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 – Decisions regarding the approval and renewal of a Food Vending Permit.
5.51.120 – Inspections required prior to legal operation.
5.51.130 – Food Vending Permit expiration and renewal.
5.51.140 – 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.

"Administrative Guidelines" means the document prepared by the City Administrator or his/her designee, used by Bureau of Planning staff to administer the Food Vending program. The document includes the "Food Vending Program Permitted Area" map, and is revised by the City Administrator or his/her designee.

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

"Assembly area" is an indoor or outdoor place where people may gather for any permitted purpose.

“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, raw or cut fruit, produce, prepared foods and non-alcoholic 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. Fruit and produce is sold to customers without preparation or cooking by a vendor;
4. Food is served outdoors or under a non-permanent structure;
5. Food is paid for prior to consumption; and
6. Food and beverages are prepared and sold for on-site or off-site consumption.

“Food vending facility” means a truck, trailer, pushcart, stationary cart or other equipment or vehicle from which food vending services are provided, as permitted by the Alameda County Environmental Health Department. Food vending trucks and trailers must be less than eighteen feet, six inches (18’ 6”) in length, eight feet (8’ 0”) in width, and ten feet, six inches (10’ 6”) in height, measured from bottom of tire. 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 in the Administrative Guidelines which shows which areas and public right-of-ways are permitted for a Food Vending Permit. The Permitted Area map also shows specific parking spaces in the street right-of-way, designated by the City for Food vending facilities. Designated parking spaces are the only permitted areas allowed for Food vending on the street right-of-way.

"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” are defined in the Administrative Guidelines.

“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. This definition may also include 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 public, charter, or private school serving children between 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.

“Stationary 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. Stationary food carts are typically larger than pushcarts; pulled or delivered by a vehicle into position; and stationary at a specific site during hours of operation, and then removed by a vehicle after operating hours. Umbrellas nine (9) feet in diameter or less are permitted with these carts.

"Stationary food cart vendor" is a person who owns and operates a business vending from a stationary food cart.

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 Guidelines, 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 in the Administrative Guidelines to this Chapter.

D. Issuance of an Encroachment or Obstruction 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 but not limited to 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, and may be located on private property, on publically-owned property, or in the public right-of-way. Food vending in the public right-of-way (streets) is restricted to designed spots as shown on the Food Vending Program Permitted Area map. The City Administrator or his or her designee is authorized to make 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.

1. Three hundred (300) feet from another individual food vending facility or group site, unless individual food vending facilities or group sites are permitted to operate at designated parking spaces on the street right-of-way, or separate individual vending facilities or group sites are permitted to operate on different days of the week from the same location;

2. Vending within five hundred (500) feet from the parcel boundary of a school serving children between kindergarten and high school between the hours of 7 a.m. and 6 p.m. Monday through Friday is restricted as per the Administrative Guidelines to this Chapter;

3. Seventy-five (75) feet from any restaurant, as measured from the parcel boundary; as an exception, food vending facilities may locate within seventy-five (75) feet of a restaurant if the restaurant owner has provided the vehicular food vendor with permission to locate on the same lot; or if the restaurant is closed during the permitted hours of food vending operation; 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 entrances and exits;
   9. Required 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 stationary 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 stationary food vending facilities on public sidewalks shall be located and operated 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 and
   maintained at all times from all building entrances, as well as from parking meters, traffic
   signs, trees, tree wells, sidewalk planter strips, and all similar sidewalk obstacles.

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 written permission from the Director of
City Planning 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 Food Vending Permits.

The maximum number of the different types of Food Vending Permits which may be issued
shall be set by the City Administrator in the Administrative Guidelines to this Chapter, and
reviewed annually. At no time shall more than the maximum number of the specified types of
Food Vending Permits 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 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 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), 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, and obstructions such as parking meters, telecommunication boxes, street trees, and 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 the food vendor(s) and, if applicable, 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
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. Proof of liability insurance in the amount required by the City’s Administrative Guidelines.
Q. 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.

5.51.100 – Additional application requirements for group sites.

A. The application for a Group Site Food Vending Permit shall include the items in Section 5.51.090, and the following additional information:
   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 – Decisions regarding the approval, approval with conditions, or denial of a Food Vending Permit.

A. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for a Food Vending Permit as set forth in this Chapter and/or In the Administrative Guidelines to this Chapter.
   1. During the first year of the program, the Director of City Planning, or his or her designee, shall review and issue Food Vending Permits in the following order of priority:
      i. Priority Group One: Vendors with valid, unexpired Oakland Food Vending permits (i.e. 2016-2017 Food Cart “FC” or Food Vehicle “FV” permits);
      ii. Priority Group Two: Vendors with expired Oakland Food Vending permits (i.e. 2001-2015 Food Cart “FC” or Food Vehicle “FV” permits);
      iii. Priority Group Three: Vendors applying for City-designated parking spaces in the street right-of-way; and
      iv. Priority Group Four: All other vending applicants.
   2. During this first year of the program, applicants with current or expired Oakland Food Vending permits shall have their applications reviewed based on the buffering standards that applied at the time of the initial permit issuance, as described in the Administrative Guidelines to this Chapter. As a result, permits may be granted for a previously permitted location that does not meet the current buffer distances in Section 5.51.050.
   3. After the first year of the program, all new permit applications shall be reviewed with equal priority and according to the current requirements for a Food Vending Permit as set forth in this Chapter and/or In the Administrative Guidelines to this Chapter.
      However, all permits that are renewed on an annual basis shall continue to be evaluated according to the standards that applied at the time of the initial permit issuance.

B. At the time of Food Vending Permit application, the applicant vendor or group site organizer shall obtain from the Bureau of City Planning, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; and a Notice to Neighboring Property Owners form which includes the project description and contact information.

C. Prior to the subject application being deemed complete, the applicant shall provide by certificate of mailing or certified delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a site plan that shows the proposed vending location.
D. All required notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application.

E. Decision by the Director of City Planning. The Director of City Planning 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 and/or in the Administrative Guidelines to this Chapter. The Director of City Planning 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.

F. 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 and/or in the Administrative Guidelines to 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 been cited by the City of Oakland for causing a public nuisance, or causing an unlawful or criminal activity during the operation of a food vending activity; or
   5. 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
   6. The granting of the Food Vending Permit will have an adverse impact upon the public health, safety, or order.

5.51.120 – 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.

5.51.130 – 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 month of issuance, and expire and become null and void annually on the anniversary of its month of issuance. Each Temporary Food Vending Permit shall expire and become null and void after ninety (90) days, and may be renewed for one additional consecutive 90-day time period.

B. An individual food vending facility or group site organizer may apply to the Director of City Planning, or his or her designee for a Food Vending Permit renewal on a form provided by the city prior to the expiration of their active Food Vending Permit. All renewal applications
shall be filed with the Bureau of Planning pursuant to procedures established in this Chapter and/or in the Administrative Guidelines to this Chapter. As stated in Section 5.51.110.A, all Food Vending Permits that are renewed on an annual basis shall continue to be evaluated according to the standards that applied at the time of the initial permit issuance.

5.51.140 – Finality of decisions

Decisions regarding a Food Vending Permit application shall be effective immediately and are not appealable.

Article II – Standards and Requirements

5.51.150 – Hours of operation

5.51.160 – Appearance and Operating Standards

5.51.170 – Liability and Indemnification

5.51.150 – Hours of operation

A. The regular permitted hours of operation for all individual food vending facilities and group sites are 7 a.m. to 10 p.m., daily.
B. If an applicant is granted permission for late night vending, as described in the Administrative Guidelines to this Chapter, the city may allow an individual food vending facility or group site, with the exception of a stationary cart or pushcart, to operate later than the regular permitted hours, but no later than 3 a.m.
C. For Group Sites in the public right-of-way, the specific hours of operation shall be determined by the City, and shall not exceed more than five (5) hours of food vending operation on any day of permitted group site activity, unless specified otherwise at the discretion of the Director of City Planning or his or her designee.

5.51.160 – 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 City of Oakland 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.
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 one thirty-two (32)-gallon litter receptacle shall be within fifteen (15) feet of each individual food vending facility for customers and employees.
   3. Individual food vending facilities and group site organizers shall maintain the subject site and adjacent public 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 operation date shall be grounds for denying an applicant's request for permit renewal 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 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. 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 individual food vendor or group site organizer.
   6. The posting of the food vending permit at the site is required at all times.
7. The individual food vendor or group site organizer shall have a working telephone where he/she can be reached directly at all times during food vending.

8. The vending site shall be paved.

5.51.170 – 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

5.51.180 – Enforcement.

5.51.190 – Violation.

5.51.200 – Responsibility.

5.51.210 – Revocation of Food Vending Permits.

5.51.220 – Penalties for violation of Food Vending Permit requirements.

5.51.230 – Abatement generally.

5.51.240 – Notice to abate.

5.51.250 – Abatement procedure.

5.51.260 – Violations constituting infractions.

5.51.270 – Penalty for violation.
5.51.180 – 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.

5.51.190 – 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.

5.51.200 – 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.

5.51.210 – 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.

5.51.220 – 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.

5.51.230 – 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.

5.51.240 – 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 site 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 applicant, as well as the property owner if the activity is located on private property, 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 (7) days of notice to abate, as ordered by the enforcing official, the abatement procedure set forth in Section 5.51.260 may be undertaken.

5.51.250 – 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.

5.51.260 – Violations constituting infractions.

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

5.51.270 – Penalty for violation.

Any person violating any provision of this Chapter shall be punished upon a first violation by a fine of not more than $1,000.00 and, for a second violation within a period of one year, by a fine of not more than $2,000.00 and, for a third or any subsequent violation within a one-year period, by a fine of not more than $5,000.00. Any violation beyond the third, 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.