

EXHIBIT A

Amendments to the San Leandro Municipal Code

CHAPTER 3-1 COMMUNITY PRESERVATION ORDINANCE

ARTICLE 1. GENERAL

3-1-100 DEFINITIONS.

- (a) **ABANDONED BUILDING.** “Abandoned building” shall mean any building or structure or portion that has been vacant in excess of six months. Lack of utility services and/or boarded windows and doors shall constitute prima facie evidence of the abandonment.
- (b) **ABATE.** “Abate” shall mean to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such manner and to such an extent as the enforcement officer in his or her judgment determines is necessary in the interest of the general health, safety and welfare of the community.
- (c) **BUILDING.** “Building” shall mean any structure used or intended for supporting or sheltering any use or occupancy.
- (d) **JUNK.** “Junk” shall mean any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material.
- (e) **GRAFFITI.** “Graffiti” includes any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on any real or personal property, as defined in California Government Code section 53069.3, as that section may be amended from time to time.
- (f) **MAJOR VEHICLE REPAIRS.** Major repairs include pulling an engine block, repair or replacement of transmissions and front and rear axles, major body repair, dismantling, and similar work associated with automobiles, boats or other motorized or non-motorized vehicle repair.
- (g) **MINOR VEHICLE REPAIRS.** Minor repairs include routine maintenance such as changing oil and tires; replacement of water pump, alternator, brakes, shocks, oil and air filters, and spark plugs; and similar work associated with automobiles, boats or other motorized or non-motorized vehicle repair.
- (h) **OWNER.** “Owner” shall mean any person owning property, including, but not limited to any bank, mortgage company, financial institution, or similar entity or lien holder, as shown on the last equalized assessment roll for City taxes or the lessee, tenant or other person having control or possession of the property.
- (i) **PERSON.** “Person” shall mean any individual, partnership, corporation, association or other organization, however formed.
- (j) **PREMISES.** “Premises” includes tracts, lots or parcels of land; easements; single-unit dwellings; townhouses; condominiums; multiple-unit dwellings; apartment buildings; duplexes; group housing; restaurant, hotel or motel; commercial or industrial establishment of any type; any structure; any parcel of land upon which a building or business is located; or

any unimproved parcel of land.

(k) PROPERTY. "Property" shall mean all real property, including, but not limited to, the entire premises, parking lots, sidewalks, gutter, driveways, walkways and shall include any building and structure located on such property.

(l) REGISTERED/REGISTRATION. A current, valid California Registration for a vehicle conforming to California Vehicle Code Sections 4000 or 9840 et seq. for boats.

(m) STREET. "Street" shall mean the full width or the right-of-way of any public or private street accessible to the public, including the sidewalk, whether publicly or privately maintained and whether or not such street has been accepted as and declared to be part of the City system of streets, including streets forming a part of the State Highway System. "Street" also includes any easements where the City is the grantee of the easement and property owned by the City of San Leandro.

(n) VACANT LOT. "Vacant lot" shall mean any undeveloped property without an approved or permitted use or structure.

(o) VECTOR. "Vector" includes any animal or insect capable of transmitting the causative agent of disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, rodents and other vertebrates.

(p) VEHICLE. "Vehicle" shall mean a device by which any person or property may be propelled, moved or drawn upon a highway, road or body of water, and for the purposes of this Chapter shall include, but not be limited to, automobiles, recreational vehicles, campers, boats, motorcycles and mopeds.

(q) ZONING ENFORCEMENT OFFICIAL. "Zoning Enforcement Official" shall mean the Zoning Enforcement Official, as defined in the San Leandro Zoning Code, and their designees.

3-1-105 PURPOSE

(a) It is the intent of the City Council in adopting this chapter to provide a comprehensive method for the identification and abatement of public nuisances within the City to protect the health, welfare and safety of residents and to promote the maintenance of real property to improve the livability, appearance and social and economic conditions of the City. Public nuisances can create visual blight or lead to neighborhood decline, causing detriment to surrounding properties and depreciating the value of those properties. In addition, as to vacant properties and abandoned, unsecured or partially constructed buildings, the City Council finds that such properties and buildings represent threats to public health, safety and welfare because they invite trespassers, represent fire hazards, can become harborages for vectors and rodents, can become littered or dumping ground or can encourage criminal activity because the property is unsupervised.

(b) Provisions of this chapter are supplementary and complementary to all other provisions of the San Leandro Municipal Code, state law, and any law cognizable at common law or in equity, and nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City to abate any nuisance or initiate any action provided for by law.

3-1-110 RESPONSIBILITY FOR PROPER PROPERTY MAINTENANCE

(a) Every property owner is required to maintain such property in a manner so as not to violate the provisions of this chapter and such owner remains strictly liable for violations on such property regardless of any contract or agreement with any third party regarding such property or of the identity or relationship of any party responsible for creating the violation. Every successive property owner who fails to abate a continuing nuisance is liable in the same manner as the property owner who created the nuisance.

(b) Every occupant, lessee, tenant, or holder of any interest in property, other than as owner, is required to maintain such property in the same manner as is required of the owner, and the duty imposed by this section on the owner thereof shall in no instance relieve those persons referenced from the similar duty.

ARTICLE 2. NUISANCES

3-1-200 GENERAL NUISANCES PROHIBITED.

It is unlawful and a public nuisance for any property owner or any person leasing, occupying or having possession or control or dominion of any premises in this City to maintain such premises or to permit, suffer or allow such premises to be maintained in such a manner that any one or more of the conditions or activities described in the following divisions are found to exist:

- (a) Any dangerous, unsightly, or blighted condition that is detrimental to the health, safety or welfare of the public;
- (b) Any condition in violation of the California Building Code, California Electrical Code, California Mechanical Code, Uniform Housing Code, Health and Safety Code section 19720.3, California Plumbing Code, Uniform Code of Abatement of Dangerous Buildings, California Fire Code, Uniform Security Code, Title 24 of the California Code of Regulations, or the State Building Standards Code, as adopted by reference in this Code, subject to any amendments, additions or deletions made thereto;
- (c) Any condition in violation of any section or division of the San Leandro Municipal Code or City rule or regulation or permit issued by the City;
- (d) Any condition in violation of any rule, regulation, standard or other requirement of any applicable air pollution control district;
- (e) Any condition recognized in law or in equity as constituting a public nuisance, including, but not limited to, California Civil Code section 3480, California Penal Code Sections 11225 - 11235, and California Health and Safety Code section 11570; or
- (f) Any condition that is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin, or any public park, square, street, highway, lane or sidewalk.

3-1-205 UNLAWFUL PROPERTY NUISANCE—PRIVATE PROPERTY.

It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of private property in the City to maintain or to allow to be maintained such property in such manner that any of the following conditions are found to exist thereon, except as may be allowed by this Code.

(a) Unlawful Outdoor Storage:

(1) The accumulation of abandoned, discarded, or dilapidated objects, including but not limited to junk; abandoned, wrecked, dismantled or inoperative vehicles; vehicle parts and equipment; machine parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, scrap metal, wood, plant cuttings, rubbish and debris or similar matter which constitutes a threat to the health or safety of any person or renders any premises unsightly and detrimental to the general public welfare.

Nothing in this section shall be construed as prohibiting the orderly outdoor storage of business related materials and inventory where permitted by applicable zoning designation and/or permit.

(2) The accumulation of dirt, sand, gravel, concrete, litter, debris or other similar material on the property which is visible from the street.

(3) Attractive nuisances dangerous to those members of the public unable to discover the nuisance condition, or recognize its potential danger, including, but not limited to abandoned, broken, neglected or unsupervised vehicles, machinery, equipment, refrigerators and freezers, pools, ponds and excavations.

(4) Materials or other items stacked in a manner as to be visible from the street above any fence. Nothing in this section shall be construed as prohibiting the orderly outdoor storage of business related materials and inventory above fence height where permitted by applicable zoning designation and/or permit.

(5) The placement of items of business inventory, refuse containers, equipment, vehicles, or obstruction on the street or sidewalk.

(6) Materials stored or stacked on commercial or industrial property in a disorderly manner in view of the street in Zoning Districts where outdoor storage is permitted.

(7) Boats, trailers, recreation vehicles, vehicle parts or other articles of personal property which are left in a state of partial construction, dilapidation or disrepair for an unreasonable period of time in locations which are visible from the street.

(8) Camper shells which are left for an unreasonable period of time in front yards, driveways, side yards, sidewalks or walkways and are visible from the street.

(9) Packing boxes, pallets, lumber, junk, trash, salvage materials, or other debris kept on the property for an unreasonable period.

(10) Clotheslines or clothes hanging in front yards, side yards, porches or balconies and visible from a street.

(11) The storage of firewood or other flammable materials used for heating purposes in excess of standards relating to the safe storage of combustible materials as determined by the City of San Leandro Fire Department and the Uniform Fire Code.

(b) Landscaping/Vegetation:

(1) Dead, decayed, diseased or hazardous weeds or other vegetation visible from the street constituting unsightly appearance, dangerous to public safety and welfare or

detrimental to neighboring property or property values.

(2) Overgrown vegetation likely to harbor rats, vermin and other nuisances causing detriment to neighboring properties or property values, growing into the public right-of-way, obstructing the necessary view of drivers on streets or private driveways and visible from the street.

(3) Failure to comply with the requirements set forth in any City zoning approval or permit applicable to the premises.

(c) Trash, Litter, Trimmings, Oil and Debris:

(1) The accumulation of litter, debris, trimmings or trash on any property, including sidewalks, gutter, driveways, parking lots or the public right-of-way, which is generated on, or as a consequence of the use or maintenance of the property.

(2) Pooled oil, water, or other liquid accumulation, flowing onto the street, or excessive accumulations of grease or oil on paved surfaces.

(d) Trash Containers:

(1) Trash, garbage or refuse cans, bins, boxes or other such containers stored in view of the street, unless stored in a side yard location flush with or further distant from the street than that portion of the front wall of the residence or main structure nearest to such container, and so long as the lid for such container is closed. However, nothing in this section shall be construed as prohibiting the placement of such receptacles adjacent to the street for pick-up by the City's franchised waste hauler on normal trash and recycling pick-up days, nor prohibit the outdoor storage of any type of trash receptacle if said receptacle is screened from view from the street or any public right-of-way in a manner approved by the Zoning Enforcement Official or his/her designee.

(2) Any property without regular and adequate trash pick-up service.

(3) Trash containers without secure, firmly fitting covers or evidencing an overflow of trash and/or other debris.

(e) Buildings and Structures:

(1) Buildings which are dilapidated, abandoned, boarded up, partially destroyed, have broken windows or broken windows secured with wood or other materials or which are left in a state of partial construction for more than thirty (30) days, or such other unreasonable period of time based on the particular circumstances which is less than thirty (30) days, buildings subject to demolition pursuant to applicable permit or other authority, for which demolition has not been diligently pursued, and such buildings which are unpainted or where the paint on the building exterior is cracking, peeling, chalking or mostly worn off.

(2) Unsecured buildings constituting hazardous conditions or inviting or permitting trespassers and malicious mischief.

(3) Awnings, covers, canopies, umbrellas, screens or other window coverings or building structures which are damaged, torn, severely faded, rusted, bent, unpainted or in some other state of disrepair.

(4) No person shall erect, install, place or maintain boards or other coverings over the doors, windows or other openings of any building or otherwise secure such openings by a means other than the method used in the original construction and design of the building, or as otherwise altered in accordance with a valid building permit without first applying for and obtaining a boarding permit and, within 30 days of receiving the boarding permit, completing all requirements of the issued boarding permit and thereafter maintaining a valid and current boarding permit. The Building Official may grant an exception for temporary boarding of a building for immediate public safety needs. Temporary boards shall be removed within seven days of placement unless a boarding permit has been applied for and diligently pursued.

(A) A boarding permit may only be issued for buildings, or portions of buildings, that are vacant.

(B) The boarding permit issued by the Building Official shall authorize the boarding or other securing of a building for a period of no greater than 90 days from the date of issuance unless an extension of the boarding permit is approved by the Building Official.

(C) A boarding permit or boarding permit extension may only be issued by the Building Official where the Building Official finds that the building does not contribute to and is not likely to contribute to blight or that the building is not a nuisance as defined in this Code, because the owner is actively maintaining and monitoring the building and one of the following applies:

(i) The building is the subject of an active building or demolition permit and the owner is progressing diligently to complete the permitted demolition, construction, repair or rehabilitation.

(ii) The owner has a complete and active application pending for a building permit, demolition permit, or other development entitlement.

(iii) The building meets all codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease, or rent.

(iv) The Building Official has determined that continued boarding is necessary for public safety reasons.

(f) Fences and Gates:

(1) Fences or other structures on private property abutting, fronting upon, or visible from any street, which are sagging, leaning, fallen, decayed, extending into the public or private right-of-way, or other dilapidated or unsafe condition.

(g) Graffiti:

(1) Graffiti or other words, lettering or drawings which remain on the exterior of any building or fence for a period that exceeds 72 hours.

(h) Parking Limitations:

(1) Vehicles, whether motorized or non-motorized, parked upon any lawn or other unpaved surface lying within any front yard or street corner side yard, unless the vehicle is parked on a legal paved driveway which provides access to a required

parking space or parking lot.

(2) Vehicles, whether motorized or non-motorized, parked within any required setback or on any surface which has not previously been approved for parking purposes pursuant to applicable Building and/or Zoning Code provisions.

(3) Vehicles, whether motorized or non-motorized, parked parallel to any residence unless the vehicle is parked on a legal circular driveway.

(4) Industrial and commercial properties that fail to post adequate notice prohibiting unauthorized vehicle parking on all such properties in accordance with the requirements of the San Leandro Police Department.

(5) Vehicles which exceed the following dimensions: twenty (20) feet in length or seven (7) feet in width or seven (7) feet in height, or any single vehicle or combination of vehicles having a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or more parked upon any paved or unpaved surface lying within any front yard, street corner side yard, or backyard of any residential property which are visible from the street or visible from adjacent private property. Recreational vehicles as defined by California Vehicle Code Sections 242, 243, 324, and 362 are exempt from this provision. However, at no time shall more than one such recreational vehicle be stored on any residential property at any time.

(i) Residential Vehicle Repair:

(1) The performance of major repairs or dismantling of any motorized or non-motorized vehicle, boat, or part thereof, in a location visible from the street. This section shall not be construed as prohibiting the registered owner of a motorized or non-motorized vehicle or boat, or part thereof, from performing minor repair of said vehicle in the driveway or other paved surface of a residence, provided that the vehicle or boat is registered to someone living in the residence.

Proof of registration of any vehicle or boat on which minor repairs are occurring shall be provided to any San Leandro police Officer or Code Enforcement Officer upon request.

(j) Parking Strips:

(1) Allowing an accumulation of junk, rubbish, debris, or dead, decayed or overgrown vegetation in that area between the property line and the street line of a given parcel, commonly known as a "parking strip."

This section is intended to supplement and not conflict with the provisions of Chapter 22, Division 7, Part 3 of the Streets and Highways Code, entitled "Maintenance of Sidewalks," and Title 5, Chapter 5 of the City of San Leandro Administrative Code, entitled "Community Development Sidewalk Repair Program."

(k) Miscellaneous:

(1) Any other condition or use of property which gives rise to a reasonable determination that said condition or use represents some threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature, or which is so out of harmony with the standards of properties in the vicinity so as to cause substantial diminution of the enjoyment, use, or property values of such properties.

3-1-210 UNLAWFUL PROPERTY NUISANCE—PUBLIC PROPERTY.

It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any private property in the City to use, maintain or allow to be maintained such property for any purposes so as to create any of the following conditions on adjacent or contiguous public property, except as may be allowed by this Code:

(a) Outdoor Storage, Operations or Encroachment:

- (1) The tracking of mud, dirt, sand, gravel, and concrete onto the street or public right-of-way.
- (2) The spilling of debris, including trash, paper, wood, plant cuttings and other vegetation, onto the street or other public right-of-way.
- (3) Vehicles and/or other materials associated with business activity stored on the street or in the public right-of-way.
- (4) The unlawful placement of any object in the public right-of-way including, but not limited to portable recreation equipment; cones; abandoned, discarded or dilapidated objects; or any other object in such a manner as to obstructs the free passage or use in the customary manner of the right-of-way, including the accessibility of parking spaces.

(b) Miscellaneous:

- (1) Any other condition or use of property which gives rise to a reasonable determination that the effect of said use or condition on adjacent public property represents some threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature, or which is so out of harmony with the standards of properties in the vicinity so as to cause substantial diminution of the enjoyment, use, or property values of such properties.

3-1-215 COMMERCIAL AND MULTI-UNIT PROPERTY MAINTENANCE

(a) The commercial and multi-unit property maintenance requirements of this section apply to commercial property and residential properties containing more than four units, in addition to the requirements in all other sections of this chapter. Commercial property includes any property that is used or intended to be used, for commercial business activities, including, but not limited to, stores, office buildings, industrial property, medical centers, hotels, malls, retail stores, shopping centers, warehouses, and automotive garages.

(b) The City Council finds that commercial and multi-unit properties can constitute public nuisances when the maintenance of improvements is not performed in a coordinated and uniform manner. The requirements and standards specified in this section are designed to prevent such projects from becoming public nuisances due to visual blight, safety hazards and other blighting conditions.

(c) Persons owning commercial and multi-unit property shall identify a person authorized and responsible for property maintenance activity. Such person may be the owner or a property management firm. Each multi-tenant commercial shopping center property and multi-unit property shall be posted with the name, address, and 24 hour contact phone number

of the person authorized and responsible for maintenance of the property according to this section, whether that is the owner or property management firm. The posting shall be constructed of and printed with weather resistant materials, be no less than 18 inches by 24 inches, be legible from the public right of way, and shall contain, along with the name, address, and 24 hour contact number, the words "THIS PROPERTY MANAGED BY", if applicable, and "TO REPORT PROBLEMS OR CONCERNS CALL."

(d) Landscape maintenance and litter control shall be provided for all portions of the property in a uniform and consistent manner, including regular weed abatement and litter control on developed and undeveloped parcels or portions of the projects. The following criteria shall be the minimum landscape and litter control criteria and standards for properties subject to this section:

- (1) Regular mowing of turf areas;
- (2) Removal of weeds and overgrown vegetation over four inches tall;
- (3) Plant material not to cover any part of sidewalks or walkways;
- (4) All plant material maintained in a healthy, growing condition, in compliance with approved landscape plan for the project where applicable;
- (5) Dead plant material removed and replaced in compliance with the approved landscape plan for the project, where applicable;
- (6) Litter and landscape debris removed from all portions of site, not blown on street or sidewalk;
- (7) Trees maintain a minimum clearance of six feet above walkways;
- (8) Irrigation systems kept in good working condition and repair to prevent leaks or public health hazards;
- (9) Irrigation problems repaired promptly;
- (10) All work shall be performed in a professional manner utilizing best practices;
- (11) All pesticide applications performed by State Certified Applicator; and
- (12) Exterior tobacco ash receptacles shall be kept emptied and clean.

(e) Maintenance for buildings, common areas, and parking lots shall also be provided in a uniform and consistent manner to ensure the following:

- (1) All walkways are cleaned and maintained free of grease, sticky material, feces, and other residues;
- (2) All lights are functioning;
- (3) Shopping carts are properly stored;
- (4) Exterior signage is maintained;
- (5) Building exteriors, including awnings and canopies, are cleaned, maintained, and

painted to present a good appearance, free of graffiti;

(6) All trash and recycling enclosures and receptacles are maintained at all times in a clean condition with lids in place at all times; and

(7) Parking lot surfaces and striping are maintained without holes and surface defects and parking space and pavement striping and signs are repainted, refurbished, or replaced when they become faded, damaged, or destroyed to an extent they are no longer effective.

(f) An occupant or tenant of the premises shall be responsible, in the same manner as the property owner, for compliance with this section regarding exterior maintenance of the occupied premises and any landscaping, stormwater/erosion control measures, signs, trash enclosures, parking facilities, temporary fencing, and other appurtenances directly attributed or allocated to the subject premises.

3-1-220 VACANT LOT MAINTENANCE

The vacant lot maintenance requirements of this section apply to all properties that are undeveloped in addition to the requirements in all other sections of this chapter.

(a) The City Council finds that vacant lots that are undeveloped, poorly maintained, and open to the public can significantly and adversely affect the general welfare of the citizens and property values within the community by reason of the property owner's failure to adequately secure and maintain the lots. Vacant lots overgrown with weeds and vegetation or accumulated with debris, trash, junk, discarded items, or other materials constitute a public nuisance that adversely affects the public health, safety, and general welfare of the City. The requirements and standards specified in this section are designed to prevent such lots from becoming public nuisances due to visual blight, safety hazards and other blighting conditions

(b) All property owners of vacant lots shall designate a local contact representative with full authority to act on behalf of the owner for all purposes of this section. The local contact representative must establish and maintain a local telephone number and a residence or business address within 50 miles of the subject property. The owner of the vacant lot may act as the local contact representative.

(c) Vacant lots must be maintained free of litter, weeds, dry brush, dead or dying vegetation, graffiti, debris, trash, junk, storage units, discarded items, and the stockpiling of any material at all times. The property owner, or designee, must inspect the property at reasonable intervals and take other steps to reasonably ensure that no litter, weeds, dry brush, dead or dying vegetation, graffiti, debris, trash, junk, storage units, discarded items, or materials are stockpiled, collect, or are maintained on the lot.

(d) Vegetation Management:

(1) Ground cover, turf, and grasses shall be maintained to be no more than four inches tall.

(2) Weeds over four inches tall shall be removed.

(3) Shrubs and hedges shall be trimmed to maintain a minimum of 18 inches between the lowest branch and the ground below.

(e) Fencing and Security:

- (1) Vacant lots must be secured to prevent illegal dumping, criminal activity, vandalism, graffiti, trespassing, and all other attractive nuisance.
- (2) Vacant lots shall be fenced on all sides along, or within two feet of, the property line.
- (3) Fencing shall be a minimum of 72 inches in height.
- (4) Fence posts shall be installed in the ground unless the perimeter of the site is paved, in which case fence panel stands may be used. Fence panel stands shall be composed of the same material as the fence, structurally sound, and hold fence panels in a fully erect position.
- (5) Fencing shall be non-view-obscuring so as to provide clear and open visibility of the vacant lot and shall allow adequate site distance at driveways and intersections as determined by the City Engineer.
- (6) Fencing around vacant lots 5,000 square feet or more in size must be provided with a gate to allow access to the vacant lot for emergency services.
- (7) Fencing shall be maintained in good condition at all times.

The Community Development Director may approve alternative methods of securing vacant lots provided they are at least as effective in achieving the intent of the requirements of this section.

(f) Signage Requirements:

- (1) A minimum of one “No Trespassing” sign must be displayed along each property frontage and visible to the public.
- (2) Each property shall be posted with the name, address, and 24 hour contact phone number of the person authorized and responsible for maintenance of the property according to this section. Such person may be the owner or a property management firm. The posting shall be constructed of and printed with weather resistant materials, be no less than 18 inches by 24 inches, be legible from the public right of way, and shall contain, along with the name, address, and 24 hour contact number, the words “THIS PROPERTY MANAGED BY”, if applicable, and “TO REPORT PROBLEMS OR CONCERNS CALL.” If the local property maintenance agent is different than the local contact representative identified pursuant to subsection 3-1-220(b) above, the posting shall also include the name, address, and 24 hour contact phone number of the local contact representative.

3-1-225 DECLARATION OF PUBLIC NUISANCE.

Any private property, or use of private and/or public property found to be maintained in violation of the forgoing sections is hereby declared to be a public nuisance, and such violation shall be abated in the manner provided in Chapter 1-12.

CHAPTER 4-11 NOISE

§ 4-1-1100 SHORT TITLE.

This Article shall be known and may be cited as the "Noise Ordinance."

§ 4-1-1105 POLICY AND PURPOSE.

It is hereby declared to be the policy of the City of San Leandro, in the exercise of its police power, to protect the peace, health, safety and general welfare of the citizens of San Leandro from loud and unreasonable, unnecessary, or unusual noises which are prolonged, unusual, annoying, disturbing and/or unreasonable in their time, place and use and which are a detriment to public health, comfort, convenience, safety, general welfare and the peace and quiet of the City and its inhabitants. It is the intention of the City Council to control the adverse effect of such noise sources on the citizens by prescribing standards prohibiting detrimental levels of noise and by providing a remedy for violations. The provisions of this Article and the remedies contained in this Code shall be cumulative and are not intended to replace any otherwise available remedies for public or private nuisances, nor any other civil or criminal remedies otherwise available. In addition, the regulations contained herein are not intended to substitute for any noise analysis conducted as a part of the

City's environmental review process for discretionary permit approvals, nor is it intended to limit more strict noise control requirements for discretionary permit approvals should more strict measures be found to be necessary in order to maintain noise levels that are not detrimental to the health and welfare of the citizens of the City.

Among the unacceptable noise sources identified in the City's General Plan are mobile sources such as airplanes, commuter and freight railroads, and highway traffic and other sources which are regulated exclusively by the Federal or the State Government. While in most instances the City may not intervene to address these problems directly, it is the strong policy of the city to work with responsible government agencies and elected officials to reduce the real and damaging effects of these noise-producing activities on the quality of life of the City's residents.

§ 4-1-1110 GENERAL PROHIBITION.

- (a) It is unlawful for any person, as defined in Section 1-14-100(h) of this Code, to make, continue, or cause to be made or continued within the limits of said City, any disturbing, excessive or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity, including loud, unreasonable, unusual, penetrating or boisterous noise, disturbance or commotion which annoys, disturbs, injures or endangers the comfort, repose, health, peace and quiet within the limits of the City, and the acts and things listed in this chapter, among others, are declared to be loud, disturbing, injurious and unreasonable noises in violation of this Chapter, but shall not be deemed to be exclusive.
- (b) The characteristics and conditions which should be considered in determining whether a violation of this section exists include, but are not limited to, the following:
 - (1) The level of the objectionable noise.
 - (2) The level of the ambient noise.
 - (3) The proximity of the noise to residential property.

- (4) The nature of the zoning of the area from which the noise emanates and the area where it is received.
- (5) The population density of the area.
- (6) The time of day or night.
- (7) The duration of the noise.
- (8) Whether the noise is recurrent, intermittent, or constant.
- (9) Whether the noise is produced by an industrial, commercial, or noncommercial activity.
- (10) Whether the nature of the noise is usual or unusual.
- (11) Whether the origin of the noise is natural or unnatural.

§ 4-1-1115 DISTURBING, EXCESSIVE, OFFENSIVE NOISES — DECLARATION OF CERTAIN ACTS CONSTITUTING.

It is the intent of this Article to prohibit all loud, unreasonable, unusual, penetrating or boisterous noise, disturbance or commotion which annoys, disturbs, injures or endangers the comfort, repose, health, peace and quiet within the limits of the City except those specifically exempted by Section 4-1-1120 and those permitted under an exception permit issued pursuant to Section 4-1-1125. Notwithstanding any other provisions of this Article, the following acts, which are not in any way exclusive, the following activities, among others, are declared to be disturbing, excessive and offensive noises in violation of Section 4-1-1110:

- (a) **Noises by Animals.** The permitting, by any person having charge, care, custody, or control of any animal, of such animal to emit any noise by any frequent or long-continued noise, which causes annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity. For the purposes of this subsection, the animal noise shall not be deemed a disturbance if a person is trespassing or threatening to trespass upon private property in or upon which the animal is situated or if the noise is for any other legitimate cause, such as someone teasing or provoking the animal. The scope of this subsection is intended to be and shall be interpreted to be broader than any similar prohibition set forth in Section 4-11-435 of this Title.
- (b) **Construction-related Noise Near Residential Uses.** Construction work or related activity which is adjacent to or across a street or right-of-way from a residential use, except between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between 8:00 a.m. and 7:00 p.m. on Sunday and Saturday. No such construction is permitted on Federal holidays. As used in this Article, "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-11-1130, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity.
- (c) **Conflicts with Residential Uses.** Subject to the restrictions on constructions contained in subdivision (b), the sustained operation or use between the hours of 9:00 p.m. and 8:00 a.m. of any electric or gasoline powered motor or engine or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, sweeper, vacuum, public address system, whistle muffler, motorized scooter, machine or mechanical device or other contrivance or facility unless such motor, engine, automobile, motorcycle, sweeper, vacuum, public address system,

whistle muffler, motorized scooter, machine or mechanical device is enclosed within a sound insulated structure so as to prevent noise and sound from being plainly audible from any residential property line.

- (d) **Loud Music in Parks.** The use of electronic equipment, including but not limited to amplifiers, radio loudspeakers, phonographs, tape amplifiers, electronically operated or acoustic musical instruments or other device of like design used for producing sound in or upon any public street, park or grounds, or any other open area to which the public has access, whether publicly or privately owned, between the hours of 10:00 p.m. and 9:00 a.m. is unlawful. At any other time of day, such equipment may not be used in a manner which disturbs the peace, quiet and comfort of neighboring residents or persons of normal sensitivity who are using such areas. This subsection shall not apply to events for which a permit has been obtained pursuant to Chapter 4-20.

(e) **Music, Stereos and Electronics.**

- (1) Operating, playing or permitting the operation or playing of any radio, television set, audio equipment, drum, musical instrument, or similar device which produces or reproduces loud and raucous noise at any time of day in such a manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity. The operation of any such instrument, audio equipment, television set, machine or similar device between the hours of 10:00 p.m. and 8:00 a.m. in such manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this subsection.

(a) The words "loud and raucous noise," as used herein, shall mean any sound or any recording thereof when amplified or increased by any electrical, mechanical or other device to such volume, intensity or carrying power as to unreasonably interfere with the peace and quiet of other persons within or upon any one or more of such places or areas, or as to unreasonably annoy, disturb, impair or endanger the comfort, repose, health, or safety of other persons within or upon any one or more such places or areas.

(b) Any noise level caused by such use or operation which exceeds the ambient noise level on the premises of any other occupied property, or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, by more than five (5) decibels shall be a violation of the provisions of this section.

- (2) The conducting of or carrying on of band or orchestral concerts, rehearsals or practice between the hours of 10:00 p.m. and 8:00 a.m. sufficiently loud as to disturb the peace, quiet or repose of persons of ordinary and normal sensitivity who reside in the immediate vicinity of such band or orchestral concerts or rehearsals or practice.
- (3) Using, or operating, or permitting to be used or operated, for any purpose, any loud speaker, loudspeaker system, public address or similar device between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity, except for any noncommercial public speaking, public assembly or other activity for which a permit has been issued pursuant Chapter 4-20 of this Title.

(4) **TABLE OF APPLICABLE LIMITS**

TABLE OF APPLICABLE LIMITS

Time of Day.....	Sound Level Limit
8:01 a.m. to 10:00 p.m.	65 decibels

§ 4-1-1120 EXEMPTIONS.

The following activities shall be exempt from the provisions of this Title:

- (a) **Emergency Work.** The provisions of this title shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work, and activities involving the execution of the duties of duly authorized governmental personnel and others providing emergency response to the general public, including, but not limited to, sworn peace officers, emergency personnel, utility personnel, and the operation of emergency response vehicles and equipment.
- (b) **Entertainment Events.** The provisions of this Article shall not apply to those reasonable sounds emanating from authorized school bands, school athletic and school entertainment events and occasional public and private outdoor or indoor gatherings, public dances, shows, bands, sporting and entertainment events conducted between the hours of 7:00 a.m. and 10:00 p.m., and special events for which a permit has been issued pursuant to Chapter 4-20 of this Title.
- (c) **Federal or State Preempted Activities.** The provisions of this Article shall not apply to any other activity the noise level of which is regulated by State or Federal law.
- (d) **Maintenance to Residential Property.** The provisions of this Article shall not apply to noise sources associated with maintenance to property used for residential purposes, provided the activities take place between the hours of 8:00 a.m. and 10:00 p.m.
- (e) **Public Health, Welfare and Safety Activities.** The provisions of this Article shall not apply to construction maintenance and repair operations conducted by public agencies, franchisees of the City and/or utility companies or their contractors which are deemed necessary to serve the best interests of the public and to protect the public health, welfare and safety, including, but not limited to, trash collection, street sweeping, tree removal, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks, etc.

§ 4-1-1125 EXCEPTIONS.

If an applicant can show to the City Manager or his/her designee that a diligent investigation of available noise abatement techniques indicates that immediate compliance with the requirements of this Article would be impractical or unreasonable, a permit to allow exception from the provisions contained in all or a portion of this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible up to six months, but renewable upon a showing of good cause, and shall be conditioned by a schedule for compliance and details of methods therefor in appropriate cases. Any person aggrieved with the decision of the City Manager or his/her designee may appeal to the City Council pursuant to Article 4 of Chapter 1-12 of this Code.

§ 4-1-1130 ENFORCEMENT.

Any violations of the provisions of this Article are expressly deemed and declared to be a public nuisance, and such violation shall be abated in the manner provided in Chapter 1-12 of this Code.

CHAPTER 4-34

MOBILE FOOD VENDING

§ 4-34-100. PURPOSE.

This chapter is enacted to regulate the vending of food and food products from mobile food vending facilities on the public sidewalks and rights of way of the City and to establish proper permit and regulatory procedures to ensure the health and safety of the community while at the same time promoting business in the City and providing additional food choices for City residents and visitors.

§ 4-34-150. DEFINITIONS.

"Mobile food vendor" shall mean a person who sells, serves or offers for sale cooked or cold, prepackaged or prepared food for human consumption from a mobile food vending unit(s) parked or located on private property, public property or within the public right-of-way, including, but not limited to, streets and roads. A mobile food vendor may own and operate more than one mobile food vending unit. Mobile ice cream vendors shall be considered mobile food vendors except where otherwise stated and shall have additional requirements as specified pursuant to Section 4-34-500 of this Chapter.

"Mobile food vending unit" or "food truck" shall mean any motorized vehicle, trailer vehicle, or piece of vending equipment moved, propelled, or operated by a bicycle, designed to be portable and not permanently attached to the ground from which only food and beverages are sold, served free or sampled, displayed or offered for sale. Ice cream trucks shall be considered mobile food vending units except where otherwise stated and shall have additional requirements as specified pursuant to Section 4-34-500 of this Chapter.

"Mobile ice cream vendor" shall mean any person engaged in the mobile food vending of frozen or refrigerated desserts, confections or novelties commonly known as ice cream, prepackaged candies, prepackaged snack foods or soft drinks.

"Ice cream truck" shall mean any motor vehicle, or trailer attached to a motorized vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks.

"Pushcart" shall mean a piece of vending equipment which is intended to store all materials and merchandise related to vending activity, and is easily moved by a person. It shall not mean a piece of vending equipment moved, propelled, or operated by a bicycle.

"Trailer" shall mean any non-motorized vehicle which is attached to a motorized vehicle. "Handcart" shall mean a cart drawn or pushed by hand.

"Dolly" shall mean a platform on a roller or on wheels or coasters used to move objects.

§ 4-34-200. APPLICABILITY AND EXEMPTIONS.

- (a) Deliveries. This Chapter does not apply to any person engaged in delivering previously ordered food from or to any store including grocery stores, fixed place of business or residence.
- (b) Community Events and Other Entitlements. This chapter shall not apply to vendors at any City festival sponsored, authorized, or organized by the City or which has been authorized by the City through a special event, temporary use or outdoor facilities permit pursuant to the San

Leandro Zoning Code, lease, agreement, or other entitlements issued by the City, and may be subject to additional requirements pursuant to the terms or conditions of such authorization. A business license, current and valid general commercial and automobile liability insurance coverage, and an Alameda County Environmental Health Department Permit are required for each mobile food vending unit.

- (c) Public, Private Property and Right-of-Way. This Chapter shall apply to mobile food vendors and mobile food vending units operating on public property, private property and in the public right-of-way unless otherwise permitted in subsection (b) of this section.

§ 4-34-250. FOOD VENDING PROHIBITED WITHOUT APPROVAL UNDER THIS CHAPTER.

- (a) It shall be unlawful for any person to engage in the business of mobile food vending within the City of San Leandro without first obtaining a permit as provided herein.
- (b) A mobile food vendor operating in the City must comply with all the provisions of this chapter, including obtaining any and/or all necessary business license(s) and County Health Department permits or certificates, and California Department of Tax and Administration Seller's Permit where applicable.
- (c) No person shall sell, serve, or offer for sale cooked or cold, prepackaged or prepared food for human consumption from motorized or non-motorized vehicles other than those permitted by the Alameda County Environmental Health Department, California Health and Safety Code Section 114381 and in compliance with this Chapter.
- (d) Mobile food vendors shall not conduct business operations on privately owned property within single-family zoning districts or developments unless otherwise permitted pursuant to this Chapter.
- (e) No permit issued by the City for the purpose of mobile food vending may be transferred or assigned to another mobile food vendor or mobile vending unit.

§ 4-34-300. MOBILE FOOD VENDING PERMIT REQUIRED—APPLICATION REQUIREMENTS.

- (a) It shall be unlawful for any person to engage in the business of mobile food vending within the City of San Leandro without first obtaining a permit therefor as provided herein.
- (b) All new and existing mobile food vendors shall obtain a mobile food vending permit for operation at any location within the City of San Leandro. A mobile food vending permit is required for each mobile food vending unit. All applicants must execute an application in writing on a form furnished by the Director of Finance. In order to obtain a mobile food vending permit, mobile food vendors must provide the following:
 - (1) Proof of a valid Alameda County Environmental Health Department Permit.
 - (2) A route map or written description showing the proposed route(s) and location(s) for each mobile food vending unit, which shall be updated annually at the time of business license renewal. Route and location changes before the annual business license renewal must be submitted by a mobile food vendor, which shall become an addendum to the original permit.
 - (3) A copy of the mobile food vendor's valid California driver's license as well as a valid California driver's license for any person that will operate the mobile food vending

unit.

- (4) Where applicable, a valid California Department of Motor Vehicles registration certificate.
- (5) Proof of the following insurance requirements maintained during the term of the permit.
 - (i.) General Liability Insurance. One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage.
 - (ii.) Automobile Liability. One Million Dollars (\$1,000,000.00) combined single limit per accident. Mobile food vending units moved, propelled, or operated by bicycle are exempt from the automobile liability coverage requirement.
 - (iii.) Indemnification and Hold Harmless. Mobile food vendors shall be responsible for all liability for personal injury or property damage which may result from their activities under the permit, or proximately caused by failure on their part to perform obligations under said permit. If any claim or such liability is made against the City, its officers, or employees, the mobile food vendor shall indemnify, defend and hold them and each of them harmless from any loss, liability, damage, claims, expenses or cost sustained by any person or property including any claim based on the active or passive negligence of the City, its officers, volunteers or employees, insofar as permitted by law.
 - (iv.) The certificates of insurance, the endorsement naming the City as an additional insured, and the coverage amounts must be verified by the Finance Department before the issuance of a mobile food vending permit.
- (6) Any supplementary information requested by the City Manager or designee as reasonably necessary to determine whether to approve or deny the mobile food vending permit application.
- (7) Mobile food vendors and mobile ice cream vendors shall pay the prescribed mobile food vending permit fee approved by the City Council.

§ 4-34-350. OPERATIONAL STANDARDS FOR PRIVATE, PUBLIC PROPERTY AND RIGHT-OF-WAY.

- (a) Each mobile food vending unit shall display a current business license and Alameda County Health Department permit in plain view of customers and any licensing agencies.
- (b) Each mobile food vending unit shall maintain a valid Alameda County Health Department permit at all times. If the health permit expires, or is suspended or revoked, then all food sales shall cease until the health permit is reinstated.
- (c) Mobile food vending units shall meet all state and federal requirements, including any related to licensing and registration.
- (d) Mobile food vending units shall be entirely self-sufficient in regards to gas, electricity, water, and telecommunications, unless exceptions are granted pursuant to appropriate permits approved by City departments, including, but not limited to, the Building and Safety Services Division and the Fire Department.

- (e) Mobile food vending units shall be maintained in movable condition at all times.
- (f) Mobile food vendors shall comply with the following:
 - (1) Have at least one clearly designated waste container within two feet of the mobile vending unit while also maintaining a minimum four foot clearance on sidewalks for pedestrian accessibility.
 - (2) No mobile food vendor shall throw, deposit, discharge, leave or permit to be thrown, deposited, discharged, or left, any fat, oil, grease, refuse, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, gutter, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private lot or land in the City. Mobile food vendors shall not dispose or allow the disposal of any generated waste, without written approval, in any public or private waste container other than the waste container under the control of the mobile food vendor.
- (g) No part of the vehicle, furniture, or other equipment related to the vending operation may encroach onto the public sidewalk. Mobile food vendors are responsible for managing customer queuing, and ensuring pedestrian accessibility is maintained.
- (h) Mobile food vendors shall not engage in alcohol sales or service unless permitted by the California Department of Alcoholic Beverage Control.
- (i) All mobile food vendors, mobile food vending units and anyone acting or working on his or her behalf shall comply with Section 4-1-1100 Noise Ordinance of this Code. Any exception shall be provided in accordance with Section 4-1-1120 Noise Ordinance Exemptions of this Code.

§ 4-34-400. ADDITIONAL OPERATIONAL STANDARDS FOR PRIVATE PROPERTY.

- (a) Property Owner Written Permission Required. Mobile food vendors shall have in their possession at all times the property owner's written permission to operate on the property. The written authorization shall describe the approved location and operation schedule.
- (b) Access. Vendors shall not occupy any paved area required for loading, circulation or fire access.
- (c) Furniture. Tables, chairs and shade structures may be allowed in conjunction with mobile food vending units if they occupy excess parking spaces or areas not required for loading, circulation or fire access, and are removed daily after use. Tables and chairs may be on turf or mulched areas provided that precautions are taken or improvements are installed to protect and maintain landscaped areas.
- (d) Capacity. Up to three mobile food vending units may be on one parcel of property at a time as long as each individual mobile food vending unit is in compliance with the requirements of this Code. Additional mobile food vending units may be permitted through a City approved or sponsored special event, temporary use or outdoor facilities permit issued pursuant to the San Leandro Zoning Code provided that each individual mobile food vending unit complies with the requirements of this Code.

§ 4-34-450. HOURS OF OPERATION.

Mobile food vending on private property, City-owned property or rights-of-way shall not be conducted before 7:00 a.m. or after 10:00 p.m. unless otherwise permitted by a temporary use permit,

outdoor facilities permit, or special event permit approved by the City, or other zoning entitlement or right.

§ 4-34-500. PERMITTED LOCATIONS AND SEPARATIONS.

Mobile food vending units shall operate in the zoning districts that permit such business activity pursuant to Part II of the Zoning Code and shall comply with the following restrictions:

- (a) Mobile food vendors do not have any exclusive right to any location in the public streets, nor shall they be permitted a stationary location, unless otherwise provided, or be permitted to operate in any congested area where their operations might impede or inconvenience the public.
- (b) Mobile food vending units shall not be located within any required vision triangles or within 15 feet of any curb return or driveway.
- (c) In the right-of-way, mobile food vending units shall not park for more than five hours in any particular location, nor shall any mobile food vending unit park in violation of any section of the San Leandro Municipal Code.
- (d) Regardless of the length of time parked in the right-of-way, no mobile food vending unit shall park within 500 feet, as measured in any direction, of any area where it was previously parked at the beginning of the five hour period, within any 18 hour period.
- (e) In order to protect public health and safety, including blocking the view of a business frontage or main entrance to the business from a roadway, traffic, circulation, parking availability, noise, trash, or other reasons related to public health or safety, Mobile food vending units shall be separated from the following land uses or activities:
 - (1) Three hundred feet from the property line of any active full service restaurant, café, delicatessen or fast food (large and small) establishment during the restaurant's normal business hours, with the following exceptions:
 - (i.) Mobile food vendors operating as part of a city-approved special event.
 - (ii.) The restaurant and the mobile food vendor are operated by the same entity.
 - (iii.) The mobile food vendor has prior written permission of a business restaurant owner to operate on the property of that existing business.
 - (2) Three hundred feet from any community event or other entitlement, authorized pursuant to Section 4-34-150(b), during the hours of the community event or other entitlement operation.
 - (3) Five hundred feet from the property line of a primary or secondary school during school hours, and one-half hour prior to the start of the school day and one-half hour after the end of the school day.
 - (4) Notwithstanding the separations above, a mobile food vending unit may operate closer to the land uses or business activities specified in this subsection if the mobile food vendor obtains written consent from each applicable restaurant owner, public or private school, community event or entitlement holder indicating that he or she has no objections to the proposed mobile food vending unit operating within the minimum separation. The City may overrule such written consents if the City finds in writing that

the close proximity of the mobile food vending unit(s) creates overriding adverse impacts on parking and traffic circulation within the applicable minimum distance separations.

- (f) The separation shall be measured from the nearest point of the mobile food vending unit to the nearest point of the subject land use.

§ 4-34-550. MOBILE ICE CREAM VENDOR SUPPLEMENTAL REQUIREMENTS.

- (a) Mobile ice cream vendors shall comply with the provisions of this Chapter and the following supplemental requirements. If there is a conflict between any other regulations applying to a mobile food vending unit, the requirements in this Chapter shall take precedence to the requirements applicable to mobile ice cream vendors or trucks:
 - (1) The fingerprints of the mobile ice cream vendor and any employees shall be provided in the initial application for a mobile food vending permit, for renewals, and every even numbered year thereafter;
 - (2) A statement shall be provided in the initial application for a mobile food vending permit, for renewals, and every even numbered year thereafter, as to whether or not the mobile ice cream vendor or any employees have been convicted of any crime, including a violation of any municipal ordinance, the nature of the offense, and the punishment or penalty imposed; and
 - (3) No mobile ice cream vendor shall dispense any item from an ice cream truck parked or stopped within 500 feet of the property line of a primary or secondary school anytime during school hours, one-half hour prior to the start of the school day and one-half hour after the end of the school day.
 - (4) A mobile food vending permit may be denied or revoked if the mobile ice cream vendor or any employees have been convicted of any offense involving conduct which requires registration pursuant to Section 290 of the California Penal Code (the California Sex Offender Registration Act) or convicted of an offense outside the State of California that would have required registration pursuant to the California Sex Offender Registration Act if committed within the State of California.

§ 4-34-600. INSPECTIONS.

Mobile food vendors and their respective employees shall provide licensing and inspection agencies with a copy of a valid San Leandro mobile food vending permit/ business license and Alameda County Environmental Health Department permit upon request. Mobile food vendors shall allow representatives of the City to enter and inspect their mobile food vending units any time the mobile food vending unit is operating within the City for the purpose of verifying compliance with this Code.

§ 4-34-650. SUSPENSION, REVOCATION, APPEALS AND PROCEDURE.

- (a) Any mobile food vending permit may be suspended by the City Manager, or designee, for any of the following reasons:
 - (1) False or misleading information supplied by the mobile food vendor upon which the mobile food vending permit was issued.
 - (2) A finding that the issuance of the mobile food vending permit or continued operation under the mobile food vending permit presents a threat to public health or safety.

- (b) The process and procedures for revocation of mobile food vending permits issued pursuant to this Chapter, and appeals of mobile food vending permits that are revoked, shall follow the same procedures as set forth in Article 4 of Chapter 2-2 of this Code.

§ 4-34-700. VIOLATION AND ENFORCEMENT.

- (a) **Removal and Relocation.** The City Manager, or designee, may order the removal or relocation of a mobile food vending unit on public property, private property or rights-of-way whenever it appears that the activities are having an adverse impact on the public's health, safety, and welfare, including but not limited to blocking required ADA access paths, blocking the view of a business frontage or main entrance to the business from a roadway, traffic, circulation, parking availability, noise, trash, or other reasons related to public health or safety.
- (b) **Violations.** Any mobile food vending unit that is located, operated, or maintained in a manner that impedes vehicular and pedestrian circulation or that creates a hazard to life or property, or any condition or act in violation of this Chapter or any provision of applicable State or Federal law, is expressly deemed and declared to be a public nuisance, and such violation may be abated by any duly authorized police officer of the City of San Leandro in any of the following manners:
- (1) A violation of this Chapter is punishable administrative fine as follows:
 - (i.) In an amount not exceeding one hundred dollars (\$100) for a first violation.
 - (ii.) In an amount not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.
 - (iii.) In an amount not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.
 - (2) A violation of this Chapter for vending without a sidewalk permit as required herein may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):
 - (i.) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
 - (ii.) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.
 - (iii.) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.
 - (iv.) Upon proof of a valid permit, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.
 - (3) **Authority to Tow.** Removing or causing removal of any mobile food vending unit from any street within the City of San Leandro when such mobile food vending unit is operating in violation of this Chapter. The vehicle shall be removed to a tow yard.
 - (i) **Payment of Charges.** The owner or person having the right to possession of any mobile food vending unit removed pursuant to this

Chapter shall pay all such removal, towing and storage charges before he or she shall be entitled to regain possession of such vehicle.

- (ii) Food Spoilage and Property Loss. The City shall not be responsible for food spoilage or property loss that results from the removal, towing and storage of a mobile food vending unit pursuant to this Chapter.
- (4) Suspension. Any mobile food vending permit issued under this Chapter may be suspended pending hearing and for a period not exceeding 10 days whenever any duly authorized police officer of the City of San Leandro has issued a notice of hearing for revocation of permit. Any such suspension shall terminate upon its expiration date or upon the rendering of a decision on the question of revocation, whichever shall occur first. No mobile food vending unit shall operate in the City of San Leandro under a mobile food vending permit during the time the permit is suspended pending the hearing.
- (5) Violations may also result in revocation of applicant's business license pursuant to Section 2-2-440 of this Code.

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