

August 3, 2016

Location:	CITYWIDE
Proposal:	Establish a new citywide food vending permit program that would replace Oakland’s existing food vending permit types and programs. The new citywide food vending program would permit, with certain restrictions, individual food vending on private property and from the public right of way in selected commercial and industrial areas. The new program would also permit group site vending citywide. Ordinance would also revise the definition of “Fast Food Restaurant Commercial Activities” in Section 17.10.280 of the Oakland Planning Code; and revise the following sections of the Oakland Municipal Code (OMC): Section 5.51 (“Food Vending Group Site Pilot Program”); Section 5.49 (“Pushcart Food Vending Pilot Program”); and Section 8.09 (“Vehicular Food Vending”). The Ordinance would also include revisions to other Planning and Municipal Code sections as minor conforming changes.
Applicant:	City of Oakland
Case File Number:	ZA16009
Environmental Determination:	The Project relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
City Council District:	All Council Districts
Action to be Taken:	Recommendations to the City Council
Staff Recommendation:	Recommend proposal to the City Council
For Further Information:	Contact case planner Devan Reiff at 510-238-3550 or dreiff@oaklandnet.com

SUMMARY

On June 1, 2016, the Planning Commission held a public hearing to consider a proposed new citywide food vending permit program to replace Oakland's existing food vending permit types and programs (see **Attachment A** for the June 1st staff report). The proposed new Citywide Food Vending program will require the following city code amendments:

1. Revise the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code, to remove the portions referring to vehicular food vending;
2. Replace OMC Chapters 5.51 ("Food Vending Group Site Pilot Program"), 5.49 ("Pushcart Food Vending Pilot Program"), and 8.09 ("Vehicular Food Vending") with new citywide food vending program regulations, which will be located in OMC Chapter 5.51;
3. Adopt a new Food Vending Program Map; and
4. Revise other Planning and Municipal Code sections as minor conforming changes.

Staff proposes to delete OMC Chapters 5.51, "Food Vending Group Site Pilot Program", 5.49, "Pushcart Food Vending Pilot Program", and 8.09, "Vehicular Food Vending" and replace them with one new citywide Food Vending Program – that can be found in OMC Chapter 5.51 (see **Attachment B** to this report). The proposed new citywide food vending program would be accompanied by a map of the "Food Vending Program Permitted Area" (see **Attachment D** to this report). Administrative procedures to implement the program would also be included. These administrative procedures are being prepared by Bureau of Planning staff, in coordination with Oakland Public Works, the Oakland Police Department, the Oakland Fire Department, and the City Administrator's Office, and will be available to the public prior to the effective date of the program; the procedures will be approved by the Director of Planning and Building.

The proposed program would permit, with certain restrictions, individual food vending on private property and from the public right of way in selected commercial and industrial areas. The new program will also permit group site vending citywide.

After hearing public speakers, and making comments and inquiries, the Commission closed the hearing and made a motion that included 13 changes or requests for further information, and asked staff to return to the Commission with revisions. This report represents staff's changes to the initial proposals made at the June 1, 2016 Planning Commission. Staff revised the amendments to OMC Chapter 5.51 to reflect the latest version of the proposal, which is shown as **Attachment B** of this report.

Staff is also preparing administrative rules and procedures to serve as guidelines for permit issuance and conflict resolution. These administrative rules and procedures, which will be separate from and authorized by the ordinance amending OMC Chapter 5.51, will provide the detailed requirements, procedures and prohibitions under which the new food vending program will be operated. They will also provide the flexibility necessary to allow for timely changes to effectively implement the new food vending program. A draft of these administrative rules and procedures is included as **Attachment C** to this report, and will be discussed by staff at the

Planning Commission hearing. In addition, the Planning Bureau, in consultation with the Council District 5 office, will hold a public meeting (in advance of the program implementation date) in order to allow food vendors and the public an opportunity to comment on the specific details related to the administration of the new permit program.

As currently proposed, Planning staff will issue food vending permits to applicants, and will help resolve potential conflicts. This is a somewhat unusual administrative arrangement, since programs and regulations outside of the Oakland Planning Code (Title 17) are not typically within the administrative jurisdiction of the Bureau of Planning. However, based on the Planning Bureau's experience in administering similar permit types, staff determined that Planning should also administer this new program. Another reason for this administrative arrangement is that the Planning Bureau already issues permits for food vending in some situations - through review of Major Conditional Use Permits (CUPs) submitted for vehicular food vending, which is currently considered a Fast Food Restaurant Commercial Activity in the Planning Code. An important implementation element of the proposed new food vending program is to consider removal of *vehicular food vending* from the definition of "Fast Food Restaurant Commercial Activities", which will remove the requirement for food vending applicants to apply for a Major CUP, which is a permanent land use entitlement for fast food on a parcel.

The proposal also recommends the addition of new City staff to help administer and enforce the new food vending program, including positions in the City Administrator's Special Activities/ Nuisance Abatement Division and the Planning and Building Department. New permit fees are proposed for the food vending program that are directly based on the cost of these proposed new staff positions.

The map of proposed food vending areas is included as **Attachment D** to this report, and includes selected commercial and industrial areas of the City.

BACKGROUND

The legislative history of mobile food vending in Oakland is explained in detail in the June 1, 2016 Planning Commission staff report (see **Attachment A** to this report).

COMMUNITY OUTREACH

Following the June 1, 2016 Planning Commission hearing, staff spoke with representatives of the Lake Merritt Business Association (Park Blvd. and E. 18th Street) and the East Lake Merchants Association (International Blvd., from 1st to 14th Avenues). Both expressed their support for the proposed food vending changes in their neighborhoods.

Staff also spoke with the Lakeshore/Lake Park BID, which said that except for the vendors near the Saturday Farmer's Market who were unpermitted, there hadn't been much problem with mobile food vending in the area, and that they were generally supportive of new food vendors being permitted, as long as they meet the proposed buffer distances.

Prior to the August 3rd Planning Commission hearing, staff will speak with representatives from the Mobile Food Truck Association in Oakland, which sent a comment letter to the Planning Commissioners for the June 1st meeting (see **Attachment E** to this report, which also includes a separate letter from a long-standing food truck business owner). In their letter, the Mobile Food Truck Association representatives were concerned about the proposal's hours of operation (late night vending) administrative changes, additional permit fees, and newly permitted vending in the public right of way, among other concerns. Staff will report back at the August 3rd Commission the results of the meeting with the Mobile Food Truck Association.

A full accounting of previous stakeholder meetings and community outreach efforts was included in the June 1, 2016 Planning Commission report (see **Attachment A** to this report).

REVISIONS TO THE NEW CITYWIDE FOOD VENDING PROGRAM

The motion made by the Planning Commission on June 1, 2016 included 13 recommended changes or requests for further information. Each item from the Planning Commission motion is addressed below, shown in italics.

1. *Study increasing the distance from schools, except for those food vendors that are serving only healthy food.*

Staff Response: Under current Oakland food vending regulations, the distance between a food vendor and a private, public or charter school is 500 feet. Staff has studied the feasibility of increasing this distance from schools, and has determined that any increase would remove too many prime food vending opportunity areas, especially on major corridors such as on International Blvd. Therefore, the same distance is retained in the proposal.

In addition, because some of the City's major commercial streets (such as International Boulevard) are within 500 feet of a school, applying a strict 500-foot buffer in all cases would significantly limit the opportunities to vend in areas like the Fruitvale District where food vending has long-standing history. Therefore, the administrative rules have been written to allow food vending on major commercial streets within 500 feet of a school, as long as a school itself is not directly located on the major commercial street.

Also, after staff consultation with OUSD staff, the amendments to OMC Chapter 5.51 will be changed to clarify that the supervising authority for the school (as opposed to the school Principal) may permit food vending closer than 500 feet from a school, as long as the vendor meets healthy food vending guidelines. A supervising authority could be OUSD Superintendent's Office, or the OUSD Office of Charter Schools, depending on the school.

2. *Strengthen the definition of “healthy food” (in the proposed amendments).*

Staff Response: Staff is working with the Oakland Food Policy Council and OUSD wellness staff, on a specific definition of “healthy food” vending, which will be included in the administrative rules and regulations, but not in the proposed amendments. That way, as food science and nutritional advice changes over time, the City will be able to update the administrative rules and regulations in a timely fashion.

3. *Study the feasibility of reducing the permitting fees.*

Staff Response: The fees charged by the City to an applicant are required to equal but not exceed the costs of the administrative actions to issue a permit. In the case of a single food vending permit issued by the Planning Bureau, for example, staff estimates that it could take up to 2½ hours to complete the actions needed to issue a permit, and the \$350 cost of that permit reflects this. The annual fee for a mobile food truck permit today is \$1,700. The fee for the equivalent permit is proposed to be approximately \$950 - with additional costs for the excess litter fee (\$100), the City’s zoning clearance and business tax certificate (\$56 + \$88 = \$144), and Fire inspection and Liquid Petroleum Gas (LPG) permit, if applicable (\$313). The fee for annual permit renewal is expected to be approximately \$885, less than the cost of the initial permit. The two tables below show the cost of the proposed food vending permit issued by the Planning Division, and the additional City fees that a vendor can expect to pay to operate with all required permits and fees. The *total* of all these fees (including a LPG permit from the Fire Department), is approximately \$1,500 for the initial permit, and \$1,400 for the annual renewal.

Food vending permit fees	Proposed Cost	Notes
Food Vending Permit	\$350 (initial permit) \$285 (renewal fee)	Covers administrative costs by Planning staff to issue the permit
Enforcement	\$600	Funds new Special Activities Enforcement position in City Administrator's Office
<i>Totals for City of Oakland Food Vending permit</i>	<i>\$950 (initial permit)</i> <i>\$885 (renewal fee)</i>	

Additional Food vending fees	Proposed Cost	Notes
Excess Litter Fee	\$100	All businesses in Oakland with disposable items pay into this fund, which pays for street sweeping crews
Zoning Clearance and Business Tax Certificate	\$56 + \$88 = \$144	The standard business permitting applications for any new business in Oakland.
Fire inspection and LPG permit (will only apply to gas-cooking facilities)	\$313	LPG = Liquid Petroleum Gas, or propane. This will be a mandatory inspection of all vehicles which cook with gas.
Grand totals (all permits included)	\$1,508 (initial permit) \$1,443 (renewal fee)	

Note that these are the City of Oakland fees and permits. These totals do not include the fee for the Alameda County Environmental Health Permit, which is approximately \$900 for a full kitchen truck.

Staff has determined these are the correctly (estimated) costs to administer and enforce the new food vending program, keeping it cost covering. If the City Council finds additional funds to make the applications more affordable, paying down the cost of any of these components of the total cost, the Council may elect to apply other funding sources towards the mobile food vending program. If the City learns during the course of administering the first year's permits that the cost assumptions are incorrect, staff will recommend an adjustment of the fees to the Council. Note that with the proposed fee structure, \$600 of every annual permit will go to help pay for the new Special Activities officer to enforce the new regulations.

4. *Consolidate the permits (for late night vending);*

Staff Response: Under current regulations, late night vending (from 12am-3am) is allowed by right with a valid food vending permit. Approximately 20 vendors participate in late night vending. From discussions with vendors, late night vending makes up an important component of the profit from running their food vending business. It is expected that many more new vendors will seek to have later night hours, once a new permit program is available. Minimizing the impacts of late night vending (e.g., noise from customers, odors from cooking, etc.) is in the City's interest.

As shown in the Administrative Rules and Regulations, late night vending permission will not be a separate permit, but rather, an additional level of review by staff of the food vending permit. Staff has decided there will be no additional fee for this review. The criteria for allowing late night vending is described in the Administrative Rules document.

5. *Include a recommendation that once approved and implemented, the proposed amendments come back to Council (or Planning Commission), with recommendations for refinement 12 to 18 months after implementation;*

Staff Response: Staff agrees that there will be a need to return to Planning Commission and Council in about 12 to 18 months from the effective date of the new food vending program, to report on progress and discuss program details with the public.

- 6. *Give greater clarity to the regulatory process; specifically the process for “grandfathering” of existing vendors.*

Staff Response: See the draft Administrative Rules and Regulations document (**Attachment C** to this report).

- 7. *Make greater efforts to streamline the one stop process as much as legally possible;*

Staff Response: As requested by the Oakland Food Policy Council and several Planning Commissioners, staff has made it a priority to make the application process easier than it is now. As described more fully in the Administrative Rules and Regulations (**Attachment C**), most of the City of Oakland’s food vending application process will be able to be accomplished at the Bureau of Planning zoning counter, with an additional stop at the Business Tax Office, and if necessary, the Fire Department.

- 8. *Include a breakdown of the fees and how that money has been spent in the past (e.g. how does Building Division spend the current food vending permit fees now);*

Staff Response: There are two permits issued now for the food vending program, Food Vehicles (FV) and Food Carts (FC); the revenue collected for each over the last three years are as follows:

	2014	2015	2016 (to date)
FV	\$34,475	\$12,380	\$8,960
FC	\$4,095	\$8,650	\$10,470

This revenue is not sufficient to pay for any one staff person’s salary at the Department of Planning and Building; rather, it goes towards the general operational budget for the Planning and Building Department which funds permit issuance and enforcement costs. Enforcement of food vending is currently handled by staff of the Code Enforcement section of the Building Bureau.

- 9. *Clarify the rationale for all the recommendations for boundary changes (i.e. buffer distances between vendors in the Fruitvale);*

Staff Response: Buffer distances between two permitted vendors is of particular importance to existing food truck operators in the permitted program areas of Central and East Oakland. Today, the distance is 200 feet apart (on private property). The proposal

had been to change that to 100 feet apart. But, after hearing comments and testimony from truck owners who proposed distances of as much as 1,500 feet, the City has revised its proposal to maintain a distance between two vendors of 200 feet, or one per single block, whichever is greater. This should ensure that there will be no more than one individual food vendor per block on the City's commercial streets.

Another concern by established vendors is that on International Boulevard, with the new streetscape changes, removal of medians and removal of some of the on-street parking spaces due to AC Transit's Bus Rapid Transit (BRT) service, that food vending from the public right of way should continue to be prohibited. In response, staff is proposing to clarify in the Administrative Rules (**Attachment C**) that food vending from the International Boulevard right of way will continue to be prohibited during the period of BRT construction and for at least the first year after its completion, to allow for an evaluation period on the potential effects of the BRT-related street changes. The City has also heard established vendors' concern about vending from the public right of way on Fruitvale Avenue, between East 12th Street and Foothill Blvd. In response, staff is proposing to likewise continue the prohibition on vending from this portion of the public right of way (vending only allowed on private property in this area). Pushcarts will be allowed on both International and Fruitvale, however, which meet the buffer distances and sidewalk width requirements.

10. Clarify that vendors which locate near schools work with (school) Principals;

Staff Response: City staff spoke with staff from the Superintendent's Office at the Oakland Unified School District (OUSD) to learn what involvement they expect to have at schools with food vending businesses on adjacent streets. OUSD staff suggest that a school's "supervising entity", such as OUSD Superintendent's office, could permit food vending closer than 500 feet of school, under certain limited circumstances, such as the sale of healthy, nutritious food. These staff discussions between the City and OUSD are ongoing, and staff will make an informational report to the OUSD Board at a future public hearing to discuss the food vending program, as it relates to schools.

11. Develop and include a recommendation for how permits are displayed;

Staff Response: Section 5.51.180(A) of the proposed OMC regulations require that "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.” The intention is that the City will issue a highly visible annual decal to permitted vehicles, for display and easy identification.

12. *Include an analysis of enforcement cost compared to being housed in the city administrator’s office versus being housed in Oakland Public Works;*

Staff Response: The full annual personnel cost of a single new enforcement staff person (“Special Activities Enforcement”) is approximately \$125,000. This cost would be the same regardless of where the position is located. After extensive discussions with other City departments, including Public Works, staff has determined that the most appropriate location for the position is in the City Administrator’s Office, with the current Special Activities/ Nuisance Abatement team.

The selection of the City Administrator’s Office for the new enforcement staff was made after a review of both the City’s existing job classifications and which department(s) had the capacity and expertise to enforce a new food vending program. The City Administrator’s Office is the only department that Planning staff has been able to identify that has both the capacity and expertise to manage food vending enforcement staff. As for the job classifications, no existing job classification in the City has the breadth of duties and authority necessary to properly enforce food vending regulations, so a new job classification is proposed: Special Activities Enforcement Officer, where the job description was written in collaboration with City Administrator’s Office (the department that already issues Special Activity Permits).

13. *Provide additional policy and administrative details for late night vending: permitting and cost, and grandfathering. Right now there are no details; just that it will happen.*

Staff Response: Late night vending will be permitted between the hours of 12 a.m. and 3 a.m., depending on certain factors. See item #4, above. Grandfathering is addressed in the Administrative Rules and Regulations (See **Attachment C**).

Map & changes to the map after community comment

After the June 1, 2016 Planning Commission hearing, and the testimony (and comment letter) from established food truck vendors in the Fruitvale, staff revised the map of the proposed permitted food vending areas, as shown in **Attachment D** to this report. See response to items #9 and #10 above, to clarify the reasoning behind the following changes made:

1. Remove International Blvd. public right of way, between First Avenue and 98th Avenue. Vending on private property on International Blvd will continue to be permitted.

2. Remove Fruitvale Avenue public right of way, between East 12th Street and East 22nd Street. Vending on private property on Fruitvale Avenue will continue to be permitted.
3. Remove streets that are adjacent to schools in the Downtown and Fruitvale Districts, but allow food vending on non-adjacent streets, with certain exceptions (such as the areas defined by 1. and 2. above).

ENVIRONMENTAL DETERMINATION

The Project relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”).

No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

CONCLUSION

Staff revised the food vending map and proposal after hearing testimony from the June 1, 2016 Planning Commission hearing. Staff believes this proposed new food vending program and enforcement proposal is the best opportunity to have legal food vending from private property and the public right of way in designated commercial and industrial areas throughout Oakland.

Staff recommends the Planning Commission hold a second public hearing, receive public comments, give staff comments, and forward the food vending proposal and related Oakland Municipal Code and City Planning Code amendments to the City Council.

RECOMMENDATION

- 1) Affirm staff's environmental determination; and
- 2) Recommend that the City Council adopt the revised proposed food vending program and revised permitted areas map.

Prepared by:



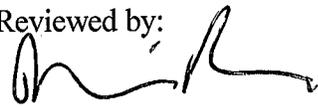
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Reviewed by:



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Reviewed by:



DARIN RANELLETTI
Deputy Director Bureau of Planning

Approved for forwarding to the
City Planning Commission:



RACHEL FLYNN, Director
Department of Planning and Building

ATTACHMENTS:

- A. June 1, 2016 Planning Commission staff report
- B. Proposed new Food vending program, revised text for O.M.C. section 5.51
- C. Proposed draft of Administrative Rules and Regulations
- D. Revised maps of proposed food vending permitted area (22 tile maps)
- E. Letters to Planning Commission from Edgar Galindo and from Mobile Food Truck Association

Oakland City Planning Commission

STAFF REPORT

June 1, 2016

Location:	CITYWIDE
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SUMMARY

The proposed new citywide food vending permit program will replace Oakland's existing food vending permit types and programs. The program would permit, with certain restrictions, individual food vending on private property and from the public right of way in selected commercial and industrial areas. The new program will permit group site vending citywide. The proposal revises the definition of "Fast Food Restaurant Commercial Activities" in Section 17.10.280 of the Oakland Planning Code; and revises the following sections of the Oakland Municipal Code: Section 5.51 ("Food Vending Group Site Pilot Program"); Section 5.49 ("Pushcart Food Vending Pilot Program"); and Section 8.09 ("Vehicular Food Vending"). The proposal also includes revisions to other Planning and Municipal Code sections as minor conforming changes.

This proposal comes after a year of significant community outreach to merchants, restaurant owners, mobile food vendors, community members, neighborhood groups, business improvement district directors, as well as review by City staff in the Parks and Recreation department, Oakland Public Works, the Oakland Police Department, the Oakland Fire Department, and the City Administrator's office.

Staff is also preparing administrative rules and procedures to serve as guidelines for permit issuance and conflict resolution. These rules and procedures will provide the detailed requirements, procedures and prohibitions under which the new food vending program will be operated. They will also provide the flexibility necessary to make timely changes to effectively implement the new food vending program. These rules and procedures will be presented to the public in advance of the program implementation date, and approved by the Director of Planning and Building.

The proposal also requires the addition of new City staff to help administer and enforce the new food vending program, including positions in the City Administrator's Nuisance Abatement Division and the Planning and Zoning Division. New permit fees are proposed for the food vending program to cover the cost of these staff positions.

The map of proposed food vending areas includes selected commercial and industrial areas of the City.

The proposed new food vending program provides an important opportunity to increase neighborhood small-business opportunities, increase food choice options and access to affordable food in many underserved Oakland neighborhoods, and address problems with the existing food vending regulations and programs.

Without the new program, or the newly proposed enforcement and administrative staff, the current enforcement difficulties will continue.

BACKGROUND

In 2001, the City of Oakland adopted its first pilot program to permit vehicular food vending on private property and pushcart vending on sidewalks (Oakland Municipal Code (OMC) Chapters 5.49 and 8.09), in limited areas along certain major corridors east of Lake Merritt. This 2001 pilot program was then revised and made permanent in 2004 when the Council decided to establish permanent pushcart and vehicular food vending programs in the same limited areas. In 2011, the City adopted another pilot program, which allowed mobile food vendors to apply to sell in groups of three or more mobile food vendors clustered together on a single site, also known as “Group Sites”, within limited areas of Council Districts 1, 2, 3 and 4. In 2013, the City Council extended the pilot program to permit Mobile Food Vending Group Sites until “the City Council adopts permanent mobile food vending regulations.”

Outside of the permitted program areas specified above, Mobile Food Vending in the City of Oakland currently requires either:

- (1) A Major Conditional Use Permit (CUP) for Fast Food Restaurant Commercial Activities, and review and approval by the Planning Commission; or
- (2) A Special Event Permit, issued by the Oakland Police Department (with the participation of the City Administrator’s office) for a limited duration event.

At the March 19, 2015 Rules and Legislation Committee of the City Council, the Committee moved to place an item on the July 14, 2015 Community and Economic Development (CED) Committee agenda to: “adopt an ordinance amending Ordinance No. 12579 C.M.S. which establishes a permanent vehicular food vending program, and for staff to provide recommendations on expanding the vehicular food vending program citywide.” Planning staff presented an informational report to the CED Committee and described the present permitting and enforcement situation for food vending in Oakland, assessed programs elsewhere in the country, and highlighted considerations for future expansion (see **Attachment A** to this report¹). At the July 14th meeting, the CED Committee directed staff to develop a comprehensive food vending program proposal. This report contains the elements of that requested program.

In January 2016, the City released a framework food vending proposal and proposed vending map for discussion. Responses from the public to that initial framework proposal have guided the development of a draft ordinance and map, which is the subject of this and future hearings.

COMMUNITY OUTREACH

Planning Bureau staff has met with a variety of stakeholders to gain diverse perspectives on the various current food vending programs, and to brainstorm ideas for an expanded citywide program. Meetings have been held with the following interested parties:

- Individual food truck and pushcart vendors;
- Group Site organizers;

¹ The July 14, 2015 Agenda report addresses other program details not covered in this report.

- Restaurant owners;
- Leadership of business improvement districts in Downtown, Koreatown/Northgate, Temescal and Fruitvale;
- Chinatown merchants;
- Oakland Chamber of Commerce;
- Chinatown Chamber of Commerce;
- Oakland Unified School District (OUSD) staff;
- Alameda County Environmental Health Department;
- Unity Council;
- Oakland Food Policy Council;
- HOPE Collaborative; and
- Community groups, including the West Oakland Neighbors and Hoover Residents Advisory Committee.

In addition, staff has coordinated five community meetings for the public and interested parties to discuss the major proposed components of a citywide mobile food program. The most recent community meeting with Central and East Oakland residents was held on May 9, 2016.

Staff collected feedback at these meetings through verbal discussion and written comment cards. This feedback has influenced policy recommendations by staff. Staff also created digital forms for input and developed a dedicated food vending webpage, which includes a listserv to provide updates on the proposed program. Throughout the planning process, feedback has also been welcomed through a publicized phone number and email address where the public can give additional comments.

NEW CITYWIDE FOOD VENDING PROGRAM

The proposed new Citywide Food Vending program will require the following city code amendments:

1. Revise the definition of “Fast Food Restaurant Commercial Activities” in Section 17.10.280 of the Oakland Planning Code, to remove the portions referring to vehicular food vending;
2. Replace OMC chapters 5.51 (“Food Vending Group Site Pilot Program”), 5.49 (“Pushcart Food Vending Pilot Program”), and 8.09 (“Vehicular Food Vending”) with new citywide food vending program regulations, which will be located in OMC Chapter 5.51;
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Staff proposes to delete OMC chapters 5.51, “Food Vending Group Site Pilot Program”, 5.49, “Pushcart Food Vending Pilot Program”, and 8.09, “Vehicular Food Vending” and replace them with one new citywide Food Vending Program – that can be found in OMC Chapter 5.51 (see **Attachment B** to this report). The proposed new citywide food vending program would be accompanied by a map of the “Food Vending Program Permitted Area” (see **Attachment C** to this report). Administrative procedures to implement the program would also be included. These

administrative procedures are being prepared by Bureau of Planning staff, in coordination with Oakland Public Works, the Oakland Police Department, the Oakland Fire Department, and the City Administrator's Office, and will be available to the public prior to the effective date of the program; the procedures will be approved by the Director of Planning and Building.

As currently proposed, Planning staff will issue food vending permits to applicants, and will help resolve potential conflicts. This is a somewhat unusual administrative arrangement, since programs and regulations outside of the Oakland Planning Code (Title 17) are not typically within the administrative jurisdiction of the Bureau of Planning. However, based on the Planning Bureau's experience in administering similar permit types, staff determined that Planning should also administer this new program. Another reason for this administrative arrangement is that the Planning Bureau already issues permits for food vending in some situations - through review of Major Conditional Use Permits (CUPs) submitted for vehicular food vending, which is currently considered a Fast Food Restaurant Commercial Activity in the Planning Code. An important implementation element of the proposed new food vending program is to consider removal of *vehicular food vending* from the definition of "Fast Food Restaurant Commercial Activities" (see Page 9 in this report for more discussion on this item), which will remove the ability of food vending applicants to apply for a conditional use permit, which is a permanent land use entitlement for fast food on a parcel.

This proposed amendment to the definition of "Fast Food Restaurant Commercial Activities" in the Planning Code, coupled with the proposed elimination of the other existing food vending-related regulations in various chapters of the municipal code, would allow for the consolidation of regulatory authority over the permitting of mobile food vending in a single municipal code chapter, and thereby establish one unified Food Vending Program for the entire city.

Comparison of current regulations to new regulations.

In February 2016, the City posted a memo to the food vending project website which explained the major changes to the mobile food vending programs. The proposed changes include:

- **Expansion of Vending areas:** Staff proposes to greatly expand the areas where an individual food vendor, or a group of food vendors clustered together on a single site, also known as a "Group Site" ("food pod") event can locate, by authorizing food vending in selected industrial and commercial areas of the City. Individual food vendors would be able to apply to sell in downtown, West Oakland and North Oakland. Currently, the areas where an individual vendor can sell are limited to private property in the Fruitvale neighborhood and commercial streets in Central and East Oakland (International Blvd, Fruitvale, Foothill, and San Leandro Street). Under the proposal, these streets will continue as permitted food vending areas. The proposal also expands food vending to the commercial sections of MacArthur Boulevard in the Laurel and Dimond neighborhoods. Group Sites would be allowed in the Fruitvale neighborhood, and on commercial streets of Central and East Oakland (the proposal allows group sites in Council Districts 5, 6 and 7, where currently there are prohibitions).

- **Food sales from the street and sidewalk allowed:** Proposal would allow food vendors permission to sell from public streets and sidewalks. On-Street vendors will have to pay all applicable parking meters and observe parking regulations (such as yellow curbs or parking time limits). Currently, no on-street food vending is permitted in Oakland.

Sidewalk food vending, such as from roaming Pushcarts and stationary “hot dog cart” type trailers, would also be permitted, preferably, on wider sidewalks, only where there is enough pedestrian clearance and ADA access. Currently, no stationary sidewalk vending is permitted in Oakland.

- **Expanded number of Group Site locations:** Group sites (also known as “food pods”) will be defined as two or more food vendors selling together on the same site. The proposal would allow Group site organizers to apply for up to five different locations in Oakland. Currently, the regulation limits two locations per organizer. Also, each Group site would be allowed to conduct sales up to three times a week (an increase from two times per week currently). On private property, group sites would be allowed to sell with no limitation on the number of days. This is to encourage food pods, or a food vending gathering to be permanently housed on a surface lot, similar to those in San Francisco² and in Portland, OR.
- **Required Fire Inspections:** An annual inspection by the Oakland Fire Department will be required for individual food trucks or trailers/pushcarts which use gas for cooking. This is not currently required, and is an important health and safety consideration, given recent explosions in other cities.³
- **Healthy Food Vending:** The selling of healthy foods, which include, but are not limited to: fruits, vegetables, as well as 100% fruit and vegetable juices; whole grain products; dairy products; and non-dairy milks (made from soy, coconut, rice and/ or almonds), will be encouraged. Healthy food vendors will be given incentives in the proposal, particularly the ability to sell within 500 feet of a school, which is currently prohibited.
- **Grandfathering:** The proposed program, in certain circumstances, would allow long-standing food vendors to continue to sell from current locations (known as “grandfathering”). The administrative procedures will list the criteria for granting this special permission.
- **Enforcement:** The program proposes the creation of new staff in the City Administrator’s office who will be given enforcement and citation authority for food vending.
- **Limits to number of pushcart vendors:** A maximum of 100 food vending permits will be issued for pushcarts to operate within the City. At no time shall more than one hundred

² The SoMA StrEat Food Park, at 11th Street and Division, is one example.

³ The City of Philadelphia in 2014 experienced a propane tank explosion in a mobile food truck.

permits be active. This is in an increase from the current limit of 60 pushcarts, to allow these types of vendors to be permitted in areas of West Oakland, North Oakland, and downtown. The definition of a pushcart includes “hot dog stand” type carts, which are pulled on wheels to a location and dropped off, typically on a sidewalk, or in a corner of a parking lot.

Of the total 100 Food Vending Permits available for issuance to pushcarts, no more than 30 permits will 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.

- **Annual and Temporary permits:** The program will create two types of permits, annual permits renewed every 12 months, and temporary permits which are effective for 90 days. There will be a reduced fee for the temporary permit. This is intended to create an opportunity for vendors new to Oakland to try different areas of the City, or to sell seasonal products.
- **Fees for Permits:** The current permit fee for a food truck to operate on private property in the “pilot” area is \$1,800; for a pushcart on the sidewalk in the permit area, the fee is \$850⁴. The fees for the proposed program are intended to cover new positions at the City Administrator and Bureau of Planning for enforcement and administration, and are intended to approximate the same amount as the current program, for both food trucks and pushcarts. However, the proposed program will likely have additional permit fees which are not in the current program: 1) fire department inspection of gas-burning facilities; and 2) payment into the City’s excess litter fee program.

Map & changes to the map after community comment

In early 2016, City staff initially proposed a map for the new food vending program which included all commercial and industrial zones of the City, as well as open space areas such as larger parks, neighborhood parks, and athletic fields. After extensive community comment, staff has reviewed and revised the proposed Food Vending Program Permitted Area (**Attachment C** to this report), and removed some of the initial areas for food vending, in order to limit the expansion of food vending in areas which are primarily residential, or where there is a high likelihood that negative impacts could occur from introducing food vending activities (such as at the intersections with narrow streets). These revisions include removing certain neighborhood parks and athletic fields; the streets around Highland Hospital; the sections of MacArthur Boulevard from 73rd Avenue to the San Leandro border, as well as International and San Leandro

⁴ Both amounts include the cost of a \$56 zoning clearance.

Streets, between 98th Avenue and the San Leandro border in East Oakland; the section of Martin Luther King Jr. Way in Downtown from 14th to 7th Streets; and smaller shopping centers in the Oakland hills surrounded by residential development. Nothing precludes the Commission or the Council from adding, or removing, additional areas on the proposed Food Vending Program Permitted Area map as are deemed appropriate, or not appropriate for food vending.

Separately, an option is presented to remove the area of Frank Ogawa Plaza, and many of the streets bordering it, including Latham Square, from the Program Permitted Area (**Attachment D**). Frank Ogawa Plaza is a unique commercial area in the City, where: 1) the land and many of the buildings are publically owned; and 2) existing restaurants and stores are only accessed by customers from within the Plaza -- there are few customers coming from the primary streets of Broadway or Telegraph Avenue. Latham Square will soon open with specific design features (such as lowered curbs) that will allow for occasional closure of Telegraph Avenue for special events, which might include food vending.

Location Requirements

Individual food vending facilities or Group Sites will not be permitted to block or impede access to:

- Required parking or driveways;
- Bicycle racks;
- Signal crossings;
- Required on-site parking;
- Parking meters;
- Pedestrian or bicycle routes;
- Emergency vehicle routes;
- Building ingress and egress;
- Required handicapped accessibility routes and curb cuts;
- Easements;
- Trash enclosure areas or access to trash bins/trash enclosures; or
- Other City facilities, as determined by the City Administrator.

Individual food vending facilities and Group Sites must maintain site circulation and access consistent with the Americans with Disabilities Act (ADA).

All food vending facilities on public sidewalks are to be located such that a minimum of 5½ feet of unobstructed improved sidewalk or 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. Sidewalks with greater than 10 feet of width will be given preference for pushcart vending.

Each individual food vending facility and Group Site will need to locate within 200 feet of a restroom facility that employees have permission to access. This is already a requirement of the Alameda County Environmental Health Department permit for food vendors.

CHANGES PROPOSED FOR THE OAKLAND PLANNING CODE

As mentioned earlier in this report, the proposed program would remove “mobile food vending” from the definition of “Fast Food Restaurant Commercial Activities” in Section 17.10.280 of the Oakland Planning Code. If adopted, this would remove the current conditional use permit requirement for mobile food vending, a land use entitlement, and replace it with the requirement for an administrative permit under the authority of the citywide food vending program. The proposed amendments to Section 17.10.280 are shown below (deletions are shown in ~~strikethrough~~ and additions are shown in underline):

17.10.280 Fast-Food Restaurant Commercial Activities.

A. Fast-Food Restaurant Commercial Activities include the retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Restaurants may also exhibit other design and operating characteristics, including: (1) a limited menu; (2) food is typically ordered and served at a service counter; (3) food is paid for prior to consumption; (4) the facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. This classification ~~They also includes~~ certain activities accessory to the above, as specified in Section 17.10.040.

~~B. Except as may otherwise be allowed in Oakland Municipal Code (OMC) Chapters 5.49, 5.51, 8.09, and 9.52, the sale of ready-to-consume prepared foods from trucks, pushcarts or other movable equipment located on public or private property on a semi-permanent basis during hours of operation. Vehicular food vending generally has the following characteristics:~~

- ~~• Food is ordered and served from a take-out counter that is integral to the catering truck;~~
- ~~• Food is paid for prior to consumption;~~
- ~~• Catering trucks, pushcarts or other movable equipment from which the food is sold typically have a take-out counter and space for customer queuing;~~
- ~~• Food and beverages are served in disposable wrappers, plates or containers; and~~
- ~~• Food and beverages are prepared and sold for off-site consumption.~~

~~This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.~~

Other changes to the Planning Code have also been identified to support implementation of the new food vending program, including:

- Adding *mobile food commissary* to the definition of “Custom Manufacturing Industrial Activity”. Currently, there is no explicit definition of this business activity in the Planning Code, leading to different interpretations of this unique business type. Every food vendor is required by Alameda County Environmental Health to have a commissary, in order to clean and store vehicles after vending. Adding a limitation note to each

Permitted Activity chart in all Commercial and Industrial Zones in the Planning Code, indicating that Commissaries meeting certain standards and used for mobile food vending are a permitted activity in all zones which allow Custom Manufacturing and do not require a conditional use permit.

Unfortunately, due to other code amendment initiatives currently underway that will be proposing amendments to many of these same Planning Code sections, it is not feasible to move forward at the present time with the recommended commissary-related Planning Code changes above in support of the new food vending program. Instead, the proposal is to include only the recommended change to the definition of “Fast Food Restaurant Commercial Activities” in Section 17.10.280 at the present time, and defer the Planning Code changes related to commissaries to the next code update package that staff is planning to bring forward for review later this year.

CHANGES TO THE OAKLAND MUNICIPAL CODE

The new Citywide food vending program being proposed will be located in Oakland Municipal Code, Chapter 5.51. The new program will replace the current Chapter 5.51, “Food Vending Group Site Program” in its entirety; as well as the current programs in Chapters 5.49 “Pushcart Food Vending Pilot Program” and Chapter 8.09 “Vehicular Food Vending”. These programs, including the Group Site program, would be revised and combined into one Chapter, 5.51, to be called “Food Vending.”

Ancillary changes throughout the Municipal Code are also proposed. Those changes will be made available for the Community and Economic Development Committee hearing.

ENVIRONMENTAL DETERMINATION

The Project relies on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”).

No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

CONCLUSION

Staff has heard from business owners, associations and community groups and residents, made revisions to the original proposal, and presents this proposed new food vending program and enforcement proposal as the best opportunity to have legal food vending from private property and the public right of way in designated commercial and industrial areas throughout Oakland.

Staff recommends the Planning Commission hold a public hearing, hear public comments, give staff comments, and forward the food vending proposal and related Oakland Municipal code and City Planning Code amendments to the City Council.

RECOMMENDATION

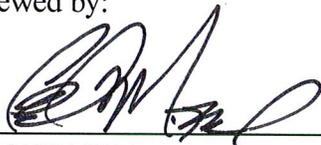
- 1) Affirm staff's environmental determination; and
- 2) Recommend that the City Council adopt the proposed food vending program and permitted areas map.

Prepared by:



DEVAN REIFF, AICP
Planner III

Reviewed by:



ED MANASSE
Strategic Planning Manager

Reviewed by:



DARIN RANELLETTI
Deputy Director Bureau of Planning

Approved for forwarding to the
City Planning Commission:



RACHEL FLYNN, Director
Department of Planning and Building

ATTACHMENTS:

- A. July 14, 2015 CED Agenda Report
- B. Proposed new Food vending program, new text for O.M.C. 5.51.
- C. Food Vending Program Permitted Area map
- D. Frank Ogawa Plaza Proposal

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.

Cart means a type of non-motorized 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. Food carts or trailers are typically larger than pushcarts; pulled or delivered by a vehicle into position; and stationary at a specific site during hours of operation.

"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.~~ are defined in the City Administrator’s Rules and Regulations.

“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 non-motorized food vending facility that, because of its small size and operable wheels, can be easily moved by a person during operation. 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 may also 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 kindergarten and high school. For the purposes of this Chapter, pre-schools, 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 Administrative 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. The City Administrator or his or her designee is authorized to make minor amendments or correct administrative errors in the Program Permitted Area map.
- 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~~ Two hundred (2400) feet from another individual food vending facility or group site, or the distance required to ensure no more than ~~one~~ individual food vending facility per city block, whichever is greater, unless two separate vendors are permitted to operate on different days of the week from the same location;
 - 2. Vending within ~~f~~Five hundred (500) feet from the parcel boundary of any school between the hours of 7 a.m. and 6-5 p.m. Monday through Friday is restricted, as per the ~~Administrative Rules and Regulations.~~ 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 and food cart permits.

- A. The maximum ~~of one hundred (100)~~number of Food Vending Permits which may be issued for pushcarts and food carts to operate within the City shall be set by the City Administrator

in the Rules and Regulations, and reviewed annually. At no time shall ~~more than one hundred (100)~~more than this maximum number of such permits for pushcarts and food-carts be active.

- B. Out of the total number of Food Vending Permits available for issuance to pushcarts and carts, the Administrative Rules and Regulations shall also establish the maximum number of no more than thirty (30) such Permits may be issued for pushcarts and carts that may be issued permits 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. At no time shall more than this maximum number of permits for pushcarts and food-carts in the specified area above be active.

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 or illustration~~, 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 and serviced 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
 - 3. For a commissary in Oakland, evidence of a valid City of Oakland Business Tax Certificate and Zoning Clearance.
- 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;
 - 1.2. Any Business Improvement District, or Community Benefit District, or neighborhood business whose association whose jurisdiction includes the project site; and
 - 2.3. The property owner of the site on which the individual food vending facility or group site is proposed to be located.~~
- ~~B. In addition to the parties listed in 5.51.110 (A), applicants for Group Sites shall provide additional notice of the proposed group site operation to the following parties: all property owners, business owners, and building occupants located within 100 feet of the group site location, or those owners and occupants who are on lots adjacent to the proposed site, and across the street on the subject block; and to the applicable Council District office.~~

~~All notices shall be distributed by the Group Site 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, and a liquid petroleum gas permit has been received by the applicant.
- 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.

Attachment B. August 3, 2016 Oakland Planning Commission
Draft of new OMC language: proposed food vending regulations—all language is new; edits since June 1, 2016 are shown as strikeout and underline.

- 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 their 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 final and effective immediately, and 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.

5.51.185 – Liability and Indemnification

5.51.170 – Hours of operation

- A. The regular permitted hours of operation for individual food vending facilities and group sites are 7 a.m. to 10 p.m., ~~Monday-Sunday~~ through ~~Thursday/Wednesday~~, and 8 a.m. to 12 a.m. on Thursday, Friday and Saturday, and Sunday.
- B. Upon the granting of an additional special approval, ~~from the City Administrator or his/her designee,~~ an individual food vending facility or group site may operate until p to 3 a.m. as described in the Administrative Rules and Regulations.

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 facilities 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 vending 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.

5.51.185 – Liability and Indemnification

A. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the City.

B. To the maximum extent permitted by law, the permittees under this Chapter shall defend (with counsel acceptable to the City, indemnify and hold harmless the City of Oakland, the Oakland City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called "City") from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs (collectively called "Action") against the City to attack, set aside, void or annul, any food vending- related approvals and actions and comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said Action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

C. Within ten (10) calendar days of the service of the pleadings upon the City of any Action as specified in Subsection B above, the permittee shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the food vending-related approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or performance or operating standards that may be imposed by the City.

Article III. Enforcement, Revocation and Abatement

5.51.190 – Enforcement.

5.51.200 – Violation.

5.51.210 – Responsibility.

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.

Attachment B. August 3, 2016 Oakland Planning Commission
Draft of new OMC language: proposed food vending regulations—all language is new; edits since June 1, 2016 are shown as strikeout and underline.

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

5.51.210 – Responsibility.

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, including confiscation of merchandise and food for sale, and/or impoundment of the food vending facility. 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 violating of an infraction under the any~~ provision of this Chapter shall be punished upon a first ~~conviction-violation~~ by a fine of not more than \$1,000.00 and, for a second ~~conviction-violation~~ within a period of one year, by a fine of not more than \$2,000.00 and, for a third or any subsequent ~~conviction-violation~~ 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, and- could be subject to confiscation of their merchandise and food for sale, and/or impoundment of the food vending facility.



City of Oakland Administrative Rules and Regulations

*for the issuance of permits, and for inspection and enforcement of Food Vending Facilities
operating within public rights of way and on private property, in accordance with O.M. C. Chapter 5.51*

1. Purpose

On _____, 2016, the Oakland City Council adopted Ordinance No. _____ C.M.S., which amended the Oakland Municipal Code (OMC), as well as the Oakland Planning Code, to create a new citywide food vending program. The new regulations replace the previous interim food vending programs which were in effect in Oakland. The purpose of these Administrative rules and regulations (“Regulations”) is to assist staff with the issuance and enforcement of food vending permits, and provide flexibility in administering the permit program. In cases where these Regulations and the OMC conflict, the OMC prevails. These Regulations are to be made available to the public; are administrative in nature; and can be changed at the City Administrator’s, or his or her designee’s, discretion.

2. Definitions

Definitions pertaining to Food Vending are found in OMC Section 5.51.020. Below are additional explanations that supplement the adopted definitions.

- “Healthy foods” include, but are not limited to: *(definition to come)*
- “Public right of way” means City streets or sidewalks.

3. Limits on Locations, Number of Permits and Hours of Operation

- a. The Food Vending Program Permitted Area is defined by a set of maps of locations, as codified in OMC Section 5.51.050. These maps are attached to the end of this document for reference.

In general, the food vending permitted area allows food vending in all Commercial and Industrial Zones, as well as some larger parks, and prohibits food vending in residential areas. Specific exceptions are:

- i. Vending from food trucks or similar vehicles will be prohibited within the International Boulevard public right of way, between 1st and 98th Avenues, during construction of the

Bus Rapid Transit Line, and for one year after its full operation. Other types of food vending on International Boulevard will be permitted.

- ii. Vending from any type of food vending facility is prohibited within the Fruitvale Avenue street and sidewalk right of way, between East 12th Street and Foothill Blvd. Vending from private property on Fruitvale Avenue is permitted.
 - iii. Distance from schools: Per OMC Section 5.51.050, food vending is generally not permitted within 500 feet of any school, with the following exceptions:
 1. Food sales are permitted after 6pm, Monday through Friday and on weekends.
 2. If a food vendor receives permission from the supervising entity of the school to serve “healthy food” (as defined in these Administrative Regulations).
 - iv. Distance from other food vendors: Per OMC Section 5.51.050(B), there is a 200 foot distance separation requirement between two vendors, or one per city block, whichever distance is greater, unless vendors are permitted to operate on different days of the week.
 - v. Distance from full service or limited service restaurants and cafes: There is a 100 foot distance separation requirement between a full service or limited service restaurant or café and a food vendor, during the hours when the restaurant is open.
 - vi. Distance from farmer’s markets and monthly special events: There is a 100 foot distance requirement between a scheduled farmer’s market which features food vending as part of its regular program, and any non-affiliated food vendor; there is also a 100 foot distance separation requirement between a monthly special event (e.g. “First Fridays”) and any non-affiliated food vendor, during hours of operation of the Farmer’s market and the special event. Farmer’s markets and the First Friday’s boundaries will be marked on a map which will be available to the public.
- b. Selection of vending sites in the public right of way:** see OMC Section 5.51.050(G). For individual food vending applications on public rights of way in the permitted area, staff will review using tools such as Google Street View and/or site visits to determine the appropriateness of the proposed location. If warranted due to proximity of the proposed site to residences or other incompatible uses, staff will recommend the vendor seek a different location on the block, or a different block altogether, or reduced hours of operation.
- c. Pushcart locations on sidewalks:** Pushcarts or Food carts located on sidewalks 10 feet wide or greater are preferred. A map of sidewalk width of streets in the permitted area is available to staff and the public.
- d. Limits on pushcart or food cart applications:** OMC Section 5.51.080 establishes a limit to the number of pushcart or food carts in any given year. For the first year of the new food vending program (2017):

- i. A maximum of one hundred (100) Food Vending Permits may be issued for pushcarts or carts to operate within the City. No more than one hundred (100) such permits may be active at one time.
- ii. Out of the total number of Food Vending Permits available for issuance to pushcarts or carts, no more than thirty (30) such Permits may be issued for pushcarts or food carts 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.

e. Hours of operation. OMC Section 5.51.170 regulates hours of operation.

Vending between the hours of 12am and 3 am, Monday through Sunday is considered “late night vending.” Late night vending is permitted with the granting of a food vending permit and an additional approval from the City Administrator or his/her designee (i.e., the Planning and Building Department). Late night vending may be applied for at the time of the food vending application and will not require a separate fee. The proposed criteria for evaluating the permitting of late night vending includes:

- proximity to homes and residences
- history of complaints against the vendor/applicant
- adequate space for customer parking and queuing
- location is in an area of late-night entertainment
- absence of other late night food choices in the vicinity
- creation of noise or odors which could cause a nuisance
- addition of security staff, if deemed necessary

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4. Permit Application Requirements

- a. When the program is effective, staff will issue food vending permits in the following order of priority, during the time of an initial application period:
 1. Vendors already possessing valid, unexpired Oakland Mobile Food Vending permits (i.e. 2016 Food Cart “FC” or Food Vehicle “FV” permits);
 2. Vendors with a history of prior Oakland food vending permits, but which have since expired;
 3. Vendors without prior Oakland food vending permits, but who can establish to the City’s satisfaction, their longevity of vending at a particular location;
 4. Vendors without prior Oakland food vending permits and no verified history of vending at a particular location.
- b. **Grandfathering:** In the process of administering the criteria above for issuing food vending permits, the city may issue permits to vendors that do not meet the current buffer distance requirements, as long as the vendor establishes to the City’s satisfaction, the longevity of that vendor at a particular location and a history of permitting with Alameda County Environmental Health.
- c. In the case of multiple applications for the same parcel, or the same area of the public right of way, when each application meets the permit priorities of Section 4a, above, the City will institute a lottery system to ensure fairness and equity.
- d. A single Group Site Organizer may apply for up to five (5) group site locations.
- e. A single food vending applicant may be granted up to five (5) separate food vending permits in one year. A food vending permit is assigned to each separate vending apparatus (e.g. permit #1 for a pushcart, permit #2 for a food truck, under common ownership).

5. Operational Requirements

- a. **Group sites:** Group sites will be administered by the Planning and Building Department.
- b. **Food carts:**
 - i. Per OMC Section 5.51.020, Food carts can be stationary, if they generally have are a maximum length of eight (8) feet, with a maximum depth of six (6) feet and a maximum height of eight (8) feet. Distance requirements are listed in O.M.C. Section 5.51.050
- c. **ADA Access:** Individual food vending facilities or group sites cannot block or impede access under the Americans with Disabilities Act (ADA) to the public facilities listed in OMC Section 5.51.050(c).

6. City Departments—Responsibilities

- a. **City Administrator.** Under OMC Section 5.51.030, “the City Administrator or his/her designee is authorized to issue such Administrative Rules and Regulations, not inconsistent with this Chapter, governing the issuance of Food Vending Permits.” The City Administrator has designated the Bureau of Planning, within the Planning and Building Department, to administer and issue food vending permits, and the City Administrator’s Office Special Activities Permits and Nuisance Abatement division to enforce the food vending regulations.
- b. **Bureau of Planning.** The Bureau of Planning will administer and issue food vending permits, through the planning and zoning counter, at 250 Frank Ogawa Plaza, 2nd Floor. The Bureau will maintain the website, www.oaklandnet.com/foodvending, provide outreach and informational materials, and will conduct trainings for the public and interested parties, and publicize a phone number and email address for people to contact for more information. The Bureau will maintain an “applications on file” list for interested parties.
- c. **City Administrator’s Office, Special Activities and Nuisance Abatement staff.** The Special Activities and Nuisance Abatement staff of the City Administrator will enforce the regulations, including citation and possible impoundment for violations. Newly created and newly hired Enforcement officers are proposed to be hired for this role.
- d. **Business Tax Office (Revenue):** The Business Tax Office will issue Business Tax Certificates to individual food vendors/applicants.
- e. **Oakland Fire Department:** The Oakland Fire Department will inspect propane and other gas tanks on a vehicle, during an initial inspection, before the City’s permit is granted. One annual inspection will be completed at the time of application or renewal.
- f. **Oakland Police Department (OPD):** OPD will be on call to support the enforcement efforts of the City Administrator’s Office. The OPD is not expected to initiate enforcement efforts, but rather to coordinate as needed with the City Administrator and/or Alameda County Environmental Health.
- g. **Oakland Parks and Recreation (OPR):** OPR will issue a separate parks permit, for an additional fee, to vendors who seek a permit to vend in a park within the permitted area (such as Lakeshore Park/Lake Merritt).

7. Good Neighbor Policies

Permit holders will manage their food vending facility according to the following good neighbor policies:

- a. Vendor will maintain a quiet, safe and clean selling location.
- b. Vendor will provide adequate storage and disposal of garbage and trash.
- c. Noise and odors will not become a nuisance or burden on neighbors. This includes noise from food truck generators, motors and fans, and from customer’s automobiles and radios, particularly at night.

- d. Vendors or their employees will walk a 100 foot radius from the food vending site after close of business, and dispose of beverage and serving materials or other trash left by their customers.

8. Parks

Food vending is allowed in, and adjacent to, certain Oakland parks and recreation centers, with the permission of the Central Reservation office of the Oakland Parks and Recreation office. Currently, there is an additional hourly fee for food vending in and adjacent to parks. Food vending applications for locations in Parks will be evaluated and permitted by staff under the following criteria:

- a. The park must be within the permitted vending area (some smaller parks are not).
- b. Any proposed vending location within 500 feet of a school will be evaluated according to Section 3(a) of these Administrative Regulations.
- c. The vending location must not take up a required parking space in a recreation center parking lot.
- d. The vending location should be oriented away from residences (some parks are adjacent to residences); locations for vending should preferably be on major streets, when possible.

9. Enforcement

The Oakland City Administrator's office or designee is responsible for enforcing the regulations of the food vending program. Staff from the Special Activities/Nuisance Abatement Office will be tasked with the role of enforcement, working closely with the Bureau of Planning.

- a. **Complaints from the public.** The public will have a designated contact to call or email about concerns with food vendors, particularly un-permitted vendors.
- b. **Valid complaints.** A complaint can be considered valid when substantiated by evidence.
- c. **Types of Enforcement Actions the City can take (in order of process):**
 - i. *Education of the vendor:* the first step towards enforcement will be education of the vendor, in his/her native language if possible, informing them of the steps necessary to participate in the food vending permit program.
 - ii. *Citation of the vendor and fines:* a notice of violation can be issued to a vendor who does not respond to information provided by the City Administrator to apply for a food vending permit within a specified period. Fines will be assessed according to OMC Section 5.51.280.
 - iii. *Revoking a Permit:* Per OMC Section 5.51.220, the City of Oakland can revoke a Food Vending 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 OMC Section 5.02.080.

Revocation of a permit 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 OMC 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.

- iv. *Abatement*: Per OMC Section 5.51.240, 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 OMC Chapter 1.16.

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:

- Comply with the notice to abate;
- Comply with a time schedule for compliance; and
- Take appropriate remedial or preventive action to prevent the violation from recurring; and
- Could be subject to confiscation of merchandise and food for sale; and/or impoundment of the food vending facility.

10. Contacts for further information

- a. City Administrator Office/Special Activities: 510-238-3294
- b. Planning Bureau: Devan Reiff, 510-238-3550
- c. Fire Department: Inspector, 510-238-3851
- d. Alameda County Environmental Health: 510-567-6700

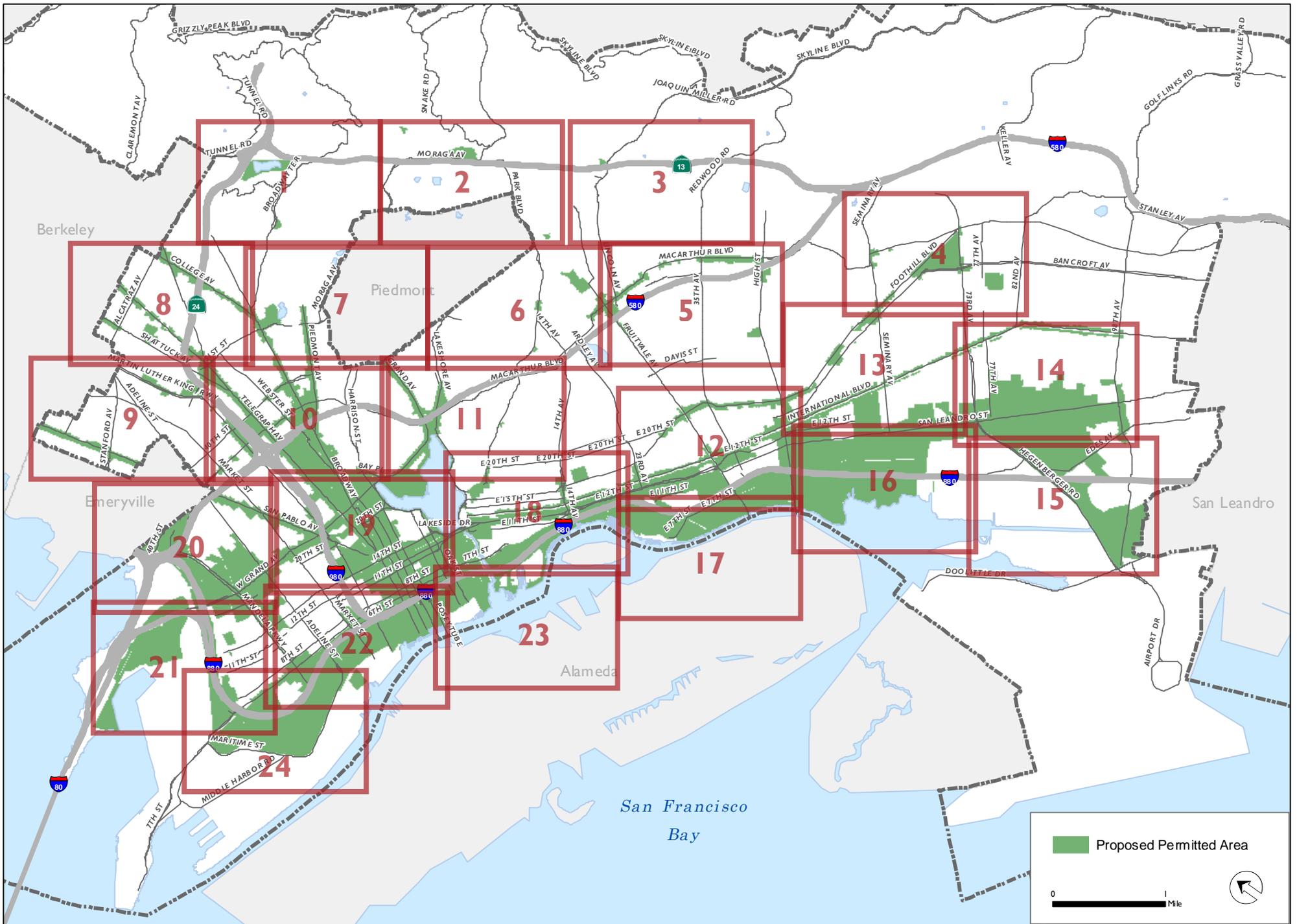
Attachments

Maps of the Permitted Program Area

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ATTACHMENT D TO THE AUGUST 3, 2016 PLANNING
COMMISSION STAFF REPORT

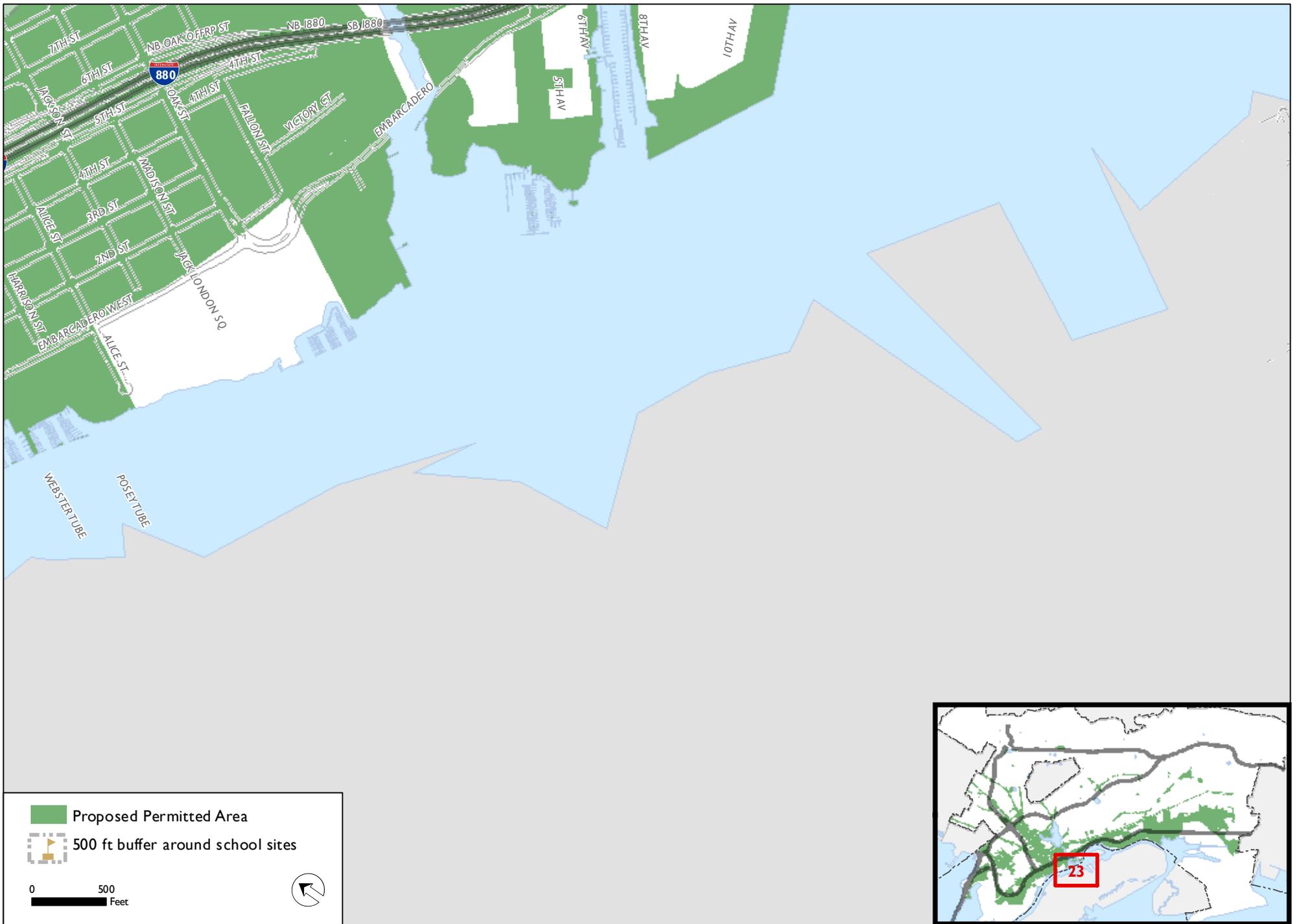
24 MAPS OF THE PROPOSED OAKLAND FOOD VENDING
PERMITTED AREA, WITH BUFFER ZONES AROUND SCHOOLS



2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

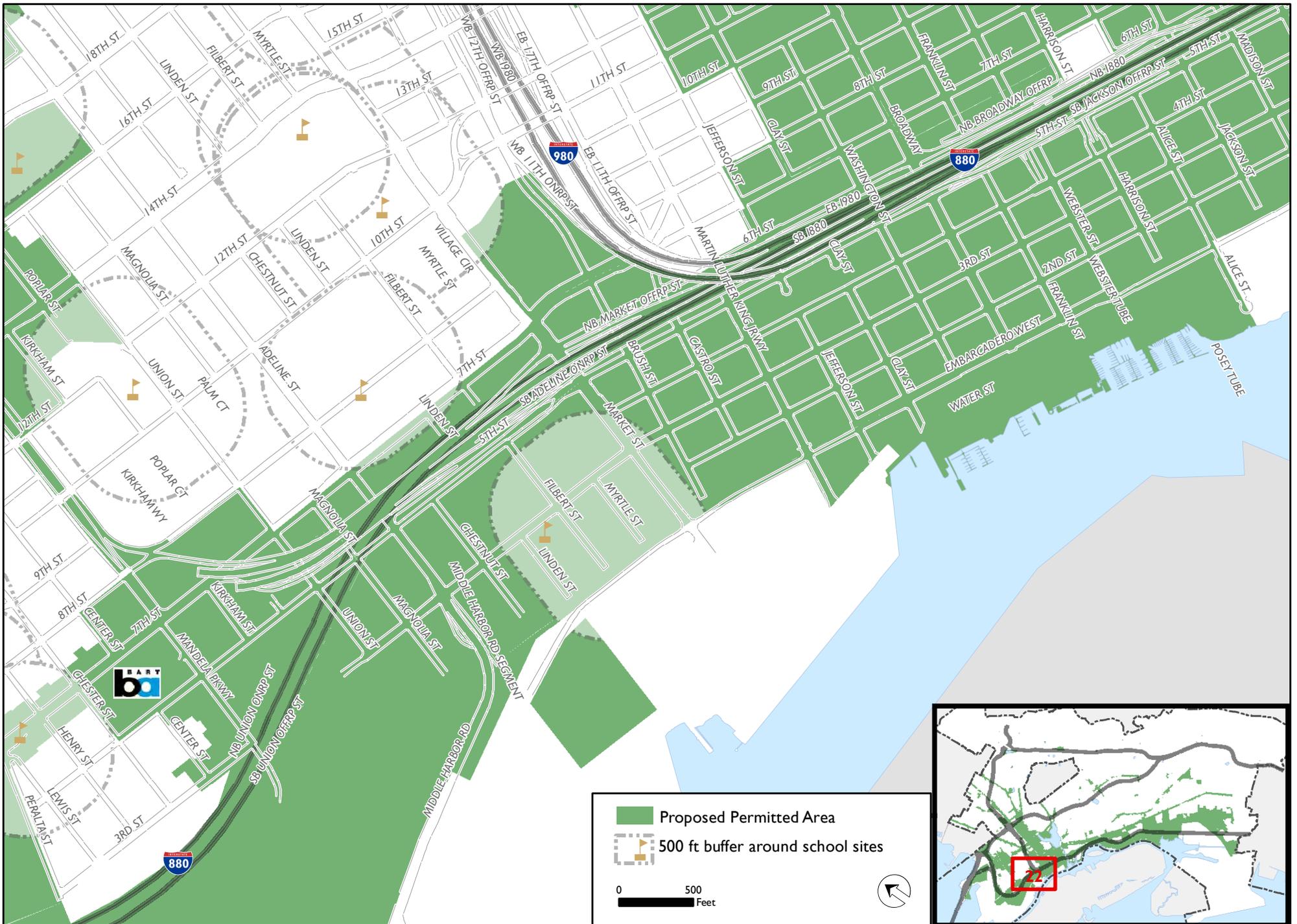
Index Map



2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

Tile 23



2016 Food Vending Program Permitted Area



2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

Tile 21



2016 Food Vending Program Permitted Area



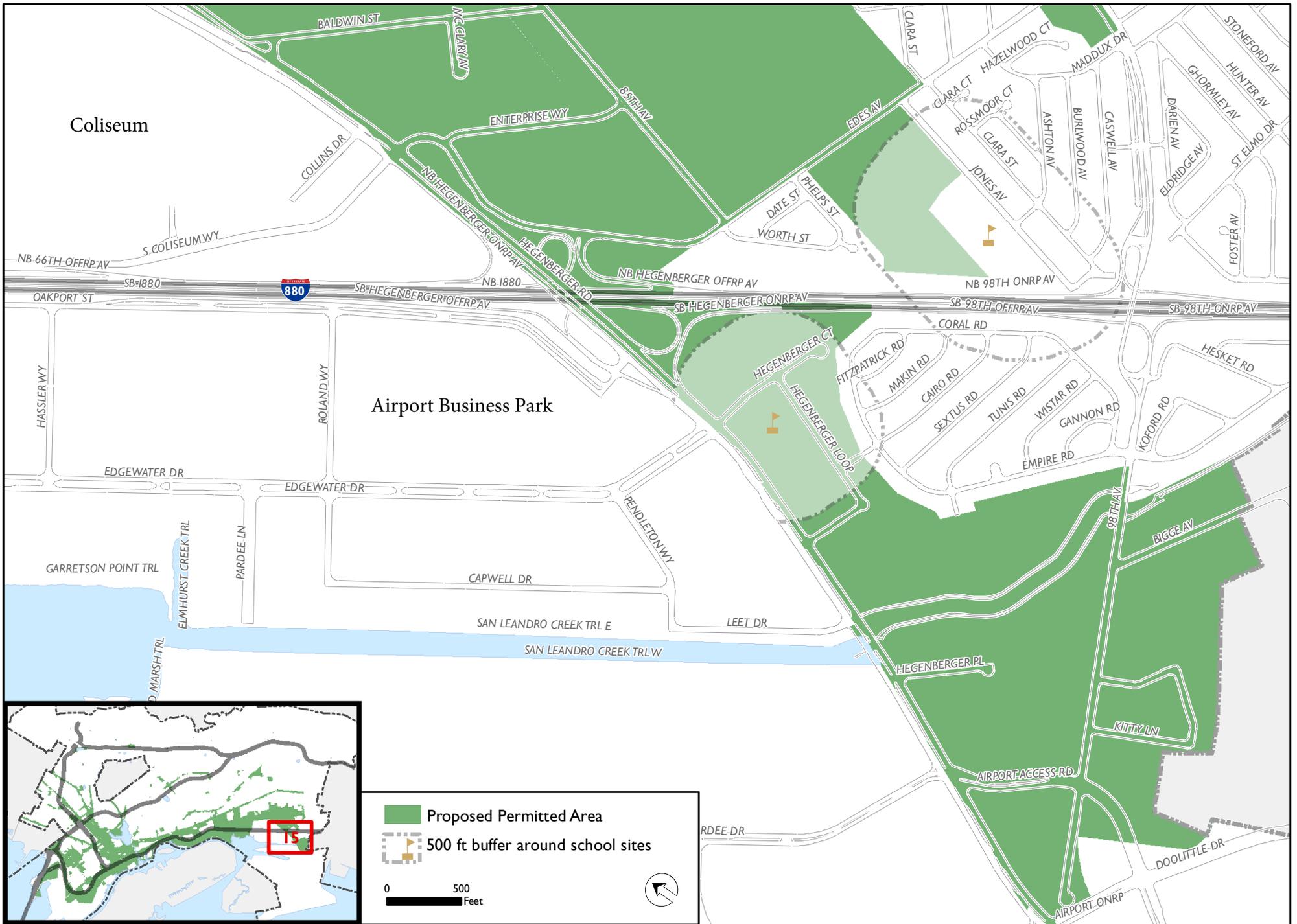
Coliseum

2016 Food Vending Program Permitted Area



Planning and Building Department
July 26, 2016

Tile 16



2016 Food Vending Program Permitted Area



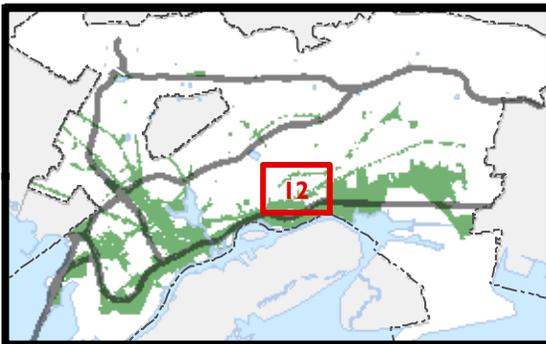
2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

Tile 14

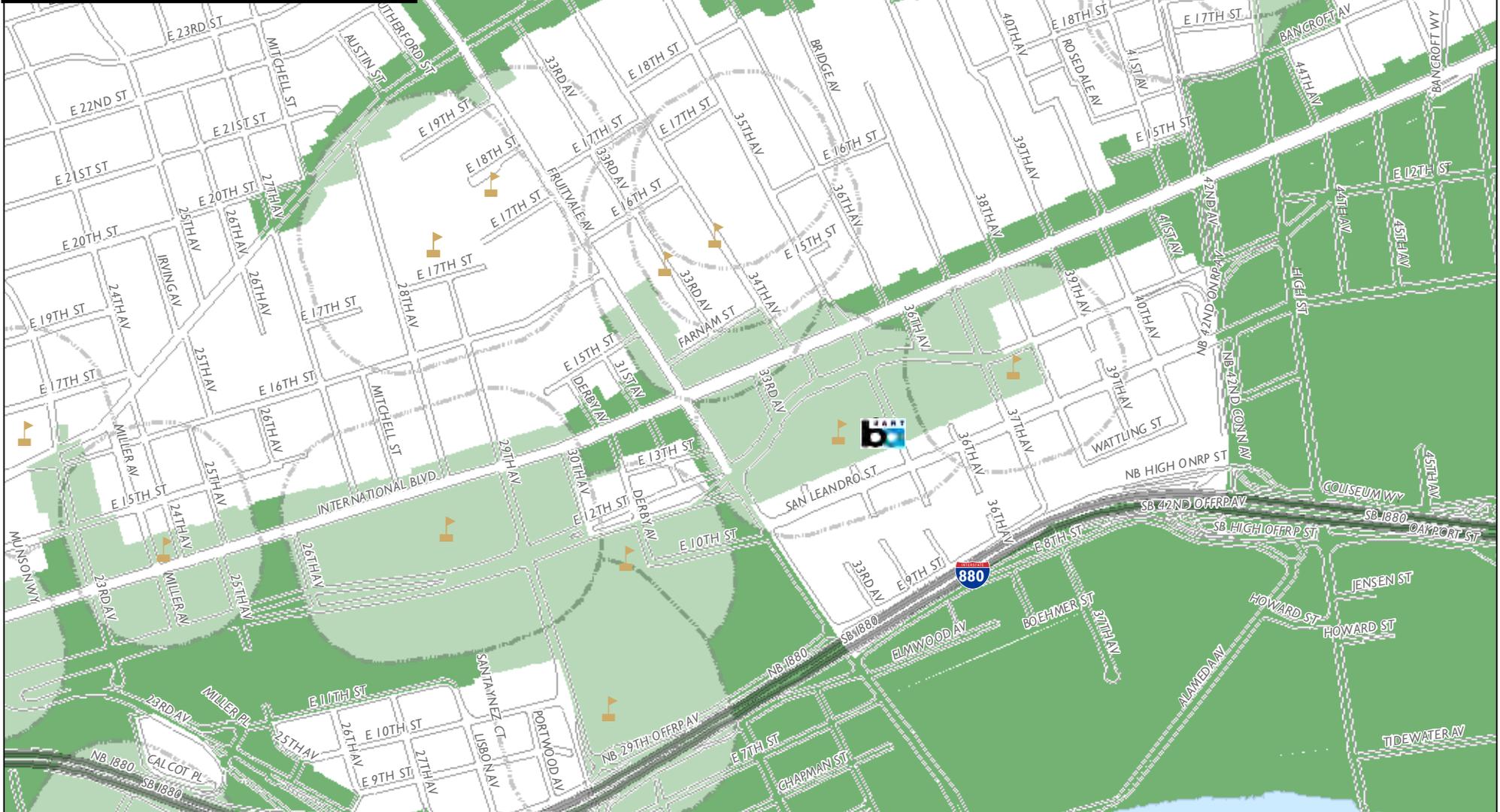


2016 Food Vending Program Permitted Area

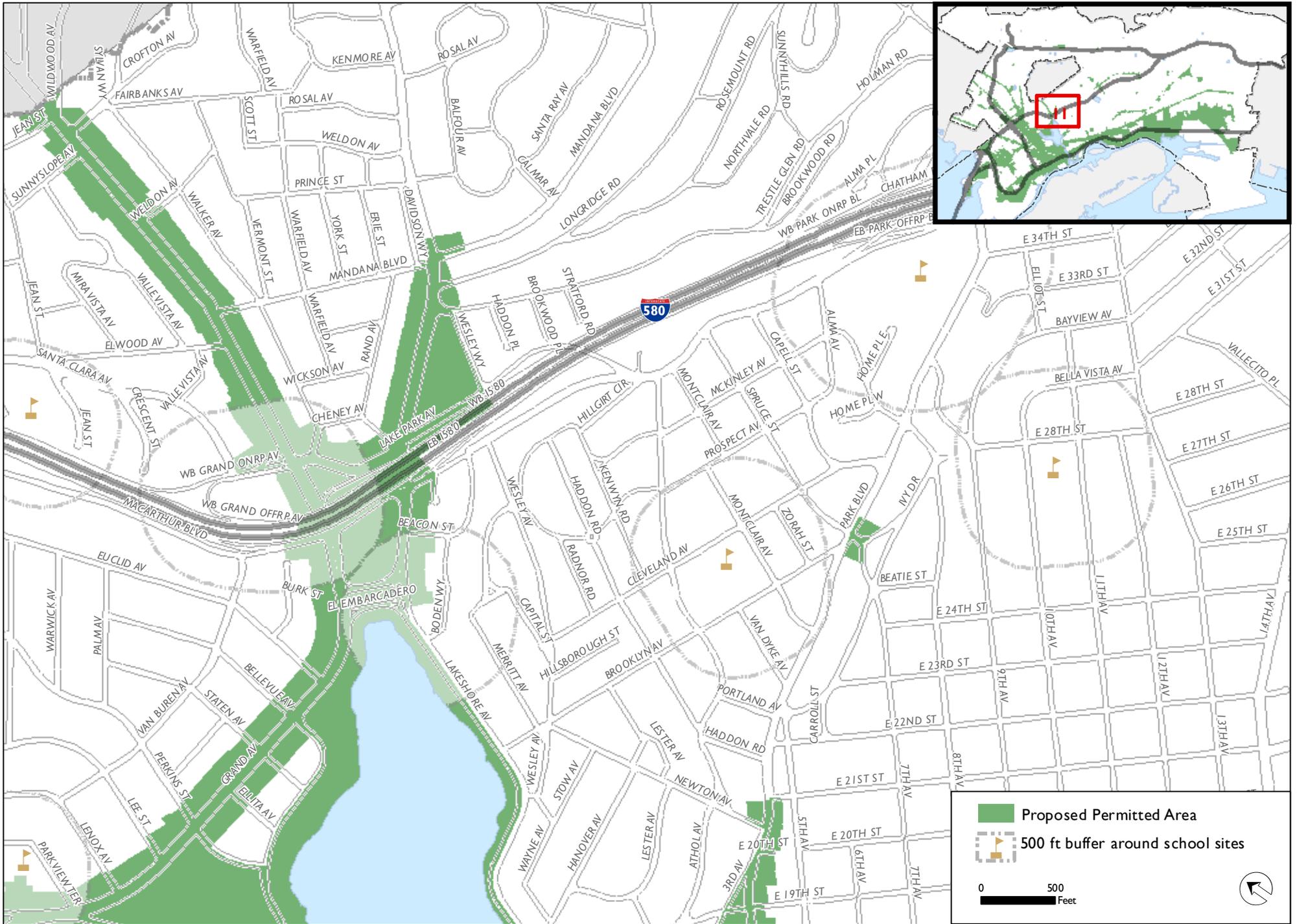


Proposed Permitted Area
 500 ft buffer around school sites

0 500
 Feet



2016 Food Vending Program Permitted Area



2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

Tile 11



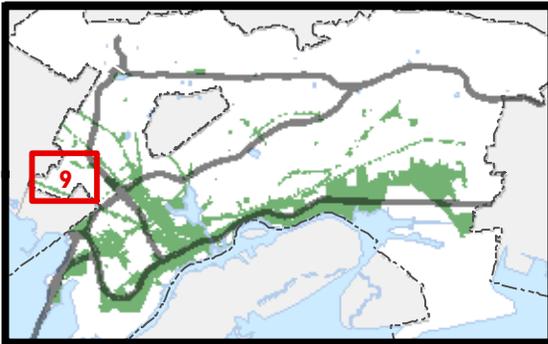
Proposed Permitted Area

 500 ft buffer around school sites

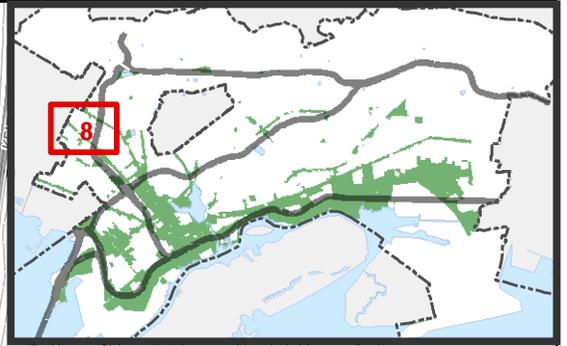
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2016 Food Vending Program Permitted Area



2016 Food Vending Program Permitted Area

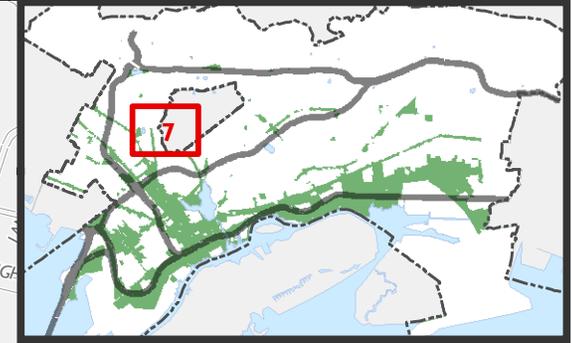


2016 Food Vending Program Permitted Area

Proposed Permitted Area

500 ft buffer around school sites

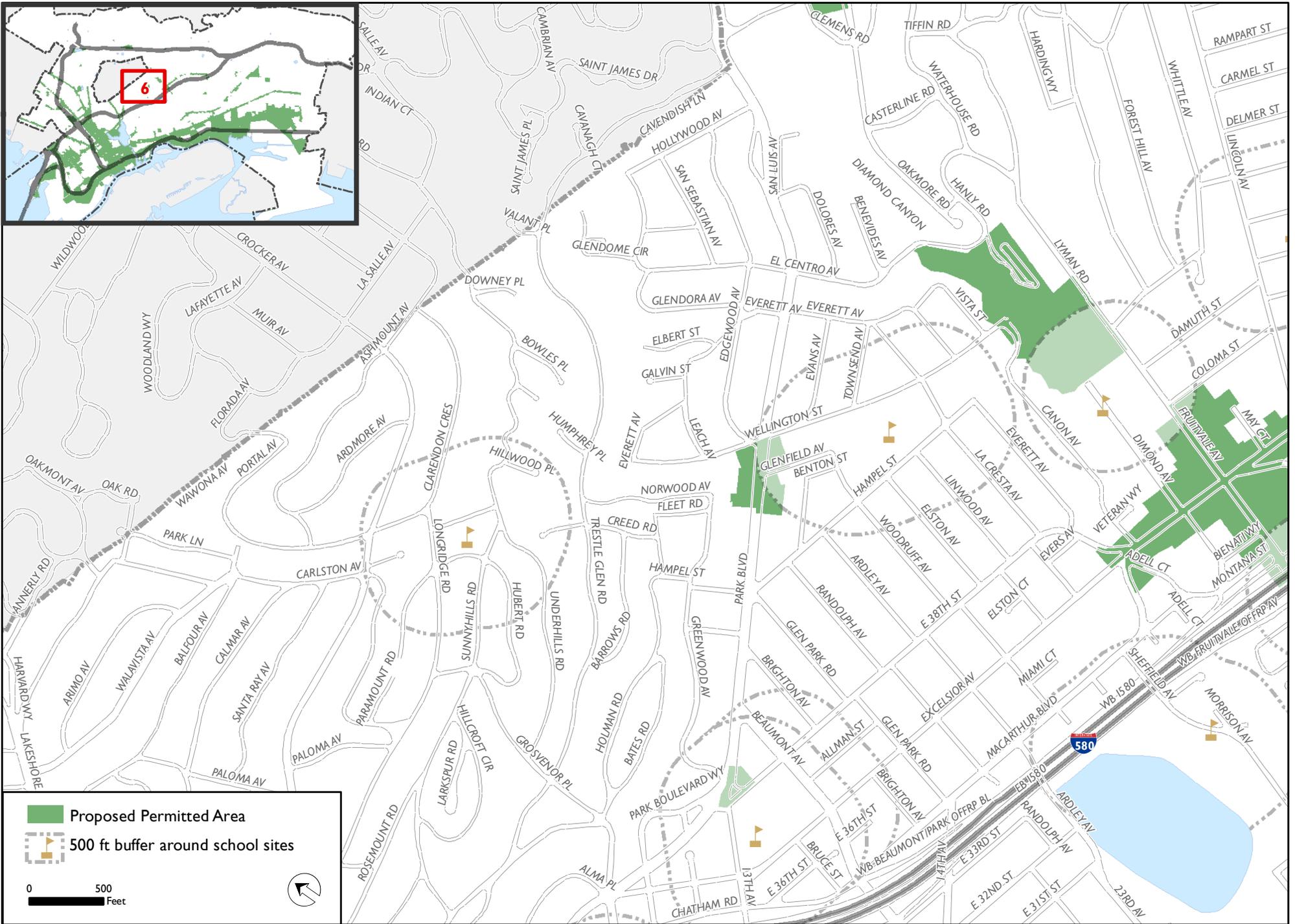
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2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

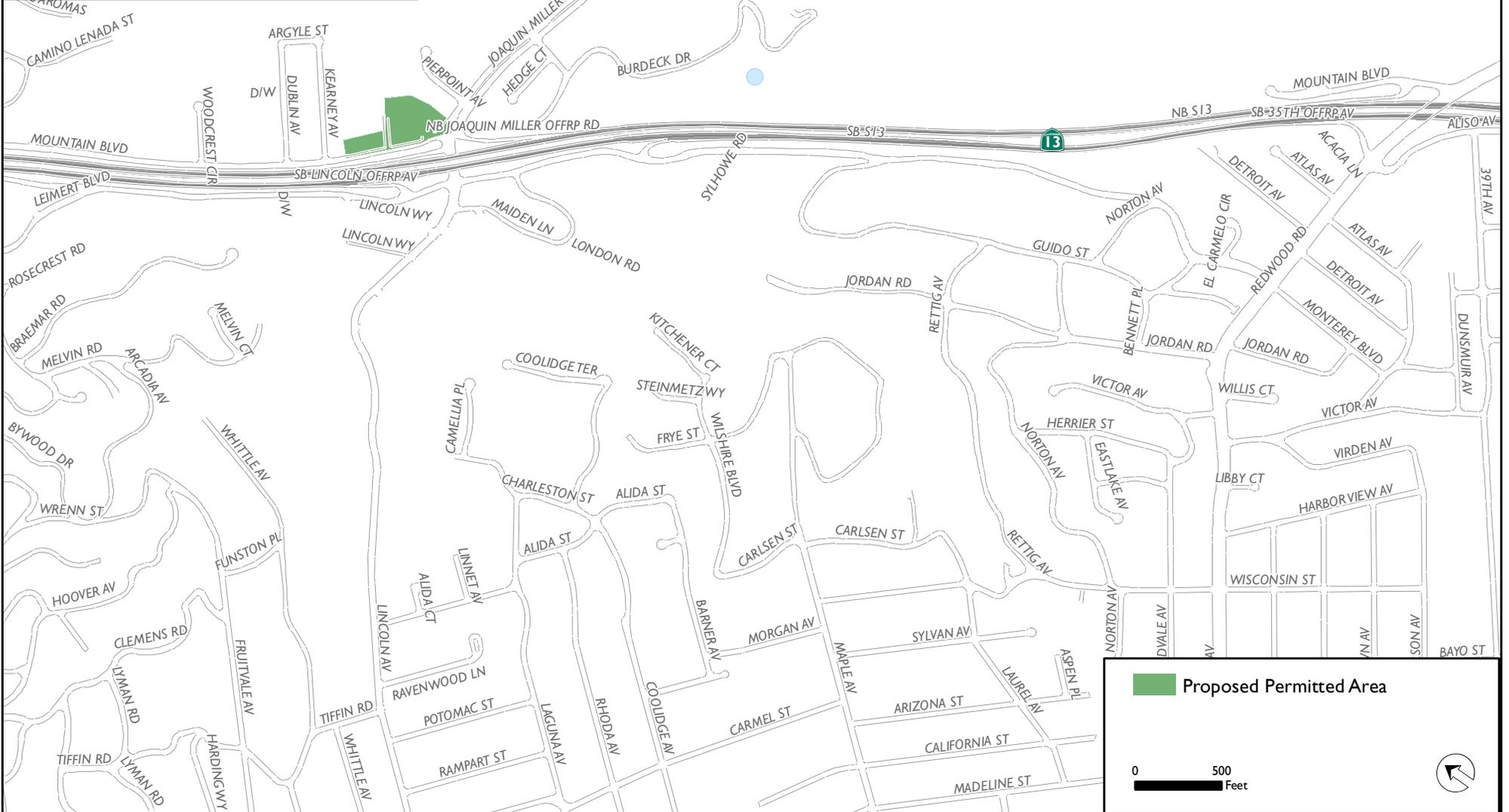
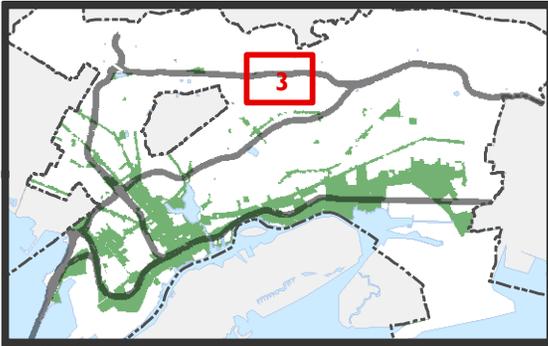
Tile 7



2016 Food Vending Program Permitted Area

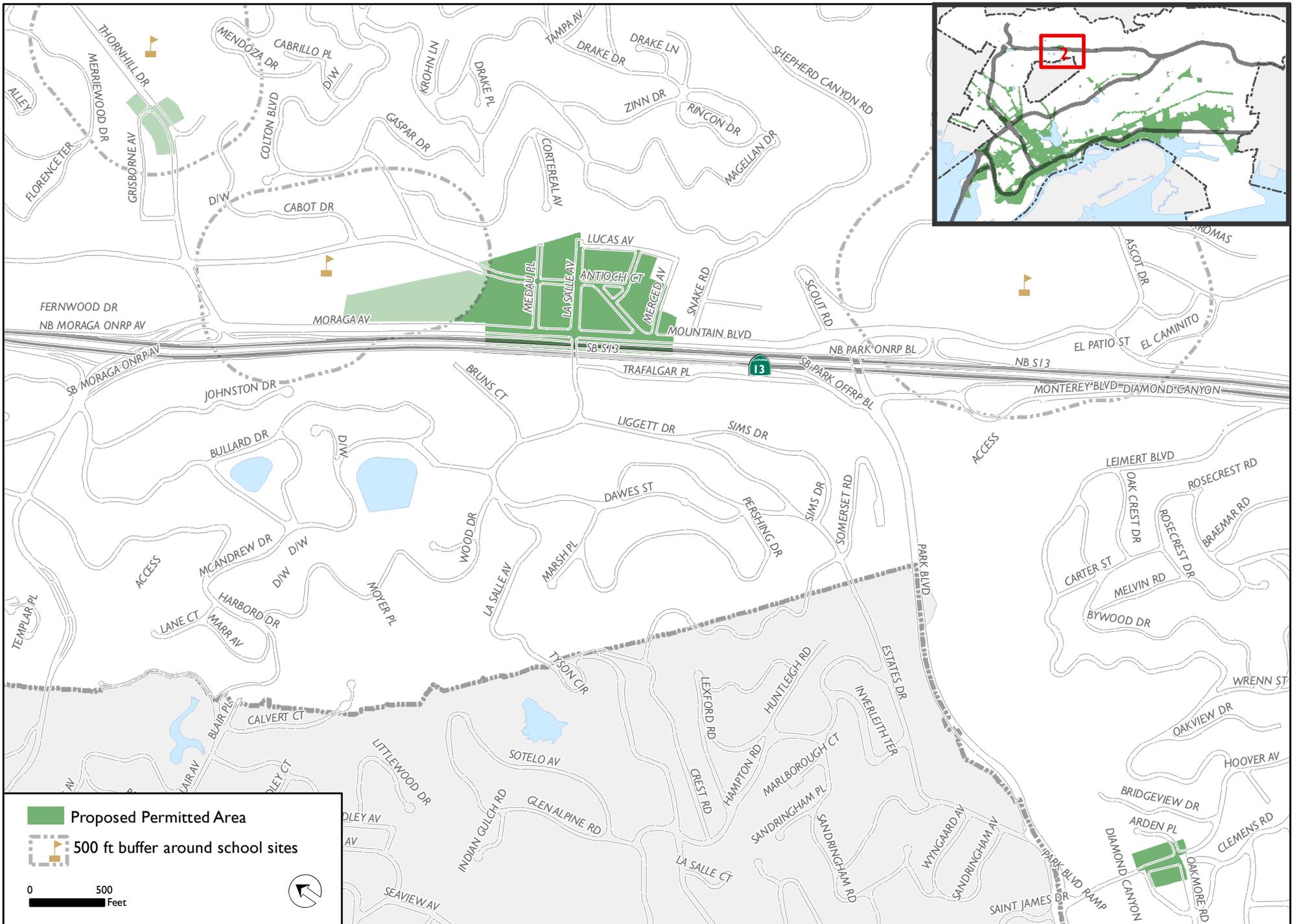


2016 Food Vending Program Permitted Area



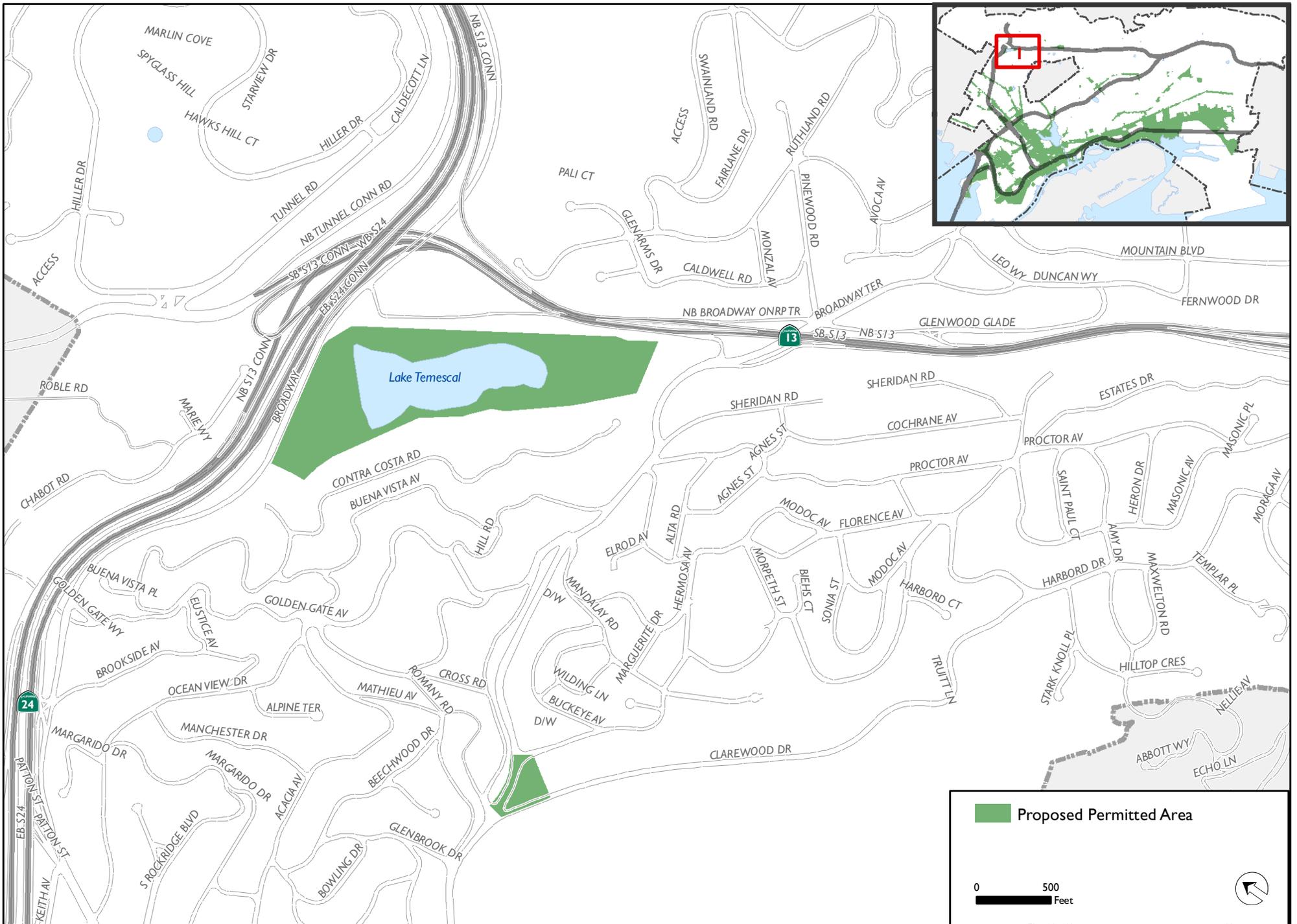
2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016



2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016



2016 Food Vending Program Permitted Area

Planning and Building Department
July 26, 2016

Tile 1

Attachment E to August 3, 2016 Planning Commission report

To: Mayor Schaaf, City Administrator, City Council, and Planning Commission,

My name is Edgar Galindo, I am writing this letter to give you a perspective on the new food vendor ordinance from some of the existing Oakland food vendors which include restaurants as well as food trucks. We do think there are positives coming out of this ordinance such as expanding the mobile food vending zones in our city, which will create more jobs in Oakland. We also think there are many problems with the new ordinance, we have recently held private merchant meetings and came to some conclusions as to what we would ask you to seriously consider changing, but first we would like to tell you a few things about ourselves before we go into our concerns.

First I will inform you about my family and I, the Galindo family has operated food trucks and restaurants in Oakland for over 30 years. We have helped employees, friends, and family branch out from our business into at least 10 other restaurants or food truck chains in or around the Oakland area. We are involved in many community events such as the Cinco de Mayo and Dia de los Muertos festivals as well as charities such as BAWAR or Bay Area Women Against Rape, the Unity Council and the Clinica de La Raza. It is not only our family but many of the other merchants who support local events and activities.

When it comes to our restaurants and food trucks, many of our parents are original food truck pioneers in Oakland. The food truck pilot program has been around for over 10 years I believe, but my family as well as others in the community have been operating food trucks for over 30 years in Oakland. We have made it a point to help improve our communities in ways such as reporting crime in or around our businesses. We have made many improvements to the private properties where we work, some of us do not own these properties but we do invest in them our hard earned money. Many of us have added lighting to increase customer safety and many have added security cameras and security guards to promote our late night business.

Now to our concerns, first of all let me state that many vendors in the Fruitvale district as well as those along International Boulevard were not aware of this new ordinance until recently. Many of us found out through a community meeting arranged by the Neighborhood Services Section at the Oakland Police Department in late May. I myself have made it a point to inform my restaurant neighbors on Fruitvale Ave. It shocks me that correct me if I wrong, Fruitvale is the second highest source of revenue for the city and yet none of us merchants were informed of the new ordinance which will greatly impact our not only our businesses but also our employees and their families.

We are concerned about the enforcement of any of these new rules and regulations proposed by the planning commission. As it stands currently, there is not one person in charge of enforcing the rules, regulations, buffer zones, complaints and unlicensed vendors in the city of Oakland. When the pilot program began, we were told that our money would be used towards hiring a crew of people responsible to make sure we have our permits and are following all the rules, but also to shut down unpermitted vendors throughout the city. We as merchants like the idea of expanding the food vending zones in Oakland, but if the city cannot currently handle all the unlicensed activity and current issues how are we to believe that the city will be able to handle the expansion and addition of so many more food trucks and carts throughout Oakland. In these meetings we have attended we were told that the city would like to have a team or group of people enforcing the rules but there are only enough funds to accommodate one person at the position. We merchants believe the city of Oakland should first worry about how to stop all the unlicensed carts, trucks, and people selling food out of their houses before they should even consider adding more food trucks and carts. Our fear is that just like before there will only be 1 or 2 people in charge of the enforcement and with all the new food trucks and carts they will be overwhelmed as they have been in the past, which led to the elimination of that position. This is why we suggest fixing this problem first, before we create so many new ones with more food trucks and carts. If the existing problems have not been fixed, why add more problems?

My example of enforcement or lack thereof; I have a restaurant located at 1457 Fruitvale Ave and have been there for 20 years. There are and have been since I can remember 4 of us restaurants on Fruitvale Ave between International (E14th) and E15th. I have for at least the previous 5 to 6 years been calling the city of Oakland, trying to speak to someone as to why between us 4 restaurants, there are so many food carts more specifically tamale carts allowed so close in proximity to us restaurants. From E15th to International it is approximately a 200ft walk, yet directly in front of my restaurant there are 2 food trucks less than 100 feet away and food carts to my left and right all of which violate the buffer zone, and sell the exact same food as us restaurants but at a lower price. Two of the four restaurants were recently having financial troubles due to the food cart competitors located so close to our businesses. One restaurant closed and the other mysteriously burned down as times were tough. This affects not only owners but also all the employees and their families who are losing jobs. Both of those previous owners were also involved in trying to get the food carts away from our businesses, but were ignored by the city. Both restaurants have re-opened but it is only a matter of time until they both close down again if nothing is done about the enforcement, or lack of, by the city regarding the rules and regulations of the mobile food vending program.

We merchants are concerned with the business hours set by the new ordinance. The new ordinance will only allow food vending until 10pm. Many of the food trucks now operate until 3am which has been a staple of the Oakland food trucks. Because of this we food trucks receive a high percentage of our business in the evenings, sometimes after sporting events, concerts, or after the bars and clubs close. These proposed changes will influence potential customers to go to other cities if we in Oakland are not allowed to work late night. We food truck owners estimate that between us we employ over 1000 people, the majority of which live in Oakland. If we are forced to close our businesses at 10pm this will create hour reductions to many employees as well unemployment, being as how many of our employees depend of us as operating late night as their main source of income to support their families.

We merchants as well as customers are well aware of the scarcity of parking in the Fruitvale area as well as along International Blvd. With the new BRT project this means that us existing businesses would have more congestion and even less parking. Therefore we merchants would like to propose that no new food trucks or carts be allowed on Fruitvale Ave or along International Blvd. As of now we have so many issues with parking at our food trucks to where regular customers are letting us know how because of the lack of parking spaces they are simply just driving past us and choosing to go elsewhere due to the parking situation. Regarding my Fruitvale restaurant, we have an alley where the owners park behind our businesses but we always have cars blocking the driveway and our delivery vehicles have problems with noncommercial vehicles parking on yellow and red zones. We feel that due to the lack of parking as well as all the foot traffic, allowing food trucks to sell on the public walkway would have a negative impact in our streets, again I speak only of the already congested International and Fruitvale areas.

The proposed buffer zone is also a problem for us merchants. This we have all been very vocal about since our first meeting at the Eastmont Police Station and it seems like the planning commission has ignored our concerns. The current buffer stands at 200 feet between a food truck and restaurant or between other food trucks. We the merchants are very disappointed that we were not consulted as to what we think is a reasonable buffer zone between any new food trucks or carts and existing businesses. To hear that the proposed buffer zone is 100 feet has us all upset and feeling invaded. We feel that it is very unclear how the new food trucks will be able to reserve a street parking spot 100 feet away from a restaurant, since it seems almost impossible to do day after day. So in essence the new food trucks are hoping to be able to find a parking spot in already parking limited streets such as International boulevard. On very busy days, a food truck who cannot park in its reserved spot will be encroaching on the 100 feet buffer from another food truck or restaurant. Other major cities with successful food vending programs have a buffer zone of 300 feet between restaurants and food trucks and we do not understand where the planning personnel came up with 100 feet. We would like the city to respect our existing food trucks and restaurants in the Fruitvale and International neighborhoods and give us a buffer zone at 1500 feet if the new ordinance passes and food trucks and carts are allowed in our area.

Our most important issue is that of grandfathering. Many of us food trucks have been operating in private property in Oakland for over 30 years. We would like the city to group us differently than the new applicant food trucks and allow us to continue to operate as we stand without any restrictions. Many of us have had our permits put on hold due to new construction near us such as schools and clinics. Many of us have been in our current location before any of the schools or clinics were built, so we would like to be allowed to remain in our locations without having to submit to the process of measuring and inspecting where we stand. Every year we attempt to renew our permit we deal with a new staff member who feels the need to make us re do the entire process all over again. The permit department needs a better way to register us food truck owners or businesses so that when we pay our yearly permits they can input our business name into a system where we pop up, it shows who we are and how long we have been here, therefore making the permit renewal process easier on both sides and save us both time and money. I can speak for my food trucks and say that we have customers who we have seen come as children with their parents and now come visit us with their children. We have customers who come regularly from as far north as Sacramento and as far east as Modesto, who come to spend money in Oakland because of us original group of taco trucks. This is why grandfathering us existing long standing food trucks to the new program is very important to all of us. We would like to know that the city of Oakland acknowledges us and supports us as established businesses and pioneers of the Oakland taco truck movement.

We do like the proposition of the expansion of more food carts and trucks in certain areas of the city, we like the idea of pods in certain areas of the city. Many of us have attended the Oakland Museum on Friday Nights and think it is great to have a group of trucks in an area where there is a social event. We think there are good ideas and good intentions for the city. However, adding more carts and trucks to already heavily saturated areas is not going to help out existing businesses or our current traffic/parking situations. The city of Oakland should start with a set plan to create a group or team to enforce the current laws and once all the unlicensed activity in the city is taken care of, that's when the city should be looking to expand the mobile food vending program. We Oakland merchants are proud of our city; we try to do what we can to improve our communities. We wish that you seriously consider our opinions since we are the original Oakland food trucks, we depend on the city to support us and our employees depend on us to provide them with steady work. And our community depends on us all to work together for a better Oakland. Thank you for taking the time to read this message from the Oakland merchants.

Edgar Galindo
Mi Grullense, INC
1457 Fruitvale Ave
510-261-3325

June 1, 2016

Dear Planning Commissioners,

We are a group of members of the Mobile Food Truck Association in Oakland. Our parents were the Pioneers that started the movement of Mobile Food Vending in Oakland. As the children of these Pioneers we continue to struggle and work hard to continue to grow and stay in business. We strive everyday to be a positive impact in our community with every aspect of our business. We first learned of the proposed new citywide vending program presented on June 1, 2016 in late May. We learned about the proposed ordinance when the notes of the proposal were released. It was unfortunate to learn that although the report mentioned staff surveying various businesses in various stages of the proposal, we were never contacted nor recall receiving direct notification via phone, mail or in person. After thoroughly reviewing the proposal we have noticed that various proposed changes and new regulations will greatly impact our business in a concerning way.

Today as the children of the Pioneers of those who started the movement of mobile food vending in Oakland we continue to grow. Some of us have opened restaurants in Oakland have expanded our mobile food truck business to event catering furthermore actively participate in many community events and programs.

Over the years we have worked hard with OPD to address crime in and around the neighborhood. We are proactive call and report crime issues to the city. In part of being safe and being part of the community some have installed cameras, increased lighting, hired security guards, post noise signs, maintain our property and keep our surrounding neighborhood clean, paint over graffiti.

Together we employ about 1,000 employees that live in Oakland, that are investing in Oakland and are raising their families in Oakland.

Many aspects of the regulations will directly affect our business in a negative way. At the top of that list are the proposed hours of operation restrictions, additional permit fees and vending in the streets and sidewalks.

A proposed hour of operation restriction would negatively impact our business sales and pose a direct impact to the salaries of our employees whose hours would be reduced as a result of business hours restrictions. Furthermore, late hour customers, weekend event visitors, coliseum post game, and event concerts goers will take their business outside of Oakland if our food trucks are forced to close at 10pm.

Our mobile food trucks have become part of the culture in Oakland, we have not been given the opportunity to voice our concerns leaving our business at the uncertainty of the change. We are asking to be grandfathered into the proposed ordinance and requesting aspects of the city wide expansion exclude and protect existing mobile food truck establishments.

We would like for our permits to be reinstated and for the ordinance to consider grouping our permits in separate category that is not affected by some regulations of the ordinance. We would like to continue to have the option to operate until 3am as families and revenue will be affected if we close at 10pm. Furthermore we believe there should be a clear and strict definition of what considers a business to fall under the grandfathered category. We believe there is a need for the city to hire at least four staff members to assist with the process of implementing, processing and enforcing permits. In addition we are requesting a report of revenue and expenditures from the monies collected over the past years and moving forward. We deserve for the city to recognize and respect that we started this movement and deserve to be grandfathered in to the program under distinctive regulations. We would like for what we have created in the International and Fruitvale district be respected with restrictions of a 1500ft buffer for new vendors, a no parking on meters restriction enforced in International area Fruitvale area, due to parking restrictions with BRT. We are Oakland, we don't want to be displaced and affected by gentrification. We are willing to grow with change and want to be included in any promotion done with mobile food vending advertisement. We believe that we can contribute valuable feedback if we are given the opportunity to voice our thoughts and concerns. We Live in Oakland, we are raising our families in Oakland, we invest in Oakland, we are Oakland.

Thank you for taking the time to read this letter.

Sincerely,

Members of the Oakland Food Truck Association

Marlem Bueno, Tacos Sinaloa
Edgar Galindo, Mi Grullense
Fernando Pelayo, Guadalajara
Antonio Pelayo, Tacos Mi Rancho