13 SEC. 184.99. REMOVAL OF MOBILE FOOD FACILITIES.

14 (a) Removal By Director, public nuisance or emergency. The Director of Public Works is
15 authorized to order the immediate removal of a Mobile Food Facility when, in his or her opinion, the
16 Mobile Food Facility has no permit, constitutes a safety hazard or public nuisance, or when the
17 presence of an emergency requires removal of the Mobile Food Facility. After notification by the
18 Director of the removal order the Mobile Food Facility shall be removed immediately from the street
19 area by its owner. If the owner does not remove the Mobile Food Facility immediately, the Director
20 may order the Department to remove the Mobile Food Facility. The owner shall pay to the City the
21 costs of removal. No Mobile Food Facility shall be placed at that location until the conditions which
22 have caused the removal order shall have been abated to the satisfaction of said Director.

23 (b) The Director is authorized to remove, or cause to be removed, any Mobile Food Facility
24 placed in a street or sidewalk area in violation of any other provision of this Article. Removal shall take
25 place no earlier than 48 hours after notice is given describing the violation(s). The notice shall be both

1 mailed to the pushcart owner and placed in a conspicuous manner on the Mobile Food Facility, and
2 shall contain the following:

3 (1) The condition(s) violated,

4 (2) The date and time of posting,

5 (3) The location of the Mobile Food Facility,

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

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

8 (c) Mobile Food Facilities that have been removed may be recovered within ninety (90) days
9 from the date of seizure and upon payment of a sum equal to the cost of removing said Mobile Food
10 Facility including a 20 percent charge for administrative costs as determined by the Department, and
11 any costs incurred by the Department in disposing of any materials contained in the Mobile Food
12 Facility. Costs incurred as a result of removal under this Section are in addition to any fines or
13 penalties incurred under Section 184.96.

14 SEC. 184.100. SEVERABILITY.

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

22 Section 4. The San Francisco Health Code is hereby amended by amending Sections
23 440 and 451, to read as follows:

24 **SEC. 440. - FOOD PRODUCT AND MARKETING ESTABLISHMENT.**
25

1 (a) Food Product and Marketing Establishment means any room, ~~or building, cart or~~
2 ~~vehicle, except those peddler wagons used for peddling as defined in Articles 13, 17.2 and 17.3 of Part~~
3 ~~II, Chapter VIII of the San Francisco Municipal Code~~, or place or portion thereof, maintained,
4 used or operated for the purpose of commercially storing, selling, vending, packaging,
5 making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise
6 preparing or handling food, except Food Preparation and Service Establishments as defined
7 in Section 451 and Food Product and Marketing delivery vehicles.

8 (b) Food, as used in this Section, includes all articles used for food, drink,
9 confectionery, or condiment, whether simple or compound, including perishable foods, such
10 as fruits, vegetables, fish, meat, poultry, eggs, and bakery goods, whether sold after
11 processing or sold in a fresh or frozen form. Food as used in this Section, shall not include
12 whole pumpkins sold during the month of October for purely decorative purposes, which are
13 not intended for human consumption, and which are clearly marked as being sold only for
14 such limited purposes.

15 (c) "Bakery" is included within this Section and means any room, building, premises, or
16 place which is used or operated for commercial baking, manufacturing, preparing, processing,
17 retail selling, or packaging of bakery products. It includes all rooms of a bakery in which
18 bakery products or ingredients are stored or handled. It does not, however, include any Food
19 Preparation and Service Establishment as defined in Section 451.

20 (d) It shall be unlawful for any person, persons, firm or corporation to maintain or
21 operate within any room, building, vehicle or place or portion thereof a Food Product and
22 Marketing Establishment within the City and County of San Francisco, without having first
23 obtained a permit issued and signed by the Director of Public Health of said City and County
24 to do so.

1 Said permit when issued shall be kept displayed in a prominent place on the premises
2 of the establishment, vehicle or cart for which or whom it is issued.

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

4 (a) "Bar or tavern" means any food preparation and service establishment which
5 primarily prepares and/or serves alcoholic beverages.

6 (b) "Bed and breakfast establishment" means a "restricted food service facility" as
7 defined in Health and Safety Code Section 113893.

8 (c) "Boardinghouse" means any building or portion thereof occupied or intended,
9 arranged or designed for occupation by six or more but less than 35 guests where sleeping
10 rooms and meals are provided to the guests for compensation and includes all private
11 institutional type homes where inspection is made by the San Francisco Department of Public
12 Health.

13 (d) "Caterer" means a person who is in the business of providing food, beverages, and
14 sometimes service, at social gatherings. The caterer prepares the food at a location separate
15 from the social gathering, though the caterer may engage in limited food preparation at the
16 location where the caterer serves the food. A caterer is not a private chef or chef for hire who
17 prepares food in a private home.

18 (e) "Catering facility" means any food preparation and service establishment where a
19 caterer prepares food for service at another location.

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

23 (g) "Director" means the "Director of Public Health of the City and County of San
24 Francisco" or his or her designee. "Inspectors" shall mean the "Inspectors of the Department
25 of Public Health," administered by said Director. The Director shall be responsible for the

1 administration and enforcement of Sections 451 to 456, inclusive, of this Article and the rules
2 and regulations relating thereto. The Director shall, after a public hearing, prescribe the rules
3 and regulations relating thereto. Said rules and regulations shall be issued in pamphlet form.
4 All such food preparation and service establishments shall be operated, conducted and
5 maintained in accordance therewith.

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

10 (i) "Food preparation and service establishment" means and includes any restaurant,
11 ~~itinerant restaurant~~ mobile food facility, guest house, boardinghouse, special events, school food
12 concessions, bar or tavern, take-out establishment, fast food establishment, caterer, catering
13 facility, temporary facility, food demonstration, commissary, pushcart, stadium concession,
14 vending machine, bed and breakfast establishment, private school cafeteria, hospital kitchen,
15 and licensed health care facility, as those terms are defined herein.

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

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

22 (l) ~~"Itinerant restaurant" means any restaurant, operating from temporary facility, cart or~~
23 ~~vehicle, except those peddler wagons used for peddling as defined in Section 132(a) and (b) of Part III~~
24 ~~of the San Francisco Municipal Code, serving, offering for sale, selling or giving away food or~~
25 ~~beverage, and includes, but is not limited to, facility or vehicle where only wrapped sandwiches or~~

1 ~~other wrapped and packaged, ready-to-eat foods are served, and any mobile unit on which food is~~
2 ~~prepared and served.~~

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

7 (1) General Acute Care Hospital as defined in Cal. Health and Safety Code Section
8 1250 (a) or any successive statutes;

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

11 (3) Skilled Nursing Facility as defined in Cal. Health and Safety Code Section 1250 (c)
12 or any successive statutes;

13 (4) Intermediate Care Facility as defined in Cal. Health and Safety Code Section 1250
14 (d) or any successive statutes;

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

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

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

21 Any of the facility types listed above that are operated by the State of California
22 Departments of Mental Health, Developmental Services, Corrections, or Youth Authority are
23 not included in this definition.

24 (m) "Mobile Food Facility" means any vehicle or pushcart used in conjunction with a
25 commissary or other permanent food facility upon which food is sold or distributed at retail. Mobile

1 Food Facilities may be located on private or public property. Mobile Food Facility does not include a
2 "Transporter" used to transport packaged food from a food facility or other approved source to the
3 consumer. There are five categories of Mobile Food Facilities for licensing and fee payment purposes
4 under San Francisco Business and Tax Regulations Code Section 249.1 as set forth below. For
5 purposes of this Section, the term "potentially hazardous food" shall have the same meaning as set
6 forth in California Health and Safety Code Sec. 110005 or any successor provisions, the term "limited
7 food preparation" shall have the same meaning set forth in California Health and Safety Code Section
8 113818 or any successor provisions, and the term "prepackaged" shall have the same meaning as set
9 forth in California Health and Safety Code Section 113876 or any successor provisions.

10 (1) "Mobile Food Facility 1" means a Mobile Food Facility where a Mobile Food Facility
11 Vendor handles prepackaged and non-potentially hazardous foods, including but not limited to,
12 pastries, bagels, donuts, popcorn, chips, candies, sodas, or bottled drinks.

13 (2) "Mobile Food Facility 2" means a Mobile Food Facility where a Mobile Food Facility
14 Vendor handles prepackaged and potentially hazardous foods, including but not limited to, cold
15 sandwiches, salads, pasta, or cold noodles.

16 (3) "Mobile Food Facility 3" means a Mobile Food Facility where a Mobile Food Facility
17 Vendor handles non-prepackaged and non-potentially hazardous foods, including but not limited to,
18 churros, salted bagels, cotton candy, lemonade, or tea.

19 (4) "Mobile Food Facility 4" means a Mobile Food Facility where a Mobile Food Facility
20 Vendor engages in limited food preparation.

21 (5) "Mobile Food Facility 5" means a Mobile Food Facility where a Mobile Food Facility
22 Vendor engages in full food preparation or any food preparation not covered by Mobile Food Facility
23 Categories 1-4, including but not limited to, tacos, burritos, crepes, or falafel.

24 (n) "Mobile Food Facility Vendor" means any person engaged in the business of operating a
25 Mobile Food Facility within the City and County of San Francisco.

1 (~~no~~) "Owner" or "owners" mean those persons, partnerships, or corporations who are
2 financially interested in the operation of a food preparation and service establishment.

3 (~~op~~) "Operator" means any person engaged in the dispensing of or in assisting in the
4 preparation of food, or a person otherwise employed in a food preparation and service
5 establishment.

6 (~~ps~~) "Private school cafeteria" means any food preparation and service facility serving
7 food to faculty and/or students of a school not operated by the San Francisco Unified School
8 District.

9 (~~qr~~) "Restaurant" means any coffee shop, cafeteria, short-order cafe, luncheonette,
10 cocktail lounge, sandwich stand, soda fountain, public school cafeteria or eating
11 establishment, in-plant or employee eating establishment and any other eating establishment,
12 organization, club, including Veterans' Club, boardinghouse, bed and breakfast
13 establishments, or guest house, which gives, sells or offers for sale, food to the public, guests,
14 patrons, or employees as well as kitchens or other food preparation areas in which food is
15 prepared on the premises for serving or consumption on or off the premises, and requires no
16 further preparation and also includes manufacturers of perishable food products that prepare
17 food on the premises for sale directly to the public. The term "restaurant" shall not include
18 ~~itinerant restaurants~~mobile food facilities, cooperative arrangements made by employees who
19 purchase food or beverages for their own consumption and where no employee is assigned
20 full time to care for or operate equipment used in such arrangement, or private homes; nor
21 shall the term "restaurant" include churches, church societies, private clubs or other nonprofit
22 associations of a religious, philanthropic, civic improvement, social, political, or educational
23 nature, which purchase food, food products, or beverages, or which receive donations of food,
24 food products, or beverages for service without charge to their members, or for service or sale
25 at a reasonable charge to their members or to the general public at occasional fundraising

1 events, for consumption on or off the premises at which the food, food products, or beverages
2 are served or sold, if the service or sale of such food, food products or beverages does not
3 constitute a primary purpose or function of the club or association, and if no employee or
4 member is assigned full-time to care for or operate equipment used in such arrangements.

5 (~~rs~~) "School food concessions" means any food preparation, food service or food
6 products intended for consumption by students attending or participating in activities within a
7 school facility.

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

13 (~~ty~~) "Stadium concession" means any food preparation and/or service facility operating
14 within a stadium, arena, or auditorium with a seating capacity of 25,000 or more.

15 (~~wy~~) "Take-out establishment" means any food preparation and service establishment
16 which primarily prepares food for consumption off premises.

17 (~~wx~~) "Temporary facility" means any food preparation and service facility operating out
18 of temporary facilities approved by the Director of Public Health at a fixed location for a period
19 of time not to exceed 25 days in any 90-day period in conjunction with a single event or
20 celebration.

21 (~~xy~~) "Vending machine" means any self-service device, which upon insertion of money
22 or tokens, dispenses food without the necessity of replenishing the device between each
23 vending operation.

1 Section 5. The San Francisco Business and Tax Regulations Code is hereby amended
2 by repealing Section 249, amending Section 249.1, and adding Section 249.23, to read as
3 follows:

4 ~~SEC. 249. MEAT AND MEAT FOOD PRODUCT VEHICLES.~~

5 ~~Any person, firm or corporation without a fixed or established place of business within the City~~
6 ~~and County of San Francisco engaged in the business of selling, or offering for sale any meat or meat~~
7 ~~food products from any vehicle, wagon, truck, cart or automobile, shall first obtain a permit from the~~
8 ~~Department, and shall pay an annual fee of \$50, payable quarterly in advance for each such vehicle.~~

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

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

14 (a) Class Fee

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

16 Less than 1,000 square feet \$777

17 1,000 square feet to 2,000 square feet: 1,028

18 Greater than 2,000 square feet 1,179

19 Class B. Bar or tavern 923

20 Class C. Take-out establishment 932

21 Class D. Fast food establishment 1,056

22 Class E. Catering facility 908

23 Class F. Temporary facility 145

24 Class G. Food demonstrations 105

25 Class H. Commissary 884

1 Class I. ~~Pushcart on private property~~ 737 Mobile Food Facilities.

2 Class I-1. Mobile Food Facility 1. 181

3 Class I-2. Mobile Food Facility 2. 271

4 Class I-3. Mobile Food Facility 3. 181

5 Class I-4. Mobile Food Facility 4. 724

6 Class I-5. Mobile Food Facility 5. 724

7 Class J. Stadium concession 625

8 Class K. Vending machines 177

9 Class L. Bed and breakfast establishment 999

10 Class M. Boarding house 241

11 Class N. Private school cafeteria 294

12 Class O. Hospital kitchen, with food service to the general public and staff only 940

13 Class P. Licensed Health Care Facility 1050

14 Class Q. Caterer 350

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

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

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

22 For the purpose of this subsection, a "day care facility for children" shall mean a
23 "community care facility" licensed pursuant to the provisions of Chapter 3, Division 2 of the
24 California Health and Safety Code (commencing at Section 1500) which provides nonmedical
25 care to children in need of personal services, supervision, or assistance essential for

1 sustaining the activities of daily living or for the protection of the individual on less than a 24-
2 hour basis, or a "family day care home for children" licensed pursuant to the provisions of
3 Chapter 3.6, Division 2 of the California Health and Safety Code (commencing at Section
4 1597.50).

5 (2) Food preparation and service establishments funded through the San Francisco
6 Commission on Aging for nutrition projects for older individuals.

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

20 **SEC. 249.23. MOBILE FOOD FACILITY PLAN CHECK FEE.**

21 Each person filing an application for an initial Mobile Food Facility permit under Public
22 Works Code Section 184.83 also shall pay the Health Department a plan check fee of \$181 per hour.
23 This fee is due and payable to the Health Department at the time the applicant requests said plan check
24 from the Health Department. The fee amount shall be based on the Health Department's estimate of the
25 time required to check the applicant's plans. The Health Department may refund a portion of the fee

1 payment or require additional payment if actual plan check time differs from the initial estimate. The
2 Health Department may withhold plan check approval until payment of the plan check fees and the
3 Department of Public Works' Mobile Food Facility permit shall not be final and effective until the
4 Health Department issue plan check approval. The Controller may adjust this fee annually as set forth
5 in Section 249.1(c).

6 Section 6. This Section is uncodified. (a) Time Limit for Filing Application to Renew
7 an Existing Permit—Existing Permit Requirements. All persons who possess an existing valid
8 permit to operate a Mobile Food Facility as defined in this Ordinance heretofore issued by the
9 Police Department must file for a new permit with the Department of Public Works within 90
10 days of the effective date of this Ordinance. The application shall include all information
11 related to the most recently issued permit for operation, including the approved Location(s) of
12 service and food product, products, and services offered for sale. Failure so to do shall make
13 continued operation of said place of business a violation of Public Works Code Section 184.97
14 and 184.98 as set forth in this Ordinance. The Director shall reissue new permits to all
15 persons presently holding existing valid permits to operate Mobile Food Facilities at no cost,
16 subject to the requirement for annual renewal of the permit from the date the reissuance of the
17 permit and compliance with the terms and conditions of this Article. Any permit renewal of a
18 pushcart peddler permit dated as of July 19, 1995 shall include reference to the original permit
19 granting date.

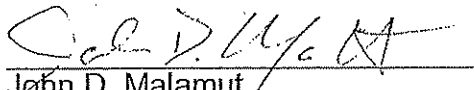
20 (b) Unless specified otherwise in this Ordinance, any permittee with an existing valid
21 Mobile Food Facility permit issued under Subsection (a) above shall be required to meet all
22 requirements of Public Works Code Article 5.8, including obtaining a Certificate of Sanitation
23 from the Department of Public Health and Fire Marshal approval, on the one year anniversary
24 of the permit issued in accordance with Subsection (a) above. Annual Renewal of said
25 permits shall not require the notice provisions of Section 184.88, unless the permittee is

1 changing the Location that the Mobile Food Facility serves, adding a new Location(s),
2 changing the hours of operation to serve a Location later than 12 pm, or making other
3 changes to the Mobile Food Facility that the Director determines requires public notice.

4 Section 7. This Section is uncodified. The Board of Supervisors hereby urges the
5 Department of Public Works to develop an electronic posting of all proposed and existing
6 permit Locations for Mobile Food Facilities within nine (9) months of the effective date of this
7 Ordinance. Such electronic posting shall be available to the public online and at the
8 Department's offices.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By:


13 John D. Malamut
14 Deputy City Attorney

LEGISLATIVE DIGEST

[Mobile Food Facilities – DPW Permitting Authority]

Ordinance amending the San Francisco Police Code and San Francisco Public Works Code by repealing Articles 17.2 (Regulations for Mobile Caterers; Permit and License Provisions) and 17.3 (Permit Regulations for Pushcart Peddlers), transferring the regulations to a new Article 5.8 of the Public Works Code commencing with Section 184.80, redefining Mobile Caterers and Pushcart Peddlers as Mobile Food Facilities; making other amendments to implement the transfer, including new fee and penalty provisions and new notice and hearing procedures; amending Sections 440 and 451 of the San Francisco Health Code and repealing Section 249, amending Section 249.1, and adding Section 249.23 to the San Francisco Business and Tax Regulations Code to update definitions and add annual fees and plan check fees for Mobile Food Facilities; and adopting environmental findings.

Existing Law

Police Code Article 17.2 regulates mobile caterers, also know as food trucks, on the public right-of-way. Police Code Article 17.3 regulates food pushcarts and the associated pushcart peddlers on the public right-of-way. These provisions of the Police Code give the Police Department permitting jurisdiction over these uses

Amendments to Current Law

This Ordinance would repeal Police Code Articles 17.2 and 17.3 and create Public Works Code Article 5.8 to transfer permitting jurisdiction of these uses to the Department of Public Works. Article 5.8 would redefine mobile caterers and pushcarts as mobile food facilities so that the terminology is consistent with the terms that the California Health and Safety Code, Health Department, and Planning Department employ to regulate these uses. This legislation would establish regulations for such uses including application and permitting requirements, public notice and hearing provisions, locational requirements, good neighbor policies, application and annual fees, penalties for violation of Article 5.8; and procedures to address currently permitted mobile food facilities. The Ordinance also would amend Health Code Sections 440 and 451; and repeal Section 249, amend Section 249.1, and add Section 249.23 to the San Francisco Business and Tax Regulations Code to update definitions governing mobile food facilities and establish annual fees and plan check fees for these uses. The Ordinance also would make environmental findings.

Background Information

This legislation is an effort to efficiently regulate and encourage the expansion of "street food" in San Francisco. It is companion legislation to a similar effort that would regulate street food uses on property subject to the Planning Code.

BOARD OF SUPERVISORS

Page 1

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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

November 2, 2010

File No. 101352

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On October 26, 2010, Supervisor Duffy introduced the following proposed legislation:

File No. 101352 [Various Codes - Mobile Food Facilities - Department of Public Works Permitting Authority]
Ordinance amending the San Francisco Police Code and San Francisco Public Works Code by repealing Articles 17.2 (Regulations for Mobile Caterers; Permit and License Provisions) and 17.3 (Permit Regulations for Pushcart Peddlers), transferring the regulations to a new Article 5.8 of the Public Works Code commencing with Section 184.80, redefining Mobile Caterers and Pushcart Peddlers as Mobile Food Facilities; making other amendments to implement the transfer, including new fee and penalty provisions and new notice and hearing procedures; amending Sections 440 and 451 of the San Francisco Health Code and repealing Section 249, amending Section 249.1, and adding Section 249.23 to the San Francisco Business and Tax Regulations Code to update definitions and add annual fees and plan check fees for Mobile Food Facilities; and adopting environmental findings.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

*Not a project per CEQA
Guidelines Section 15378(B)(5)*

Angela Calvillo, Clerk of the Board

Brett Bolten 11/03/10
Approved Planning Dept. Brett Bolten

Gail Johnson
By: Gail Johnson, Committee Clerk
City Operations and Neighborhood Services

2010.0991E
Environmental Review Referral

7/23/09



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

November 10, 2010

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Re: File No. 101352 [Various Codes - Mobile Food Facilities - Department of Public Works Permitting Authority.]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

The Small Business Commission recommends that the Board of Supervisors approve BOS File No. 101352. This recommendation was made at the November 8, 2010 Small Business Commission meeting.

The Small Business Commission commends Supervisor Dufty for sponsoring this legislation and his staff for their efforts to bring to fruition. Moving MFF permitting from the Police Department to DPW will allow this exiting sector of the food service industry to continue to grow and flourish. It achieves major objectives for the Small Business Commission which is: reasonable permitting process and fees, increase hours of operation, and making more public space available. Many MFF's are owned by minority entrepreneurs which brings additional diversity to this sector. The Commission also thanks Ken Rich of OEWD, Dan Sider of the Planning Department and the many stakeholders who worked together to help draft this legislation.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc. Supervisor Dufty
Gail Johnson, Clerk of City Operations and Neighborhood Services Committee
Starr Terrell, Mayor's Office
Ken Rich, Office of Economic and Workforce Development

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408

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Kentish office of Economics
Worked Development - 11/8/10

Proposed Legislation

Mobile Food Facilities

Introduction

- Why promote Mobile Food Vendors?
 - Provides entry-level business opportunities
 - Adds to SF's culinary richness
 - Is a great way to positively activate public space
- Why change rules and procedures for Mobile Food Facilities (MFF)?
 - Hard to understand
 - Hard to enforce
 - Not always evenly applied
 - Expensive

Introduction - continued

- Stakeholder Groups involved:
 - City Departments (OEWD, Planning, Small Business, DPW, DPH, MTA, Police, Fire)
 - Golden Gate Restaurant Association
 - Off The Grid, La Cocina

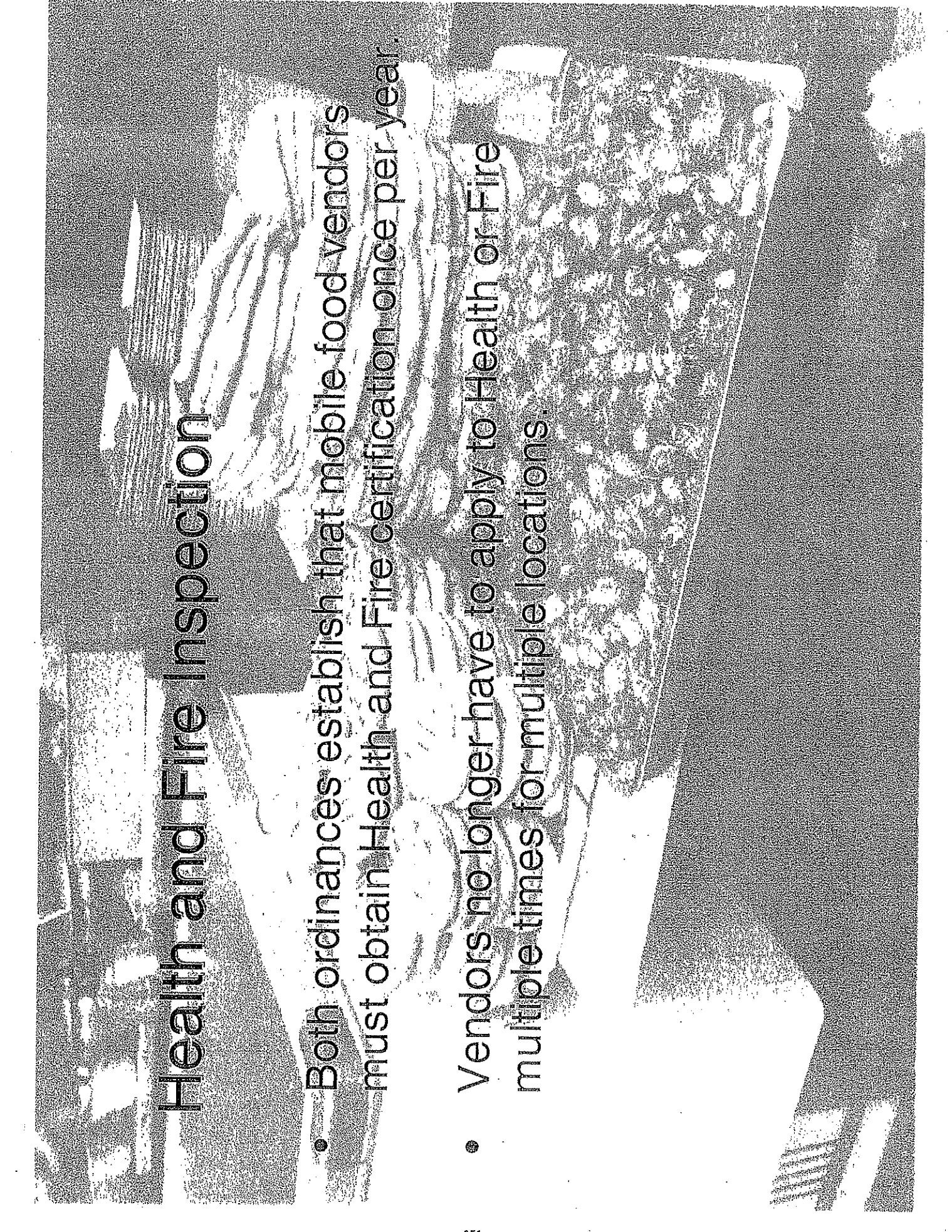
Two Main MFF Regulatory Tracks

1. Rights-Of-Way Planning Code Does Not Apply

- Streets
- Sidewalks

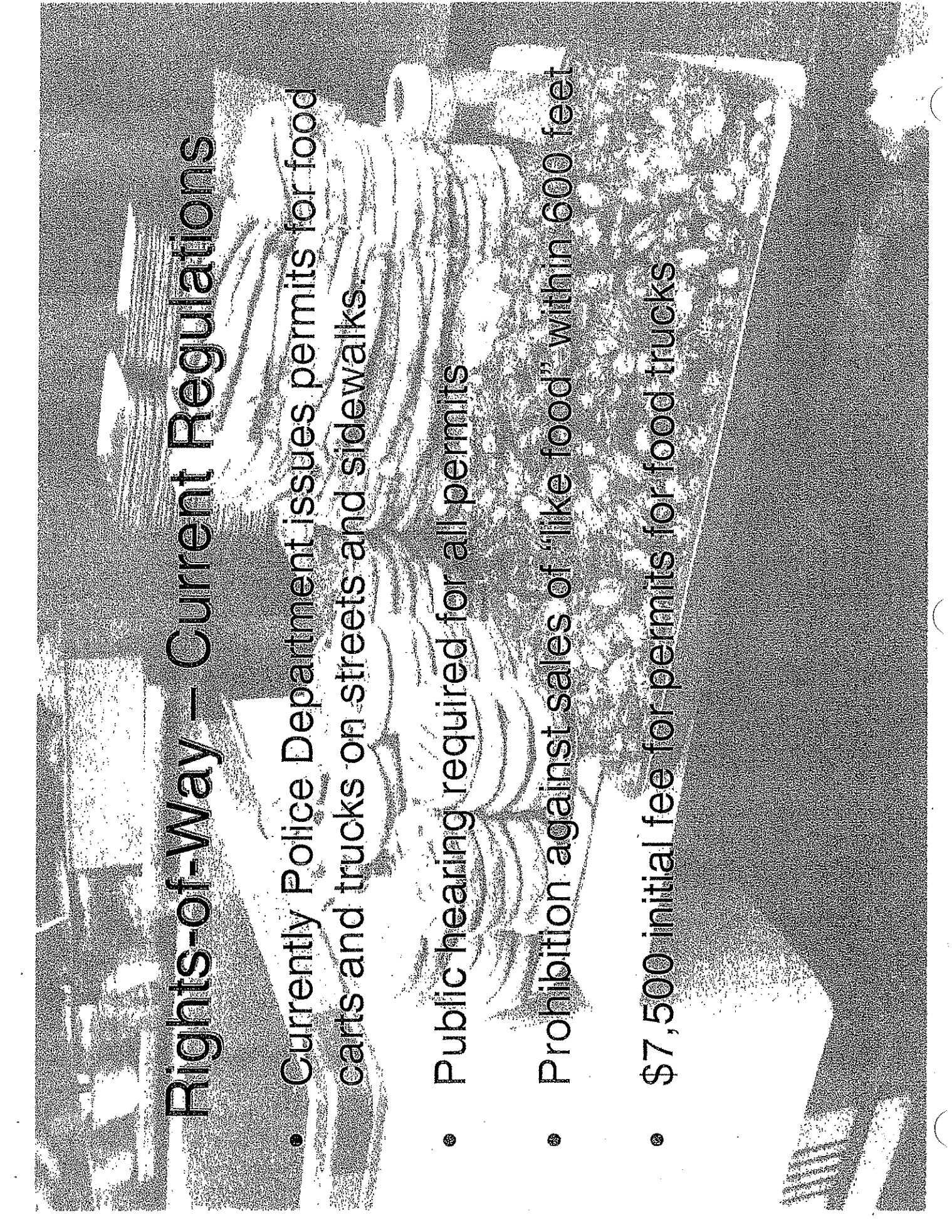
2. Outside of Rights-Of-Way Planning Code Applies

- Typical parcels (e.g. vacant lots, gas stations, etc)
- Parkland
- Plazas



Health and Fire Inspection

- Both ordinances establish that mobile food vendors must obtain Health and Fire certification once per year.
- Vendors no longer have to apply to Health or Fire multiple times for multiple locations.

A grainy, black and white photograph of a city street scene. In the foreground, a food truck is partially visible on the left. Several people are walking on the sidewalk. The background shows more of the street and some buildings. The overall image has a high-contrast, textured appearance.

Rights-of-Way – Current Regulations

- Currently Police Department issues permits for food carts and trucks on streets and sidewalks.
- Public hearing required for all permits
- Prohibition against sales of “like food” within 600 feet
- \$7,500 initial fee for permits for food trucks

Rights-of-Way – Proposed Regulations

- Jurisdiction transferred from Police Department to Department of Public Works
- “Mobile Food Facility” defined in the Public Works code to match Health Code definitions

Rights-of-Way – Proposed Regulations

- Application process

- Vendors apply to DPW for up to 5 locations at a time.
- Applicants must show evidence of current Health and Fire permits
- DPW staff check requested locations for compliance with ADA and other rules to be adopted by Director of DPW

Rights-of-Way – Proposed Regulations

- Notice

- After application filed, DPW issues mailed notice to all businesses with 300 feet or one block (whichever is larger) of requested location
- (For requests to sell food after 8pm, notice must also include residents)
- Permit issuance is held for 30 day notice period
- If DPW receives no objection, permit is issued
- If DPW receives objections, hearing is held, at which “like food” competition and other issues can be raised by businesses.

Rights-of-Way – Proposed Regulations

- Fees

Initial Year of Application – Food Truck with 5 Locations:

Current: \$9,411

Proposed: \$3,823

Each Subsequent Year – Food Truck with 5 Locations – no violations

Current: \$1,472

Proposed: \$849

Each Subsequent Year – Food Truck with 5 Locations – with violations

Current: \$1,472

Proposed: \$2,269

Rights-of-Way – Proposed Regulations

- Grandfathering of existing permit holders
- Holders of a valid permit from the Police Department have 90 days to re-apply to DPW
- DPW shall issue new permits for the same locations at no charge
- At one-year anniversary of new permit issuance, holders must renew and pay renewal fees.
- As of one-year anniversary, permit holders are subject to all current DPW locational requirements

Rights-of-Way – Proposed Regulations

- Miscellaneous

- No single individual or entity may receive permits for more than 7 mobile food facilities
- Permits may not be issued to operate on streets or sidewalks in residential districts
- Permits can be revoked after six months of non-use

Outside Rights-of-Way

CURRENT REGULATIONS

- Typical Zoning Controls

the same as would apply to permanent land uses;

no special treatment

Outside Rights-of-Way

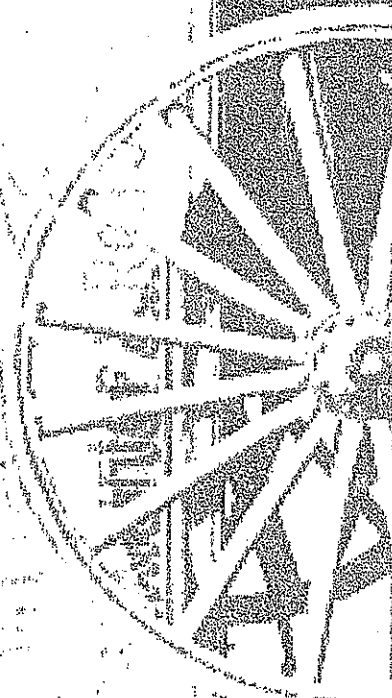
PROPOSED REGULATIONS

New temporary use category:

‘Intermittent Activity’

one-year renewable authorization

Tellus Busby/Quebec Trade Streets



Outside Rights-of-Way

PROPOSED REGULATIONS

Administrative approval if:

- Not in a building
- Not in a residential district
- Complies with hours of operation
- On site for a maximum of
 - three 24-hour days each week, or
 - six 12-hour days each week

Outside Rights-of-Way

PROPOSED REGULATIONS

In Districts subject to neighborhood notice, notice is required if:

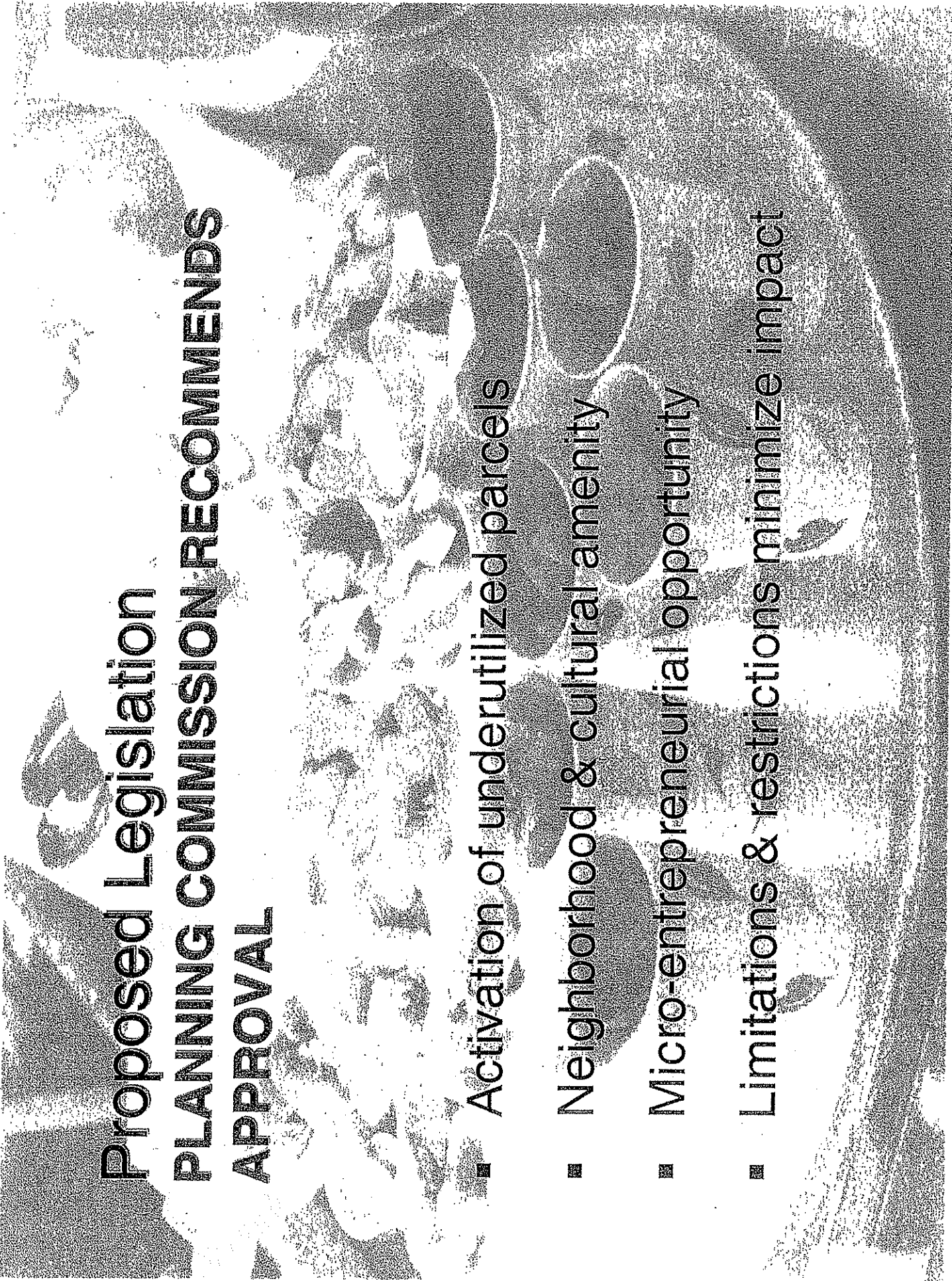
- 225 square or more; or
- within 50' of a residential district

Outside Rights-of-Way

PROPOSED REGULATIONS

Existing controls continue to apply

- MFF's that don't qualify as intermittent activities can still be permitted as permanent uses



Proposed Legislation PLANNING COMMISSION RECOMMENDS APPROVAL

- Activation of underutilized parcels
- Neighborhood & cultural amenity
- Micro-entrepreneurial opportunity
- Limitations & restrictions minimize impact