

**Meeting Date:** 5/26/2015

**Report Type:** Public Hearing

**Report ID:** 2015-00345

**Title: Ordinance Expanding Mobile Food Truck Vending Options (Noticed 05/15/2015; Passed for Publication 05/19/2015; Published 05/22/2015)**

**Location:** Citywide

**Recommendation:** 1) Pass a Motion bypassing the Law and Legislation Committee per the City Council Rules of Procedure; and 2) conduct a public hearing and, upon conclusion, a) pass an Ordinance amending Food Vending Vehicles regulations in Title 5 of the Sacramento City Code to, among other things, remove the 30 minute time limit for vending on the public right-of-way and establish a business permit to allow extended vending on private property; and b) pass an Ordinance amending section 17.108.160 of the Sacramento City Code to exclude the operation of one to two food vending vehicles from the Outdoor Market land use category.

**Contact:** Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance; Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department

**Presenter:** Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance; Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department

**Department:** Finance / Community Development Department

**Division:** Business Permits

**Dept ID:** 06001231

**Attachments:**

- 1-Description/Analysis
- 2-Entertainment Permit Radius Map
- 3-Food Vending Vehicle Ordinance (Redline)
- 4-Food Vending Vehicle Ordinance (Clean)
- 5-Outdoor Market Ordinance (Redline)
- 6-Outdoor Market Ordinance (Clean)

---

**City Attorney Review**

Approved as to Form  
Steve Itagaki  
5/6/2015 8:52:00 AM

**Approvals/Acknowledgements**

Department Director or Designee: Leyne Milstein - 4/6/2015 12:29:46 PM

## Description/Analysis

**Issue Detail:** Mobile food vendors and the public have asked the City of Sacramento to expand the allowable vending times and locations for food trucks. The areas for expansion are the public right-of-way, large spaces with multiple trucks vending, and small locations with one to two trucks vending.

### Vendors on Public Right-of-Way

Staff is recommending expansion of the vending time limits on the public right-of-way. This would allow vending to occur at times consistent with posted parking restrictions.

The proposed street vending regulations include:

- Managing customers to keep sidewalks clear for pedestrian traffic
- Keeping the area free from trash
- Providing access to County-approved toilet and hand washing facilities for employees
- Ensuring the vendor is
  - 50' from an intersection
  - 400' from another vendor
  - 100' from outside restaurant seating areas
  - 1,000' from establishments with Entertainment Permits from 1:00 a.m. to 3:00 a.m.
  - Not vending during evening and night time hours in residential zones

### Vendors on Private Property

At this time, staff is recommending changes to City Code Chapter 5.68 to implement a Food Vending Vehicle Property Permit (permit). The proposed permits have been referred to as “private property pods” during stakeholder discussions and previous Committee meetings. The permit would allow food vehicle vending on private property. A small mobile food vendor pod would not be considered an “Outdoor Market” as defined in the Planning and Development Code.

Staff is proposing that the permit for a small pod (one to two trucks) require the following:

- Submittal of an application to the Director of Finance by the property owner
- Notification of potential food truck vending to owners of property within 500' of the location
- Vending vehicle may not take away from required parking spaces if the property is occupied or hamper the maneuvering areas of the parking lot.
- Vendor must have access to a County-approved toilet and hand-washing facility for their employees within 200' of the vehicle.
- Vendor shall be responsible for keeping the vending area and public sidewalk adjacent to the vending area clear of trash at all times.
- Vendor must maintain automobile liability insurance and general liability insurance in an amount not less than \$1,000,000.
- Vending shall be limited to food and beverage items.
- Alcoholic beverages shall not be sold or consumed at the vending area.
- Hours of operation and other conditions will be set by the permit.

A large mobile food vendor pod (three or more mobile food vendors) falls under the classification of “Outdoor Market” in the Planning and Development Code. The permitting process would require the applicant to obtain a Food Vending Vehicle Property Permit along with a Zoning Administrator

conditional use permit (CUP). These two permits will address neighborhood concerns and allow the City to impose conditions on individual private property pods. In granting a CUP, the Zoning Administrator may consider the traffic, parking noise, hours of operation, and any applicable development standards related to the proposed outdoor market/pod. Outdoor markets are permitted in the RMX, RO, SC, C-1, C-2, C-3, C-4, M-1, M-1S, M-2, M-2S, SPX, TC, and HC zones.

#### Additional Code Changes

In addition to expanding where and when food trucks can vend, the proposed ordinances do the following:

1. Updates the technical code language to be consistent with current standards for clarity and consistency
2. Updates the violations provision to be consistent with other business permits
3. Updates the appeal procedures for the suspension or revocation or modification of food vending vehicle permits to be consistent with other business permits
4. Extends indefinitely the existing exemption for established operations on private property
5. Reorganizes and divides Chapter 5.68 into articles for clarification
6. Clarifies Chapter 17.108.160 to exempt one to two vendors from "Outdoor Market" definition
7. Removes the prohibition on food vending vehicles in Old Sacramento

#### Stakeholder Meetings:

- January 8, 2015 – Sacto MoFo and a few vendors were mostly pleased with proposed changes but concerned with estimated fee of \$1,000 for permit.
- January 9, 2015 – Downtown Partnership and Old Sacramento Association expressed concerns with how this might affect their restaurant members.
- January 21, 2015 – Central Business District, Street Corner Vendors expressed concerns that allowing prolonged vending on the public right-of-way near them would put them out of business.
- January 22, 2015 – Entertainment Permit Holders expressed concern about keeping the area around their establishment clean and free from loitering if food trucks are near. Also concerned about impact on restaurant operations.
- January 23, 2015 – Mobile Food Vendors were pleased with proposed changes. All permit holders were invited, however only four attended.
- February 5, 2015 – Restaurateurs expressed concern regarding effect of these changes on their businesses including concerns that mobile food trucks undergo an easier inspection process, pay less in fees and taxes, and that food trucks parked in front of a restaurant would affect customers seated outside near the sidewalk. In addition, they requested information on County health, restroom, and ADA requirements.

A significant amount of stakeholder input was centered on competition. It should be noted that the City does not regulate competition and should not consider it when implementing policy.

**Policy Considerations:** With the adoption of the proposed code, food vending vehicles could basically operate on the public right-of-way as long as it is legal to park or vend on private property with the issuance of a Private Property Permit. These changes should enhance the City's opportunities for outdoor vending while still protecting the public safety.

**Economic Impacts:** None.

**Environmental Considerations:** The adoption of the ordinance is exempt from CEQA because it would not have the potential for causing a significant effect on the environment. (CEQA Guidelines §§ 15061(b)(2), 15061(b)(3).)

**Sustainability:** Not applicable.

**Commission/Committee Action:** The concept of expanding mobile food vending has been under review by the Law and Legislation Committee (L&L) since 2012. Councilmember Jay Schenirer and former Councilmember Rob Fong held a number of stakeholder meetings with restaurateurs and mobile food vendors. The concept of offering options for larger spaces with multiple trucks vending (pod) program on private property for food vending vehicles was well received.

On January 21, 2014, the L&L Committee directed the City Manager to bring a draft ordinance back to Committee that would create a private property mobile food vending pod program that requires a conditional use permit. The L&L Committee also directed the City Manager to draft code to permanently grandfather in the four mobile food vendors currently vending on private property. Finally, staff was directed to review the proposed changes with stakeholders before coming back to the L&L Committee with a proposal.

On March 18, 2014, the L&L Committee directed the City Manager to add language to the draft ordinance that would relax the restrictions on the public right-of-way and create a simplified permitting process for one to two vendors on private property.

On November 6, 2014, the L&L Committee directed staff add language to the draft ordinance that addresses their concerns with the distance and time frame limitations from establishments with entertainment permits. A map of the “grid” showing a 600’ and 1,000’ radius from entertainment permits is included as Attachment 2.

On March 10, 2015, the L&L Committee approved and forwarded the draft ordinance amending Title 5 (Business Licenses and Regulations) to the City Council with additional language that would impose an evening and nighttime restriction in residential zones and clarify that the existing exemption for established operations on private property continues if the business is transferred or sold. The Committee also approved and forwarded the draft ordinance amending Title 17 (Planning and Development Code) to the Planning and Design Commission for review. Additionally, the L&L Committee directed staff to continue working with stakeholders if the City Council passes these ordinances and report back to the L&L Committee in one year.

On March 26, 2015, the Planning and Design Commission, by a vote of 12 ayes, zero noes, and one absent, voted to recommend approval of the proposed amendment to Title 17 and forward the recommendation to City Council.

**Rationale for Recommendation:** Private property pods for mobile food vending have been successful in other cities. However, the public has expressed concerns related to attraction of blight with the onset of mobile food vending. To mitigate potential blight, the CUP process would require proper infrastructure with operating conditions and allow for public comment. This should ensure that the City will have quality private property pods in appropriate locations. A simplified permitting process for one to two vendors on private property with outreach to surrounding property owners should ensure appropriate vending.

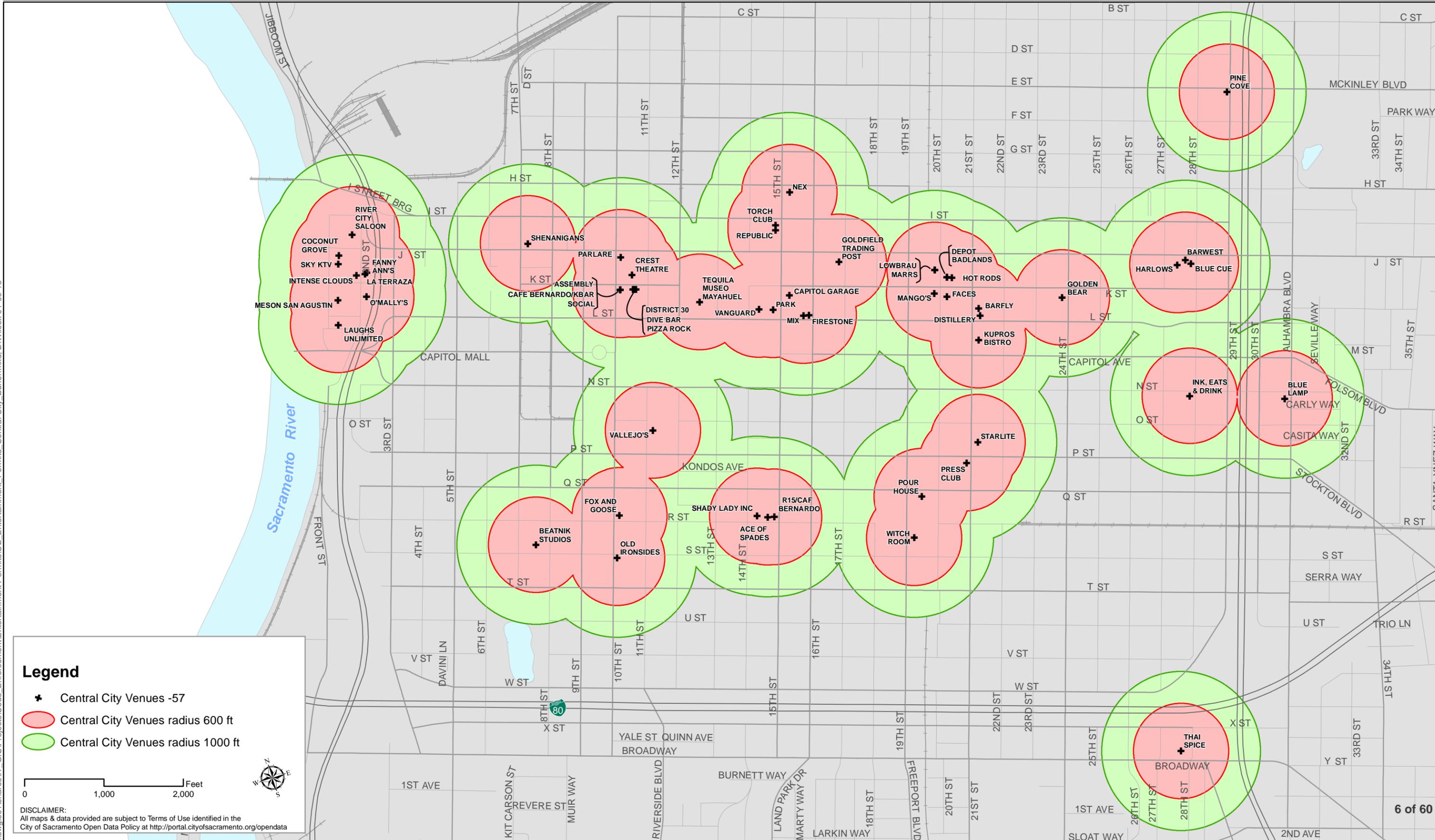
Allowing vending as long as it is legal to park on the public right-of-way is consistent with State law. The proposed conditions relating to public safety, trash and pedestrian flow should help ensure the continuing quality of our streets and sidewalks.

**Financial Considerations:** Not applicable.

**Local Business Enterprise (LBE):** Not applicable.

# Entertainment Permit Venues - 2015

## Central City Area- with 600 foot and 1,000 foot radius



- Legend**
- Central City Venues -57
  - Central City Venues radius 600 ft
  - Central City Venues radius 1000 ft

0 1,000 2,000 Feet

DISCLAIMER:  
All maps & data provided are subject to Terms of Use identified in the City of Sacramento Open Data Policy at <http://portal.cityofsacramento.org/opendata>

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING CHAPTER 5.68 OF THE SACRAMENTO CITY CODE, ADDING ARTICLES IV THROUGH IX TO CHAPTER 5.68 OF THE SACRAMENTO CITY CODE, AND ADDING SECTION 5.88.080 TO THE SACRAMENTO CITY CODE, RELATING TO FOOD VENDING VEHICLES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.68 of the Sacramento City Code is amended to read as follows:

**ARTICLE I. GENERAL PROVISIONS**

**5.68.005 Purpose and findings.**

Food vending vehicles benefit our community by providing services to those who live and work in areas where food may not be readily available. In addition, they offer an entrepreneurial opportunity for the people in our community to open a small business and provide unique foods that may not be available at brick-and-mortar restaurants.

The city also needs to protect the public by ensuring that these large vehicles are operated in a safe manner and do not create nuisances in our neighborhoods. Reasonable regulations are necessary to ensure that food vending vehicles are operated in accordance with health laws of the State; do not block or hinder vehicle or pedestrian traffic on our streets and sidewalks; do not cause public safety problems by contributing to crowding near schools and entertainment establishments; and do not disturb the quiet use and enjoyment of our residential neighborhoods. Therefore, the regulations in this chapter are enacted in accordance with the authority granted in section 22455 of the California Vehicle Code.

**5.68.010 Definitions.**

As used in this chapter, the following definitions apply:

~~“Commercial and hospital zoning districts” means OB, EC, SC, C-1, C-2, C-3, and H zoning districts as established pursuant to Title 17 of this code.~~

“Director” means the city’s director of finance, or his or her designee.

“Driver permit” means a food vending vehicle driver permit.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” shall does not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Heavy commercial and industrial zoning districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17 ~~of this code.~~

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Property permit” means a food vending vehicle property permit.

“Residential ~~or open space~~ zoning districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, ~~R-4, RMX, and RO, AOS, F, and ARP-F~~ zoning districts as established pursuant to Title 17 ~~of this code.~~

“Vehicle permit” means a food vending vehicle permit.

“Vendor” means any person who operates a food vending vehicle.

#### **5.68.15 Violations.**

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues.

D. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

### **ARTICLE II. FOOD VENDING VEHICLE PERMITS**

#### **5.68.20 Food vending vehicle permit required.**

A. ~~It is unlawful for any person to~~ No person shall operate a food vending vehicle unless a food vending vehicle permit issued pursuant to this chapter is in effect for that food vending vehicle.

B. Every permittee, upon receipt of a ~~food vending~~ vehicle permit, shall maintain the permit with the vehicle for which it is issued, at all times the food vending vehicle is being operated.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present the ~~food vending~~ vehicle permit that is in effect for that vehicle.

D. All ~~food vending~~ vehicle permits are the property of the city and each shall authorize the operation of a single specific food vending vehicle. ~~It is unlawful for any person to~~ No person shall sell or transfer, or attempt to sell or transfer, any ~~food vending~~ vehicle permit.

#### **5.68.30 Vehicle permit application.**

A. An application for a food vending vehicle permit shall be filed with the director and shall contain the following:

1. The individual and business name, address, and telephone number of the permit applicant;

2. Written evidence that the applicant is an owner, lessee or holder of a similar interest in the food vending vehicle;

3. The name and address of all legal and registered owner(s) of the food vending vehicle, and each person with a financial interest in the business that operates the food vending vehicle;

4. A copy of a valid business operations tax certificate issued pursuant to ~~C~~chapter 3.08 ~~of this code~~;

5. The state vehicle license plate number and the vehicle identification number of the food vending vehicle;

6. Proof of compliance with the insurance requirements set forth in ~~S~~section 5.68.060 ~~of this chapter~~;

7. Proof that the vehicle is in compliance with applicable requirements of the state of California and the county of Sacramento regarding the operation of a food vending vehicle;

8. The address where the food vending vehicle is stored when not in use;

9. For each person with a ~~ten (10)~~ percent or greater financial interest in the business that operates the food vending vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a ~~ten (10)~~ percent or greater financial interest in the business that operates the food vending vehicle during the life of the permit issued pursuant to this chapter shall immediately so notify the director and comply with this subsection. Any holder of a valid food vending vehicle driver permit issued pursuant to ~~S~~section 5.68.100 of this ~~chapter~~ shall be exempt from the requirements of this subsection;

10. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a ~~food vending~~ vehicle permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. ~~It is unlawful for any person to~~ No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a ~~food vending~~ vehicle permit.

#### **5.68.40 Vehicle permit issuance and denial.**

A. Except as provided in subsection C of this section, a food vending vehicle permit shall be issued by the director upon receipt of a complete application and payment of the permit fee, as specified in ~~S~~section 5.68.030 of ~~this chapter~~, and after the director has:

1. Physically inspected the food vending vehicle to ensure compliance with this code and the ~~California~~ Vehicle ~~e~~Code equipment requirements; provided, however, that the director may accept proof of compliance with state of California or Sacramento County inspection requirements for operating a food vending vehicle in lieu of conducting an inspection; and

2. Determined that the business location and vehicle storage location, if within the city, comply with applicable zoning regulations and other codes.

~~B. All food vending vehicle permits shall expire on April 30th of the calendar year following the date of issuance unless sooner revoked. Application for renewal shall be filed between March 1st and March 31st for the permit period beginning the succeeding May 1st.~~

CB. A ~~food vending~~ vehicle permit may be denied by the director ~~if he or she finds on~~ any of the following grounds:

1. The information submitted pursuant to ~~S~~section 5.68.030 ~~of this chapter~~ is materially false or incomplete.;
2. The applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has any unpaid administrative penalties imposed pursuant to ~~c~~Chapter 1.28 ~~of this code.~~;
3. Within ~~twelve (12)~~ months of the date of application, the applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has had his or her ~~food vending~~ vehicle permit revoked.;
4. The applicant has not paid the applicable business operations tax pursuant to ~~c~~Chapter 3.08 ~~of this code.~~; or
5. A person with ~~ten (10)~~ percent or greater financial interest in the operation of the food vending vehicle has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under California Penal Code ~~S~~section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or having the effect of substantially injuring another.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection ~~(G)(5)-C.5~~ only if the director finds that the crime or act is substantially related to the qualifications, functions or duties of a food vending vehicle owner or owner of a business which operates food vending vehicles or has substantial contact with minors. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under ~~the State California~~ Penal Code ~~s~~Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code ~~S~~section 4852.01, et seq.

**5.68.45 Term of vehicle permit: renewal.**

A. All food vending vehicle permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid vehicle permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to 90 days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

E. Vehicle permit renewals may be issued or denied in accordance with the provisions of section 5.68.040.

F. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid vehicle permit.

#### **5.68.50 Posting requirements.**

A. No person shall operate a food vending vehicle unless the food vending vehicle permit decal, as provided by the director, is displayed on the vehicle window in a manner specified by the director.

B. No person shall operate a food vending vehicle unless the food vending vehicle number, as provided by the director, is permanently posted on the exterior of the vehicle and in a location that is clearly visible to patrons. The numbers shall be legible, not less than three and one-half inches in height and in a color that contrasts with the color of the background upon which it is placed.

#### **5.68.60 Liability insurance.**

A. During the term of a food vending vehicle permit issued pursuant to this chapter, the permittee or owner(s) of a food vending vehicle authorized by the permit shall maintain in full force and effect at no cost to the city a comprehensive auto and general liability insurance policy:

1. In an amount not less than one million dollars ~~(\$1,000,000.00)~~ single limit per occurrence; and

2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and

3. Providing that the city, its officers, employees and agents are ~~to be~~ named as additional insureds under the policy; and

4. Covering all losses and damages as specified in ~~Section 5.68.070 of this chapter~~; and

5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder; and

6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the ~~food vending~~ vehicle permit, without ~~thirty (30)~~ days written notice to the director prior to the effective date of such cancellation or change in coverage.

B. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with subsection A of this section, the permittee shall notify the city of the cancellation, expiration, or change within three business days after its effective date by submitting a written notice to the director. The giving of notice as provided herein shall not stay the automatic suspension of the permit pursuant to ~~Section 5.68.220410 of this chapter~~.

C. ~~It is unlawful for any person to~~ No person shall operate a food vending vehicle without insurance coverage in effect as required by this section.

#### **5.68.070 Indemnify and hold harmless.**

The permittee and food vending vehicle owner(s) shall defend, indemnify and hold harmless the city, its officers, employees and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permittee or the permittee's agents, officers or employees, directly or indirectly arising from the operation of the food vending vehicle.

### **ARTICLE III. FOOD VENDING VEHICLE DRIVER PERMITS**

#### **5.68.80 Food vending vehicle driver permit required.**

A. ~~It is unlawful for any person to~~ No person shall drive a food vending vehicle unless the person holds a valid food vending vehicle driver permit issued pursuant to this chapter.

B. Every driver of a food vending vehicle shall have the valid ~~food vending vehicle~~ driver permit issued to him or her in his or her immediate possession at all times when driving a food vending vehicle.

C. Upon demand of a peace officer, or city employee authorized to enforce this chapter, the driver of a food vending vehicle shall present his or her ~~food vending vehicle~~ driver permit for examination.

D. All ~~food vending vehicle~~ driver permits are the property of the city and each shall authorize a single specific food vending vehicle driver. ~~It is unlawful for any person to~~ No person shall sell or transfer, or attempt to sell or transfer, any ~~food vending vehicle~~ driver permit.

#### **5.68.90 Food vending vehicle driver permit procedure.**

A. Applications for a food vending vehicle driver permit shall be filed with the director and shall contain the following:

1. The name and address of the applicant;
2. The number of a valid state driver license issued to the applicant, authorizing the applicant to drive a food vending vehicle, and date of license expiration;
3. A statement of whether the applicant's state driver license has ever been revoked or suspended and, if so, the reason(s) for such revocation or suspension;
4. A list, signed under penalty of perjury, of each conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which applicant was convicted;
5. A list of the applicant's physical or mental conditions, or any medications being taken, that would interfere with the proper management and control of a motor vehicle;
6. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a ~~food vending vehicle~~ driver permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. ~~It is unlawful for any person to~~ No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a ~~food vending vehicle~~ driver permit.

**5.68.100 Driver permit issuance and denial.**

A. Except as provided in subsection C of this section, a food vending vehicle driver permit shall be issued by the director:

1. Upon receipt of a complete application and payment of the permit fee, as specified in ~~S~~section 5.68.090 ~~of this chapter~~; and
2. After fingerprinting of the applicant by the police department, if the director so requires; and
3. After submission of four recent dated portrait photographs, one to be attached to the application, one to be attached to the driver permit if issued, and two for the use of the police department.

~~B. All permits shall expire on April 30th of the calendar year following the date of issuance unless sooner revoked. Application for renewal shall be submitted between March 1st and March 31st for the year beginning the succeeding May 1st.~~

~~CB.~~ A ~~food vending vehicle~~ driver permit shall be denied by the director ~~if he or she finds on~~ any of the following grounds:

1. The applicant failed to comply with the requirements of this section;
2. The information submitted pursuant to ~~S~~section 5.68.090 ~~of this chapter~~ is materially false or incomplete;
3. The applicant has any unpaid administrative penalties imposed pursuant to ~~C~~chapter 1.28 ~~of this code for the violation of provisions of this chapter~~;
4. Within ~~twelve (12)~~ months of the date of application, the applicant has had his or her ~~food vending vehicle~~ driver permit revoked ~~;~~ or
5. The applicant has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under California Penal Code ~~s~~section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or has a physical or mental disability or incapacity, or takes medication, uses alcohol or any controlled substance as defined in the ~~state's~~ California Health and Safety Code.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection ~~(C)(5)~~ C.5 only if the director finds the crime, act, disability, incapacity or impairment from a substance consumed is substantially related to the qualifications, functions or duties of a food vending vehicle driver. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under ~~State-California~~ Penal Code ~~§~~section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code ~~§~~section 4852.01, et seq.

**5.68.105 Term of driver permit: renewal.**

A. All food vending vehicle driver permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid driver permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to 90 days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Driver permit renewals may be issued or denied in accordance with the provisions of section 5.68.100.

E. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid driver permit.

**5.68.110 Suspension or revocation of permit.**

~~—A.— The director may suspend or revoke any food vending vehicle permit or any food vending vehicle driver permit issued hereunder on the basis of any of the following grounds:~~

~~1. The director determines that any activity authorized by the permit is being carried out in such a manner as to constitute a nuisance, or to be injurious to the public health, safety or welfare; or~~

~~2. The operation of the food vending vehicle is in violation of any conditions imposed upon the permit or in violation of any provision of this chapter, this code, Sacramento County Code or state law, including, but not limited to:~~

~~a. Chapter 5.68 of this code regarding food vending vehicles,~~

~~b. Chapter 5.88 of this code regarding outdoor vending,~~

~~c. Chapter 10.60 of this code regarding the broadcasting of sound, or~~

~~d. The California Retail Food Code (commencing with Health and Safety Code Section 113700); or~~

~~3. There exists any of the grounds that would have been grounds for denial of the permit application.~~

~~B. Except as provided in subsection C of this section, no permit shall be suspended or revoked until a hearing is held by the director. Written notice of the time and place of such hearing shall be given at least five days prior to the date set for such hearing to the person to whom the permit was granted and to any other person who, at least ten (10) days prior to the hearing, requests such notice. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the persons to be notified, or by depositing the notice in the U.S. mail in a sealed envelope, postage prepaid, addressed to the persons to be notified at the address appearing in the application for a permit.~~

~~C. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with Section 5.68.060 of this chapter, the food vending vehicle permit issued pursuant to this chapter shall be automatically suspended, effective on the effective date of the cancellation, expiration, or change in coverage. The suspension shall continue until required insurance coverage is reinstated and the city receives written notice from the insurer indicating compliance with the requirements of Section 5.68.060 of this chapter, or until the permit expires.~~

~~D. Upon the director's suspension or revocation of any permit pursuant to this section, the permittee shall surrender the subject permit to the city within ten (10) days.~~

~~5.68.120~~ **Appeal of action on permit.**

~~\_\_\_\_\_A.\_\_\_\_\_ An applicant may appeal the director's decision to deny their application submitted pursuant to this chapter, and a permittee may appeal the director's decision to suspend or revoke their permit issued pursuant to this chapter, to the city council in accordance with Chapter 1.24 of this code.~~

~~\_\_\_\_\_B.\_\_\_\_\_ A notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, must be filed within ten (10) days after the date of the director's decision.~~

**5.68.130 Stopping.**

~~\_\_\_\_\_ No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner.~~

**5.68.140 Lighting.**

~~\_\_\_\_\_ No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties.~~

**5.68.150 Utilities.**

~~\_\_\_\_\_ No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water or any other utilities.~~

**5.68.160 Signs and furniture.**

~~\_\_\_\_\_ No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle.~~

~~5.68.170~~ **Operation on the public right-of-way.**

~~\_\_\_\_\_ It is unlawful for any person to operate a food vending vehicle while stopped, standing or parked on the public right-of-way:~~

~~\_\_\_\_\_A.\_\_\_\_\_ Between the hours of eight p.m. of one day and five a.m. of the following day during the months of April, May, June, July, August, September and October;~~

~~\_\_\_\_\_B.\_\_\_\_\_ Between the hours of six p.m. of one day and five a.m. of the following day during the months of November, December, January, February and March;~~

~~\_\_\_\_\_ C. For more than thirty (30) minutes in one location, without moving to a new location at least four hundred (400) feet away;~~

~~\_\_\_\_\_ D. Within four hundred (400) feet of a location where the same food vending vehicle previously operated, on the same calendar day;~~

~~\_\_\_\_\_ E. Within four hundred (400) feet of any other food vending vehicle; or~~

~~\_\_\_\_\_ F. Within one hundred (100) feet of any street intersection controlled by a traffic light or stop sign.~~

~~**5.68.180 Operation on private property—Consent.**~~

~~\_\_\_\_\_ A. It is unlawful for any person to operate a food vending vehicle on private property without the express written consent of the owner of the property.~~

~~\_\_\_\_\_ B. Prior to vending on private property, the written consent of the owner of the property shall be provided to the director, in the form approved by the director.~~

~~\_\_\_\_\_ C. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.~~

~~\_\_\_\_\_ D. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle.~~

~~**5.68.190 Operation on private property—Generally.**~~

~~\_\_\_\_\_ A. It is unlawful for any person to operate a food vending vehicle on private property if any of the following conditions apply:~~

~~\_\_\_\_\_ 1. The property is vacant;~~

~~\_\_\_\_\_ 2. The operation of a food vending vehicle is the primary use of the parcel. The operation of a food vending vehicle must be incidental to a primary use that complies with the Planning and Development Code;~~

~~\_\_\_\_\_ 3. The food vending vehicle is stopped, standing or parked in any location on the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;~~

~~\_\_\_\_\_ 4. The food vending vehicle is stopped, standing or parked on any surface that is not paved with concrete, asphalt or other similar material; or~~

~~5. Another food vending vehicle is already operating on the property.~~

~~B. Notwithstanding subsection A of section 17.608.030 of this code, the operation of food vending vehicles shall be allowed on parking facilities, subject to the following restrictions:~~

~~1. The food vending vehicle shall not occupy or block any parking spaces required for the primary use of the parcel as determined pursuant to chapter 17.608 of this code; and~~

~~2. The operation of the food vending vehicle shall comply with all other provisions of this code.~~

~~**5.68.200 Operation on private property—Zoning districts.**~~

~~It is unlawful for any person to operate a food vending vehicle on private property in any zoning district other than a heavy commercial and industrial zoning district, or a commercial and hospital zoning district, in accordance with Sections 5.68.210 and 5.68.220 of this code.~~

~~**5.68.210 Private property—Heavy commercial and industrial zoning districts.**~~

~~A. It is unlawful for any person to operate a food vending vehicle on private property in a heavy commercial and industrial zoning district that is at least four hundred (400) feet away from any residence, during the hours that the business located on that property is closed.~~

~~B. The operation of a food vending vehicle on private property in a heavy commercial and industrial zoning district that is within four hundred (400) feet of any residence shall be subject to the same regulations as the operation of a food vending vehicle on private property in a commercial or hospital zoning district, as set forth in Section 5.68.220 of this code.~~

~~**5.68.220 Private property—Commercial or hospital zoning districts.**~~

~~It is unlawful for any person to operate a food vending vehicle on private property in a commercial or hospital zoning district:~~

~~A. Between the hours of eight p.m. of one day and five a.m. of the following day during the months of April, May, June, July, August, September and October;~~

~~B. Between the hours of six p.m. of one day and five a.m. of the following day during the months of November, December, January, February and March;~~

~~\_\_\_\_\_ C. \_\_\_\_\_ For more than thirty (30) minutes in one location, without moving to a new location at least four hundred (400) feet away; or~~

~~\_\_\_\_\_ D. \_\_\_\_\_ Within four hundred (400) feet of a location where the same food vending vehicle previously operated, on the same calendar day.~~

~~**5.68.230 Private property—Construction sites.**~~

~~\_\_\_\_\_ Notwithstanding the provisions of Sections 5.68.200 through 5.68.220, a person may operate a food vending vehicle on any private property upon which any building or structure is being constructed, demolished, altered or repaired, during the hours that such activity is taking place, and for the purpose of selling food and beverages to those persons engaging in such activity.~~

~~**5.68.240 Private property—Stand-alone parking facilities.**~~

~~\_\_\_\_\_ Notwithstanding any other provision of this code to the contrary, food vending vehicles shall not be operated in a stand-alone parking facility as described in section 17.108.200.~~

~~**5.68.250 Exemption of established operations on private property.**~~

~~\_\_\_\_\_ A. \_\_\_\_\_ The operation of a food vending vehicle on private property shall be exempt from sections 5.68.210, 5.68.220 and chapter 17.232 of this code until January 1, 2018, if the food vending vehicle permittee has an established operation on private property.~~

~~\_\_\_\_\_ B. \_\_\_\_\_ A food vending vehicle permittee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.~~

~~\_\_\_\_\_ C. \_\_\_\_\_ The exemption in the above subsection A is subject to the following conditions:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ The exemption applies only as long as the consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;~~

~~3. The exemption applies only as long as the food vending vehicle permit to which it is related, is continuously maintained as valid. If the food vending vehicle permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a food vending vehicle driver permit is subsequently obtained;~~

~~4. A person may only operate a food vending vehicle in accordance with this exemption between the hours of five a.m. of one day, and two a.m. of the following day; and~~

~~5. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.~~

**5.68.260 Penalty.**

~~Any person who violates the provisions of this chapter shall be guilty of a misdemeanor. In addition, the city may also impose administrative penalties pursuant to Chapter 1.28 of this code and seek injunctive relief and civil penalties in the superior court for violations of this chapter. The remedies provided for in this chapter shall be cumulative and not exclusive of any other remedies available under any other federal, state or local laws.~~

**SECTION 2.**

Article IV is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE IV. FOOD VENDING VEHICLE PROPERTY PERMITS**

**5.68.110 Food vending vehicle property permit required.**

A. No property owner shall allow another person to operate a food vending vehicle on their property for more than 30 minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No property owner shall allow another person to operate a food vending vehicle on their property in violation of any conditions of a property permit or conditional use permit in effect for that property, including but not limited to conditions relating to the number of vehicles allowed and hours of operation.

C. All property permits are the property of the city and each shall authorize the operation of food vending vehicles on a specified property. No person shall sell or transfer, or attempt to sell or transfer, any property permit.

**5.68.120 Property permit application.**

A. An application for a food vending vehicle property permit shall be filed with the director and shall contain the following:

1. The name, address, and telephone number of the permit applicant;

2. Address and description of the private property upon which the applicant wishes to operate one or more food vending vehicles;

3. Written evidence that the applicant is an owner, lessee, or holder of a similar interest in the private property;

4. The name and address of all owners of the private property;

5. Such other information as may be required by the director to further the purposes of this chapter.

B. Every application for a property permit shall be accompanied by a nonproratable and nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a property permit.

**5.68.130 Property permits for one or two food vending vehicles.**

A. If the applicant seeks a food vending vehicle property permit that authorizes the operation of one or two food vending vehicles on the subject property, the applicant shall comply with the following:

1. Not later than five days after filing a complete application required by section 5.68.120, the applicant shall post in a conspicuous place on the property for which the application was submitted, a notice of intent to allow food vending vehicles. The notice shall be provided by the city, and contain:

a. A heading of "NOTICE OF INTENT TO ALLOW FOOD VENDING VEHICLES ON THIS PROPERTY";

b. The name of the applicant;

c. A description of the type of operation sought in the application, including the number of food vending vehicles, the hours of operation, and any other information requested by the director;

d. The date that the director is required to act on the application, and a request that any comments or questions concerning the application should be communicated to the director prior to that date; and

e. Notice that the director's decision to grant the application may be appealed pursuant to Article VI of this chapter.

2. No later than five days after filing a complete application required by section 5.68.120, the applicant shall mail the notice of intent to allow food vending vehicles prescribed in subsection A.1 of this section to all owners of property as shown on the latest equalized assessment roll within a radius of 500 feet of the property that is the subject of the application.

B. Failure of any person to receive notice as required by subsection A of this section shall not affect the validity of any decision of the director.

C. Applications for a property permit shall be investigated by the director. The director shall take into consideration the existing uses of the surrounding properties and any public safety problems or nuisances that the issuance of the permit might create. The director shall also refer every application to the chief of police for a written report concerning any potential public safety problems, and to the planning director for a written report concerning the compatibility of the proposed use of the premises with existing zoning and neighborhood land uses. The director may also consider other sources of information.

**5.68.140 Property permits for more than two food vending vehicles.**

If the applicant seeks a food vending vehicle property permit that authorizes the operation of more than two food vending vehicles on the subject property at the same time, a valid conditional use permit for an outdoor market issued pursuant to the Planning and Development Code for the subject property is required. The application for a property permit must contain a copy of the conditional use permit, including all conditions of the permit.

**5.68.150 Property permit issuance and denial.**

A. In issuing a food vending vehicle property permit, the director may impose conditions on the permit relating to public health, safety, and welfare. The conditions may include, but are not limited to, regulations on the time of operations, the sale and consumption of alcohol, security measures, sanitation, restrooms, furniture, and lighting.

B. A property permit may be denied by the director on any of the following grounds:

1. The information submitted in the application for the property permit is materially false or incomplete;

2. The operation of food vending vehicles on the subject property would be a violation of this code, including but not limited to the provisions of Articles VII, VIII and IX of this chapter;

3. The operation of food vending vehicles on the subject property, in the director's opinion, would likely cause a public safety problem, create a public nuisance, or would otherwise be contrary to the public interest;

4. The applicant or any owner of the private property has unpaid administrative penalties imposed pursuant to chapter 1.28 for the violation of provisions of this chapter; or

5. Within 12 months of the date of application, the applicant or any owner of the private property has had a property permit revoked.

**5.68.160 Notice of decision.**

A. The director shall decide to grant or deny an application for a food vending vehicle property permit in writing within 60 days after the date of application.

B. Within five days after the director's decision, the director shall mail written notice of the decision to the applicant. The notice shall state whether the director issued or denied the property permit, and if the director issued the property permit, whether any conditions were imposed. The notice shall also contain a notification of appeal rights set forth in Article VI of this chapter.

C. The director shall also mail the written notice of the decision to all owners of property as shown on the latest equalized assessment roll within a radius of 500 feet of the property which is the subject of the application; and post the notice in a conspicuous place on the premises for which the application was submitted.

D. Failure of any person to receive notice as required by subsection B of this section shall not affect the validity of any decision made by the director.

**5.68.170 Term of property permit: renewal.**

A. All food vending vehicle property permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid property permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to 90 days. If a permittee files

an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Sections 5.68.130 and 5.68.140 and subsection C of section 5.68.160 do not apply to applications for the renewal of a valid property permit.

E. Property permit renewals may be issued or denied in accordance with the provisions of section 5.68.150.

F. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid property permit.

**5.68.180 Exemption of heavy commercial and industrial zoning districts.**

An owner of private property in a heavy commercial and industrial zoning district is exempt from the food vending vehicle property permit requirement in section 5.68.110, as it applies to that property.

**5.68.190 Exemption of construction sites.**

An owner of private property upon which any building or structure is being constructed, demolished, altered, or repaired is exempt from the food vending vehicle property permit requirement in section 5.68.110, as it applies to that property, during the hours that such activity is taking place, and for the purpose of selling food and beverages to persons engaging in such activity.

**5.68.200 Exemption of established operations on private property.**

A. An owner of private property shall be exempt from the food vending vehicle property permit requirement in section 5.68.110 and chapter 17.232 (non-conforming use), if the food vending vehicle permittee operating on the property has an established operation on private property, as provided in this section.

B. A food vending vehicle permittee has an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has

operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection A is subject to the following conditions:

1. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;

2. The exemption applies only as long as the property owner's consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as a food vending vehicle permit related to a vehicle operating on the property, is continuously maintained as valid. If the vehicle permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a vehicle permit is subsequently obtained;

4. This exemption applies only as long as the business of operating a food vending vehicle that was operating on the property on March 31, 2008 is continuously operating there. If the business is sold, the new owner may continue to operate a food vending vehicle on the property in accordance with this exemption;

5. This exemption applies to the operation of only one food vending vehicle on the property;

6. A person may only operate a food vending vehicle in accordance with this exemption between the hours of 5:00 a.m. of one day, and 2:00 a.m. of the following day; and

7. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.

### SECTION 3.

Article V is added to chapter 5.68 of the Sacramento City Code to read as follows:

#### **ARTICLE V. SUSPENSION, REVOCATION, AND MODIFICATION OF PERMITS**

##### **5.68.210 Grounds for suspending, revoking, or modifying a permit.**

The director may suspend, revoke, or modify any permit issued pursuant to this chapter on any of the following grounds:

A. The director determines that any activity authorized by the permit is being carried out in a manner that constitutes a nuisance, or is injurious to the public health, safety, or welfare;

B. The operation of a food vending vehicle violates any condition of the permit or the conditional use permit of the private property upon which it is operating;

C. The operation of a food vending vehicle violates any provision of this chapter, this code, the Sacramento County Code, state law, or any other applicable law, including, but not limited to:

1. Chapter 5.68 regarding food vending vehicles,

2. Chapter 5.88 regarding outdoor vending,

3. Chapter 10.60 regarding the broadcasting of sound, and

4. The California Retail Food Code (commencing with section 113700 of the California Health and Safety Code); or

D. There exists any of the grounds that would have been grounds for denial of the permit application.

**5.68.220Hearing required—Exception.**

A. No permit issued pursuant to this chapter shall be suspended, revoked, or modified until the permittee is provided notice pursuant to section 5.68.230 and an opportunity to be heard by the director.

B. Notwithstanding subsection A of this section, a permit issued pursuant to this chapter may be suspended or revoked immediately upon the director's determination that any of the following circumstances exist:

1. The food vending vehicle permittee is in violation of the insurance requirements set for the in section 5.68.060; or

2. Immediate suspension or revocation of the permit is necessary to protect the public health, safety, or welfare.

C. After a permit is immediately suspended or revoked pursuant to subsection B of this section, the permittee shall be provided notice pursuant to section 5.68.230 and an opportunity to be heard by the director.

**5.68.230 Notice of hearing.**

A. Notice of a hearing on the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter shall be served on the permittee. The notice shall be in writing and contain a brief statement of the grounds for the action, and the date, time, and location of the hearing.

B. The notice of hearing shall be served personally or by certified mail to the permittee at the address submitted in the permit application at least 10 calendar days prior to the hearing. Service by certified mail is complete at the time the notice is deposited in the mail.

**5.68.240 Notice of decision.**

A. If, after the permittee has had an opportunity to be heard, the director decides to suspend, revoke, or modify a permit issued pursuant to this chapter, the director shall cause written notice of the decision to be served personally or by certified mail to the permittee. The notice shall be in writing and contain:

1. The specific grounds for the decision;

2. A statement that the permittee may appeal the decision by submitting an appeal, in writing to the director, within ten calendar days of the date of service of the notice; and

3. A statement advising that the failure to appeal the decision will constitute a waiver of all rights to an appeal hearing, and the decision will be final. Failure to properly and timely appeal the decision shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the director's decision.

B. The notice of decision shall be served personally or by certified mail to the permittee at the address submitted in the permit application. Service by certified mail is complete at the time the notice is deposited in the mail.

**5.68.250 Return of the permit.**

A permittee shall return any permit that has been suspended or revoked to the director within three calendar days of the receipt of the notice of the director's decision.

**SECTION 4.**

Article VI is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE VI. APPEALS**

**5.68.260 Appeal of suspension, revocation, or modification of permit.**

Any permittee aggrieved by the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter, may appeal the decision by filing a written notice of appeal with the director within 10 calendar days from the date of service of the notice of decision.

**5.12.270 Appeal of issuance of food vending vehicle property permit.**

Any aggrieved person may appeal the decision of the director to grant an application for a food vending vehicle property permit by filing a written notice of appeal with the director within 25 calendar days from the date of service of the notice of decision.

**5.68.280 Written notices of appeal.**

A. A written notice of appeal required by this chapter shall contain:

1. A brief statement in ordinary and concise language of the specific decision appealed;

2. A brief statement in ordinary and concise language of the reasons why it is claimed the protested decision should be reversed or otherwise set aside, any material facts claimed to support the contentions of the appellant, and the relief sought;

3. The signatures of all appellants and their official mailing addresses; and

4. A declaration under penalty of perjury by at least one appellant as to the truth of the matters stated in the notice of appeal.

**5.68.290 Appeal hearing.**

A. All appeals shall be heard by a hearing examiner appointed pursuant to section 8.04.070.

B. Upon receipt of any appeal filed pursuant to this section, the director shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:

1. If the appeal is received by the director not later than 15 days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on that date.

2. If the appeal is received by the director less than 15 days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on the next subsequent appeal hearing date.

C. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

D. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the appeal hearing.

#### **5.68.300 Failure to appeal.**

Failure of any person to file a timely appeal in accordance with the provisions of this chapter constitutes an irrevocable waiver of the right to an administrative appeal a failure to exhaust administrative remedies.

### **SECTION 5.**

Article VII is added to chapter 5.68 the Sacramento City Code to read as follows:

#### **ARTICLE VII. OPERATION—GENERALLY**

##### **5.68.310 Stopping.**

No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner.

##### **5.68.320 Lighting.**

No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties.

##### **5.68.330 Utilities.**

No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water, or any other utilities, unless the connection is expressly approved as a condition of a valid food vending vehicle property permit.

##### **5.68.340 Signs and furniture.**

No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle.

**5.68.350 Blocking vehicular and pedestrian traffic.**

While operating a food vending vehicle, vendors shall keep customers and other patrons from blocking all streets, sidewalks, paths, driveways, doorways, and other avenues of vehicular and pedestrian traffic.

**5.68.360 Maintain area free of trash.**

While operating a food vending vehicle, vendors shall maintain the area surrounding the vehicle free of trash and other debris. Vendors shall provide their customers with a receptacle for garbage and pick up any trash in the area before leaving. Vendors shall not dump garbage or trash generated by the operation of the food vending vehicle in any public or private garbage receptacle that is not owned by or leased to the vendor.

**5.68.370 Toilet and handwashing facilities.**

A. No person shall operate a food vending vehicle while stopped for more than a one-hour period in any location, or within 400 feet of that location, unless prior to stopping, the food vending vehicle permittee has provided the director with a copy of the County of Sacramento's approval of readily available toilet and handwashing facilities within 200 feet travel distance of that location, issued in accordance with section 114315 of the California Health and Safety Code.

B. A copy of the County's approval shall be maintained with the corresponding food vending vehicle at all times and be posted in a location that is easily visible by patrons.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present a copy of the County's approval that is in effect for that vehicle.

**SECTION 6.**

Article VIII is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE VIII. OPERATION ON THE STREET**

**5.68.380 Operation near other food vending vehicles prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 400 feet of any other food vending vehicle.

**5.68.390 Operation near intersection prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 50 feet of any street intersection controlled by a traffic light or stop sign.

**5.68.400 Operation near outdoor seating prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 100 feet of any outdoor seating area of any restaurant, café, or other business.

**5.68.410 Operation near schools restricted.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 400 feet of any elementary, middle, junior high, or high school between the hours of 7:00 a.m. and 4:00 p.m. on days that school is in session.

**5.68.420 Operation near entertainment establishments restricted.**

No person shall operate a food vending vehicle while stopped, standing, or parked on the street within 1000 feet of any establishment that maintains a valid entertainment permit, issued pursuant to chapter 5.108, between 1:00 a.m. and 3:00 a.m.

**5.68.425 Operation adjacent to property in a residential zoning district.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked adjacent to any property in a residential zoning district:

A. Later than 8:00 p.m. or earlier than 8:00 a.m. of any day during the months of April, May, June, July, August, September and October; or

B. Later than 6:00 p.m. or earlier than 8:00 a.m. of any day during the months of November, December, January, February, and March.

**5.68.430 Operation within parking regulations.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked in violation of any parking regulation.

**SECTION 7.**

Article IX is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE IX. OPERATION ON PRIVATE PROPERTY**

**5.68.440 No operation on property in a residential zoning district.**

Notwithstanding any provision of this code to the contrary, no person shall operate a food vending vehicle on private property in a residential zoning district.

**5.68.450 Property permit required.**

A. No person shall operate a food vending vehicle on private property for more than 30 minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No person shall operate a food vending vehicle on private property in violation of any condition of any applicable property permit or conditional use permit.

C. A person shall be exempt from subsections A and B of this section, if the owner of the private property is exempt from the food vending vehicle property permit requirement in section 5.68.110, as it applies to that property, pursuant to Article IV of this chapter.

**5.68.460 Consent required.**

A. No person shall operate a food vending vehicle on private property unless the property owner has given the vendor his express written consent to do so.

C. Prior to vending on private property, the written consent of the owner of the property shall be provided to the director, in the form approved by the director.

D. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.

E. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle.

**5.68.470 Operation on private property—Generally.**

No person shall operate a food vending vehicle on private property if any of the following conditions apply:

A. The food vending vehicle is stopped, standing, or parked in any location on the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;

B. The food vending vehicle is stopped, standing, or parked on any surface that is not paved with concrete, asphalt, or other similar material; or

C. The food vending vehicle is occupying or blocking any parking spaces required for the primary use of the parcel as determined pursuant to chapter 17.608.

**SECTION 8.**

Section 5.88.080 is added to the Sacramento City Code to read as follows:

**5.88.080 Food vending vehicles.**

Section 5.88.040 notwithstanding, a person may operate a food vending vehicle, as defined in and in accordance with chapter 5.68, within Old Sacramento.

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING CHAPTER 5.68 OF THE SACRAMENTO CITY CODE, ADDING ARTICLES IV THROUGH IX TO CHAPTER 5.68 OF THE SACRAMENTO CITY CODE, AND ADDING SECTION 5.88.080 TO THE SACRAMENTO CITY CODE, RELATING TO FOOD VENDING VEHICLES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.68 of the Sacramento City Code is amended to read as follows:

**ARTICLE I. GENERAL PROVISIONS**

**5.68.005 Purpose and findings.**

Food vending vehicles benefit our community by providing services to those who live and work in areas where food may not be readily available. In addition, they offer an entrepreneurial opportunity for the people in our community to open a small business and provide unique foods that may not be available at brick-and-mortar restaurants.

The city also needs to protect the public by ensuring that these large vehicles are operated in a safe manner and do not create nuisances in our neighborhoods. Reasonable regulations are necessary to ensure that food vending vehicles are operated in accordance with health laws of the State; do not block or hinder vehicle or pedestrian traffic on our streets and sidewalks; do not cause public safety problems by contributing to crowding near schools and entertainment establishments; and do not disturb the quiet use and enjoyment of our residential neighborhoods. Therefore, the regulations in this chapter are enacted in accordance with the authority granted in section 22455 of the California Vehicle Code.

**5.68.010 Definitions.**

As used in this chapter, the following definitions apply:

“Director” means the city’s director of finance, or his or her designee.

“Driver permit” means a food vending vehicle driver permit.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” does not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Heavy commercial and industrial zoning districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Property permit” means a food vending vehicle property permit.

“Residential zoning districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, and RO zoning districts as established pursuant to Title 17.

“Vehicle permit” means a food vending vehicle permit.

“Vendor” means any person who operates a food vending vehicle.

#### **5.68.015 Violations.**

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues.

D. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

### **ARTICLE II. FOOD VENDING VEHICLE PERMITS**

#### **5.68.020 Food vending vehicle permit required.**

A. No person shall operate a food vending vehicle unless a food vending vehicle permit issued pursuant to this chapter is in effect for that food vending vehicle.

B. Every permittee, upon receipt of a vehicle permit, shall maintain the permit with the vehicle for which it is issued, at all times the food vending vehicle is being operated.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present the vehicle permit that is in effect for that vehicle.

D. All vehicle permits are the property of the city and each shall authorize the operation of a single specific food vending vehicle. No person shall sell or transfer, or attempt to sell or transfer, any vehicle permit.

**5.68.030 Vehicle permit application.**

A. An application for a food vending vehicle permit shall be filed with the director and shall contain the following:

1. The individual and business name, address, and telephone number of the permit applicant;

2. Written evidence that the applicant is an owner, lessee or holder of a similar interest in the food vending vehicle;

3. The name and address of all legal and registered owner(s) of the food vending vehicle, and each person with a financial interest in the business that operates the food vending vehicle;

4. A copy of a valid business operations tax certificate issued pursuant to chapter 3.08;

5. The state vehicle license plate number and the vehicle identification number of the food vending vehicle;

6. Proof of compliance with the insurance requirements set forth in section 5.68.060;

7. Proof that the vehicle is in compliance with applicable requirements of the state of California and the county of Sacramento regarding the operation of a food vending vehicle;

8. The address where the food vending vehicle is stored when not in use;

9. For each person with a 10 percent or greater financial interest in the business that operates the food vending vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such

conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a 10 percent or greater financial interest in the business that operates the food vending vehicle during the life of the permit issued pursuant to this chapter shall immediately so notify the director and comply with this subsection. Any holder of a valid food vending vehicle driver permit issued pursuant to section 5.68.100 shall be exempt from the requirements of this subsection;

10. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a vehicle permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a vehicle permit.

#### **5.68.040 Vehicle permit issuance and denial.**

A. Except as provided in subsection C of this section, a food vending vehicle permit shall be issued by the director upon receipt of a complete application and payment of the permit fee, as specified in section 5.68.030, and after the director has:

1. Physically inspected the food vending vehicle to ensure compliance with this code and the California Vehicle Code equipment requirements; provided, however, that the director may accept proof of compliance with state of California or Sacramento County inspection requirements for operating a food vending vehicle in lieu of conducting an inspection; and

2. Determined that the business location and vehicle storage location, if within the city, comply with applicable zoning regulations and other codes.

B. A vehicle permit may be denied by the director on any of the following grounds:

1. The information submitted pursuant to section 5.68.030 is materially false or incomplete;

2. The applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has any unpaid administrative penalties imposed pursuant to chapter 1.28;

3. Within 12 months of the date of application, the applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has had his or her vehicle permit revoked;

4. The applicant has not paid the applicable business operations tax pursuant to chapter 3.08; or

5. A person with 10 percent or greater financial interest in the operation of the food vending vehicle has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under California Penal Code section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or having the effect of substantially injuring another.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection C.5 only if the director finds that the crime or act is substantially related to the qualifications, functions or duties of a food vending vehicle owner or owner of a business which operates food vending vehicles or has substantial contact with minors. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under California Penal Code section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code section 4852.01, et seq.

**5.68.045 Term of vehicle permit; renewal.**

A. All food vending vehicle permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid vehicle permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to 90 days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

E. Vehicle permit renewals may be issued or denied in accordance with the provisions of section 5.68.040.

F. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid vehicle permit.

**5.68.050 Posting requirements.**

A. No person shall operate a food vending vehicle unless the food vending vehicle permit decal, as provided by the director, is displayed on the vehicle window in a manner specified by the director.

B. No person shall operate a food vending vehicle unless the food vending vehicle number, as provided by the director, is permanently posted on the exterior of the vehicle and in a location that is clearly visible to patrons. The numbers shall be legible, not less than three and one-half inches in height and in a color that contrasts with the color of the background upon which it is placed.

**5.68.060 Liability insurance.**

A. During the term of a food vending vehicle permit issued pursuant to this chapter, the permittee or owner(s) of a food vending vehicle authorized by the permit shall maintain in full force and effect at no cost to the city a comprehensive auto and general liability insurance policy:

1. In an amount not less than one million dollars single limit per occurrence; and

2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and

3. Providing that the city, its officers, employees and agents are named as additional insureds under the policy; and

4. Covering all losses and damages as specified in section 5.68.070; and

5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder; and

6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the vehicle permit, without 30 days written notice to the director prior to the effective date of such cancellation or change in coverage.

B. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with subsection A of this section, the permittee shall notify the city of the cancellation, expiration, or change within three business days after its effective date by submitting a written notice to the director. The giving of notice as provided herein shall not stay the automatic suspension of the permit pursuant to section 5.68.220.

C. No person shall operate a food vending vehicle without insurance coverage in effect as required by this section.

**5.68.070 Indemnify and hold harmless.**

The permittee and food vending vehicle owner(s) shall defend, indemnify and hold harmless the city, its officers, employees and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permittee or the permittee's agents, officers or employees, directly or indirectly arising from the operation of the food vending vehicle.

**ARTICLE III. FOOD VENDING VEHICLE DRIVER PERMITS**

**5.68.080 Food vending vehicle driver permit required.**

A. No person shall drive a food vending vehicle unless the person holds a valid food vending vehicle driver permit issued pursuant to this chapter.

B. Every driver of a food vending vehicle shall have the valid driver permit issued to him or her in his or her immediate possession at all times when driving a food vending vehicle.

C. Upon demand of a peace officer, or city employee authorized to enforce this chapter, the driver of a food vending vehicle shall present his or her driver permit for examination.

D. All driver permits are the property of the city and each shall authorize a single specific food vending vehicle driver. No person shall sell or transfer, or attempt to sell or transfer, any driver permit.

**5.68.090 Food vending vehicle driver permit procedure.**

A. Applications for a food vending vehicle driver permit shall be filed with the director and shall contain the following:

1. The name and address of the applicant;
2. The number of a valid state driver license issued to the applicant, authorizing the applicant to drive a food vending vehicle, and date of license expiration;
3. A statement of whether the applicant's state driver license has ever been revoked or suspended and, if so, the reason(s) for such revocation or suspension;
4. A list, signed under penalty of perjury, of each conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which applicant was convicted;
5. A list of the applicant's physical or mental conditions, or any medications being taken, that would interfere with the proper management and control of a motor vehicle;
6. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a driver permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a driver permit.

**5.68.100 Driver permit issuance and denial.**

A. Except as provided in subsection C of this section, a food vending vehicle driver permit shall be issued by the director:

1. Upon receipt of a complete application and payment of the permit fee, as specified in section 5.68.090;
2. After fingerprinting of the applicant by the police department, if the director so requires; and
3. After submission of four recent dated portrait photographs, one to be attached to the application, one to be attached to the driver permit if issued, and two for the use of the police department.

B. A driver permit shall be denied by the director on any of the following grounds:

1. The applicant failed to comply with the requirements of this section;
2. The information submitted pursuant to section 5.68.090 is materially false or incomplete;
3. The applicant has any unpaid administrative penalties imposed pursuant to chapter 1.28 for the violation of provisions of this chapter;
4. Within 12 months of the date of application, the applicant has had his or her driver permit revoked; or
5. The applicant has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under California Penal Code section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or has a physical or mental disability or incapacity, or takes medication, uses alcohol or any controlled substance as defined in the California Health and Safety Code.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection C.5 only if the director finds the crime, act, disability, incapacity or impairment from a substance consumed is substantially related to the qualifications, functions or duties of a food vending vehicle driver. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under California Penal Code section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under California Penal Code section 4852.01, et seq.

**5.68.105 Term of driver permit; renewal.**

A. All food vending vehicle driver permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid driver permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to 90 days. If a permittee files an application for renewal after March 31st but before May 1st, without an

extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Driver permit renewals may be issued or denied in accordance with the provisions of section 5.68.100.

E. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid driver permit.

## SECTION 2.

Article IV is added to chapter 5.68 the Sacramento City Code to read as follows:

### **ARTICLE IV. FOOD VENDING VEHICLE PROPERTY PERMITS**

#### **5.68.110 Food vending vehicle property permit required.**

A. No property owner shall allow another person to operate a food vending vehicle on their property for more than 30 minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No property owner shall allow another person to operate a food vending vehicle on their property in violation of any conditions of a property permit or conditional use permit in effect for that property, including but not limited to conditions relating to the number of vehicles allowed and hours of operation.

C. All property permits are the property of the city and each shall authorize the operation of food vending vehicles on a specified property. No person shall sell or transfer, or attempt to sell or transfer, any property permit.

#### **5.68.120 Property permit application.**

A. An application for a food vending vehicle property permit shall be filed with the director and shall contain the following:

1. The name, address, and telephone number of the permit applicant;
2. Address and description of the private property upon which the applicant wishes to operate one or more food vending vehicles;
3. Written evidence that the applicant is an owner, lessee, or holder of a similar interest in the private property;
4. The name and address of all owners of the private property;
5. Such other information as may be required by the director to further the purposes of this chapter.

B. Every application for a property permit shall be accompanied by a nonproratable and nonrefundable application fee in an amount established by resolution of the city council.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a property permit.

#### **5.68.130 Property permits for one or two food vending vehicles.**

A. If the applicant seeks a food vending vehicle property permit that authorizes the operation of one or two food vending vehicles on the subject property, the applicant shall comply with the following:

1. Not later than five days after filing a complete application required by section 5.68.120, the applicant shall post in a conspicuous place on the property for which the application was submitted, a notice of intent to allow food vending vehicles. The notice shall be provided by the city, and contain:

- a. A heading of "NOTICE OF INTENT TO ALLOW FOOD VENDING VEHICLES ON THIS PROPERTY";

- b. The name of the applicant;

- c. A description of the type of operation sought in the application, including the number of food vending vehicles, the hours of operation, and any other information requested by the director;

- d. The date that the director is required to act on the application, and a request that any comments or questions concerning the application should be communicated to the director prior to that date; and

- e. Notice that the director's decision to grant the application may be appealed pursuant to Article VI of this chapter.

2. No later than five days after filing a complete application required by section 5.68.120, the applicant shall mail the notice of intent to allow food vending vehicles prescribed in subsection A.1 of this section to all owners of property as shown on the latest equalized assessment roll within a radius of 500 feet of the property that is the subject of the application.

B. Failure of any person to receive notice as required by subsection A of this section shall not affect the validity of any decision of the director.

C. Applications for a property permit shall be investigated by the director. The director shall take into consideration the existing uses of the surrounding properties and any public safety problems or nuisances that the issuance of the permit might create. The director shall also refer every application to the chief of police for a written report concerning any potential public safety problems, and to the planning director for a written report concerning the compatibility of the proposed use of the premises with existing zoning and neighborhood land uses. The director may also consider other sources of information.

**5.68.140 Property permits for more than two food vending vehicles.**

If the applicant seeks a food vending vehicle property permit that authorizes the operation of more than two food vending vehicles on the subject property at the same time, a valid conditional use permit for an outdoor market issued pursuant to the Planning and Development Code for the subject property is required. The application for a property permit must contain a copy of the conditional use permit, including all conditions of the permit.

**5.68.150 Property permit issuance and denial.**

A. In issuing a food vending vehicle property permit, the director may impose conditions on the permit relating to public health, safety, and welfare. The conditions may include, but are not limited to, regulations on the time of operations, the sale and consumption of alcohol, security measures, sanitation, restrooms, furniture, and lighting.

B. A property permit may be denied by the director on any of the following grounds:

1. The information submitted in the application for the property permit is materially false or incomplete;

2. The operation of food vending vehicles on the subject property would be a violation of this code, including but not limited to the provisions of Articles VII, VIII and IX of this chapter;

3. The operation of food vending vehicles on the subject property, in the director's opinion, would likely cause a public safety problem, create a public nuisance, or would otherwise be contrary to the public interest;

4. The applicant or any owner of the private property has unpaid administrative penalties imposed pursuant to chapter 1.28 for the violation of provisions of this chapter; or

5. Within 12 months of the date of application, the applicant or any owner of the private property has had a property permit revoked.

**5.68.160 Notice of decision.**

A. The director shall decide to grant or deny an application for a food vending vehicle property permit in writing within 60 days after the date of application.

B. Within five days after the director's decision, the director shall mail written notice of the decision to the applicant. The notice shall state whether the director issued or denied the property permit, and if the director issued the property permit, whether any conditions were imposed. The notice shall also contain a notification of appeal rights set forth in Article VI of this chapter.

C. The director shall also mail the written notice of the decision to all owners of property as shown on the latest equalized assessment roll within a radius of 500 feet of the property which is the subject of the application; and post the notice in a conspicuous place on the premises for which the application was submitted.

D. Failure of any person to receive notice as required by subsection B of this section shall not affect the validity of any decision made by the director.

**5.68.170 Term of property permit; renewal.**

A. All food vending vehicle property permits shall expire on April 30th of the calendar year following the date of issuance, unless sooner revoked.

B. A permittee may file an application for renewal of a valid property permit with the director between March 1st and March 31st for the permit period beginning the following May 1st. Upon the applicant's request and a showing of a delay caused by circumstances beyond the applicant's control, the director may grant an extension of the March 31st deadline, up to 90 days. If a permittee files an application for renewal after March 31st but before May 1st, without an extension, the city may impose a late penalty in an amount established by resolution of the city council and the permit renewal may not be issued prior to

the expiration of the current permit. Any renewal application filed after the permit has expired shall be denied, unless an extension has been granted.

C. Renewal applications shall contain information as may be required by the director to further the purpose of this chapter and shall be accompanied by a nonproratable and nonrefundable renewal application fee in an amount established by resolution of the city council.

D. Sections 5.68.130 and 5.68.140 and subsection C of section 5.68.160 do not apply to applications for the renewal of a valid property permit.

E. Property permit renewals may be issued or denied in accordance with the provisions of section 5.68.150.

F. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for the renewal of a valid property permit.

**5.68.180 Exemption of heavy commercial and industrial zoning districts.**

An owner of private property in a heavy commercial and industrial zoning district is exempt from the food vending vehicle property permit requirement in section 5.68.110, as it applies to that property.

**5.68.190 Exemption of construction sites.**

An owner of private property upon which any building or structure is being constructed, demolished, altered, or repaired is exempt from the food vending vehicle property permit requirement in section 5.68.110, as it applies to that property, during the hours that such activity is taking place, and for the purpose of selling food and beverages to persons engaging in such activity.

**5.68.200 Exemption of established operations on private property.**

A. An owner of private property shall be exempt from the food vending vehicle property permit requirement in section 5.68.110 and chapter 17.232 (non-conforming use), if the food vending vehicle permittee operating on the property has an established operation on private property, as provided in this section.

B. A food vending vehicle permittee has an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection A is subject to the following conditions:

1. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;

2. The exemption applies only as long as the property owner's consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as a food vending vehicle permit related to a vehicle operating on the property, is continuously maintained as valid. If the vehicle permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a vehicle permit is subsequently obtained;

4. This exemption applies only as long as the business of operating a food vending vehicle that was operating on the property on March 31, 2008 is continuously operating there. If the business is sold, the new owner may continue to operate a food vending vehicle on the property in accordance with this exemption;

5. This exemption applies to the operation of only one food vending vehicle on the property;

6. A person may only operate a food vending vehicle in accordance with this exemption between the hours of 5:00 a.m. of one day, and 2:00 a.m. of the following day; and

7. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.

### SECTION 3.

Article V is added to chapter 5.68 of the Sacramento City Code to read as follows:

#### **ARTICLE V. SUSPENSION, REVOCATION, AND MODIFICATION OF PERMITS**

##### **5.68.210 Grounds for suspending, revoking, or modifying a permit.**

The director may suspend, revoke, or modify any permit issued pursuant to this chapter on any of the following grounds:

A. The director determines that any activity authorized by the permit is being carried out in a manner that constitutes a nuisance, or is injurious to the public health, safety, or welfare;

B. The operation of a food vending vehicle violates any condition of the permit or the conditional use permit of the private property upon which it is operating;

C. The operation of a food vending vehicle violates any provision of this chapter, this code, the Sacramento County Code, state law, or any other applicable law, including, but not limited to:

1. Chapter 5.68 regarding food vending vehicles,
2. Chapter 5.88 regarding outdoor vending,
3. Chapter 10.60 regarding the broadcasting of sound, and

4. The California Retail Food Code (commencing with section 113700 of the California Health and Safety Code); or

D. There exists any of the grounds that would have been grounds for denial of the permit application.

**5.68.220 Hearing required—Exception.**

A. No permit issued pursuant to this chapter shall be suspended, revoked, or modified until the permittee is provided notice pursuant to section 5.68.230 and an opportunity to be heard by the director.

B. Notwithstanding subsection A of this section, a permit issued pursuant to this chapter may be suspended or revoked immediately upon the director's determination that any of the following circumstances exist:

1. The food vending vehicle permittee is in violation of the insurance requirements set for the in section 5.68.060; or

2. Immediate suspension or revocation of the permit is necessary to protect the public health, safety, or welfare.

C. After a permit is immediately suspended or revoked pursuant to subsection B of this section, the permittee shall be provided notice pursuant to section 5.68.230 and an opportunity to be heard by the director.

**5.68.230 Notice of hearing.**

A. Notice of a hearing on the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter shall be served on the permittee. The notice shall be in writing and contain a brief statement of the grounds for the action, and the date, time, and location of the hearing.

B. The notice of hearing shall be served personally or by certified mail to the permittee at the address submitted in the permit application at least 10 calendar days prior to the hearing. Service by certified mail is complete at the time the notice is deposited in the mail.

**5.68.240 Notice of decision.**

A. If, after the permittee has had an opportunity to be heard, the director decides to suspend, revoke, or modify a permit issued pursuant to this chapter, the director shall cause written notice of the decision to be served personally or by certified mail to the permittee. The notice shall be in writing and contain:

1. The specific grounds for the decision;
2. A statement that the permittee may appeal the decision by submitting an appeal, in writing to the director, within ten calendar days of the date of service of the notice; and
3. A statement advising that the failure to appeal the decision will constitute a waiver of all rights to an appeal hearing, and the decision will be final. Failure to properly and timely appeal the decision shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the director's decision.

B. The notice of decision shall be served personally or by certified mail to the permittee at the address submitted in the permit application. Service by certified mail is complete at the time the notice is deposited in the mail.

**5.68.250 Return of the permit.**

A permittee shall return any permit that has been suspended or revoked to the director within three calendar days of the receipt of the notice of the director's decision.

**SECTION 4.**

Article VI is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE VI. APPEALS**

**5.68.260 Appeal of suspension, revocation, or modification of permit.**

Any permittee aggrieved by the director's decision to suspend, revoke, or modify a permit issued pursuant to this chapter, may appeal the decision by filing a written notice of appeal with the director within 10 calendar days from the date of service of the notice of decision.

**5.12.270 Appeal of issuance of food vending vehicle property permit.**

Any aggrieved person may appeal the decision of the director to grant an application for a food vending vehicle property permit by filing a written notice of appeal with the director within 25 calendar days from the date of service of the notice of decision.

**5.68.280 Written notices of appeal.**

- A. A written notice of appeal required by this chapter shall contain:
  - 1. A brief statement in ordinary and concise language of the specific decision appealed;
  - 2. A brief statement in ordinary and concise language of the reasons why it is claimed the protested decision should be reversed or otherwise set aside, any material facts claimed to support the contentions of the appellant, and the relief sought;
  - 3. The signatures of all appellants and their official mailing addresses; and
  - 4. A declaration under penalty of perjury by at least one appellant as to the truth of the matters stated in the notice of appeal.

**5.68.290 Appeal hearing.**

- A. All appeals shall be heard by a hearing examiner appointed pursuant to section 8.04.070.
- B. Upon receipt of any appeal filed pursuant to this section, the director shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:
  - 1. If the appeal is received by the director not later than 15 days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on that date.
  - 2. If the appeal is received by the director less than 15 days prior to the next regularly scheduled appeal hearing date, it shall be calendared for hearing on the next subsequent appeal hearing date.

C. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

D. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the appeal hearing.

**5.68.300 Failure to appeal.**

Failure of any person to file a timely appeal in accordance with the provisions of this chapter constitutes an irrevocable waiver of the right to an administrative appeal a failure to exhaust administrative remedies.

SECTION 5.

Article VII is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE VII. OPERATION—GENERALLY**

**5.68.310 Stopping.**

No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner.

**5.68.320 Lighting.**

No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties.

**5.68.330 Utilities.**

No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water, or any other utilities, unless the connection is expressly approved as a condition of a valid food vending vehicle property permit.

**5.68.340 Signs and furniture.**

No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle.

**5.68.350 Blocking vehicular and pedestrian traffic.**

While operating a food vending vehicle, vendors shall keep customers and other patrons from blocking all streets, sidewalks, paths, driveways, doorways, and other avenues of vehicular and pedestrian traffic.

**5.68.360 Maintain area free of trash.**

While operating a food vending vehicle, vendors shall maintain the area surrounding the vehicle free of trash and other debris. Vendors shall provide their customers with a receptacle for garbage and pick up any trash in the area before leaving. Vendors shall not dump garbage or trash generated by the operation of the food vending vehicle in any public or private garbage receptacle that is not owned by or leased to the vendor.

**5.68.370 Toilet and handwashing facilities.**

A. No person shall operate a food vending vehicle while stopped for more than a one-hour period in any location, or within 400 feet of that location, unless prior to stopping, the food vending vehicle permittee has provided the director with a copy of the County of Sacramento’s approval of readily available toilet and handwashing facilities within 200 feet travel distance of that location, issued in accordance with section 114315 of the California Health and Safety Code.

B. A copy of the County’s approval shall be maintained with the corresponding food vending vehicle at all times and be posted in a location that is easily visible by patrons.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present a copy of the County’s approval that is in effect for that vehicle.

**SECTION 6.**

Article VIII is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE VIII. OPERATION ON THE STREET**

**5.68.380 Operation near other food vending vehicles prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 400 feet of any other food vending vehicle.

**5.68.390 Operation near intersection prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 50 feet of any street intersection controlled by a traffic light or stop sign.

**5.68.400 Operation near outdoor seating prohibited.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 100 feet of any outdoor seating area of any restaurant, café, or other business.

**5.68.410 Operation near schools restricted.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked within 400 feet of any elementary, middle, junior high, or high school between the hours of 7:00 a.m. and 4:00 p.m. on days that school is in session.

**5.68.420 Operation near entertainment establishments restricted.**

No person shall operate a food vending vehicle while stopped, standing, or parked on the street within 1000 feet of any establishment that maintains a valid entertainment permit, issued pursuant to chapter 5.108, between 1:00 a.m. and 3:00 a.m.

**5.68.425 Operation adjacent to property in a residential zoning district.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked adjacent to any property in a residential zoning district:

- A. Later than 8:00 p.m. or earlier than 8:00 a.m. of any day during the months of April, May, June, July, August, September and October; or
- B. Later than 6:00 p.m. or earlier than 8:00 a.m. of any day during the months of November, December, January, February, and March.

**5.68.430 Operation within parking regulations.**

No person shall operate a food vending vehicle on the street while stopped, standing, or parked in violation of any parking regulation.

SECTION 7.

Article IX is added to chapter 5.68 the Sacramento City Code to read as follows:

**ARTICLE IX. OPERATION ON PRIVATE PROPERTY**

**5.68.440 No operation on property in a residential zoning district.**

Notwithstanding any provision of this code to the contrary, no person shall operate a food vending vehicle on private property in a residential zoning district.

**5.68.450 Property permit required.**

A. No person shall operate a food vending vehicle on private property for more than 30 minutes, unless a food vending vehicle property permit issued pursuant to this chapter is in effect for that property.

B. No person shall operate a food vending vehicle on private property in violation of any condition of any applicable property permit or conditional use permit.

C. A person shall be exempt from subsections A and B of this section, if the owner of the private property is exempt from the food vending vehicle property permit requirement in section 5.68.110, as it applies to that property, pursuant to Article IV of this chapter.

**5.68.460 Consent required.**

A. No person shall operate a food vending vehicle on private property unless the property owner has given the vendor his express written consent to do so.

C. Prior to vending on private property, the written consent of the owner of the property shall be provided to the director, in the form approved by the director.

D. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.

E. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle.

**5.68.470 Operation on private property—Generally.**

No person shall operate a food vending vehicle on private property if any of the following conditions apply:

A. The food vending vehicle is stopped, standing, or parked in any location on the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;

B. The food vending vehicle is stopped, standing, or parked on any surface that is not paved with concrete, asphalt, or other similar material; or

C. The food vending vehicle is occupying or blocking any parking spaces required for the primary use of the parcel as determined pursuant to chapter 17.608.

SECTION 8.

Section 5.88.080 is added to the Sacramento City Code to read as follows:

**5.88.080 Food vending vehicles.**

Section 5.88.040 notwithstanding, a person may operate a food vending vehicle, as defined in and in accordance with chapter 5.68, within Old Sacramento.

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTION 17.108.160 OF  
THE SACRAMENTO CITY CODE, RELATING TO THE  
DEFINITION OF “OUTDOOR MARKET”**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. The definition of “outdoor market” in section 17.108.160 of the Sacramento City Code is amended to read as follows:

“Outdoor market” means a marketplace, not confined to a building, with one or more individual stalls or vendors that sell products such as new or used goods, wares, merchandise, limited services, fresh food items, pre-packaged food items, and flowers or plants. An outdoor market may be permanent or a periodic/occasional event. An outdoor market is also common known as a flea market, outdoor bazaar, farmer’s market, open-air market, produce market, or community market. Outdoor market includes the sale of food and beverages from food vending vehicles, unless only one or two food vending vehicles are on the property. The operation of food vending vehicles must comply with chapter 5.68. A business displaying merchandise outside a fully enclosed building in association with a business where purchase of such merchandise ordinarily takes place within a building is not considered an outdoor market. See section 5.88.200 relating to outdoor sales and displays of merchandise.

B. Except as specifically amended by subsection A, above, all provisions of section 17.108.020 remain unchanged and in full effect.

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTION 17.108.160 OF  
THE SACRAMENTO CITY CODE, RELATING TO THE  
DEFINITION OF “OUTDOOR MARKET”**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

**SECTION 1.**

A. The definition of “outdoor market” in section 17.108.160 of the Sacramento City Code is amended to read as follows:

“Outdoor market” means a marketplace, not confined to a building, with one or more individual stalls or vendors that sell products such as new or used goods, wares, merchandise, limited services, fresh food items, pre-packaged food items, and flowers or plants. An outdoor market may be permanent or a periodic/occasional event. An outdoor market is also common known as a flea market, outdoor bazaar, farmer’s market, open-air market, produce market, or community market. Outdoor market includes the sale of food and beverages from food vending vehicles, unless only one or two food vending vehicles are on the property. The operation of food vending vehicles must comply with chapter 5.68. A business displaying merchandise outside a fully enclosed building in association with a business where purchase of such merchandise ordinarily takes place within a building is not considered an outdoor market. See section 5.88.200 relating to outdoor sales and displays of merchandise.

B. Except as specifically amended by subsection A, above, all provisions of section 17.108.020 remain unchanged and in full effect.