

ORDINANCE NO. 580.8
(AS AMENDED THROUGH 580.7)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
RELATING TO MOBILE FOOD FACILITIES AND STREET
VENDING AND INCORPORATING BY REFERENCE
RIVERSIDE COUNTY ORDINANCE NO. 725

Section 1. **PURPOSE AND INTENT.** It is the purpose and intent of this ordinance to ensure the safe and sanitary operation of mobile food facilities and commissaries in Riverside County.

Section 2. **DEFINITIONS.** The definitions set forth in Health and Safety Code section 113789 are incorporated by reference in this ordinance. The following terms are consistent with Health and Safety Code section 113831 and as used in this ordinance shall have the following meanings:

- a. Annual Permit. A yearly permit to operate as defined in Ordinance No. 640.
- b. Auxiliary Conveyance. A supplementary handwashing and/or warewashing sink(s) used in conjunction with a Compact Mobile Food Operation at a site specific location.
- c. Cart/Trailer – Low Risk. A Compact Mobile Food Operation of more than 25 square feet that engages in preparation and sale of Prepackaged Food and whole and uncut produce only.
- d. Cart/Trailer – Medium Risk. A Compact Mobile Food Operation that engages in Limited Food Preparation.
- e. Commissary. A food facility or other approved location that services Mobile Food Facilities, Mobile Support Units, or vending machines where any of the following occur:
 - 1) Food, containers, or supplies are stored.
 - 2) Food is prepared or prepackaged for sale or service at other locations.
 - 3) Utensils are cleaned or stored.
 - 4) Liquid and solid wastes are disposed, or potable water is obtained.
- f. Community Event. An event conducted for not more than 25 consecutive or nonconsecutive days in a 90-day period and that is of civic, political, public or educational in nature, including state and county fairs, city festivals, circuses and other public gatherings events approved by the local enforcement agency.
- g. Compact Mobile Food Operation (CMFO). A Mobile Food Facility that operates from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.
- h. Cottage Food Operation (Class B). As defined in Health and Safety Code section 113758, as now adopted or hereafter amended.
- i. Department. The Riverside County Department of Environmental Health.
- j. Enforcement Officer. The Director of the Riverside County Department of Environmental Health or his/her designee.
- k. Food Preparation. As defined in Health and Safety Code section 113791, as now adopted or hereafter amended.
- l. Limited Food Preparation. As defined in Health and Safety Code section 113818, as now adopted or hereafter amended.
- m. Microenterprise Home Kitchen Operation. As defined in Health and Safety Code section 113825, as now adopted or hereafter amended.
- n. Mobile Food Facility. Any vehicle or conveyance used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. “Mobile Food Facility” includes any non-permanent motorized or non-motorized conveyances and displays. “Mobile Food Facility” does not include a “transporter” used to transport packaged food from an approved food facility, or other approved source to the consumer.
- o. Mobile Support Unit. A vehicle or conveyance used in conjunction with a commissary

or other permanent food facility that travels to, and services, Mobile Food Facilities as needed to replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

- p. Non-Prepackaged Food. Any food which is removed from its original packaging material for the purpose of preparation or service to the customer.
- q. Non-Prepackaged Food Vehicle. A Mobile Food Facility that engages in Limited Food Preparation.
- r. Pop-up Vendor. An unpermitted food operation operating on the roadside, a paved or undeveloped lot, in a public park, on a sidewalk or other public right of way, on private property or any other location and is not a CMFO or motorized or unmotorized Mobile Food Facility. Pop-up vendors shall be subject to both criminal and administrative penalties.
- s. Prepackaged Food. Any properly labeled food, typically prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, food facility, or other approved source.
- t. Sidewalk Vendor. A person who sells food from a sidewalk vending cart or display exclusively upon a public sidewalk, other public path provided for the exclusive use of pedestrians, or within a public park. A Sidewalk Vendor shall not include any vendor whose operation (including location of vendor, equipment, vending cart, merchandise/ food, or queue of customers) takes place in or upon any portion of a street, alley, parking lot or structure, dedicated bicycle path/ lane, or any other public right of way used in whole or in part for vehicular travel, nor in or upon any parkway, roadway median, crosswalk, freeway on-ramp, undeveloped lot or any privately-owned real property.
- u. Single Operating Site. A site-specific location where a Compact Mobile Food Operation and/or a motorized Mobile Food Facility operates.
- v. Truck – Low Risk. A motorized Mobile Food Facility that operates with Prepackaged Food only.
- w. Truck – Medium Risk. A motorized Mobile Food Facility that engages in Limited Food Preparation.
- x. Truck/Trailer – High Risk. A Mobile Food Facility that engages in Food Preparation beyond the scope of Limited Food Preparation.

Section 3. PERMIT APPLICATION REQUIREMENTS.

- a. No person shall operate a Mobile Food Facility without a valid permit issued pursuant to the provisions of this ordinance. A CMFO selling only commercially pre-packaged, non-potentially hazardous food or whole and uncooked produce in a space smaller than 25 square feet do not require a permit but is subject to all provisions of Health and Safety Code section 114368.1.
- b. Permits are non-transferrable.
- c. Valid government-issued photo identification shall be required of all Mobile Food Facility applicants in order to monitor, track, and enforce compliance with food safety requirements, and to ensure that the permit has not been improperly transferred to another person.
- d. Nothing in this ordinance shall prevent the Department from denying any permit application for any Mobile Food Facility if, in the opinion of the Department, such Mobile Food Facility poses a real or potential risk to the health and welfare of the public.
- e. A person may operate a Mobile Food Facility if such person has a valid permit issued by the Department. Application for a permit shall be made to the Department on a form supplied by the Department and shall be accompanied by a fee(s) as required by Ordinance No. 640. A permit shall only be issued by the Department if the

proposed Mobile Food Facility meets the requirements of the Federal and State laws and regulations and provisions of this ordinance and other County ordinances. A permit shall be valid for not more than one year.

- f. Mobile Food Facilities proposing to operate in the County of Riverside must obtain an annual Mobile Food Facility permit pursuant to this section or may obtain permits to operate only at Community Events. Medium and High Risk Mobile Food Facilities, as identified in Section 4.a. of this ordinance shall meet all Health and Safety Code requirements for annual permitting including compliance through the plan check process to obtain an annual permit. Mobile Food Facilities that choose to operate only at Community Events, may continue to apply for and operate with temporary food facility permits. These Mobile Food Facilities must meet the requirements for temporary food facilities pursuant to Health and Safety Code sections 114335 through 114363, as now adopted or hereafter amended.

Section 4. MOBILE FOOD FACILITY OPERATIONS.

- a. There are five categories of Mobile Food Facilities that may be permitted within Riverside County by the Department:
 - 1) Cart/Trailer – Low Risk
 - 2) Cart/Trailer – Medium Risk
 - 3) Truck – Low Risk
 - 4) Truck – Medium Risk
 - 5) Truck/Trailer – High Risk
- b. Mobile Food Facilities shall be inspected one time per year. High Risk Trucks/ Trailers shall be inspected two times per year. Nothing in this section precludes the Department from inspecting and re-inspecting the Mobile Food Facilities with greater frequency if it is determined by the Director that such inspections or re-inspections are necessary to ensure the health and welfare of the public.
- c. Proper labeling of all foods per California Department of Public Health (CDPH) and Food and Drug Administration (FDA) standards shall apply to all Mobile Food Facilities.
- d. The following information shall be provided by the Mobile Food Facility operator, on forms supplied by the Department as applicable, prior to the issuance of an initial permit and/or the renewal of an annually permitted Mobile Food Facility:
 - 1) Commissary agreement letter;
 - 2) Commissary schedule/ route sheet;
 - 3) Written operational procedures; this shall include but is not limited to: food handling, cleaning and sanitizing of food contact surfaces and utensils, approved plan for waste, grease, and trash disposal, and documentation that all water has been supplied solely from a location approved by this Department.
 - 4) Provide proof of freshwater water tank testing indicating absence of E. Coli and total coliform from an approved laboratory. Testing shall be conducted within 60 days prior to permit issuance or renewal. Potable water tanks shall be maintained pursuant to Health and Safety Code sections 114205 through 114242.
 - 5) Provide proof that the Mobile Food Facility has been stored at a location approved by this Department.
 - 6) Provide proof of issuance Food Handler Certifications and/ or Food Manager Certification, pursuant to Ordinance No. 567 and Health and Safety Code sections 113947 through 113947.6, as now adopted or hereafter amended.
 - 7) Mobile Food Facilities shall provide the Department a complete list of general food items to be sold from the Mobile Food Facility.
 - 8) Proof of valid driver's license(s) for all proposed drivers along with current

vehicle registration shall be maintained on the Mobile Food Facility at all times and shall be presented at the time of inspection.

- 9) Proof of general liability Insurance naming the County as an “Additionally Insured” for High Risk Trucks and Trailers.
- e. Mobile Food Facilities shall not have external access to sewer and water lines, except at approved community events. Mobile Food Facility must be fully self-contained and able to operate as such; servicing of water and wastewater tanks shall take place at the commissary or at approved location by a method approved by the Department. External electrical supply is allowed via a power supply cord if there is no permanent wiring.
- f. All Medium and High Risk Mobile Food Facilities must ensure availability of adequate and conspicuous trash receptacle(s) within 20 feet of the place of operation and are maintained in a sanitary manner.

Section 5. GRADING.

- a. High Risk Trucks/ Trailers that are annually permitted shall be graded. Each High Risk Trucks/ Trailer shall be inspected and graded uniformly using an official inspection form. The grade of each High Risk Truck/ Trailer shall be evidenced by the posting of a grade card/decals bearing the letter “A”, “B”, or “C”. Low and Medium Risk Mobile Food Facilities shall not be required to post a grade card.
 - 1) The letter “A” shall indicate a score of ninety percent or higher, and indicates that the High Risk Truck/ Trailer passed the inspection by meeting minimum health standards as set forth by the California Health and Safety Code. Grade “A” cards/decals shall be printed in blue on a white background.
 - 2) The letter “B” shall indicate a score of less than ninety percent but not less than eighty percent and indicates the High Risk Truck/ Trailer has not passed the inspection and does not meet minimum health standards. Grade “B” cards/decals shall be printed in green on a white background.
 - 3) The letter “C” shall indicate a score of less than eighty percent and indicates that the High Risk Truck/ Trailer has failed the inspection and has conditions existing which may pose a potential or actual threat to public health and safety. The Mobile Food Facility may also be ordered closed with its permit being suspended or revoked by the Department. Grade “C” cards/decals shall be printed in red on a white background.
 - 4) The High Risk Truck/Trailer may also be ordered to close and its permit may be suspended or revoked by the Department.
- b. The grade card shall be provided by the Department and shall be 5 inches by 7 inches in size.
- c. The grade card shall be posted in a conspicuous place near the ordering window, as selected by the Department, and shall be removed only by the Department.
- d. It shall be unlawful to operate a High Risk Truck/ Trailer unless the grade card and decal are in place as posted by the Department.
- e. High Risk Trucks/ Trailers shall post a notice provided by the Department, advising consumers that a copy of the most recent routine inspection report is available for review by any interested party. The most recent inspection report must be kept with the High Risk Truck/ Trailer at all times and provided to the public for review upon request.

Section 6. MOBILE FOOD FACILITY INSPECTIONS.

- a. The Department shall inspect each Mobile Food Facility at random intervals within the specified frequency listed in Section 4 of this ordinance. All Mobile Food Facilities

- shall comply with the requirements set forth in Health and Safety Code sections 114294 through 114327, and section 114368 as now adopted and hereafter amended.
- b. No food shall be displayed or sold from any place other than the permitted Mobile Food Facility at any time. No additional tables shall be allowed for sales, storage, preparation or distribution in the area adjacent to the Mobile Food Facility except when operating at an approved Community Event, or with prior Department approval. Department approvals must be maintained at the Mobile Food Facility during operation.
 - c. Mobile Support Units and Auxiliary Conveyances shall only be used to service Low and Medium Risk Mobile Food Facilities and shall not be used in conjunction with High Risk Trucks/ Trailers.
 - d. Food preparation and storage of equipment and sanitation requirements for each Mobile Food Facility shall be inspected and based on the food service activity to be conducted, the type of food that is to be prepared or served, and the extent of food preparation that is to be conducted at the Mobile Food Facility.
 - e. A copy of the Official Inspection Form shall be provided to the owner, operator, or person in charge of the Mobile Food Facility.
 - f. Any High Risk Trucks/ Trailers that has received a non-passing grade (“B” or “C”) and all Mobile Food Facilities that do not meet the minimum health and safety requirements shall be re-inspected within five (5) business days of the initial inspection, or as otherwise arranged, to assure that the violations have been corrected. The grade card shall remain posted on the High Risk Truck/ Trailer as placed by the Department, indicating to the public that the particular High Risk Truck/ Trailer failed to maintain minimum health standards during its most recent routine inspection.
 - g. If, after a re-inspection, the Mobile Food Facility does not meet minimum health and safety standards or a High Risk Truck/ Trailer does not attain a score a 90% or higher, any or all of the following legal actions may ensue:
 - 1) Administrative Hearing for the suspension or revocation of the permit pursuant to Health and Safety Code section 114405, et seq., as now adopted or hereafter amended.
 - 2) Issuance of a citation.
 - 3) Initiation of civil, criminal or other legal proceedings.
 - h. Notwithstanding the foregoing, the Department may order immediate closure of a Mobile Food Facility pursuant to Health and Safety Code section 114409, as now adopted or hereafter amended, whenever the Department reasonably believes the Mobile Food Facility presents an immediate danger to the public health or safety unless the violation is immediately corrected.
 - i. Any re-inspections following an Administrative Hearing pursuant to section 6.g(1), may result in the operator being charged an hourly on-site fee as set by Ordinance No. 640.

Section 7. CONSTRUCTION AND PLAN REVIEW REQUIREMENTS FOR NEW ANNUALLY PERMITTED MOBILE FOOD FACILITIES.

- a. Prior to issuing permits for Mobile Food Facilities categories as referenced in section 4.a., plans may be required to be submitted and reviewed by the Department.
- b. Pre-approved standard plans from other Environmental Health jurisdictions may be accepted for CMFOs.
- c. A physical inspection of the Mobile Food Facility shall be conducted by the Department prior to operation of the Mobile Food Facility even if plans are not required.
- d. All Mobile Food Facilities permitted in Riverside County must meet the minimum requirements set forth in the California Health and Safety Code sections 114294 through 114327, and section 114368, as now adopted or hereafter amended.
- e. Mobile Food Facilities permitted prior to the effective date of this ordinance that

undergo a change of ownership or a change in menu and/or equipment shall be required to obtain approval from the Department prior to making the modifications, and plan submittal may be required.

- f. At a minimum, submitted plans shall consist of:
 - 1) Two (2) sets of identical plans, drawn to scale;
 - 2) Full views of the Mobile Food Facility, from each viewpoint, drawn to scale (top down, front, back, employee and customer views);
 - 3) A full plumbing diagram showing the flow of water from freshwater tank through sinks and/or equipment to waste tank. Plans shall include and identify all sinks, water heaters, water pumps, and any other water using piece of equipment;
 - 4) A complete list of food menu items;
 - 5) A complete finish schedule detailing construction material information;
 - 6) A complete equipment list showing the make, model, and commercial certification of all pieces of equipment, and their location on the Mobile Food Facility;
 - 7) Identification of all gas and electric lines.
- g. Non-occupied Mobile Food Facilities which utilize gas or electrical power may be required to obtain a third party safety certification for gas and/or electric installations prior to the issuance of a permit.
- h. Mobile Food Facilities will not be allowed to install a restroom facility integral to the unit.

Section 8. REQUIREMENT FOR COMMISSARIES.

- a. All annually permitted Mobile Food Facilities must operate from a permitted Commissary, or other Department approved facility. All approved facilities must be located within Riverside County unless otherwise approved by the Department.
- b. Each Commissary is required to have facilities specific to the type of Mobile Food Facility to be serviced and stored.
- c. Commissaries are limited as to the number of Mobile Food Facilities that may be serviced and stored at the facility by the available equipment and space at the commissary. The number of Mobile Food Facilities allowed will be determined by the Department for each Commissary.
- d. The Commissary and Mobile Food Facility hours of operation must match for accessibility purposes.
- e. The storage of a Mobile Food Facility at a private residence shall be registered with the Department and limited to a maximum of two (2) Mobile Food Facilities per site. Written agreements or operating procedures may be required for wastewater disposal, cleaning and servicing of the Mobile Food Facility, and food preparation, depending on the type of Mobile Food Facility, foods, and is at the discretion of the Department to ensure food safety. The storage of a High Risk Truck/Trailer at a private residence is prohibited.
- f. A permitted Cottage Food Operation (Class B) may serve as a Commissary or Mobile Support Unit for up to two (2) CMFOs if approved by the Department.
- g. Food Preparation at a private residence for sale from a CMFO shall be limited to permitted Cottage Food Operation (Class B) only.
- h. Food Preparation at a Microenterprise Home Kitchen Operation for a Mobile Food Facility is prohibited.
- i. All permitted Commissaries must be built per construction standards set forth in the Health and Safety Code.
- j. Commissaries must obtain a permit to operate, as per Ordinance No. 640. A private residence utilized solely for storage of a Mobile Food Facility is excluded from obtaining

- a separate Commissary permit. Storage at a private residence may require minimal upgrades to protect the Mobile Food Facility from contamination.
- k. Evaluation of the Commissary and other storage locations may be subject to an onsite inspection, and/or plan submittal to the Department. The fees for onsite inspection(s) and/ or plan submittal are set forth in Ordinance No. 640.
 - l. Commissary operators must maintain current sign-in sheets for all Mobile Food Facilities indicating the date, time, DBA and operator name, each time the Mobile Food Facility leaves and returns to the Commissary.
 - m. Commissary operators must notify the Department within thirty (30) days if a Mobile Food Facility discontinues using the Commissary as described in this ordinance.

Section 9. REQUIRED FEES. No person shall operate a Mobile Food Facility without holding a valid permit issued by the Department of Environmental Health. All required permit and plan check fees are provided in Ordinance No. 640. The fee listed in this section shall be valid until such time as Ordinance 640 is revised to incorporate this new fee therein. Application for a permit shall be made upon a form issued by the Department and shall be accompanied by the fee listed below:

- Plan Check for Auxiliary Conveyance \$199
- Plan Check for Cart/ Trailer - Low Risk (CMFO) \$199
- Plan Check for Cart/ Trailer - Medium Risk (CMFO) \$585
- Plan Check for CMFO - Standard Plans \$199
- Alternate Storage Site Registration \$199
- Permit for Cart/ Trailer - Low Risk (CMFO) \$ 163
- Permit for Cart/ Trailer- Medium Risk (CMFO) \$199
- Permit for Truck - Low Risk \$418
- Permit for Truck - Medium Risk \$589
- Permit for Truck/Trailer - High Risk \$754

Section 10. CRIMINAL PENALTIES.

- a. Any person violating any provision of this ordinance shall be guilty of an infraction or misdemeanor as hereinafter specified. Such individual shall be deemed guilty of a separate offense for each day during which any violation of this ordinance is committed or allowed to exist. A CMFO operator, Sidewalk Vendor, or their employee are limited to enforcement pursuant to Health and Safety Code section 114368.8 and not subject to criminal penalties.
- b. Any individual convicted of a violation of this ordinance shall be:
 - 1) Guilty of an infraction and punished by a fine of not less than fifty dollars (\$50.00), but not exceeding one hundred dollars (\$100.00) for the first offense.
 - 2) Guilty of an infraction and punished by a fine of not less than one hundred dollars (\$100.00), but not exceeding two hundred dollars (\$200.00) for the second offense.
 - 3) The third and subsequent offenses shall constitute misdemeanor and shall be punishable by a fine of not less than five hundred dollars (\$500.00) but not to exceed one thousand dollars (\$1,000.00), imprisonment of up to six months in the county jail, or both.
 - 4) Notwithstanding subsections a. and b. above, the first or second offense may be charged and prosecuted as misdemeanor.
- c. Payment of any penalty herein shall not relieve any individual from the responsibility of correcting the violations as found by the enforcement officer. Any person found not in compliance with state law and/or this ordinance is subject to citation, permit suspension/revocation, lien, or other legal action as deemed necessary by the

Department.

Section 11. CIVIL AND ADMINISTRATIVE PENALTIES. In addition to the criminal penalties stated above, the Department may enforce the provisions of this ordinance through the procedures provided for in Riverside County Ordinance No. 725, which is incorporated herein by reference. CMFOs and Sidewalk Vendors with a valid permit or that is required to obtain a permit are subject to administrative penalties pursuant to Health and Safety Code section 114368.8 and Government Code section 51039 respectively, and are not subject to criminal penalties. Motorized Mobile Food Facilities and Pop-up vendors shall be subject to criminal and administrative penalties .

- a. Administrative Penalties for non-CMFO.
 - 1) The penalties assessed for each violation shall not exceed the following amounts:
 - a) \$100.00 for a first violation;
 - b) \$200.00 for a second violation of the same Ordinance within one year; and
 - c) \$500.00 for each additional violation of the same Ordinance within one year.
 - 2) If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified above.
- b. Administrative Penalties for CMFO.
 - 1) Penalties assessed for each violation shall not exceed the following amounts and are subject to mandatory reductions based on ability to pay.
 - a) Notice of Violation, detailing the violation for first offense;
 - b) \$100 for second violation within one year of first violation;
 - c) \$200 for a third violation within one year of first violation;
 - d) \$500 for each additional violation within one year of first violation.
 - e) After January 1, 2024 a penalty of up to 3 times the cost of an annual permit may be applied for a CMFO or Sidewalk Vendor operating without a permit.
 - f) Payment of the penalty shall not excuse the failure to correct the violation, nor shall it bar further enforcement action.
- c. Administrative Penalties for Sidewalk Vending:
 - 1) Penalties assessed for each violation shall not exceed the following and are subject to mandatory reductions based on ability to pay:
 - a) \$100 for first violation;
 - b) \$200 for second violation within one year of the first violation;
 - c) \$500 for each additional violation within one year of the first violation.
 - d) On or after fourth violation, a permit issued to a Sidewalk Vendor may be rescinded for the term of that permit.
 - 2) In lieu of the above fines, if a local permit is required, vending without a sidewalk vending permit may be punishable with administrative fine not exceeding the following amounts and are subject to mandatory reductions based on ability to pay:
 - a) \$250 for first violation;
 - b) \$500 for second violation within one year of the first violation;
 - c) \$1,000 for each additional violation within one year of the first violation;
 - 3) Upon proof of a valid permit issued, the increased permit related administrative fines shall be reduced to the lower fine rate in section 11(c)(1).
 - 4) The penalties assessed shall be payable to the County of Riverside.
- d. Administrative Appeal.
 - 1) Notice of Appeal. The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the Department. The written notice of appeal must be filed within twenty (20) days of the service of the administrative citation. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation.

The notice of appeal shall contain the following information:

- a) A brief statement setting forth the appellant's interest in the proceedings.
 - b) A brief statement of the material facts which the appellant claims supports his/her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
 - c) An address at which the appellant agrees notice of any additional proceeding or an order relating to the imposition of the administrative penalty may be received by mail.
 - d) The notice of appeal must be signed by the appellant.
- 2) Administrative Hearing. Upon a timely written request by the recipient of the administrative citation, an administrative hearing shall be held as follows:
- a) Notice of Hearing. Notice of the administrative hearing shall be given at least ten (10) days before the hearing to the person requesting the hearing. The notice may be delivered to the person or may be mailed to the address listed in the notice of appeal.
 - b) Hearing Officer. The administrative hearing shall be held before the Board of Supervisors, the County Hearing Officer or the County Hearing Board. The hearing officer shall not be the Enforcement Officer who issued the administrative citation or their immediate supervisor or subordinate. The Board of Supervisors, the County Hearing Officer or the County Hearing Board may contract with a qualified provider to conduct administrative hearings or to process administrative citations.
 - c) Conduct of the Hearing. Except as may be required by the hearing officer, the Enforcement Officer who issued the administrative citation is not required to participate in the administrative hearing. The contents of the Enforcement Officer's file in the case shall be admitted as prima facie evidence of the facts stated therein. The hearing officer shall not be limited by the technical rules of evidence. If the person requesting the appeal fails to appear at the administrative hearing, the hearing officer shall make his or her determination based on the information contained in the notice of appeal.
 - d) Hearing Officer's Decision. The hearing officer's decision following the administrative hearing shall be delivered to the person requesting the hearing personally or sent by mail. The hearing officer may allow payment of the administrative penalty in installments if the person provides evidence satisfactory to the hearing officer of an inability to pay the penalty in full. The hearing officer's decision shall contain instructions for obtaining review of the decision by the superior court.
- e. Review of Administrative Hearing Officer's Decision.
- 1) Notice of Appeal. Within twenty (20) days of the date of the delivery or mailing of the hearing officer's decision, a person may contest that decision by filing an appeal to be heard by the superior court. The fee for filing the notice of appeal is twenty-five dollars (\$25.00). The failure to file the written appeal and to pay the filing fee within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon the issuing agency by the contestant.
 - 2) Conduct of Hearing. The conduct of the appeal is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the issuing agency's file in the case shall be received in evidence. A copy of the document or Instrument of the issuing agency providing notice of the violation and imposition of the administrative penalty shall be admitted into evidence as prima facie evidence of the facts stated

therein. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within fifteen (15) days of the request.

- 3) Judgment. The court shall retain the twenty-five dollar (\$25.00) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the Department. Any deposit of the fine or penalty shall be refunded by the issuing agency in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the contestant, the issuing agency may proceed to collect the penalty pursuant to any manner provided by law.

f. Ability- to- Pay Determination.

- 1) When assessing an administrative fine for a first-time offense, pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The Department shall provide the person with notice of their right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
- 2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code, the enforcement agency shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to this section.
- 3) The enforcement agency may waive the administrative fine or may offer an alternative disposition.

Section 12. PUBLIC NUISANCE DECLARATION. Any violation of this ordinance is hereby declared to be unlawful and a public health nuisance and may be abated by the Department, irrespective of any other remedy provided in this chapter.

Section 13. RIGHT OF INSPECTION. Pursuant to the Health and Safety Code, the Department shall have the right to inspect any permitted or suspected Mobile Food Facility or commissary, or any facility suspected of being a Mobile Food Facility, Commissary, or Mobile Food Facility storage site at any reasonable time. Unless the Department fails to provide proper identification, refusing an inspection may result in the permit being suspended or revoked, and/or the owner or operator shall be guilty of an infraction or misdemeanor offense. The Mobile Food Facility must remain stationary and available for inspection once an official inspection has been initiated by the Enforcement Officer. Identification must be provided to the Enforcement Officer upon inspection or citation to verify identification of permit holder or employee of permit holder for Mobile Food Facility or Sidewalk Vendor.

Section 14. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

Section 15. This ordinance shall take effect 30 days after the date of adoption.

Adopted: 580 07/15/1980 (Eff: 08/14/1980)
Amended: 580.1 Item 3.1 of 02/28/1984 (Eff: 03/30/1984) 580.2 Item 9.1 of 06/28/1988 (Eff: 07/28/1988)
580.3 Item 3.7d of 06/13/1989 (Eff: 07/30/1989)
798 (Eff: 11/25/1999) (Sec. 2b Amended)

- 580.4 Item 9.1 of 05/15/2007 (Eff: 06/14/2007)
- 580.5 Item 3-62 of 12/17/2013 (Eff: 04/08/2014)
- 580.6 Item 3-8 of 06/02/2015 (Eff: 07/02/2015)
- 580.7 Item 3.37 of 04/11/2017 (Eff: 05/11/2017)