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DPW Order No: 182101

ADOPTING GUIDELINES FOR THE ISSUANCE OF PERMITS, AND FOR INSPECTION AND ENFORCEMENT OF MOBILE FOOD FACILITIES OPERATING WITHIN PUBLIC RIGHTS-OF-WAY, EFFECTIVE JULY 28, 2013.

I. PURPOSE. Ordinance No. 119-13, approved July 28, 2013, amending Article 5.8 of the Public Works Code (PWC), to address various location and notification requirements and approving additional requirements concerning mobile food facilities (MFF) operating within the public right-of-way. This Department of Public Works (DPW) Order provides detailed implementation guidelines and supersedes DPW Order 179,044, approved February 25, 2011.

II. DEFINITION OF A MOBILE FOOD FACILITY

- A. **Mobile Caterer:** Any motorized vehicle from where wrapped food, foodstuffs, products, liquids, materials intended, or any other food or drink for human consumption are sold, served, distributed, or offered for sale at retail or provided at no cost to the public.
- B. **Mobile Food Facility (MFF):** Any vehicle or pushcart used in conjunction with a commissary or other permanent food facility from where food is sold or distributed at retail value. A MFF does not include a “Transporter” used to transport packaged food from a food facility or other approved source to the consumer. A MFF also does not include any use that sells goods, wares, or merchandise other than food or drink intended for human consumption.
- C. **Push Cart:** Any wagon, cart, or any other food-servicing device, whether stationary or mobile, from where any food or foodstuffs are sold, served, distributed, offered for sale at retail, or provided at no cost to the public, whether consumed at said pushcart or elsewhere.
- D. **Cold Truck:** Any vehicle with a previously approved route number by the San Francisco Police Department (SFPD).

III. ALLOWABLE LOCATIONS AND HOURS OF OPERATION It shall be unlawful for any person, firm or corporation to operate a Mobile Caterer, Mobile Food Facility, Push Cart or Cold Truck within the public right-of-way, in the City and County of San Francisco,



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without first having obtained a permit from the Director of Public Works, accompanied by approval by the Director of Public Health and the Fire Marshal's Office.

- A. The Permittee shall provide a minimum clear path of travel for pedestrians of no less than six (6) feet wide and an ADA compliant four (4) foot wide line for their customers.
 - 1. For any motorized vehicles, the minimum recommended sidewalk width shall be ten (10) feet.
 - 2. For pushcarts, the minimum recommended sidewalk width of a sidewalk shall be fifteen (15); and,
 - 3. A minimum two (2) foot clearance is required along the curbside for pushcarts operating adjacent to existing on-street parallel parking.
 - 4. The Permittee is prohibited from placing any freestanding A-frames, displays, signs, or any other obstruction within the public right-of-way, with the exception of a refuse collection receptacle.
- B. The Permittee shall comply with the current Fire Code and guidelines including providing and maintaining minimum distances required for building access, exit egress, and access to SFFD protection services.
- C. The Permittee shall not obstruct the use of any existing City facilities or previously permitted occupancy. All MFFs must maintain a minimum clearance of:
 - 1. Eight (8) feet from an Arts Commission approved Street Artist License (Maps are available online at http://www.sfartscommission.org/street_artists_program/maps/index.html)
 - 2. Five (5) feet from the angular return of any sidewalk, nor obstruct the use of any corner or mid-block accessible curb ramps
 - 3. Six (6) feet from existing street furniture including but not limited to parking meters, fire hydrants, pay phones, pedestrian signal crossings, fire alarms, news racks, kiosks, benches, bike racks, etc.
 - 4. Seven (7) feet from Fire Hydrants
 - 5. Twelve (12) feet from any delineated Bus Zone, or within a Blue Zone.
- D. All applicable parking regulations shall be observed.
 - 1. The MFF shall comply with all existing color curb zones, as approved by SFMTA.
 - 2. The MFF shall occupy no more than the equivalent of two on street (2) parking spaces.
 - 3. The MFF shall provide service along curbside and not park against vehicular traffic.
 - 4. The MFF may not occupy the sidewalk adjacent to any on street perpendicular or diagonal parking. Food services may be provided within the sidewalk area, adjacent to the pedestrian through way zone.
- E. No MFF or MFF Vendor shall peddle food or drinks in certain zoned areas throughout the City:
 - 1. In any residential ("R") district other than a residential-commercial combined ("RC") district as defined in the Planning Code;
 - 2. In any "P" districts, as defined in Section 234 of the Planning Code, that are located on Twin Peaks or in any areas in or adjacent to Open Space Districts located on Twin Peaks;



3. On the sidewalk or street immediately adjacent to property under the jurisdiction of the Recreation and Park Commission other than the areas specified above, unless written consent is obtained from the General Manager of the Recreation and Park Department.
 4. On the sidewalk or street under the jurisdiction of Caltrans e.g. Van Ness Avenue, 19th Avenue, etc. unless written consent from State of California District 04 is first obtained.
 5. No occupancy is allowed within SFMTA's AT&T Park restricted streets from two (2) hours before until two (2) hours after events, unless written consent from SFMTA is first obtained.
 6. On the north side of Jefferson Street between Jones and Taylor Streets.
 7. Within 500 feet of the property lines of any public middle schools or junior high schools between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday.
 8. Within 1,000 feet of the property line of any public high school between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. This clearance may be within 750 feet for the following public schools: John O'Connell, Mission High School, Hilltop High School, Galileo High School, International Studies Academy, Principal's Center, Civic Center High School.
 9. Within a 75-foot radius of any restaurant as measured from the centerline of the primary entrance to the restaurant. The restaurant shall be operational at the time the MFF applies for a permit for the subject location.
 - a. A restaurant is defined under Public Health Code Section 451 and includes: fast food and take-out establishments.
 - b. If the restaurant provides any food product and marketing uses as defined in Public Health Code Section 440, then it shall not fall under the definition of a restaurant, as it applies to this Code and guidelines.
 - c. The 75-foot radius requirement shall apply only if the restaurant has direct street access to its primary entrance.
 10. If the active street-facing façade of a restaurant extends beyond 75 feet from its primary entrance, no Mobile Caterer or MFF shall operate along the curb directly fronting any active street-facing façade. A Mobile Caterer or MFF may not be parked within fifty (50) feet of the active street facing façade
 11. Notwithstanding the location requirements, if a Pushcart Peddler has a valid permit for a specific location dated July 19, 1995 or earlier, said pushcart is exempt from this Section's location requirements and the Director may issue an exception as long as the permitted path of travel satisfies minimum applicable Federal and State accessibility requirements.
- F. Hours of Operation. Subject to the notification requirements described in this Order, hours of operation shall be limited to 6 A.M. to 3 A.M., the following day. No MFF or MFF Vendor shall peddle between the hours of 3:00 A.M. and 6:00 A.M., unless the Director has approved such sales after consulting with the Planning Department and the Chief of Police.
- G. MFFs shall be limited to providing service and sales at one location for no more than three (3) days per week. Such days shall be measured in 24-hour cycles so that they may begin on one day and extend to the following day so long as the subject cycle does not constitute more than 24 consecutive hours at a single location.



IV. PERMIT APPLICATION REQUIREMENTS DPW shall process all completed permit applications strictly in the order in which they are submitted to DPW. A completed permit application shall include all required materials specified in this Order and in PWC Article 5.8.

A. Maximum Number of Permits for a Single Permittee. In no case shall a single Permittee obtain more than seven (7) separate MFF permits; except if a Pushcart Peddler Permittee has 7 or more valid permits dated prior to July 19, 1995, then the previously issued permits shall not count towards this new maximum threshold of 7 permits per Permittee. DPW shall issue a separate permit for each MFF; provided, however, that the DPW Director may issue a written waiver to this requirement if multiple vendors share a MFF. If such a waiver is granted, the DPW Director may impose additional conditions and additional fees pursuant to Public Works Code Section 2.1.3.

1. Single Permit for a Location with Multiple MFFs. The Director may issue a single permit or permits to an assigned location(s) for multiple MFFs. The fees for such permit shall be the same as filing, notification, and inspection fees for a single location. Under such circumstances, the Director of Public Works (Director) may also charge additional permit fees as set forth in Section 2.1.3 of the PWC for any additional time and material costs that the City incurs in processing such permits. All MFFs operating under a single location permit shall comply with all other provisions of this Article and Order.
 2. Multiple MFF Permits for a Single Location during the Same Time Period. The Director, at his or her discretion, may issue two (2) or more MFF permits for a single location during the same time period; provided, however, that in no case shall an additional permit be issued unless the Director determines that the location site conditions can accommodate the associated activity without adversely impacting pedestrian path of travel and/or flow or other location requirements. Applicants applying for a MFF permit where an existing MFF permit is currently occupying the public right-of-way must note on their application the size of the unit, its location, owner, menu, and operational hours. The mailing list for notification shall also include the existing MFF owner as part of the notification process.
- B. Application. Requests to operate a MFF within the public right-of-way shall include the following on a form provided by DPW:

1. The name, business and residence address of the applicant, and the address where the mobile catering vehicle will be stored during non-operating hours. The address to which notice, when required, is to be sent or mailed, and the name and address of a person authorized to accept service or process, if not otherwise stated on this application.
2. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply. A natural person shall not acquire a stock interest in more than one



corporate Permittee. The application shall specify whether the applicant intends to operate a MFF under a fictitious name.

3. A photograph of the permit applicant, e.g., passport photo, driver's license, or similar.
4. A description of the food products and/or drink(s) the applicant intends to sell; although no Permittee shall be bound by or limited to this description.
5. The specific location(s) of the activity, including a detailed description of where the applicant intends to place his or her MFF. Locations for the purposes of this permit shall be defined as a fixed point or a defined route including approximate duration at specific fixed points and approximate time of day at specific fixed points along the route.
6. The proposed hours and days of operation for each location that the MFF proposes to serve.
7. A description of the Mobile Catering Vehicle, including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the Director. (*If this information is not known at the time of permit application, this requirement may be satisfied as a condition of obtaining a final and effective permit*).
8. Information pertinent to the operation of the proposed activity, including information as to management and authority control, as may be required by the Director, Director of Public Health, or Fire Marshal.
9. A statement from the applicant whether the application is for a new permit, renewal of an existing permit, a change to the location that the MFF serves, a change in hours of operation, or the addition of location(s).

C. Notice of Intent

1. Following the filing of an application for a new MFF permit, change of location for an existing permit, change in hours of operation to include service after 8 P.M., or addition of a location(s), DPW shall mail a Notice of Intent to operate the proposed MFF business at the location(s) identified in the application. The form for said Notice shall be provided to each applicant by DPW. Said Notice shall include the location(s) the MFF intends to serve, the days of the week and times for service at each location, a description of the goods/products to be sold under the permit, the procedure for obtaining any additional information, and the procedure for filing any protest or opposition to the proposed permit. The applicant shall also provide DPW with a list of all required recipients of the mailed Notice and stamped envelopes with the addresses of all such individuals for the purpose of providing mailed notice. Notice shall be provided as follows:
 - a. If the MFF proposes to operate between the hours of 6 A.M. and 8 P.M., mailed notice shall be sent to all ground floor commercial tenants and any neighborhood organization on the Planning Department list, developed pursuant to the Planning Code
 - b. If the MFF proposes to operate at any location between the hours of 8 P.M. and 3 A.M., the following day, the mailed Notice shall also be provided to all property owners, residential tenants, ground floor



- commercial tenants, and any neighborhood organization on the Planning Department list, developed pursuant to the Planning Code
- c. For each physical building address, the Notice also shall be mailed to the attention of "Building Owner/Manager" at that address, and to the address of record for the property owner, if different.
 - d. If the MFF is a Mobile Caterer
 - i. Notice shall be given to all buildings within a 75-foot radius from the outer perimeter of the proposed location(s) to be served. A Mobile Caterer shall be assumed to occupy 20 linear feet of curbside space. The 75-foot radius shall be measured from the outer boundaries of this assumed curbside area. Notice also shall be provided to all properties across the street that directly front, in whole or in part, the Noticed Area. Notice also shall be posted on a City-owned utility pole or other City facility closest to the proposed Mobile Caterer's proposed Location for at least 10 calendar days prior to the end date to either file an objection with DPW, or to request a Departmental hearing. The applicant shall photograph the posted notice, including a date stamp, and submit such photograph to DPW. This photograph shall satisfy the posting requirement under this Article and Order.
 - ii. If the MFF is a Pushcart, Notice shall be given within a 300 foot radius of the boundaries of the street address(s) fronting the proposed location of the Pushcart. If there is no street address, the Notice shall be given within a 300 foot radius of the boundaries of the Assessor's Block(s) and Lot(s) fronting the proposed location of the Pushcart.

D. Notice of Hearing. Any person or persons who feel(s) that their interests or property or that of the general public will be adversely affected by the issuance, denial, or conditioning of the MFF Permit at its intended location may protest the proposed issuance or denial of said permit or permit conditions by writing to the Director within thirty (30) calendar days from the date listed on the Notice of Intent. Upon receipt of any such written protest during the term of the appeal period, the Director will schedule a public hearing to hear testimony from all persons interested in the tentative permit decision.

1. Not less than ten (10) days prior to the date of a Departmental hearing, the Director shall cause to be published a notice of such hearing in the official newspaper of the City and County of San Francisco. The cost of publishing said notice and any additional mailed notice shall be borne by the MFF Permit applicant. The Notice shall contain the following information: the name and business address of the applicant, the product or products to be sold, the location(s) of the proposed sales activity(ies), the days and hours of operation, and whether the application is for a new permit, for a change of an existing permit, or for an addition of a new location(s).

E. Decisions.



1. At the hearing, the Director, or his/her designee, acting as an Administrative Hearing Officer, may consider the following
 - a. Whether the applicant's proposed location is within a 75-foot radius of a restaurant or if the location is currently being operated by an already approved/existing MFF.
 - b. Whether three (3) or more MFFs are currently permitted for overlapping times on either side of the street within the same block.
 - c. Other information deemed relevant to the determination of whether the proposed location would generate any public safety or other concern that may impact the general public and/or the public rights-of-way.
 - d. Whether the sidewalk width at the proposed location is less than ten (10) or fifteen (15) feet wide depending upon the food facility (Mobile Caterer or Pushcart).
 - e. Whether substantiated evidence exists to refute assertions in the application for the MFF.
2. If an Administrative Hearing Officer conducts the hearing, such officer shall make a recommendation concerning the proposed permit to the Director, who, in his /her discretion, may disapprove, approve, or conditionally approve the proposed permit.

F. Issuance.

1. The Director may issue a MFF permit within fourteen (14) days if no hearing is requested pursuant to this Article, if he or she finds:
 - a. That the operation, as proposed by the applicant, would comply with all applicable laws, including but not limited to, the provisions of this Article, Order and/or the San Francisco Municipal Code.
 - b. That the applicant has not made any false, misleading or fraudulent statements of facts in the permit application or any other document required by the Director or the Director of Public Health, in conjunction with their application and/or request.
 2. The Director may issue a MFF permit within 14 days following a Departmental hearing as provided herein, based on his/her investigation and the investigation of the Director of Public Health, if he /she makes the findings specified above
 3. Any MFF Permit that the Director issues shall be conditioned on the MFF Vendor obtaining a Certificate of Sanitation for the Department of Public Health and approval from the Fire Marshal. If the Certificate of Sanitation and Fire Marshal approval are not obtained within three (3) months of the date the Director issues his /her permit decision, the permit shall be automatically revoked.
- G. Appeals. The Director's decision is appealable to the Board of Appeals within fifteen (15) calendar days of the date of DPW's final decision.
- H. Renewals. Permits are renewed annually so long as the MFF remains in compliance with all applicable Codes and regulations, including but not limited to payment of all fees due to the City. Renewal of the permit will not require a public notice, unless the Permittee is changing the location that the MFF serves, adding a new location(s), requesting to extend their hours of operation to serve a location later than 8 P.M., or making other changes to the MFF that the Director determines requires public notice.



- I. Transfers. No permit shall be transferable except with the written consent of the Director, with the approval of the Director of Public Health. Such consent and approval shall not be unreasonably withheld. The application for such transfer shall contain the same information as specified within this Order for an initial application for such a permit, and shall be accompanied by the same filing and inspection fees as for an initial application. Any MFF Permit issued on or before July 1, 2013, shall comply with all applicable provisions of this Article; provided, however, that no notice is required for a transfer. Upon approval of said transfer, the transferee shall retain the original permit approval date and all of the transferor's rights.
- J. Expirations.
 - 1. A permit shall be set to expire seven (7) years from the anniversary of the original permit issuance date as long as the Permittee remains in compliance to this Article and Order, with all aspects of their operation. If the Permittee elects to pursue a new permit, six (6) months prior to such expiration, the existing Permittee may apply for a new permit under the same terms as the existing permit and shall be given priority over all other applicants.
 - 2. If a Permittee for a MFF has a valid permit for a specific location approved on or before July 1, 2013, then said Permittee is exempt from the above expiration clause, provided that the Permittee complies with all other applicable terms of this Article and Order. As part of any permit issuance, renewal, or transfer pursuant to this Article, DPW shall include reference to the original approval date of the MFF permit.

V. SINGLE DAY PERMITS. A MFF that otherwise meets all of the location requirements, has a San Francisco Business Registration Certificate, an active Certificate of Sanitation from the Department of Public Health and all necessary approvals from the Fire Marshal, shall be eligible to obtain single day Temporary Occupancy Permits for a location under Section 724 of the PWC, provided that:

- A. The Permittee shall not vend, exchange cash or complete a credit transaction for food in the public right-of-way.
- B. The Permittee shall obtain written authorization from the fronting property owner or property manager.
- C. The Permittee shall submit a Certificate of Insurance for general liability coverage of not less than \$1 million, endorsing the *City and County of San Francisco* as additional insured with the Bureau's address as the certificate holder.
- D. Tow-Away and no-stopping signs are not issued by DPW, MTA does not acknowledge the tow-away/no stopping construction zone signs for single day permits from a Mobile Food Facility. The applicant shall contact MTA for the purchase and placement of special event/tow-away signs after acquiring a single day permit from DPW.

VI. FEES shall be charged based on the following criteria:

- A. Submittal Fees
 - 1. Every person desiring a MFF Permit pursuant to this Article shall file an application with the Director upon a form provided by DPW, as described in Paragraph IV of this Order, accompanied by a filing fee, a notification fee, and an inspection fee for a single MFF location.



2. Each additional location shall require additional payment to DPW.
3. Half of the required fees for a single location and half of the fees for any additional location(s) may be paid at the time of submittal of the application, with the balance fee paid at the time of the Director's decision on the permit.
4. Every Permittee desiring to change the location of an already approved MFF, modify the hours of operation to allow service after 8 P.M., or add a new location(s) during the term of the annual permit, shall file an application with DPW, shall pay an additional filing fee for each alternate location or new location(s), a notification fee per location, and an inspection fee per location. Such requests shall be processed in the same manner as a new application request.
5. No refunds shall be considered or provided if DPW disapproves a permit or a permit location.
6. Separate fees shall be paid to the Department of Public Health (DPH) and the San Francisco Fire Department (SFFD) for plan check and annual inspections/approvals, as required, in order to obtain a valid permit. For the convenience of the applicant, DPW may collect these fees and will forward them to the respective Department. The Controller may adjust this fee annually as set forth in Section 249.1(c) of the Business and Tax Regulations Code.
7. Proof of these payments in the form of written authorizations or decals is requested, but not required at the time of applying for a MFF Permit. However, in no case shall DPW's Permit be deemed final and effective until the applicant obtains such authorizations or decals. The applicant shall have up to three (3) months after DPW conditionally approves the Permit to obtain such authorizations or decals. The applicant's failure to obtain such authorizations or decals by the end of this 3-month term shall result in Permit being deemed disapproved.

B. Annual Renewal Fee

1. Every MFF Permit is subject to an annual renewal DPW filing fee.
2. In addition, if during the course of the preceding year, if DPW receives one (1) or more substantiated complaints against the Permittee and/or permit location(s), or if DPW issued one (1) or more Notice of Violation against the Permit, DPW shall assess an additional processing fee.
3. Where substantiated complaints were received and/or Notices of Violation were issued, DPW shall also assess additional inspection fees.

C. Annual Adjustment. All DPW, DPH, and SFFD fees listed herein may be subject to annual adjustment or may be modified through action of the Board of Supervisors. At the beginning of the City's fiscal year (July 1) or at any other time that fee amounts are modified, DPW will post an updated fee schedule with current fee amounts.

VII. OPERATIONAL REQUIREMENTS

A. Coordination

1. Identification Card. The Director shall issue an identification card to each Permittee. The identification card must be in the possession of the operator at all times during operating hours of the mobile catering vehicle.



2. Each Mobile Food Facility Vendor or Mobile Food Facility employee shall produce the Mobile Food Facility permit, a valid San Francisco Business Registration Certificate from the Office of the Treasurer and Tax Collector, a valid Certificate of Sanitation, an identification card, a description of the approved Location(s) and hours of operation for a Mobile Food Facility, and all other documents required so that the Location of the Mobile Food Facility may be checked and verified upon demand by any Police Officer, the Director, the Director of Public Health, or the Fire Marshal.
 - a. The Permittee shall affix a DPH Certification of Sanitation Decal to a pushcart in a prominent location and shall affix the Certification of Sanitation to the lower right-hand corner of the windshield for any Mobile Catering vehicle.
 - b. The Permittee shall affix a DPW approved and issued decal to the lower left-hand bumper of any Mobile Catering vehicle.
 - c. Permittees operating a MFF shall also have the following documentation visible to the public during their operation hours: MFF Permit, a valid San Francisco Business Registration Certificate, a valid DPH Certification of Sanitation Decal, an identification card, a current SFFD inspection decal, a description of the approved locations, and approved hours of operation.
3. If the San Francisco Municipal Transportation Agency (SFMTA) authorizes use of a no parking sign for MFFs, a MFF Vendor may display such sign(s) at the location of the MFF subject to any SFMTA rules and regulations for posting of such signs

B. Conflicts

1. No permit shall be required if any City Department issues a valid permit for occupancy of the subject location for street fairs, farmers markets, temporary use, or other permitted activities as long as the MFF has a current and valid Certificate of Sanitation and Fire Marshal approval.
2. The Director of Public Works may temporarily suspend an approved permit if any City Department issues a permit for occupancy of the approved location for street fairs, farmers markets, temporary use, street or building construction, or other permitted activities;
 - a. At the Permittee's request, the Director may, but is not required, to authorize a temporary relocation of a MFF;
 - b. The Director's authorization for the temporary relocation shall be in writing and available at the MFF for review by City officials;
3. No additional permit shall be required for said temporary relocation provided that the MFF has a current and approved Certificate of Sanitation from DPH and approval from the Fire Marshal.

C. Suspension or Revocation.

1. The Director may suspend or revoke a permit if he/she determines that the public interest necessitates use of the Mobile Food Facility Location for a different public purpose, such as a bicycle lane, traffic reconfiguration, bulb-out, bus stop, or other pedestrian, bicycle, vehicular safety measure consistent with City policies.



2. The Director may suspend or revoke for good cause any permit or any permit location which has been issued pursuant to this Article, if he or she finds, after a noticed public hearing, that the Permittee has engaged in or been found guilty of any of the following acts:
 - a. Fraud, misrepresentation, or false statement contained in the permit application.
 - b. Violation of provisions of State law regarding MFF, the State Vehicle Code, this Article and Order, San Francisco Municipal Code, and/or a determination by the Director of Public Health and/or Fire Marshal or their designee, related to the operation of any MFF operated by this Permittee.
 - c. Any violations occurring as specified herein for another MFF Permit issued to the same Permittee.
 - d. The MFF Vendor is operating in a manner that negatively impacts the public's health, safety, convenience, and/or welfare.
 - e. The MFF Vendor habitually violates the Good Neighbor Policies set forth in Section 184.94 of the PWC.
 - f. The MFF has not operated in the permitted location for a period of six (6) months or more.
 - g. The Director of Public Health or his/her designee may also revoke a Certificate of Sanitation if he/she finds that the Permittee has violated the Public Health Code or State law regarding MFF uses. The Fire Marshal or his/ her designee may also revoke a SFFD Permit and Inspection Decal if he/ she finds that the Permittee has violated the Fire Code or State law regarding MFF uses. These revocations may be in addition to, or separate from any action enforced by the Director.
3. If the Director determines that the Permittee has exceeded the scope of the permit, either in terms of duration or area, or violates any other of the permit terms or conditions, the Director shall order the Permittee to correct the violation within a specified time period, to be determined based on the violation(s). If any person occupies the public right-of-way without a permit, the Director shall immediately order the violator to vacate the occupied area.
4. Failure to appear for the annual renewal shall be deemed a violation and may be cause for suspension or revocation of the permit.
5. Failure to pay any fee assessed under these provisions shall constitute good cause for immediate revocation of the permit and/or removal of unpermitted obstructions.

D. Penalties.

1. Criminal Penalties - any person who violates any of the provisions of this Article and Order shall be guilty of an infraction at each location where such violation occurs. Each violation determined to be an infraction shall be subject to a fine.
2. Civil Penalties. The Director may call upon the City Attorney's Office to initiate an action for injunction to restrain, summary abatement to cause the correction or abatement of the violation of this Article, and for assessment and recovery of a civil penalty with reasonable attorney's fees to be assessed for such violation.



3. Administrative Penalties. The Permittee may be subject to administrative citations if they are found to be in violation of any of the provisions and/or guidelines of this Article and/or Order.
 - a. The administrative citation shall not exceed \$1000 per day for each violation;
 - b. If the violation is not corrected as ordered by City officials, the Permittee shall be subject to an additional penalty fee of up to \$5,000 per day for each violation;
 - c. The above penalties shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.
- E. Removal of MFF.
1. The Director is authorized to order the immediate removal of a MFF if the MFF has no permit and/or when, in his/her opinion, , the MFF constitutes a safety hazard or public nuisance, or when the presence of an emergency requires immediate removal of the MFF. After notification by the Director to remove the MFF, the Permittee shall immediately remove or cause to be removed the MFF from the street area by its owner. If the owner does not remove the MFF immediately, the Director may order DPW to remove the MFF. The owner shall pay the City all costs for removal and storage of the MFF. No MFF shall be placed at the subject location until the conditions which have caused the removal order shall have been abated to the satisfaction of the Director.
 2. The Director is authorized to remove, or cause to be removed, any MFF placed in a street or sidewalk area in violation of any other provision of this Article and/or Order. The Permittee/Pushcart owner shall commence removal no earlier than 48 hours after notice is given describing the violation(s). The notice shall be both mailed to the pushcart owner and posted in a conspicuous manner on the MFF, and shall contain the following:
 - a. The permit condition(s) violated,
 - b. The date/time of posting the violation notice,
 - c. The location of the MFF,
 - d. The identity of the person issuing the notice of violation(s),
 - e. A statement giving notice of 48 hours to remedy the violation(s).
 3. MFFs that have been removed may be recovered within ninety (90) days from the date of seizure, and upon payment of a sum equal to the cost of removing and storing said MFF including a 20 percent surcharge for administrative costs as determined by DPW, as well as any additional costs incurred by DPW in disposing of any materials or merchandise contained in the MFF. Costs incurred as a result of removal under this Section are in addition to any fines or penalties incurred under Section 184.96 of the PWC.

VIII. GOOD NEIGHBOR POLICY. The Permittee shall manage their MFF with in accordance with the following good neighbor policies:

- A. The Permittee shall maintain the quiet, safety and cleanliness of the approved MFF location(s);
- B. The Permittee shall provide adequate storage and disposal of debris and garbage; Noise and odors shall be contained within immediate area of the MFF location so as not to be a nuisance to neighbors;



- C. The Permittee shall prominently post and/or display a notice urging patrons to leave the MFF premises and neighborhood in a quiet, peaceful and orderly fashion and to please not litter or block driveways in the neighborhood;
- D. Employees of the MFF shall walk a 100-foot radius from the approved MFF location within thirty (30) minutes after close of business and shall pick up and dispose of any discarded beverage containers or other trash left by patrons.

IX. HOLD HARMLESS CLAUSE The following language is hereby incorporated into all MFF Permits:

- A. In consideration of this Permit being issued for the work described herein, the Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.
- B. The Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including without limitation, attorneys' fees and costs (collectively "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by or negligence of, Permittee or its subcontractors, or the officers, agents, or employees of either while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities, or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, goodwill, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety to the environment.
- C. The Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. The Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend



the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. The Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

- D. The Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any operations under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.
- E. The Permittee and any permitted successor or assign recognize and understand that this Permit may create a possessory interest.

1/17/2014

X



Sanguinetti, Jerry
Bureau Manager

1/19/2014

X



Sweiiss, Fuad
Deputy Director and City Engineer

1/22/2014

X



Nuru, Mohammed
Director, DPW

