

1 [Public Works Code - Mobile Food Truck Locations]

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3 **Ordinance amending the San Francisco Public Works Code Article 5.8 to address**
4 **various locational and noticing requirements concerning mobile food facilities; and**
5 **making environmental findings.**

6 NOTE: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strike-through italics Times New Roman*~~.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strike through normal~~.

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

11 Section 1. Findings.

12 (a) The Planning Department has determined that the actions contemplated in this
13 ordinance comply with the California Environmental Quality Act (California Public Resources
14 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
15 Supervisors in File No. 120193 and is incorporated herein by reference.

16 (b) This legislation includes a provision concerning a fifty(50) foot minimum distance
17 between a mobile food facility and an existing restaurant in the absence of consent from that
18 restaurant. By establishing this minimum distance, the Board finds that this buffer is adequate
19 to safeguard the interests of and avoid direct competition with operating restaurants.

20 Section 2. The San Francisco Public Works Code is hereby amended by Sections
21 184.83, 184.84, 184.85, 184.88, 184.89, and 184.96 and adding Section 184.86.1, to read as
22 follows:

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

24 (a) Every person desiring a Mobile Food Facility permit pursuant to this Article shall file
25 an application with the Director upon a form provided by the Director and shall pay a filing fee

1 of \$125.00, a notification fee of \$200.00, and an inspection fee of \$383.00 for a single
2 Location for the Mobile Food Facility. Each additional Location shall require payment to the
3 Department of a notification fee of \$200.00 per Location, an inspection fee of \$383.00 for the
4 first additional Location and an inspection fee of \$191.50 per each additional Location.
5 Separate fees shall be paid to the Department of Health and the Fire Marshal for the annual
6 approvals required by each department for a valid permit under this Article. The fees for the
7 Department of Public Health are set forth in the Business and Taxation Code.

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

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

18 (d) **Permit Renewal and Annual Renewal Fee.**

19 (1) Every Mobile Food Facility permit is subject to an annual renewal filing fee of
20 \$125.00 per permit. In addition, if during the course of the preceding year the Department
21 received one or more substantiated complaints against the permit Location(s) or filed one or
22 more notices of violation against the Permit, the Department shall assess an additional
23 processing fee of \$159.50 per permit. The Department also shall charge inspection fees as
24 follows: \$576.00 the first two (2) Locations where substantiated complaints were received or
25 notices of violation filed and \$288.00 per each additional Location where substantiated

1 complaints were received or notices of violation filed. Said fees are payable to the
2 Department. Separate annual fees shall be paid to the Department of Health and the Fire
3 Marshal for the approvals required by each department for a valid renewal permit under this
4 Article. The annual renewal fees for the Department of Public Health are set forth in the
5 Business and Taxation Code.

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

10 (3) The permit issuance date shall be ~~when the permit is final and effective~~ the date that the
11 DPW Director issues his or her decision to approve, approve with conditions, or disapprove a permit.

12 (4) Permits are automatically renewed each year so long as the Mobile Food Facility
13 remains in compliance with this Article. Annual renewal of a permit does not constitute the issuance
14 of a new permit and ~~Renewal of the permit~~ does not require notice under Section 184.88.
15 Notwithstanding the above, if, as part of a permit renewal, ~~unless~~ the permittee is changing the
16 Location that the Mobile Food Facility serves, adding a new Location(s), changing the hours
17 of operation to serve a Location later than 8 pm; or making other changes to the Mobile Food
18 Facility that the Director determines requires public notice, the Department shall treat such
19 changes as the equivalent of a new permit and require the applicant to satisfy the requirements
20 associated with applying for and obtaining a new permit.

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

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

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

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

9 **SEC. 184.84. MOBILE FOOD FACILITY APPLICATION FORM.**

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

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

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

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

1 (c) Whether or not the applicant intends to operate a Mobile Food Facility under a
2 fictitious name.

3 (d) Such information pertinent to the operation of the proposed activity, including
4 information as to management and authority control, as the Director, Director of Health, or
5 Fire Marshal may require of an applicant in addition to the other requirements of this Section.

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

9 (f) A photograph of the permit applicant.

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

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

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

16 (j) The proposed hours of operation and days of operation for each Location that the
17 Mobile Food Facility proposes to serve. The application should specify up to three 24-hour cycles
18 (or portions thereof) and associated days as part of the application in accordance with the
19 requirements of Section 184.85(b)(6). The applicant also may propose alternate cycles and/or days if
20 the preferred time periods are denied or not otherwise available.

21 **SEC. 184.85. REGULATING MOBILE FOOD FACILITY LOCATIONS.**

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

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

3 (1) The Location shall:

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

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

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

11 (3) Notwithstanding any other provision of this Code, no Mobile Food Facility or Mobile
12 Food Facility Vendor shall peddle food, drink, goods, wares, or merchandise:

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

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

17 (C) On the sidewalk or street immediately adjacent to property under the jurisdiction of the
18 Recreation and Park Commission other than the areas specified above in Subsection (B) unless written
19 consent is obtained from the General Manager of the Recreation and Park Department.

20 (D) On the north side of Jefferson Street between Jones and Taylor.

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

23 (F) Within 1,000 feet of the property line of any high school between the hours of 7:00 a.m. and
24 5:00 p.m. Monday through Friday except that this distance shall be within 750 feet for the following
25 schools:

- 1 (i) John O'Connell (Assessor's Block 3593, Lot 04)
- 2 (ii) Mission High School (Assessor's Block 3579, Lot 006)
- 3 (iii) Hilltop High School (Assessor's Block 4273, Lot 008)
- 4 (iv) Galileo High School (Assessor's Block 0475, Lot 001)
- 5 (v) International Studies Academy (Assessor's Block 4032, Lot 001)
- 6 (vi) Principal's Center (Assessor's Block 1761, Lot 040)
- 7 (vii) Civic Center High School (Assessor's Block 0768, Lot 015).

8 (4) Notwithstanding any other provision of this Code, no Mobile Food Facility or Mobile Food
9 Facility Vendor, with the exception of a Pushcart or Pushcart Peddler, shall peddle food, drink, goods,
10 wares, or merchandise within fifty (50) feet of any restaurant as measured from the edges of the
11 restaurant's street frontage subject to the following:

12 (A) The restaurant shall be operational at the time the Mobile Food Facility applies for a
13 permit for the particular Location.

14 (B) For purposes of this Subsection, restaurant is defined under Health Code Section 451 and
15 includes only the following food preparation and service establishment permit types: (i) fast food
16 establishment, (ii) restaurant less than 1,000 square feet, (iii) restaurant between 1,000 and 2,000
17 square feet, and (iv) restaurant greater than 2,000 square feet. Restaurant also includes a take-out
18 establishment as defined in Health Code Section 451.

19 (C) Notwithstanding, Subsection (B) above, if the restaurant provides any food product and
20 marketing uses as defined in Health Code Section 440, then it shall not constitute a restaurant for
21 purposes of this Subsection.

22 (5) The prohibition set forth in Subsection (4) above shall be waived if all restaurant uses
23 within fifty (50) foot zone consent in writing to the Location of the Mobile Food Facility.

24 (A) For purposes of this Subsection, consent shall be from an owner, partner, director, or
25 stakeholder in the restaurant or other verifiable party with an ownership interest in the restaurant.

1 (B) The consent form shall contain relevant contact information so that the Director can
2 confirm its authenticity.

3 (C) Once consent is issued, it cannot be rescinded even if the restaurant changes management
4 or ownership at any time after the consent is initially given.

5 (6) Mobile Food Facilities shall be limited to serving one Location no more than three (3) days
6 per week. Such days shall be measured in 24-hour cycles so that they could begin on one day and
7 extend to the following day so long as the subject cycle does not constitute more than 24 consecutive
8 hours at a single location.

9 (c) Notwithstanding the locational requirements of Subsection (b)(1), if a Pushcart
10 Peddler has a valid permit for a specific Location dated as of July 19, 1995, said Peddler is
11 exempt from Subsection (b)(1)(B) and the Director may issue an exception to Subsection
12 (b)(1)(A) for such Peddler as long as the permitted pedestrian passage satisfies applicable
13 federal and State access requirements.

14 (d) If a Mobile Food Facility has a valid permit dated as of December 31, 2012 for a
15 particular time and Location, said Facility is exempt from the locational requirements of Subsection
16 (b)(5) and (b)(6) for purposes of the specific time(s) and Location(s) specified in said permit. Any
17 modification to such time and Location shall be subject to all the requirements of this Article.

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

1 Director of the affected Department prior to adoption of such orders, policies, regulations, or
2 rule.

3 **SEC. 184.86.1. MOBILE FOOD FACILITIES FROM FORMULA RETAIL USES.**

4 (a) If a Mobile Food Facility is operated by or otherwise associated with a formula retail use
5 as defined in Planning Code Section 303(i) and is a eating and drinking use, restaurant, limit-
6 restaurant, or take-out food as such terms are defined in Planning Code Articles 7 and 8, the following
7 restrictions shall apply:

8 (1) The Mobile Food Facility is prohibited within the boundaries of those zoning districts
9 where formula retail is prohibited as set forth in Planning Code Section 303(i)(5).

10 (2) The Mobile Food Facility shall require a conditional use authorization from the Planning
11 Commission in accordance with Planning Code Section 303 if it proposes to be in a Location within the
12 boundaries of those zoning districts where formula retail requires a conditional use authorization as
13 set forth in Planning Code Section 303(i)(4). The conditional use authorization shall be a condition of
14 permit issuance and need not be obtained prior to issuance of a Mobile Food Facility permit.

15 (3) Notwithstanding the above restrictions, this Subsection shall not apply if the subject Mobile
16 Food Facility is operating in accordance with the terms of Section 184.87 (Single Day of Operations)
17 or Section 184.89(e) (in connection with a City-permitted temporary use).

18 **SEC. 184.88. NOTICE OF INTENT; APPEAL OF PROTEST OR DENIAL OF**
19 **PERMIT.**

20 (a) **Notice of Intent; Contents of Notice.** Following the filing of an application for a
21 new Mobile Food Facility permit under this Article, change of Location of an existing permit,
22 change in hours of operation so that service occurs after 8 p.m., or addition of a Location(s),
23 the Department shall mail Notice of Intent to operate the proposed Mobile Food Facility
24 business at the Location(s) identified in the application. The form for the Notice of Intent shall
25 be provided to each applicant by the Department. Said notice shall include the Location(s) the

1 Mobile Food Facility intends to serve, the days of the week and times for service at each
2 Location, a description of the goods to be sold under the permit, the procedure for obtaining
3 any additional information, and the procedure for filing any protest or opposition to the
4 proposed permit. The applicant also shall provide the Department with a list of all required
5 recipients of the mailed notice and stamped envelopes with the addresses of all such
6 individuals for the purpose of providing mailed notice. Notice shall be provided as follows:

7 (1) If the Mobile Food Facility will operate between the hours of 6 a.m. and 8 p.m.,
8 mailed notice shall be sent to all ~~businesses~~ ground floor commercial tenants within the area set
9 forth in Subsection ~~(3)~~(4) below.

10 (2) If the Mobile Food Facility will operate at any Location between the hours of 8 p.m.
11 and 3 a.m. the following day, mailed notice shall be provided to all property owners, ~~businesses,~~
12 ~~and residential tenants,~~ and ground floor commercial tenants within the area set forth in
13 Subsection ~~(3)~~(4) below.

14 (3) Notice also shall be mailed to each physical building address within the area set forth in
15 Subsection (4) below and addressed to the attention of "Building Owner/Manager" at that address.

16 ~~(3)~~(4) (A) If the Mobile Food Facility is a Mobile Caterer, notice shall be given within a
17 300 foot radius from the mid-point of the block face for the Location(s) to be served, or all of
18 the block face of the Location(s) to be served and the block face on the opposing side of the
19 street, whichever area is larger.

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

24 (b) **Appeal of Protest or Denial of Permit.** (1) Any person or persons who deem their
25 interests or property or that of the general public will be adversely affected by the issuance of

1 the Mobile Food Facility permit at its intended Location may protest the issuance of said
2 permit by writing to the Director within 30 calendar days from the date listed on the Notice of
3 Intent. Upon receipt of any such written protest during the term of the protest period, the
4 Director will schedule a public hearing to hear all protests or opposition to the issuance of the
5 permit. If there are multiple protests for a single Location or protests for multiple Locations,
6 then the Director shall strive to consolidate all protests at a single hearing. The Director's
7 decision to approve, approve with conditions, or disapprove a permit is appealable to the
8 Board of Appeals within 15 days of the Director's decision.

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

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

24 (1) Whether the applicant's proposed operation is located within 300 feet of ~~an~~
25 ~~established business which sells the same type of food product or other merchandise or similar service~~

1 ~~as intended by said applicant, a restaurant as set forth in Section 184.85(b)(4)~~ or of any Location
2 previously established and currently being operated by a Mobile Food Facility ~~selling the same~~
3 ~~type of food product or other merchandise or similar service as intended by said applicant.~~

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

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

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

10 **SEC. 184.89. ISSUANCE OF MOBILE FOOD FACILITY PERMIT.**

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

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

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

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

22 (c) Any Mobile Food Facility permit that the Director issues ~~is not final and effective unless~~
23 ~~and until~~ shall be conditioned on the Mobile Food Facility Vendor ~~has obtained~~ obtaining a
24 Certificate of Sanitation for the Department of Public Health and approval from the Fire
25 Marshal. If the Certificate of Sanitation and Fire Marshal approval are not obtained within 3

1 months of the date the Director issues his or her permit decision, the permit shall be
2 automatically ~~deemed disapproved~~ revoked.

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

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

14 **SEC. 184.96. TRANSFER OF PERMIT.**

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

22 Section 3. Effective Date. This ordinance shall become effective 30 days from the
23 date of passage.

24 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
25 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,

1 punctuation, charts, diagrams, or any other constituent part of the Public Works Code that are
2 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
3 Board amendment deletions in accordance with the "Note" that appears under the official title
4 of the legislation.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 John D. Malamut
10 Deputy City Attorney

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