

AN ORDINANCE ADDING CHAPTER 6.68 TO THE GENERAL ORDINANCE CODE OF THE COUNTY OF ALAMEDA TO GRADE FOOD FACILITIES.

The Board of Supervisors of the County of Alameda ordains as follows:

SECTION I – General

6.68.010 Declarations of Findings.

The Board of Supervisors finds and determines that provisions should be made for improved public notification signage for Food Facilities, including Mobile Food Facilities, by establishing a grading system based on specific requirements for food handling. This Chapter creates a grading program for Food Facilities, including Mobile Food Facilities (food trucks), allowing consumers to make safe dining choices.

6.68.020 Jurisdiction.

This chapter shall apply to all of Alameda County except for those cities where the governing body of that incorporated area (city) has authorized its own local health officer or environmental health director to administer and enforce the provisions of California Health and Safety Code Section 113700 et seq. (the California Retail Food Code). This Chapter shall be administered and implemented by the Alameda County Department of Environmental Health (ACDEH). The Director of ACDEH shall have the authority to prepare and implement Regulations for the administration and implementation of this chapter and to protect the public health and safety.

This chapter shall apply to all Food Facilities located within the jurisdiction defined above.

6.68.030 Purpose of Chapter.

This Chapter provides for the enforcement of California Laws and Regulations pertaining to retail Food Facilities and establishes local requirements as authorized by California Retail Food Code. This Chapter also establishes a local grading system for Food Facilities as authorized by California Health and Safety Code section 113709. The provisions of this Chapter are authorized pursuant to State law and are intended to supplement and not to preempt state law. This Chapter may be cited as the Food Facility Grading Ordinance.

All definitions, authority, scope, responsibilities, requirements, standards, conditions, exemptions, procedures, and penalties contained in the California Retail Food Code, as it may be amended, beginning at Health and Safety Code Section 113700 et seq. are incorporated herein.

6.68.040 Definitions.

All definitions contained in the California Retail Food Code, beginning with Section 113728, shall apply in the interpretation and application of this Chapter. The following definitions shall also apply:

"**ACDEH**" means the Alameda County Department of Environmental Health.

"**County**" means the County of Alameda, a political subdivision of the State of California.

"**Director**" means the director of the Alameda County Department of Environmental Health.

"**Fixed Food Facility**" shall have the same meaning as Permanent Food Facility in the California Retail Food Code.

"**Health Inspector**" means an employee of the Alameda County Department of Environmental Health authorized under the California Retail Food Code to inspect Food Facilities as an enforcement officer and render findings based on his or her inspection.

"**Health Officer**" means the Health Officer of the County of Alameda and his or her authorized agent or designee.

"**Health Permit**" or "**Permit**" have the same meaning and definition as "Permit" in the California Retail Food Code.

"**Inspection**" means an official visit by a Health Inspector to a Food Facility to determine compliance with all applicable federal, state, and local laws and regulations pertaining to the protection of public health. The term Inspection includes but is not limited to Re-inspection, Routine Inspection and Rescore Inspection.

"**Local Enforcement Agency**" means the Alameda County Department of Environmental Health and its designated employees, or other designated agents.

"**Notice of Closure**" means a public notice posted by a Health Inspector upon suspension or revocation of the facility's Permit to operate and that results in the immediate closure of the facility and the discontinuance of all operations of the food preparation and service facility because of violations of applicable Federal, State and local statutes, orders, ordinances, quarantines, rules, regulations, or other directives relating to the public health. The sign must remain posted until the facility is reopened by ACDEH.

"**Official Inspection Report**" (**OIR**) means the written report prepared and issued by the Health Inspector after conducting an inspection of a Food Facility to document compliance with all applicable federal, state, and local laws and regulations pertaining to the protection of the public health and retail food.

"**Operator**" means any person engaged in the dispensing of, or assisting in the preparation of, food or beverages or any person otherwise employed or working in a Food Facility.

“Placard” means a green, yellow, or red color-coded Placard that describes the compliance status of the Food Facility at the most recent Inspection.

“Routine Inspection” means an inspection of a Food Facility to determine compliance with all applicable federal, state, and local laws and regulations pertaining to the protection of public health. An inspection to determine compliance with specific regulations or legal requirements is not a routine inspection.

“Rescore Inspection” means a re-evaluation of a Food Facility which is conducted as a Routine Inspection in order to have the facility rescored. A fee is charged for a rescore inspection based on the current hourly rate. If the rescore inspection is requested by the Permit Holder, the fees are due at the time of the request. Requesting a Rescore Inspection is not a guarantee of receiving an upgraded Placard.

“Re-inspection” means an inspection initiated by the Health Inspector when the Routine Inspection reveals serious or repeat violations at a Food Facility. This is not a Routine Inspection and only the issues noted on the original OIR are addressed. Re-inspections are not included in the annual Environmental Health Permit fee so additional charges may be required of the Permit Holder.

“Regulations” means the ACDEH “Alameda County Food Facility Regulations.”

SECTION II - Permits

6.68.050 Health Permit.

- A. Application. A person intending to operate any Food Facility must complete a Health Permit application and file it with ACDEH. A health permit must be obtained prior to operating any food facility.
- B. Inspection. Once the Permit application has been processed, the Health Inspector shall make an inspection of the Food Facility, and if all the provisions of this Chapter and the California Health and Safety Code have been complied with, the Health Inspector shall notify the applicant and issue a Health Permit to operate.
- C. Issuance. If the Food Facility does not conform to the provisions of this Chapter, or the health laws and regulations of the State, the Health Inspector shall not issue a Permit.
- D. Unlawful Operation Without Permit. Except as set forth in the Regulations, it is unlawful for any person controlling, leasing, acting as an agent for, conducting, or managing any Food Facility in the County, to conduct or operate, or cause or allow to be conducted or operated, such Food Facility without a Permit to operate the same, during a suspension, or after the revocation of such Permit, notwithstanding the fact that such person holds another valid license from a state, local or federal municipality to conduct such business, such as a business license.

SECTION III - Grading and Placards

6.68.060 Placard Grading System.

- A. The Placard grading system consists of Green, Yellow and Red placards for inspection and scoring of Food Facilities.
- B. The Health Inspector shall order immediate closure of the Food Facility upon issuance of a Red Placard. The Health Permit issued to the Food Facility shall be suspended and the Red Placard, which is a Notice of Closure, shall be posted until the Health Permit is reinstated.

6.68.070 Posting of Placards.

- A. Upon completion of an Inspection of a Food Facility, the Health Inspector shall post the appropriate Placard at the Food Facility. The appropriate Placard shall be determined by the Health Inspector based upon inspection results.
- B. Once inspected and assigned a Placard, it is unlawful to operate a Food Facility unless the Placard is posted in accordance with this Chapter and as specified in the Regulations.
- C. The Placard shall be posted so as to be clearly visible to the general public and to patrons entering the Food Facility. "Clearly visible to the general public and to patrons" means:
 - 1. Posted in the front window of the Fixed Food Facility within five feet of the front door; or
 - 2. Posted in a display case mounted on the outside front wall of the Fixed Food Facility within five feet of the front door; or
 - 3. Posted in the service window of the Mobile Food Facility; or
 - 4. Posted in a location approved by the Health Inspector to ensure proper notice to the general public and to patrons of the Food Facility.
- D. If any Placard becomes damaged or altered the Permit Holder or Operator shall immediately contact ACDEH for replacement.
- E. A Placard shall remain valid from the time of issuance until a new Inspection or a change in ownership, at which time a new Placard may be issued.
- F. In addition to the Placard, the OIR shall be maintained at the Food Facility and shall be available to the general public for review upon request. The Food Facility shall keep the OIR maintained at the Food Facility until such time as the Health Inspector issues a new OIR.

6.68.080 Placard Tampering, Removal, and Violations.

- A. Placards are the property of Alameda County
- B. Placards shall not be defaced, marred, camouflaged, hidden, or removed.
- C. The Permit Holder is responsible if any Placard becomes defaced, marred, camouflaged or otherwise damaged.

D. Removal of the Placard is a violation of this Chapter and shall be punishable as specified in this Chapter and set forth in the Regulations. In addition to any other fines and penalties, the removal of a Placard may result in the suspension or revocation of the Health Permit.

E. Removal of the Placard will result in the Food Facility being subject to Re-inspection, including on a daily basis until the correct Placard is properly displayed and all associated fees are paid.

F. In addition to any other enforcement action tampering with a placard is punishable by fines set by the resolution of the Board of Supervisors.

SECTION IV – Mobile Food Facilities

6.68.090 Mobile Food Facilities.

A. To operate a Mobile Food Facility in the County of Alameda a permit issued by ACDEH is required.

B. Mobile Food Facilities must complete a full application and full inspection

C. In order for routine operational inspections of Mobile Food Facilities to be conducted at the required frequency for the protection of the public, the Health Inspector must have knowledge of locations and routes of Mobile Food Facilities.

D. The Director shall establish procedures to be set forth in the Regulations so that Mobile Food Facilities can be accurately located in the field for inspections and issuance of a Placard, including mandatory conditions to be met before issuance or renewal of a Permit. These conditions may require that the Mobile Food Facility install and maintain equipment to identify its location for the purpose of unscheduled inspections, such as the installation of a Global Positioning System (GPS) unit on Mobile Food Facilities.

SECTION V – Education

6.68.100 Mandatory Food Safety Education.

The Health Inspector may require that anyone associated with the Food Facility to attend a food safety education class, including if Health Inspector determines either of the following:

1. There have been repeated major violations (CDC Risk Factor Violations) that affect food safety; or
2. Any Food Handler or Food Employee does not have sufficient knowledge and understanding of how to safely prepare and serve foods.

SECTION VI – General Requirements

6.68.110 Toilet Facilities.

A. Permanent Food Facilities must provide toilet and hand-washing facilities for employees within the Food Facility, except as set forth in California Health and Safety Code Section 114250.1. Toilet and hand-washing facilities for employees cannot be located in another business.

B. Mobile Food Facilities must operate within 200 feet travel distance of an approved and readily available toilet and hand-washing facility, or as otherwise approved by the enforcement agency, to ensure that restroom and hand-washing facilities are available to facility employees whenever the Mobile Food Facility is stopped to conduct business for more than a one-hour period.

6.68.120 Garbage and Waste Disposal.

Outdoor storage area or enclosure used for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be easily cleanable, durable, and sloped to a sanitary sewer drain. Permit holders shall follow procedures as outlined in the regulations.

SECTION VII – Cottage Food

6.68.130 Cottage Food Operators

Operating as a cottage food operation without a valid permit or registration is a violation of this Chapter.

SECTION VIII- Enforcement

6.68.140 Enforcement - Inspection

ACDEH, through the Health Officer, is charged with the enforcement of the provisions of this chapter. Any authorized representative of the Health Officer or ACDEH may at all reasonable times enter any Food Facility or any place suspected of being a Food Facility to inspect the premises and operations in accordance with the California Retail Food Code, this Chapter and all other laws and regulations.

6.68.150 Suspension or Revocation of Permit.

A. Any Permit issued pursuant to the provisions of California Retail Food Code and this chapter may be suspended or revoked by ACDEH for a violation of the provisions of this chapter, or any applicable health law or regulation of the State.

B. Suspension or revocation proceedings shall be conducted in accordance with the California Retail Food Code and any regulations adopted by the Director.

6.68.160 Operating Without a Permit

- A. A violation of Section 6.68.050 D (Unlawful Operation Without Permit) is a misdemeanor punishable by fine, or imprisonment in the county jail for a period not exceeding six months, or both.
- B. Any person violating Section 6.68.050 D (Unlawful Operation Without Permit) may be enjoined from such violation by any court of competent jurisdiction. The remedy provided by this section is cumulative to any other remedy provided by law.
- C. Any person who intentionally violates any injunction issued pursuant to this Chapter shall be liable for a civil penalty collected by the ACDEH.
- D. Continuing violations. Where the conduct consisting of a violation of Section 6.68.050 D (Unlawful Operation Without Permit) or an injunction issued pursuant to this Chapter is of a continuing nature, each day of such conduct is a separate and distinct violation.

6.68.170 Noncompliance with Local Enforcement Agency — Injunctive relief.

Any person who, after notice, violates, or who, upon demand of the Local Enforcement Agency, refuses or neglects to conform to any rule, regulation, order or directive prescribed by the Local Enforcement Agency may be enjoined from such violation by any court of competent jurisdiction. The remedy provided by this section is cumulative to any other remedy provided by law. A civil action to enforce the provision of this section may be brought by the county counsel or the district attorney.

6.68.190 Penalties.

- A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor.
- B. For the protection of public health and safety and to safeguard public health and provide to consumers food that is safe, in addition to any other enforcement action, violations of this Chapter and the Regulations may result in fines and penalties.
- C. Any fines, penalties, fees and costs may be collected by ACDEH, or their designee by a civil action against the Permit Holder and/or Operator.
- D. The Board of Supervisors shall set a schedule of civil fines and penalties for those matters within its authority and in violation of this Chapter and not already set by state law or regulation.

SECTION IX

6.68.200 Fees.

Services provided by ACDEH, as the Local Enforcement Agency, including but not limited to, consultations, plan checks, Inspections, follow up Inspections, and other related activities shall be charged at the current hourly cost recovery rate established by the Board of Supervisors upon recommendations of the Director.

SECTION X

This Chapter shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen days after its passage it shall be published once with the names and members voting for and against the same in a newspaper published in the County of Alameda.

Passed and adopted this _____ day of _____ 2015 by the Board of Supervisors of Alameda County, California.

AYES:

NOES:

EXCUSED:

Scott Haggerty,
PRESIDENT, BOARD OF SUPERVISORS

APPROVED AS TO FORM:
Donna Ziegler, County Counsel

By: _____
Kathleen Pacheco

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ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH
DIVISION OF ENVIRONMENTAL PROTECTION

FOOD FACILITY REGULATIONS

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Section 1 – Authority

These Regulations were developed under the authority of the Alameda County General Ordinance Code, Title 6, Health and Safety, Chapter, 6.68 - Food Facilities. The regulations are consistent with the California Retail Food Code (“Cal Code” located at California Health and Safety Code Section 113700 et seq) and are designed to provide minimum standards in order to ensure ongoing safe food handling practices and to assist in the uniform implementation of the Placard Grading System for Alameda County. If any provision of these regulations or the application thereof to any person or circumstance is held invalid, the remainder of the regulations, and the application of such provision to other persons or circumstances, shall not be affected.

Section 2 – Appendix

The following documents, which may be periodically updated , are attached and made a part of these Regulations:

Appendix Section A – Fixed Food Facilities

- A-1 Fixed Food Facility Marking Guide
- A-2 Fixed Food Facility Official Inspection Report
- A-3 Fixed Food Facility Self Inspection Checklist
- A-4 Fixed Food Facility Placards

Appendix Section B – Mobile Food Facilities

- B-1 Mobile Food Facility Marking Guide
- B-2 Mobile Food Facility Official Inspection Report
- B-3 Mobile Food Facility Self Inspection Checklist
- B-4 Mobile Food Facility Placards

Appendix Section C – Temporary and Other Events

- C-1 Inspection Report
- C-2 Temporary Event Booth Pre-inspection/Self Inspection Form

Appendix Section D – Food Program Elements and Fee Codes

- D-1 Food Program Elements and Fee Codes List

Appendix Section E – Fines

- E-1 Resolution Establishing Fines

Section 3 – Definitions

All definitions contained in the California Retail Food Code, beginning with section 113728 and the Alameda County Ordinance Chapter 6.68, the Food Facility Ordinance shall apply in the interpretation and application of these Regulations. The following definitions shall also apply:

ACDEH means the Alameda County Department of Environmental Health.

Approved Power Source means the device that provides electrical power to a mobile food facility. This can include a generator, or electrical outlet (with approved Plug-in Agreement).

Critical Sink means a required sink designated for a specific purpose (e.g. warewashing sink, food prep sink, hand washing sink) and located within a reasonable distance to its intended use.

Foodborne Disease Outbreak means an incident in which two or more persons experiences similar illness resulting from the ingestion of a common food

Foodborne Illness means an infection or intoxication caused by a bacteria, virus or parasite, or chemical contamination transmitted by a food.

Food Program Elements and Fee Codes List means the list containing the costs related to inspections and permits. It is for the purpose of permits and fees. Inspections are conducted using definitions and code citations from the California Retail Food Code and the Alameda County Ordinance and Regulations.

Intervention means actions taken to reduce the risk for potential foodborne illness.

Marking Guide means the guidance documents that provide detailed information on each violation category found in the OIR along with examples of violations that may be identified in each respective category. This document includes point values and corrective actions to be taken for violations.

Official Inspection Report (OIR) means the paperwork used both to document violations observed in a food facility and to calculate the final score based on compliance with State law.

Pathogen means a microorganism, such as bacteria or virus that is capable of causing disease or illness after entering the body.

Permit Suspension means an action taken by the ACDEH to order a food facility temporarily closed.

Permit Revocation means an action taken by the ACDEH to order a food facility permanently closed.

Self Inspection Checklist means the guidance documents available for Operators to assist them in assessing their Food Facility for compliance.

Section 4 – Permits

- A. Multiple Operations at One Business.** When there are multiple food operations conducted within one business, for example, a bakery and meat counter located within a supermarket, each operation is considered a separate Food Facility and must apply for and be issued a separate Environmental Health Permit. Each operation will be scored/graded individually. Each operation requires a separate permit, even if owned or operated by the same permittee. Separate inspections are required for each operation.
- B. Posting for Multiple Operations at One Business.** If a location has multiple Food Facilities with Permits, the Health Inspector will post the Placard of each separately permitted Food Facility at its individual customer service counter or area. For example, a supermarket that has a permit for a retail food market and a separate permit for a bakery will post the Placard of the retail food market at the entrance to the market, and the Placard for the bakery at the bakery's customer service counter.
- C. Posting for Multiple Businesses at One Location.** In the event that a Food Facility is operated in the same building as a separate business and shares a common patron entrance the Health Inspector shall post the Placard in the initial patron contact area of the inspected Food Facility, or in another location approved by the Health Inspector.
- D. Non-transferable.** A Permit is non-transferable. The Permit shall be valid only for the person, location, and type of activity approved at the time of issuance and, unless suspended or revoked for cause, for the time period indicated.

Section 5 – Inspections and Placards

- A. Inspections.** ACDEH is responsible for enforcing the California Retail Food Code (Cal Code) and conducts inspections of all Food Facilities.
- B. Access.** A Health Inspector must be allowed immediate access to a Food Facility at any time during business hours.
- C. Violations.** Violations of Cal Code are documented on the Official Inspection Report form (OIR), which is issued by the Health Inspector at the conclusion of

the inspection. If any inspection reveals a condition(s) that is an imminent health hazard, then the facility may be ordered to immediately close.

D. Types of Inspections. DEH conducts the following types of inspections:

- I. **Routine Inspections** are unannounced and conducted at a frequency determined by a risk assessment. The risk assessment evaluation includes the type of food, the preparation, and the population served in determining the potential risk to the public for the occurrence of foodborne illness.
- II. **Re-inspections** are inspections initiated by the Health Inspector after a routine inspection reveals serious or repeat violations at the facility. This is not a routine inspection and only the issues noted on the original OIR are addressed. However, a Health Inspector may always address other violations that are observed. There is no charge for the first re-inspection after a routine inspection. There is an hourly charge for any further re-inspections.
- III. **Rescore Inspections** are re-evaluations of the facility, which can be requested by the Permit Holder or done at the discretion of the Health Inspector. These are inspections which are conducted as routine inspections in order to have the facility rescored.
 - a. Requesting a rescore inspection is not a guarantee of receiving an upgraded placard.
 - b. The rescore inspection gives the food operator an opportunity to improve the food facility's Placard (from a Yellow or Red Placard to a Green Placard).
 - c. The health inspector may require payment of the fee before the rescore inspection is conducted, to recover costs. At the conclusion of each rescore inspection, a new Placard will be posted.

E. Required Follow Up Inspections.

- I. **Yellow Placard:** If a Food Facility receives a Yellow Placard, the permit holder must correct the noted violations and there will be a rescore inspection no later than seven (7) days after the original routine inspection. The permit holder may request a rescore inspection earlier.
- II. **Red Placard:** A mandatory reopening inspection, which may or may not be a rescore inspection, is required before the facility will be re-opened. After the violations are confirmed corrected, a rescore may be requested.

- F. Complaint Inspections** are initiated as a result of a complaint filed by the public. Complaint inspections may address only the issues related to the complaint. The Health Inspector may also look at other conditions up to and including a full routine inspection.
- G. Emergency Inspections** are conducted when an emergency may exist such as a fire or electrical outage. Other examples of the need for emergency Inspections are when there is non-potable water or sewage overflow into a Fixed Food Facility.
- H. Correction of Violations** – In some cases a violation can be corrected while the Health Inspector is on site. All violations will be identified on the OIR, with any corrective action taken.
- I. **Major Violations** are CDC Risk Factors directly relate to the transmission of foodborne illness and pose a health hazard and warrant immediate correction.
- a. SCORING Four/Two (4/2) points are deducted for each violation marked, unless otherwise indicated.
 - b. The presence of an Imminent Health Hazard is a 26 point violation. This will result in an immediate closure.
- II. **Minor Violations** (for example dirty floors and some non-essential equipment disrepair) do not need to be corrected while the Health Inspector is on site.
- a. One (1) point is deducted for each item marked.
 - b. Multiple violations within each are only counted as a single violation and one point is deducted from the total score.
- III. **Multiple Violations** within each category are counted as a repeat violation and multiple points are deducted from the total score. For example, if temperature violations are found in different temperature holding units, a violation will be counted against each piece of equipment found at the incorrect temperature.
- I. **Health Inspector.** A Health Inspector will also document on the OIR observations such as the following:
- I. The violations observed during the inspection, corrective actions to be taken, compliance timelines.

- II. Training and information that was provided by the Health Inspector due to an employee's lack of knowledge or inability to adequately demonstrate a required activity or procedure.
 - III. Recommendations that are made by the Health Inspector for correcting violations and other inspection observations.
- J. Points.** Violations on the OIR have been assigned a specific point value based on the associated public health risk. The color of the placard the Food Facility receives reflects the status of the Food Facility at the time of the inspection.
- I. Each food facility inspection begins with 100 points. As the Health Inspector conducts the inspection, violations found are marked in the corresponding box of the OIR.
 - II. At the conclusion of the routine inspection, the Health Inspector will place the grading placard in public view.
 - III. The points and colors of a placard are as follows:

80 to 100 points	Green	Good food handling practices and overall food facility maintenance and sanitation. (No more than one corrected CDC Risk Factor violation).
75 to 79 points	Yellow	Minimally acceptable food handling practices and overall food facility maintenance and sanitation. (Two or more corrected major CDC Risk Factor violation).
0 to 74 points	Red (CLOSURE)	Insanitary conditions or an imminent health hazard exists and the facility shall be immediately closed. The Permit is suspended and the Red Placard is posted as a Notice of Closure.

Section 6 – Mobile Food Facilities

- A. Permit.** Mobile Food Facilities must apply for a permit, pass an inspection, and contract with an approved Commissary and/or Commercial Kitchen prior to

operating in Alameda County. Permits are valid for twelve (12) months and renewed on an annual basis.

B. Required Documents. The following documentation is required to obtain permit:

- I. Completed Alameda County Mobile Food Unit Application.
- II. Menu (Proposed or Current).
- III. Commissary and/or Commercial Kitchen Agreement and permit issued by local County Environmental Health Department and/or copy of applicable State or Federal Registration/License(s)*.
- IV. Current Food Safety Certificate of Person in Charge of food safety management.
- V. Current DMV Registration.
- VI. Valid Driver License.
- VII. Additional documents as required by Health Inspector depending on the type of permit.

C. Consistent Power Source. An approved source of power must be in use at all times, when a mobile food facility is in operation.

D. Route Maps.

- I. All Mobile Food Facilities operating in Alameda County must submit an accurate Route Map to ACDEH. If the route changes, an updated Route Map must be promptly submitted (within seven days of change).
- II. If a Health Inspector attempts an Inspection of a Mobile Food Facility based on the Route Map on file with ACDEH and the Mobile Food Facility is not at the location identified on the Route Map, the next Inspection may be charged the same as a Rescore Inspection.
- III. Failure to be at a location identified on the Route Map may be considered a refusal to permit entry or inspection, concealment or withholding of evidence or interference of the duties of an enforcement officer.
- IV. If there are multiple attempts to locate a Mobile Food Facility at the location identified on the Route Map, and that Mobile Food Facility is not found at the location identified it may be considered a violation of the Retail Food Code, Ordinance and these Regulations.
- V. ACDEH has a substantial interest and need in being able to locate a Mobile Food Facility in order to perform its regulatory obligations. It is necessary to know the location of the Mobile Food Facility to in order to ensure ongoing safe food handling practices and to assist in the uniform implementation of the Placard Grading System.

- VI. The penalties for failure of a Mobile Food Facility to be at the location identified on the submitted Route Map include:
- a. Fines pursuant to the Fine Schedule.
 - b. An Order, issued by the Division Chief, to install a Global Positions System (GPS) in the Mobile Food Facility that reports the location of the Mobile Food Facility directly to ACDEH at the sole expense of the Permit Holder. The Permit Holder must follow all GPS requirements contained in the Order.
 - c. Revocation of the Permit.
 - d. All other penalties and remedies allowed by law.
- E. **Review of Standard Operating Procedures.** For any Mobile Food Facility, which is issued a Yellow Placard the Health Inspector may require the Permit Holder to contact ACDEH within the time frame specified by the Health Inspector to schedule an appointment to review the facility's Standard Operating Procedures (SOPs). The SOPs must outline how the Mobile Food Facility will be operated to avoid the continued violations that were observed during the inspection.

Section 7 – Cottage Food

- A. **Registration.** All Cottage Food Operations must complete a registration application and submit all required paperwork to ACDEH annually.
- B. **Change in Registration Information.** Cottage Food Operator must immediately notify ACDEH of any change to the registration information, including modifying a food list, method of selling, distribution or otherwise providing food product to consumers or retailers, regardless of whether the product is sold, consigned or given away.
- C. **Labeling.** All Cottage Food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq).
- D. **Out of County Indirect Sales.** A holder of Cottage Food Class B permit, from anyone other than ACDEH, must request authorization from ACDEH prior to engaging in any indirect sales in Alameda County except in City of Berkeley. (Direct Sales are transactions that occur in person. Cal Code 113758 (b)(4)).

Section 8 – Permit Holder Responsibilities

- A. Responsibilities.** The Permit Holder is responsible for maintaining and operating the food facility in compliance with all applicable laws and regulations at all times. This includes, but is not limited to:
- I. Using safe food handling practices.
 - II. Setting a clear example for staff and other employees.
 - III. Maintaining the physical property in good operating condition.
 - IV. Taking action to repair equipment, plumbing, floors, walls and ceiling.
- B. Change in Permit Information.** ACDEH shall be immediately notified of any change to the Permit information, including adding or dropping a partner, or a change in contact information.
- C. Change of Owner.** Pending change in ownership- ACDEH should be notified 2 to 4 weeks prior to any change in ownership so that an inspection can occur to identify any violations that will need to be corrected prior to issuing a new permit. This request for service will be charged at the hourly rate.
- D. Remodel, Change in Menu or Equipment.** If there is a change in menu that requires different equipment or a change in how food is handled or a remodel, the Food Facility shall submit easily readable plans drawn to scale to the ACDEH for review and approval before starting any new construction. 114380(a).
- E. Person in Charge.** There shall be a Person In Charge present at the food facility during all hours of operation. When the permit holder is not on the premises then they shall designate a Person In Charge. The Person In Charge must have knowledge of safe food handling practices as they relate to the specific food preparation activities that occur at the Food Facility. The Person In Charge must have the authority to take all action as required in the California Retail Food Code.

Section 9 – Garbage and Waste Disposal

All waste must be properly disposed of as set forth in Cal Code. Proper disposal of waste is the following:

- A.** The installation and use of garbage disposal units shall be in accordance with applicable local building and plumbing ordinances.

- B. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles.
- C. Liquid waste such as grease and recyclable grease and waste oil (“Waste Oils”) must be stored to prevent contamination of storm water drainage system. This is best accomplished by secondary containment, such as keeping waste oil in a container, and placing that container within a clean secondary container.
- D. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for Vermin.
- E. In addition, when possible food waste and food soiled paper shall be stored separately and collected by the local waste management company, where those services are available, for composting and thereby reducing the amount of food waste entering the sewage system with the use of garbage disposal units.

Section 10 – Self Closures

- A. A Food Facility shall be “Closed” when conditions present a risk to the health and safety of the public. The Permit Holder has an obligation to immediately correct or self-close when there is an Imminent Health Hazard present.
- B. Imminent Health Hazards. Examples of conditions that are an immediate danger to the public’s health and safety include:
 - I. Sewage overflowing in the facility.
 - II. Lack of potable, pressurized hot and cold water supply (e.g. presence of contaminated water or no water).
 - III. The water temperature at the faucet of any critical sink: hand washing is less than 100°F, food preparation and warewashing is less than 120°F.
 - IV. Unsafe food temperatures (e.g. all refrigeration units are inoperable).
 - V. Unsanitary conditions.
 - VI. Communicable disease transmission (e.g. Hepatitis A, Shigella).
 - VII. Rodent or insect infestation.
 - VIII. Fire.
 - IX. Electrical Power Outage.

- a. For mobile food facilities when there is a lack of or faulty outside power source: generator not present, inoperable, or inadequately sized; or mobile food facility not plugged in to municipal power source.
- C. A Food Facility is required to immediately notify DEH when a self-closure occurs. DEH will send a Health Inspector to the Food Facility after any self-closure to provide an assessment on corrective actions that should be taken to re-open.

Section 11 – ACDEH Closures

- A. **Notice of Closure.** A Red Placard/Notice of Closure is posted by the Health Inspector when the facility earns either:
 - I. A score of 74.0 or less after a routine inspection; or
 - II. An imminent health threat exists.
- B. **Reopening.** The facility must be inspected by a Health Inspector and earn a satisfactory score before it may be reopened. The facility will be inspected after ACDEH has been contacted that corrections have been made.
- C. **Additional Procedures for Mobile Food Facilities.** In addition to all other requirements, a Mobile Food Facility must do the following if there is an ACDEH closure:
 - I. Cease operation and return to its commissary.
 - II. Meet ACDEH to review the Standard Operating Procedures (SOPs).
 - III. A Green Placard will not be issued on the first inspection after a closure, if the inspection score is satisfactory enough to resume operation, a Yellow Placard will be issued.
 - IV. The Person in Charge may be required to attend a “Food Truck Food-Safety 101” class. The Person in Charge must contact ACDEH for enrollment in a class within one month of receiving a Red Placard. A re-score for a Green Placard may not be conducted until enrollment in the class.

Section 12 – Enforcement Actions

A. Revocation of Permit.

- I. The revocation of a Permit can occur if there is a serious or repeat violation, including, failure to comply with the orders on the OIR form or interference with duties of the Health Inspector.
- II. A “Notice of Violation” will be sent to the Permit Holder prior to a permit being revoked. The Notice shall provide information on how to request an administrative hearing.
- III. If the Food Facility’s permit has not already been suspended, the Notice of Violation may include a notice of closure which acts as an immediate suspension of the permit pending a final determination on the revocation.
- IV. If a permit is revoked or suspended the Food Facility must remain closed until the permit is reinstated or a new permit is issued.
- V. Prior to issuing a Notice of Violation, ACDEH may set an office conference to discuss any violations and compliance issues with the Permit Holder.

B. Impounded items. A Health Inspector may impound food, equipment, and carts from a Permit holder or an unpermitted individual providing food to the public.

- I. If the impounded items are removed from the location by the Health Inspector, or a law enforcement officer, a Notice of Violation will be mailed to the Permit holder or to the individual from whom the item was removed.
- II. The Department is only obligated to send notice to the address on file for the permit holder or the address given by the unpermitted individual at the time the items are impounded.
- III. Impounded items may be destroyed and the cost may be billed to the individual in addition to fines and penalties.

C. Fines. Fines are penalties for violations. Any fines must be paid in addition to fees for issuance of a new permit or inspections.

D. Food Safety Classes. Enforcement actions may include requiring the Food Facility to have a food safety education class for its staff. The class may be ordered to occur at the Food Facility or at another location designated by ACDEH. The Permit Holder shall pay a consultation fee at the current hourly rate to cover the ACDEH’s costs of providing a personalized food safety education class to the staff of the Food Facility.

Section 13 – Office Conference and Hearings

- A. **Office Conference.** The Health Inspector may request the Permit Holder and possibly Food Facility staff to participate in a conference at the offices of ACDEH to discuss matters including violations, compliance, corrective actions and enforcement.
- B. **Objection to Inspection Grade.** If, after completion of an inspection, the Permit Holder disagrees with the inspection findings or the resulting Placard, the Permit Holder may request an Office Conference. The issued Placard shall remain posted, even if an Office Conference is requested and scheduled.
- C. **Review.** The issues for the Office Conference will be reviewed by the Unit Supervisor in consultation with the Division Chief.
- D. **Hearings.** Hearings shall be conducted pursuant to the Cal Code and the County Administrative Code.

Section 14 – Fees

- A. **Annual Health Permit Fee.** The annual health permit is effective for one year from the issue date. Invoicing is done two months prior to the permit expiration date. However, failure to receive an invoice does not waive or affect the requirement to timely pay the permit fees. The fee must be paid timely to maintain the status of your health permit and to avoid penalties. Facilities operating without valid permits will be closed.

For new facilities or for a change in ownership, payment of the fees is required at the time the application for a health permit is submitted.

- B. **Fee.** Fees will be assessed to the Permit Holder for all time spent by Health Inspector or other County staff. This includes but is not limited to:
 - 1. A re-inspection is conducted to ensure compliance has been achieved.
 - 2. An administrative hearing is held.
 - 3. Other enforcement actions as necessary.
- C. **Unpermitted Violators.** Any individual that is in violation of this chapter, State or Federal law may be assessed fines and penalties. Violators may also be billed fees for time spent by Health Inspectors or other County staff.

D. Participation in Alameda County Temporary Events and Itinerant Vending– Fee Exemption Requirements

1. The following information and/or documents are required from any person or organization requesting fee exemption from the Alameda County Department of Environmental Health:
 - a. Veterans:
 - i. Copy of Honorable Discharge paper/DD214.
 - ii. Proof of Sole Ownership of the business (no corporations or partnerships).
 - b. Government Entity:
 - i. In a letter or document bearing the agency’s letterhead.
 - ii. Purpose of the event in connection with the agency.
 - iii. Documents must bear the signature of the official responsible for the planned event.
 - c. Charitable Organizations:
 - i. Provide a copy of the current Internal Revenue Service Letter showing non-profit status per Section: 501(c)(3).
 - ii. Alameda County Ordinances, Section 6.92.070-Exemption Form.
 - d. Student Sports & Other Programs:
 - i. A letter or document bearing the school’s letterhead.
 - ii. Alameda County Ordinances, Section 6.92.070-Exemption form.
2. The application and all the supporting documents must be received at least ten (10) working days prior to the scheduled event. Special Event applications are available at: www.acgov.org/aceh/forms.htm or by contacting the Alameda County Environmental Health Department at (510) 567-6700 during regular business hours.
3. Fee Exempt permit applications received later than five (5) working days prior to an event may be subject to a late penalty.

These Regulations are hereby adopted this _____ day of _____ 2015.

Ronald Browder, Acting Director
Department of Environmental Health