CHAPTER 5.51 FOOD VENDING

Sections:
Article I – General Provisions
Article II – Standards and Requirements
Article III – Enforcement, Revocation and Abatement

Article I – General Provisions
5.51.010 – Title and Purpose.
5.51.020 – Definitions.
5.51.030 – Permit required.
5.51.040 – Conflicting Provisions.
5.51.050 – Permitted Area.
5.51.060 – Transference of a Food Vending Permit.
5.51.070 – Food Vending Permit Not a Land Use Entitlement.
5.51.080 – Maximum Number of Pushcart Permits.
5.51.090 – Application requirements for all Food Vending Permits.
5.51.100 – Additional application requirements for group sites.
5.51.110 – Noticing Procedures.
5.51.120 – Decisions regarding the approval and renewal of a Food Vending Permit.
5.51.130 – Required inspections required prior to legal operation.
5.51.140 – Food Vending Permit expiration and renewal.
5.51.150– Finality of Decisions

5.51.010 – Title and purpose.

This Chapter shall be known as the Food Vending Program Regulations, and establishes a citywide food vending program in Oakland.

The purpose of this Chapter is to regulate the vending of food and food products from food vending facilities on public and private property throughout the city in such a manner as to bring convenience, economic vitality, and pedestrian activity to these areas. This includes protecting the health, safety, and general welfare of the Oakland community and customers through appropriate regulation by requiring that new and existing food vendors provide the community and customers with a minimum level of cleanliness, quality and security.
5.51.020 – Definitions.

"Applicant" means the responsible party who seeks a Food Vending Permit from the City of Oakland.

“Employee” means any person hired or paid compensation by, or any person under contract to, a food vendor.

“Food vending” means the business of selling, or causing to be sold from a food vending facility, fruit, produce, prepared foods and beverages, and/or prepackaged foods and beverages, where:

1. Food is prepared off-site in a commercial commissary and/or prepared on-site within the food vending facility, per Alameda County Health Regulations;
2. Food is ordered and served from the truck, trailer, pushcart, or other equipment or vehicle as permitted by Alameda County Environmental Health;
3. Food is served outdoors or under a non-permanent structure;
4. Food is paid for prior to consumption; and
5. Food and beverages are prepared and sold for on-site or off-site consumption.

“Food vending facility” means a truck, trailer, pushcart, or other equipment or vehicle from which food vending services are provided, as permitted by the Alameda County Environmental Health Department. Not included in this definition is the preparation of food and serving of food outside of a vehicle, typically under a tent, canopy, or from a booth.

“Food Vending Permit” is the City of Oakland’s annual or temporary permit required to place, operate, maintain, or allow an individual food vending facility or group site within the Oakland City limits.

“Food Vending Program Permitted Area” is the map adopted by City Council which shows which areas and public rights of way are permitted for a Food Vending Permit.

"Food vendor" means a person who is engaged in "food vending" as governed by this Chapter.

"Group Site" or “Group Site food vending” means the stationary operation of two (2) or more food vending facilities clustered together on a single site and operating at the same time.

“Group Site organizer” or "responsible party" means, for the purpose of determining liability for damage to City or public facilities as a result of a group site operation, the individual or legal entity who is directly responsible for organizing and/or conducting the group site and/or the facility manager, and his or her respective designees.

“Group Site food vending facility” means a food vending facility that is operating at a "group site".

“Group Site Food Vending Permit” means a Food Vending Permit for a group site.

“Healthy foods” include, but are not limited to: fruits, vegetables, as well as 100% fruit and vegetable juices; whole grain products; dairy products; non-dairy milks (made from soy, coconut, rice and/ or almonds); food made from dried beans and peas; and food made from nuts and nut butters.
“Ice cream trucks” means a truck that sells pre-packaged frozen products. For purposes of this Chapter, a Food Vending Facility that serves soft-serve ice cream is not considered an ice cream truck.

“Individual food vending” means a food vending facility that is not operating at a group site.

“Individual Food Vending Permit” means a Food Vending Permit for an individual food vending facility.

“Mobile café” is a motorized food vending facility that serves coffee and tea drinks and pre-made pastries, and does not have cooking equipment.

“Non-food merchandise” means goods, wares, or non-food merchandise.

“Pushcart” is a type of food vending facility that generally has a maximum length of eight (8) feet, maximum depth of six (6) feet, and a maximum height of eight (8) feet. Pushcarts are intended to store all materials and merchandise related to the vending activity, and are easily moved by a person or vehicle. This definition includes a food vending facility integrated or pulled by non-motorized, pedal-powered vehicle such as a bicycle or tricycle.

“Pushcart food vendor” is a person who owns and operates a business vending from a pushcart.

“Roaming” means the movement of a food vending facility to multiple locations during vending hours.

“School” means any private, public or charter school serving children between pre-school and high school. For the purposes of this Chapter, community colleges and universities are not included in this definition.

“Site” means the specific public or private property location, including any public right-of-way, for which an applicant or responsible party has been issued a Food Vending Permit.

“Stationary” means a food vending facility which does not move during vending hours.

5.51.030 – Permit required.

A. Except as may be allowed by a previously granted Conditional Use Permit for the use under Title 17, or by any ordinance or resolution establishing and regulating a street market or farmer’s market in the City; or for a limited period by a Special Event Permit issued in accordance with Chapter 9.52, it shall be unlawful for any individual, group, or legal entity to sell, offer for sale, or solicit offers to purchase food from food vending facilities in the City of Oakland without first obtaining a Food Vending Permit as specified in this Chapter. Conducting a food vending operation in the City of Oakland without such a valid form of city permission is a public nuisance, as defined in this Code.

B. The City Administrator or his/her designee is authorized to issue such rules and regulations, not inconsistent with this Chapter, governing the issuance of Food Vending Permits.

C. Any individual, group, or legal entity desiring to engage in food vending in the City shall first file an application with the Bureau of Planning pursuant to procedures established in this Chapter and/or by the City Administrator or his/her designee. There are two types of Food Vending Permits: Annual Food Vending Permits and Temporary Food Vending Permits.

1. Annual Food Vending Permits expire after one (1) year unless renewed under the provisions of Section 5.51.140.
2. Temporary Food Vending Permits expire after ninety (90) days and may be renewed for one additional 90-day time period. A renewal shall require a new application and fee.

D. Issuance of an Encroachment Permit from the City of Oakland is not required to operate an individual food vending facility or group site in the public right-of-way.

E. The individual, group, or legal entity desiring to engage in food vending shall obtain and maintain all required permits from the Alameda County Environmental Health Department the City of Oakland, and other regulatory agencies, including, but not limited to Electrical Permits or Fire Department permits.

5.51.040 – Conflicting provisions.

Where a conflict exists between the regulations or requirements in this Chapter and applicable regulations or requirements contained in other Chapters and Titles of the Oakland Municipal Code, including the Oakland Planning Code (Title 17), the applicable regulations or requirements in this Chapter shall prevail.

5.51.050 – Permitted area.

Individual food vending facilities and group sites shall be subject to the following location requirements:

A. Food vending shall only be located in the Food Vending Program Permitted Area adopted by City Council, and may be located on private property, on publically-owned property, or in the public right-of-way.

B. A location for an individual food vending facility or group site shall not be permitted if it is proposed to be closer than the distances specified below, as measured along the path of pedestrian travel. These distance requirements do not apply to approved roaming facilities:

1. One hundred (100) feet from another individual food vending facility or group site, unless permitted to operate on different days of the week;
2. Five hundred (500) feet from the parcel boundary of any school between the hours of 7 a.m. and 5 p.m. Monday through Friday, unless the individual food vendor or group site organizer: a) receives a signed letter from the school principal indicating that he/she does not object to the proposed location of the individual food vending facility or group site, and b) only serves healthy food; and
3. Any additional location requirements, as determined by the City Administrator or his/her designee, per Section 5.51.030(B) of this Chapter.

C. Individual food vending facilities or group sites cannot block or impede access to:

1. Required parking or driveways;
2. Bicycle racks;
3. Signal crossings;
4. Required off street parking;
5. Parking meters;
6. Pedestrian or bicycle routes;
7. Emergency vehicle routes;
8. Building ingress and egress;
9. Required handicapped accessibility routes and curb cuts;
10. Easements;
11. Trash enclosure areas or access to trash bins/trash enclosures; or
12. Other City facilities, as determined by the City Administrator or his/her designee.
D. Individual food vending facilities and group sites shall maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).

E. Each non-roaming individual food vending facility and group site shall be located within two hundred (200) feet of a restroom facility that employees can legally access.

F. All food vending facilities on public sidewalks shall be located such that a minimum of five and one-half (5½) feet of unobstructed improved sidewalk or fifty percent (50%) of the overall improved sidewalk width, whichever is greater, is provided. For purposes of the minimum clear path, parking meters, traffic signs, trees, tree wells, sidewalk planter strips, and all similar obstacles shall constitute obstruction.

G. Individual food vending facilities and group sites that sell food from the public right-of-way in the Program Permitted Area may either apply to vend from one or more specific on-street parking spaces or apply to utilize one or more non-specific on-street parking space(s) located anywhere along an approved city block frontage. Only on-street parking spaces that meet the distance requirements in this Section shall be approved for food vending.

5.51.060 – Transference of a food vending permit.

A Food Vending Permit cannot be transferred or conveyed from the permit applicant, or otherwise assigned to another person or entity without permission from the City Administrator, or his or her designee.

5.51.070 – Food vending permit not a land use entitlement.

No City action related to issuance and/or renewal of a Food Vending Permit for an individual food vendor or a group site shall be interpreted to confer any form of permanent land use entitlement to the person, group, entity, or property associated with such permit.

5.51.080 – Maximum number of pushcart permits.

A. A maximum of one hundred (100) Food Vending Permits may be issued for pushcarts to operate within the City. At no time shall more than one hundred (100) such permits be active.

B. Out of the total number of Food Vending Permits available for issuance to pushcarts, no more than thirty (30) such Permits may be issued for pushcarts to operate within the following boundaries: Fruitvale Avenue and High Street between Interstate 880 to the west and Foothill Boulevard to the east, Foothill Boulevard between 19th Avenue to the north and MacArthur Boulevard to the south, International Boulevard between First Avenue to the north and 105th Avenue to the south, and San Leandro Street between Fruitvale Avenue to the north and 98th Avenue to the south. East 12th Street between 4th Avenue to the west and 23rd Avenue to the east, 14th Avenue between East 11th Street in the south and East 19th Street in the north.

5.51.090 – Application requirements for all Food Vending Permits

Application for an Individual Food Vending Permit shall be made by the owner of the affected food vending facility, or his or her authorized agent, or in the case of a Group Site Food Vending Permit, by the group site organizer, or his or her authorized agent, on a form prescribed by the
Bureau of Planning. Each application for an Individual or Group Site Food Vending Permit shall include:

A. Name, contact information, and copy of a photo ID of the applicant;
B. A non-refundable application fee in an amount set on the Master Fee Schedule;
C. If proposed location is on private property, written consent in a form approved by the City from the property owner (if other than self) permitting the individual food vending facility or group site to locate on the property;
D. A map drawn to scale, showing:
   1. The proposed location(s);
   2. The address and Assessor’s Parcel Number of the subject or nearest parcel, and/or specific section of the public right-of-way; and
   3. The two (2) nearest street intersections.
E. A scaled and dimensioned site plan for each proposed location, containing:
   1. If on a parcel, the location and dimensions of all proposed food vending facility(s), any public seating or other site amenities (including chairs and tables), property lines, buildings or other structures on site, paved areas, driveways, trash receptacles, garages, parking spaces, maneuvering aisles, and pavement striping;
   2. If in the public right-of-way, location and dimensions of the proposed food vending facility(s), sidewalks, curb cuts, trash receptacles, front property line of nearest parcel(s), and obstructions such as parking meters, telecommunication boxes, street trees, or light poles.
F. Photographs of the site(s) and food vending facility(s);
G. Sample, photo, or rendering of proposed signs;
H. The proposed menu of items to be offered at the food vending facility(s);
I. Proof of all required approvals from the Alameda County Department of Environmental Health for the proposed food vending facility(s) and/or group site;
J. Proof that food vending facility(s) and the group site organizer has a valid City of Oakland Business Tax Certificate;
K. The proposed schedule for the individual food vending facility or group site, including dates, and starting and ending times of the vending period;
L. Maintenance plan, including litter pickup and cleaning in the vicinity of the individual food vending facility or group site;
M. The address where the food vending facility(s) will be stored during non-operating hours;
N. The following information shall be provided regarding the commercial kitchen or commissary to be used by the applicant, if any:
   1. Proof of all required approvals from the Alameda County Department of Environmental Health;
   2. A valid lease between the facility operator(s) and a commercial kitchen or commissary; and
O. A signed statement from the applicant that they will abide by all local and federal requirements, including, but not limited to, those relating to the minimum wage and sick leave.
P. Any other reasonable information regarding time, place, and manner of the individual food vending facility or group site operation that the City Administrator or his/her designee requires to evaluate the proposal.
5.51.090– Additional application requirements for group sites.

A. The application for a Group Site Food Vending Permit shall include the following additional information (in addition to those items found in Section 5.51.080):
   1. Legal and business name and mailing address for each food vendor; and
   2. Designation of a manager to be responsible for the day-to-day site management of the group site.

5.51.110 – Noticing procedures

A. On a form prescribed by the City Administrator or his/her designee, Food Vending Permit applicants shall provide a notice to the following parties prior to the subject application being deemed complete:
   1. All property owners, business owners, and building occupants (including residents) located within one hundred (100) feet of the proposed vending site; however, failure to send notice to any such property owner, business owner, and building occupant (including resident) where his or her address is not shown on the last available equalized assessment roll shall not invalidate the affected permit;
   2. Any Business Improvement District or Community Benefit District whose jurisdiction includes the project site; and
   3. The property owner of the site on which the individual food vending facility or group site is proposed to be located.

B. All notices shall be distributed by the applicant to the subject owners and/or occupants by certificate of mailing or delivery, and be completed not less than ten (10) days prior to the final decision on the application by the City. During the required noticing period, the City Administrator or his/her designee shall receive and consider comments from any interested party.

5.51.120 – Decisions regarding the approval and renewal of a Food Vending Permit.

A. The City Administrator or his/her designee shall approve, approve with conditions, or deny a Food Vending Permit application based on the standards and criteria set forth in this Chapter. The City Administrator or his/her designee may impose conditions of approval on a Food Vending Permit in the exercise of his or her reasonable discretion. The applicant shall be notified of any conditions of approval in writing.

B. A Food Vending Permit application may be denied upon evidence that:
   1. Information contained in the application, or supplementary information requested from the applicant, is false in any material detail; or
   2. The applicant has failed to ensure conformity with the operating standards in this Chapter; or
   3. The applicant has failed to provide a complete application form after having been notified of the requirement of producing additional information or documents; or
   4. The applicant has previously had a food vending permit revoked in Oakland or in another jurisdiction, for violating food vending permit conditions or for unlawful conduct relating thereto; or
   5. The granting of the Food Vending Permit will have a substantial adverse impact upon the public health, safety, or order.
5.51.130 – Inspections required prior to legal operation.

Upon issuance of the permit, the applicant shall not commence business activities until:

A. An Oakland Fire Department designee has inspected all food vending facilities for safety that involve the use of gas for cooking onsite.

B. Once the food vending facility or group site has passed all required inspections and can legally operate, the applicant shall affix an issued City of Oakland Food Vending Permit seal/placard/sticker at a clearly visible location on the individual food vending facility or display such Permit seal/placard/sticker at a prominent place at a group site. The City of Oakland Food Vending Permit seal/placard/sticker shall contain the permit number, the expiration date, and an indication that the individual food vending facility or group site is legal to operate.

5.51.140 – Food Vending Permit expiration and renewal.

A. Unless renewed as described in Subsection B, below, each Annual Food Vending Permit shall be valid for twelve (12) months from the date of issuance, and expire and become null and void annually on the anniversary of its date of issuance. Each Temporary Food Vending Permit shall expire and become null and void after ninety (90) days, and may be renewed for one additional consecutive 90-day time period.

B. An individual food vending facility or group site organizer may apply for a Food Vending Permit renewal by submitting to the City Administrator or his/her designee, prior to the expiration of the active Annual Food Vending Permit. The Annual Food Vending Permit renewal application shall be made on a form provided by the City Administrator or his/her designee. All applications shall be filed with the City Administrator or his/her designee.

5.51.150 – Finality of decisions

Decisions regarding Food Vending Permit applications are not appealable, final, and effective immediately.

Article II – Standards and Requirements

5.51.170 – Hours of operation

5.51.180 – Appearance and Operating Standards.

5.51.170 – Hours of operation

A. The permitted hours of operation for individual food vending facilities and group sites are 7 a.m. to 10 p.m., Monday through Thursday, and 8 a.m. to 12 a.m. on Friday, Saturday and Sunday.

B. Upon the granting of special approval from the City Administrator or his/her designee, an individual food vending facility or group site may operate up to 3 a.m.
5.51.180 – Appearance and operating standards.

A. Appearance and condition of the food vending facility.
   1. All food vending facilities and group sites shall clearly display current City of Oakland business tax certificate, Alameda County Environmental Health permit (and decal) and Food Vending Permit (and decal) in plain view and at all times on the exterior of the food vending facility or at the group site.
   2. No more than three (3) signs shall be attached to any food vending facility, with a maximum aggregate display surface of thirty (30) square feet of signage per food vending facility.
   3. Pushcarts shall be a maximum length of eight (8) feet, maximum depth of six (6) feet, and a maximum height of eight (8) feet. Larger facilities may be permitted by the City Administrator or his/her designee on a case by case basis.

B. Utilities
   1. Individual food vending facilities and group sites shall either be entirely self-sufficient in regards to gas, electricity, water, and telecommunications, or the food vending facility shall be required to apply for appropriate permits for any utility hook-ups or connections to on-site utilities to ensure building and public safety and consistency with applicable building codes.

C. Refuse, Trash and litter maintenance.
   1. The food vending facility or group site organizer shall not throw, deposit, discharge, leave, or permit to be thrown, deposited, discharged, or left, any fat, oil, grease, refuse, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, gutter, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private lot of land in the city, so that the same might be or become a pollutant.
   2. Other than roaming food vending facilities, a minimum of two thirty-two (32)-gallon litter receptacles shall be within fifteen (15) feet of each individual food vending facility for customers and employees.
   3. Other than roaming food vending facilities, individual food vending facility and group site organizers shall maintain the subject property and adjacent right-of-way free of litter on and within one hundred (100) feet of their site.
   4. At a minimum, all refuse shall be removed from the individual food vending facility location or group site, and properly disposed of after each vending period.
   5. Failure to adequately clean up after a food vending group site operation date shall be grounds for denying an applicant's request for permit renewal and/or additional vending dates under an issued permit that might otherwise be approved as set forth in Section 5.51.120.

D. Seating, Chairs and tables
   1. Depending on site size, configuration, and location, a plan for site amenities, including but not limited to tables and chairs, portable restroom facilities, and/or temporary shade structures, may be permitted in conjunction with the operation of a food vending site. A scaled or dimensioned site plan depicting the proposed location of any site amenities shall be submitted for review and approval in conjunction with a food vending permit application.

E. Performance Standards
   1. Noise levels from food vending facilities shall not exceed the city's noise ordinance standards. Vendors should use low-noise emission generators.
   2. Noise and odors from food vending facilities shall be contained within immediate area of the permitted food vending location.
3. The vehicular food vendor shall maintain site circulation for pedestrians and access consistent with the Americans with Disabilities Act.

F. Security
1. The site shall be maintained in a safe and clean manner at all times.
2. The serving or consumption of alcohol is prohibited from individual food vending facilities or at group sites.
3. Food vending facilities and group sites shall have adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.

G. Other requirements.
1. Food vending facilities shall be maintained in operating condition at all times, and shall be movable at all times.
2. No food vehicle shall become a permanent fixture on the site and shall not be considered an improvement to real property.
3. The food vendor shall maintain a valid Alameda County Environmental Health Permit at all times. If the permit expires, or is suspended or revoked, then all food sales shall cease until the permit is reinstated.
4. The organizer of a group site or their representative shall be personally present at all times during group site operations.
5. Proof of liability insurance in the amount required by the City shall be maintained by the group site organizer.
6. The posting of the food vending permit at the site is required at all times.
7. The food vendor or group site organizer shall have a working telephone where he/she can be reached directly at all times during food vending.

Article III. Enforcement, Revocation and Abatement

5.51.190 – Enforcement.

5.51.200 – Violation.


5.51.220 – Revocation of Food Vending Permits.

5.51.230 – Penalties for violation of Food Vending Permit requirements.

5.51.240 – Abatement generally.

5.51.250 – Notice to abate.

5.51.260 – Abatement procedure.

5.51.270 – Violations constituting infractions.

5.51.280 – Penalty for violation.
5.51.190 – Enforcement.

The City Administrator or his/her designee shall be responsible for enforcing this Chapter. If periodic inspections are necessary to monitor compliance, reinspection fees per the master fee schedule shall be assessed against the responsible party.

5.51.200 – Violation.

Failure to comply with any of the provisions of this Chapter is declared to be prima facie evidence of an existing violation, a continuing blight and a declared public nuisance and shall be abated by the City Administrator or his/her designee, in accordance with the provisions of this Chapter. Any person in violation will be subject to administrative penalties, citations, civil action and/or other legal remedies, including seizure of a food vending facility, and/or food and drink merchandise.


If a food vending facility is on a privately owned parcel, the parcel owner and the individual food vending facility or group site organizer have joint and several liability for compliance with this Chapter, including fees, administrative citations, civil actions, and/or legal remedies relating to an individual food vending facility or group site. The parcel owner remains liable for any violation of duties imposed by this Chapter even if the parcel owner has, by agreement, imposed on the individual food vending facility or group site organizer the duty of complying with the provisions of this Chapter.

5.51.220 – Revocation of Food Vending Permits.

The City of Oakland reserves the right to revoke this permit at any time if it is found that the approved activity is violating any of the provisions of the City of Oakland Municipal Code or causing a public nuisance, in accordance with Section 5.02.080 OMC for:

A. Violating any of the required operating standards set forth in Section 5.51.180; or

B. Violating any of the imposed permit conditions; or

C. Causing a public nuisance, or causing an unlawful or criminal activity occurring during the operation a food vending activity or group site; or any other violation of this Chapter.

Revocation shall be immediately effective upon written notice of the revocation by the City Administrator or his/her designee. Revocation hearings and appeals shall be done in accordance with Sections 5.02.090 (Hearings) and 5.02.100 (Appeals).

Should a food vending permit be revoked, the vendor shall be required to cease operation immediately or be subject to action which may include impounding of vehicle and/or citation.

5.51.230 – Penalties for violation of Food Vending Permit requirements.

Any violation of this Chapter may be charged as a civil penalty or administrative citation as provided for in Chapters 1.08 and 1.12 of this Code. Enforcement action specifically authorized by this Section may be utilized in conjunction with, or in addition to, any other statutory, code, administrative or regulatory procedure applicable to this Chapter. In addition, nothing in this
Section shall be interpreted to preclude or limit the City from seeking injunctive or other judicial relief.

5.51.240 – Abatement generally.

A. Failure to permanently remove a food vending facility or group site and failure to cease operation as a food vending facility or group site after the termination, revocation, expiration, or suspension of any permit issued pursuant to this Chapter shall constitute a public nuisance, and shall be subject to enforcement and abatement procedures set forth in Chapter 1.16 of this Code.

B. When the City Administrator or his/her designee determines that an individual food vending facility or a group site has been used as an instrument for, or has contributed substantially to a violation of this Chapter, the City Administrator or his/her designee may deem the violation a public nuisance and issue a notice to abate the food vending facility or group site operation, and direct the responsible party to:

1. Comply with the notice to abate;
2. Comply with a time schedule for compliance; and
3. Take appropriate remedial or preventive action to prevent the violation from recurring.

5.51.250 – Notice to abate.

Upon declaring and deeming a violation of this Chapter a nuisance, the City Administrator or his/her designee shall send a notice of abatement to the property owner, individual food vendor, and/or responsible party. The notice of abatement shall contain the following:

A. The street address and a legal description of the property sufficient for identification of the premises or property upon which the nuisance condition(s) is located;

B. A statement that the enforcement official has determined pursuant to this Chapter that the property owner and applicant are in violation of this Chapter;

C. A statement specifying the condition that has been deemed a public nuisance;

D. A statement ordering the property owner, individual food vendor, and/or responsible party to abate the condition(s), and specifying the manner in which the same shall be abated, and the period within which such abatement shall be accomplished.

Service of said notice may be made by delivery to the property owner, individual food vendor, and/or responsible party and to the applicant or person in possession personally or by enclosing the same in a sealed envelope, addressed to the occupant at such premises, or to the property owner at the address provided in the food vending permit application, postage prepaid, registered or certified mail, return receipt requested, and depositing same in the United States mail. Service shall be deemed complete at the time of the deposit in the United States mail.

It is unlawful for the property owner, individual food vendor, and/or responsible party to fail or neglect to comply with such order or notice of abatement. In the event that the property owner, individual food vendor, and/or responsible party shall not promptly proceed to abate said
nuisance condition(s), that is to say within seven days of notice to abate, as ordered by the enforcing official, the abatement procedure set forth in Section 5.51.260 may be undertaken.

5.51.260 – Abatement procedure.

Any person violating or failing to comply with any of the provisions of this Chapter shall be subject to the abatement procedure set forth in Title 1 of this Code.

5.51.270 – Violations constituting infractions.

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

5.51.280 – Penalty for violation.

Any person convicted of an infraction under the provision of this Chapter shall be punished upon a first conviction by a fine of not more than $1,000.00 and, for a second conviction within a period of one year, by a fine of not more than $2,000.00 and, for a third or any subsequent conviction within a one-year period, by a fine of not more than $5,000.00. Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than $10,000.00 or by imprisonment in the county jail for a period of not more than six months or by both. Any person violating or failing to comply with any of the provisions of this Chapter shall be subject to civil penalties and administrative citations per Chapters 1.08 and 1.12 of this Code.