



**AGENDA  
PLANNING COMMISSION  
Regular Meeting**

**7:00 P.M. on Tuesday, January 27, 2015**

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California

1. **CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**
2. **ADMINISTRATIVE**
  - 2.a. Review of agenda items.
  - 2.b. Declaration of Conflict of Interest.
  - 2.c. Commissioner Gregg Manning to report at the City Council meeting of February 3, 2015 (alternate Commissioner Sandra Johnson).
3. **PUBLIC COMMENT**
4. **MINUTES**
  - 4.a. Approval of the minutes for the December 9, 2014 regular meeting.
5. **PUBLIC HEARINGS**
  - 5.a. **HOP-01-15, Home Occupation Permit, Cindy Jakel-Smith, 707 Bloching Circle (APN: 119-464-002).** A request for consideration of a Home Occupation Permit to allow a cottage food operation for baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) to be conducted from a single-family residence. Pursuant to California Environmental Quality Act (CEQA) Guideline 15301, the project is categorically exempt per CEQA.

**Staff Recommendation:** Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public comment and, if determined to be appropriate, conditionally approve the Jakel-Smith Home Occupation Permit.

- 5.b. **ZOA-01-15, Zoning Ordinance Amendment, City of Clayton.** Review and consideration of a City-initiated Ordinance amending and/or updating various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors.

**Staff Recommendation:** Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 01-15, recommending City Council approval of an Ordinance amending and/or updating various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors.

6. **OLD BUSINESS**

None.

7. **NEW BUSINESS**

None.

8. **COMMUNICATIONS**

8.a. Staff.

8.b. Commission.

9. **ADJOURNMENT**

- 9.a. The next regularly-scheduled meeting of the Planning Commission will be held on **Tuesday, February 10, 2015.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, December 9, 2014**

**1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**

Chair Manning called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present:       Chair Dan Richardson  
                  Vice Chair David Bruzzone  
                  Commissioner Sandra Johnson  
                  Commissioner Gregg Manning

Absent:         None

Staff:          Community Development Director Charlie Mullen  
                  Assistant Planner Milan Sikela, Jr.

**2. ADMINISTRATIVE**

2.a.   Review of agenda items.

2.b.   Declaration of Conflict of Interest.

None.

2.c.   Chair Richardson to report at the City Council meeting of December 16, 2014.

**3. PUBLIC COMMENT**

None.

**4. MINUTES**

4.a.   Approval of the minutes for the October 14, 2014 regular meeting.

**Commissioner Johnson moved and Vice Chair Bruzzone seconded a motion to approve the minutes, as submitted. The motion passed 3-0-1 (Commissioner Manning abstained as he had an excused absence from the October 14<sup>th</sup> Planning Commission meeting).**

## 5. PUBLIC HEARINGS

- 5.a. **ENV-01-08, DP-01-08, MAP-02-09, TE-01-14, Development Plan Time Extension, Creekside Terrace Mixed Use Project, City of Clayton**, 1005 and 1007 Oak Street, west side of Oak Street between Center Street and High Street (APNs: 119-050-008, 119-050-009, and 119-050-034). Review and consideration of a one-year time extension of the Creekside Terrace Development Plan which was previously-approved on July 6, 2010 with subsequent one-year extensions granted on October 25, 2011, December 11, 2012, and December 10, 2013, extending the approval to January 6, 2015. This request is in accordance with Section 17.28.190 of the Clayton Municipal Code.

The public hearing was opened.

Assistant Planner Sikela presented the staff report.

Vice Chair Bruzzone had the following questions:

- Can the Creekside Terrace Development Plan be extended every year in perpetuity? Assistant Planner Sikela responded that the Development Plan could be extended in perpetuity in one-year increments, in accordance with the Clayton Municipal Code. Director Mullen added that, although the Development Plan could potentially be extended in perpetuity, there is the possibility that environmental regulations could change and evolve over time and that updating of the environmental document would be necessary.
- Why have there been problems marketing the project to potential developers? Director Mullen responded that there has been some interest in the project but the economy is still recovering from the recession. As a result, there are fewer smaller developers looking for project like this right now and we have been told this project is too small for the bigger developers.

Commissioner Manning asked if the City has pursued the developer who initially showed interest in the project. Director Mullen responded that the prospective developer actually submitted an application to amend the Development Plan. However, the project application was deemed incomplete by the City and it is not clear if this developer will proceed.

Chair Richardson asked if tonight's public hearing was noticed to all property owners within 300 feet of the project site, including the Clayton Community Church. Assistant Planner Sikela responded, yes, all property owners within 300 feet of the project site were noticed, including the Clayton Community Church.

Commissioner Johnson indicated that this is desirable project. When the Development Plan was initially approved, staff and the Planning Commission put in a lot of work on processing the project.

Director Mullen indicated that the intent of the extension request is keep the current Development Plan alive in order to continue marketing the project and encourage development in Clayton's Town Center.

**Commissioner Manning moved and Commissioner Johnson seconded a motion to adopt Resolution No. 05-14, extending for one year the Creekside Terrace Development Plan from January 6, 2015 through January 6, 2016. The motion passed 4-0.**

**6. OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

8.a. Staff.

Director Mullen provided the following updates:

- Commissioner Keith Haydon's Resignation
  - Commissioner Haydon resigned from the Planning Commission and has been elected to the City Council. Commissioner Johnson requested that copies of his resignation letter be distributed to the Planning Commissioners.
  - Commissioner Haydon was the Planning Commission representative who attended the Transportation Partnership and Cooperation (TRANSPAC) meetings. Now that he has resigned, would any of the Commissioners be interested in becoming the new representative that would attend the TRANSPAC meetings? Chair Richardson indicated that he would be willing to again serve as the Planning Commission representative at TRANSPAC meetings.
  
- Silver Oak Estates
  - The Director will be having a conference later this week with environmental consultant Nick Pappani, from Raney Planning and Management, regarding the comments received during the environmental review period and the preparation of the response to these comments.
  - We received thirty-nine comments before the environmental comment period ended and two late comments.
  - The biggest comment letter came from an attorney representing an unspecified client.

Commissioner Johnson asked how will the non-environmental comments be responded to by the consultant. Director Mullen responded that the consultant will craft appropriate non-environmental responses, some as simple as "comment noted."

Commissioner Manning asked if we would carry the non-environmental comments forward during the review period for the other project-related entitlements, or would the concerned parties have to re-submit their non-environmental comments a second time. Director Mullen responded that the comments received on the environmental document will be in the public record.

Chair Richardson asked if the applicant will provide storypoles. Director Mullen responded that the topic of storypoles was discussed with the applicant and the applicant indicated they would explore how best to accomplish this given the site constraints.

Commissioner Manning asked are the trees causing difficulties for installation of the storypoles? Director Mullen responded to the affirmative.

Chair Richardson indicated that he felt it would be important to have storypoles installed in order to assist the Planning Commissioners in having a better understanding of the project. It would be hard to make a decision based on just two-dimensional plan sheets.

Commissioner Manning indicated that, when the Oakhurst development was proposed, there was concern from the community that it would detract from Clayton. However, you barely even notice that the development is there now.

Commissioner Johnson indicated the installation of storypoles would be crucial for the Planning Commission's decision-making process.

Chair Richardson indicated that there is a project proposed in Orinda, called the Wilder project, where they have provided storypoles which has greatly assisted in the understanding of the project.

- Oak Creek Canyon  
Regarding Oak Creek Canyon subdivision proposal, the developer for the project has indicated that funding deposit checks have been mailed to the City in order to re-commence project processing.
- Mobile Food Vendors  
Director Mullen indicated that he would be bringing some recommended Ordinance revisions and updates pertaining to mobile food vendors before the Planning Commission in the coming months.
- Residential Solar Panels
  - Staff is seeking the Planning Commission's input regarding a proposal for a roof-mounted photovoltaic system (solar panels) on a residence located in the Black Diamond Planned Development.
  - The project is proposing to use solar panels on a raised tilt-rack system so that the panels would protrude upward from the roof rather than being parallel with it.

- The project would be visible from off-site locations.
- Staff encourages low-profile “flush-mounted” solar panels in order to minimize visual impacts.
- Since the residence is located in a Planned Development, attributes like raised tilt-rack solar panels can detract from the neighborhood.

Chair Manning asked if the Black Diamond Homeowners Association (HOA) would allow such a project. Director Mullen indicated that the HOA had approved the project based on an HOA approval letter submitted to the City by the applicant. Assistant Planner Sikela added that, after receiving the HOA approval letter, staff had followed up with a phone call to the HOA to verify that the project had been approved by them.

Commissioner Johnson indicated that, if the City approved the ground-mounted solar array in the rear yard of one of the properties on Roundhill Place, we should be consistent in allowing them Citywide. The ground-mounted solar panels on Roundhill Place are extremely visible from Marsh Creek Road.

Director Mullen indicated that the State has passed legislation to require cities to streamline the permitting process of residential solar panel projects.

Chair Richardson indicated the following:

- He gets contacted by prospective solar panel companies at least once per week to have solar panels installed on his residence.
- He agrees with staff that Planned Development districts are more sensitive to design alterations and visual inconsistencies.
- Over time, solar panels can detract from the appearance of a neighborhood due to lack of maintenance and design flaws.

Director Mullen indicated that there are three outcomes that may occur:

- Staff can approve the project at the administrative level;
- Staff can deny the project—a decision which could be appealed to the Planning Commission; or
- Staff can refer the project directly to the Planning Commission using the Site Plan Review Permit process.

Vice Chair Bruzzone and Chair Richardson both indicated that, if the project was already approved by the HOA, their approval carries some validation weight.

By consensus, the Planning Commission indicated it would be appropriate for staff to approve such projects at the administrative level in an effort to be supportive of alternative renewable energy resources.

#### 8.b. Commission.

Commissioner Manning asked when are we going to fill Commissioner Haydon’s position on the Planning Commission? Director Mullen indicated that the issue would be discussed at the next City Council meeting on December 16, 2014.

Chair Richardson indicated he had communications with City Manager Gary Napper regarding the issue of replacing Commissioner Haydon.

Director Mullen indicated that, per the Clayton Municipal Code, the Mayor shall appoint term vacancies on the Planning Commission. What may transpire is that someone is appointed now to finish out Commissioner Haydon's term and then that person or someone else could be appointed to a full term in June 2015.

**9. ADJOURNMENT**

- 9.a. The next regularly-scheduled meeting of the Planning Commission on December 23, 2014 will be cancelled, unless an urgent matter arises. The meeting was adjourned at 8:00 p.m. to the regularly-scheduled meeting of the Planning Commission on January 13, 2015.

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Submitted by  
Charlie Mullen  
Community Development Director

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Approved by  
Dan Richardson  
Chair

Com Dev\Plng Comm\Minutes\2014\1209

**PLANNING COMMISSION  
STAFF REPORT**

**Meeting Date:** January 27, 2015

**Item Number:** 5.a

**From:** Milan J. Sikela, Jr.   
Assistant Planner

**Subject:** Public Hearing to consider a Home Occupation Permit request to allow a cottage food operation for baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) to be conducted from a single-family residence (HOP-01-15).

**Applicant:** Cindy Jakel-Smith

**Business:** Love Cook Nourish

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**REQUEST**

Public Hearing to consider a Home Occupation Permit request to allow a cottage food operation for baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) to be conducted from a single-family residence.

**PROJECT INFORMATION**

**Location:** 707 Bloching Circle  
APN: 119-464-002

**General Plan Designation:** Low Density – Single Family Residential (1.1 to 3.0 units per acre).

**Zoning:** Planned Development (PD).

**Environmental Review:** Categorically exempt per Section 15301 of the California Environmental Quality Act (CEQA) Guidelines.

**Public Notice:** On January 16, 2015, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

**Authority:** Section 17.71.030.A of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a home occupation permit for a cottage food operation in accordance with the standards in CMC Section 17.71.030.B.

## DISCUSSION

The applicant has requested approval of a home occupation permit to allow a cottage food operation for baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) to be conducted from a single-family residence at 707 Bloching Circle (see **Attachment 1**). According to the written supplement submitted by the applicant (see **Attachment 2**), the home-based cottage food operation would involve baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) based on pre-ordered requests made online and over the phone. There will be no “drop-in” business as each order is custom baked. One client at a time is proposed to visit the residence for consultations and tastings with an anticipated maximum of six client visits per week to be generated by the home occupation. The days and hours of operation are proposed Monday through Saturday from 9:00 a.m. to 5:00 p.m.

As part of processing the home-based cottage food operation, the Contra Costa Health Services Environmental Health Division must review and approve the proposal. The Contra Costa Health Services Environmental Health Division cottage food registration form is provided as **Attachment 3**. A proposed condition has also been provided that, prior to commencing operation of the home occupation, the applicant shall provide Contra Costa Health Services Environmental Health Division permit approval to the Clayton Community Development Department. Also, the applicant’s California Food Handler Certificate of Achievement is provided as **Attachment 4**.

Section 17.71.030.B.5 of the CMC requires that any home occupation permit request for a cottage food operation obtain Planning Commission review and approval prior to commencement, in accordance with the standards in CMC Section 17.71.020.5.a - d. The proposed home occupation business, Love Cook Nourish, meets these standards, which includes the applicant obtaining Contra Costa Health Services Environmental Health Division registration for the cottage food operation. Furthermore, if the home occupation generates client traffic to the subject residence—which this subject home occupation is proposing to do—Planning Commission review and approval is required, per CMC Section 17.71.030. Section 17.71.030.B.2 of the Municipal Code states:

“The home occupation shall not generate client/student traffic to the residence in excess of six (6) clients/students per day, unless the number is reduced by the Planning Commission. On Saturdays, client/student traffic may only occur between 9:00 a.m. and 5:00 p.m. Client/student traffic is prohibited on Sunday.”

Since the number of clients proposed to visit the subject residence will not exceed the maximum allowable visits of six per day and the home occupation business will be conducted Monday through Saturday from 9:00 a.m. to 5:00 p.m., the proposal meets the CMC requirements as related to client/student traffic and days of operation as well as the other applicable home occupation standards of approval, including the cottage food operation standards.

### **Parking Issues**

Per Chapter 17.37 of the Clayton Municipal Code, single-family dwellings are required to have four off-street parking spaces (two covered and two uncovered) per unit. The subject single-family residence proposed for the cottage food home occupation has two covered parking spaces in the garage and three uncovered parking spaces in the driveway for a total of five on-site parking spaces. As a result, sufficient off-street parking is provided for the property owner's and clients' vehicles.

### **RECOMMENDATION**

Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, approve Home Occupation Permit HOP-01-15 to allow a cottage food operation for baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) to be conducted from the single-family residence at 707 Bloching Circle.

### **Proposed Findings of Approval**

Based upon the evidence set forth in the staff report, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings that Home Occupation Permit HOP-01-15, as conditioned:

1. Is consistent with the General Plan designation and policies.
2. Meets the Home Occupation Permit standards of approval listed in Chapter 17.71 of the Clayton Municipal Code.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

### **Proposed Conditions of Approval**

1. Home Occupation Permit HOP-01-15 is to allow a cottage food operation for baked goods consisting of cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola to be conducted from the single-family residence at 707 Bloching Circle (APN: 119-464-002) in Clayton.
2. The Home Occupation shall be conducted in compliance with requirements in Chapter 17.71 of the Clayton Municipal Code.
3. Prior to commencing operation of the home occupation, the applicant shall provide Contra Costa Health Services Environmental Health Division permit approval to the Clayton Community Development Department.
4. The applicant shall obtain a Clayton Business License prior to commencing operation of the home occupation. Business license application may be obtained from the City's website [www.ci.clayton.ca.us](http://www.ci.clayton.ca.us) or at Clayton City Hall, 6000 Heritage Trail, Clayton, 925-673-7310.
5. Upon City determination of a violation of or failure to comply with Clayton Municipal Code Chapter 17.71 or these Conditions of Approval, this Home Occupation Permit HOP-01-15 may be revoked or modified in accordance with Clayton Municipal Code Sections 17.64.050 - 17.64.070.

6. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

**Advisory Notes**

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. This Home Occupation Permit shall be used, exercised, or established within twelve (12) months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010-17.64.030).
2. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

**ATTACHMENTS**

1. Vicinity Map
2. Written supplement with project description, submitted by the applicant, date stamped January 5, 2015
3. Cottage Food Registration from the Contra Costa Health Services Environmental Health Division, submitted by the applicant, date stamped January 5, 2015
4. California Food Handler Certificate of Achievement, submitted by the applicant, date stamped January 5, 2015

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## VICINITY MAP



**Jakel-Smith Residence**  
**HOP-01-15**  
**Cottage Food Home Occupation**  
**707 Bloching Circle**  
**APN: 119-464-002**



(Not to Scale)

# ATTACHMENT - 1

# Cindy Jakel-Smith

707 Bloching Circle  
Clayton, CA 94517  
Phone: 510-918-1947  
E-Mail: Cindy@lovecooknourish.com

1/5/15

Milan Sikela  
Assistant Planner  
City of Clayton  
6000 Heritage Trail  
Clayton, CA  
94517

RECEIVED

JAN 05 2015

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT

Dear Mr. Sikela:

The following is a business description for my application for a Home Occupation Permit in the City of Clayton for a Cottage Kitchen. As noted in my introductory letter I have submitted my application with the CCC Environmental Health Division for my Cottage Food Operation Permit.

My business, love.cook.nourish is a home based business for an online bakery. The focus of my work includes: Custom designed Wedding Cakes, Cakes for special occasions, Cupcakes, Desserts for Dessert Bars that are customarily mini's such as Brownies, Cookies, Mini-cupcakes, etc. I also would provide other baked goods such as coffee cakes, scones, muffins, breakfast bars and granola. If these areas are successful I also would like to have a line of savory and sweet breads available and potentially later some baking mixes.

For the most part, ordering would take place via the website with online ordering. Some orders from repeat customers could be via phone orders as well as online. All orders must pre-ordered, I do not have any "drop-in" business as each order is custom baked. I also hope to be able to offer my goods at the local Farmer's Markets.

The days of operation would be Monday-Saturday and hours would be from 0900 am to 5:00 pm. Client visits to the home would be for consultations and tastings for large events such as weddings and parties. This is a very seasonal business as with the wedding and graduation business peaks and then slows down. I would estimate that the daily client visits to the home would be 2-4 in the high season and 2 in the slower season. It would be reasonable to estimate that it would be approximately 6 clients per week in the high season versus a daily number. As these visits are by appointment, they are spread out to where I only meet with one client at a time.

The activities that would take place at the residence are the following: Most frequent: Baking and packaging of baked goods for delivery. Less frequent: Client consultations and tastings

I do all my own purchasing to obtain my ingredients from local retail sources. Therefore, no food delivery trucks such as Food Express, Sysco, etc. would be making deliveries to the home.

I hope this gives a sufficient overview of the business.

Cindy Jakel-Smith  
Owner/Chef love.cook.nourish

ATTACHMENT - 2



## CALIFORNIA HOMEMADE FOOD ACT AB 1616 (GATTO) REGISTRATION / PERMITTING FORM

CFO Business Name: Love.Cook.Nourish		Date: 11/20/14
CFO Physical Address: 707 Bloching Circle	CFO City: Clayton	CFO ZIP: 94517
Owner Name: Cindy Jakel-Smith	Owner Phone: 510-918-1947	Owner Cell: 510-918-1947
Mailing Address (if different): PO Box 829	Mailing City: Clayton	Mailing ZIP: 94517
Email Address: Cindy@lovecooknourish.com		
Website: www.lovecooknourish.com		

### 1. Categories:

- X "Class A" (Direct Sales Only)       "Class B" ( Direct & Indirect Sales)

### 2. Prohibited Items:

Initial if you agree to abide by the following:   cjs  

Foods containing **cream, custard, or meat fillings** are **potentially hazardous** and are **NOT ALLOWED**. Only foods that are defined as "non-potentially hazardous" are approved for preparation by a Cottage Food Operation (CFO). These are food items that do not require refrigeration to keep them safe from bacterial growth that could be a cause of food-borne illness.

### 3. "Class A/B" Self Certification Checklist:

Checklist completed

RECEIVED

JAN 05 2015

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT

#### 4. Products:

Please check ALL of the items you will be preparing and/or selling.

- |   |  |  |  |
|---|--|--|--|
| <input checked="" type="checkbox"/> Baked Goods | <input type="checkbox"/> Dried Pasta                 | <input type="checkbox"/> Honey   | <input checked="" type="checkbox"/> Popcorn                                    |
| <input checked="" type="checkbox"/> Candy       | <input checked="" type="checkbox"/> Dry Baking Mixes | <input type="checkbox"/> Mustard   | <input type="checkbox"/> Vinegar   |
| <input type="checkbox"/> Churros                | <input type="checkbox"/> Waffle Cones                | <input type="checkbox"/> Tortillas                                       | <input checked="" type="checkbox"/> Fruit Butter <sup>** (in the future)</sup> |
| <input type="checkbox"/> Dried Mole Paste       | <input type="checkbox"/> Herb/Spice Blends           | <input type="checkbox"/> Pizelles  | <input checked="" type="checkbox"/> Jams/Jellies <sup>** (in the future)</sup> |
| <input type="checkbox"/> Trail Mix              | <input type="checkbox"/> Fruit Tamales/Pies          | <input type="checkbox"/> Nuts/Nut Mixes                                  | <input type="checkbox"/> Dried Fruit   |
| <input type="checkbox"/> Fruit Empanadas        | <input type="checkbox"/> Nut Butters                 | <input type="checkbox"/> Dried Tea                                       | <input type="checkbox"/> Roasted Coffee  |
| <input type="checkbox"/> Sweet Sorghum Syrup    | <input checked="" type="checkbox"/> Granola/Cereals  | <input checked="" type="checkbox"/> Chocolate Covered Nonperishable Food |  |
| <input type="checkbox"/> Other:                 |  |  |  |

\*\*These items must comply with standards described in Part 150 of Title 21 of the Code of Federal Regulations <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=150>

Food descriptions: Cupcakes, Wedding Cakes, Granolas, Candied Nuts, Baking Mixes, Scones, Muffins, Cookies

#### 5. Product Labeling: Initial if you agree to abide by the following:   cjs

For a detailed description, see the CDPH document "Labeling Requirements for Cottage Food Products." 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.) The label must include:

- The words "Made in a Home Kitchen" in 12-point type
- The name commonly used to describe the food product
- The name city, state and zip code of the cottage food operation which produced the cottage food product. If the firm is not listed in the current telephone directory then a street address must also be declared. (A contact phone number or email address is optional but may be helpful for consumers to contact your business.
- The registration or permit number of the cottage food operation which produced the cottage food product and in the case of "Class B" CFOs, the name of the county where the permit was issued.
- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.

- The net quantity (count, weight, or volume) of the food product. It must be stated in both English (pound) units and metric units (grams).
- A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
  - If the label makes approved nutrient content claims or health claims, the label must contain a "Nutrition Facts" statement on the information panel.
    - The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the Cottage Food Labeling Guideline for more details.
    - A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.
  - Labels must be legible and in English (accurately translated information in another language may accompany it).
  - Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.

### Examples:

MADE IN A HOME KITCHEN  
Class A Registration #12345

Chocolate Chip Cookies With Walnuts  
Sally Baker  
123 Cottage Food Lane  
Yourtown, CA 90000

Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk)), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.

Contains: Wheat, eggs, milk soy, walnuts

Net Wt. 3 oz. (85.049g)

MADE IN A HOME KITCHEN  
Class B Permit #12345  
Issued in: Contra Costa County

Chocolate Chip Cookies With Walnuts  
Sally Baker  
123 Cottage Food Lane  
Yourtown, CA 90000

Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk)), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.

Contains: Wheat, eggs, milk soy, walnuts

Net Wt. 3 oz. (85.049g)

**6. Water Source:**

Please identify the water source to be used in Cottage Food Facility (Check one box)

<input checked="" type="checkbox"/> Name of Public Water System or Community Services District: Contra Costa Water District
<input type="checkbox"/> If you use a <u>Private Water Supply</u> **, identify the source (well, spring, surface, etc.)
<b>Private Water Supply: Initial Water Quality Results</b> Check boxes below if initial water testing has been completed. All testing must be done at a State Certified Laboratory. Then either attach lab results or provide name of lab, date & results in space provided next to type of test. * (Testing Frequencies for Transient Non-Community Water Systems after initial testing)
<input type="checkbox"/> Bacteriological Test (quarterly*):
<input type="checkbox"/> Nitrate Test (yearly*):
<input type="checkbox"/> Nitrite (every 3 years*):

\*\*Additional information may be required if food is prepared from a home with a private water supply – Check with local jurisdiction

**7. Disposal of Waste:**

Please check what type of treatment is used to dispose of waste

Public Sewer Service

Private Septic System

• In the event of septic system failure or plumbing problem, you are required to notify the Contra Costa Environmental Health Division immediately at (925) 692-2500.

**8. Food Processor Course:**

Initial if you agree to abide by the following: cjs

Within 3 months of being approved to operate by the Environmental Health Division, please provide proof of completion of the required California Department of Public Health (CDPH) food processor course\*. Proof of completion may be faxed to our Department at (925) 692-2502.

\* See CDPH Website for more information: <http://www.cdph.ca.gov/programs/Pages/fdbCottageFood.aspx>

**9. Employee:**

Initial if you agree to abide by the following: cjs

I understand that I may not have more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, working within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers.

**10. Gross Annual Sales:** Initial if you agree to abide by the following: \_cjs

I understand that I will lose my CFO status and will need to become permitted in a commercial facility if my CFO business exceeds the following gross annual sales figures for the calendar years in the following table:

Calendar Year	Gross Annual Sales
In 2013 .....	\$35,000
In 2014 .....	\$45,000
In 2015 and in subsequent years .....	\$50,000

**11. Delivery Limitations:** Initial if you agree to abide by the following: \_cjs

I understand that I may accept orders and payments via the internet, mail or phone. However, all "Class A" & "Class B" CFO products must be delivered directly (in person) to the customer. The CFO products may not be delivered via US Mail, UPS, FedEx or using any other indirect delivery method as this is regulated/subject to CDPH registration and state and federal requirements.

**12. Owner's Statement:**

I, Cindy Jakel-Smith, agree to grant access to Contra Costa Environmental Health Division to conduct an inspection of my cottage food operation (mark one):

"Class A": In the event of a consumer complaint or reported food-borne illness

"Class B": For regular annual facility inspections and in the event of a consumer complaint or food-borne illness

I, Cindy Jakel-Smith, agree to notify Contra Costa Environmental Health Division prior to modifying my food list, type of operation, and/or method of selling, distributing, or otherwise providing my CFO products to the consumer or retailers, regardless of whether the product is sold, consigned, or given away.

Cindy Jakel-Smith Cindy Jakel-Smith 11/22/12  
*Owner's Signature* *Print Name* *Date*

**OFFICE USE ONLY**

AMT REC'D \_\_\_\_\_ DATE REC'D \_\_\_\_\_  
 DATE OF PAYMENT \_\_\_\_\_ PAYMENT TYPE: (1) CASH \_\_\_\_\_ (2) CHECK (3) \_\_\_\_\_  
 CREDIT/DEBIT \_\_\_\_\_  
 CHECK# \_\_\_\_\_ DATE OF CHECK \_\_\_\_\_ INVOICE# \_\_\_\_\_  
 OWNER # \_\_\_\_\_ FACILITY # \_\_\_\_\_ PROGRAM REC # \_\_\_\_\_

DATE APPROVED & BY \_\_\_\_\_  
 OFFICER: \_\_\_\_\_



# California Food Handler Certificate of Achievement

RECEIVED

JAN 05 2015

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT

ATTACHMENT - 4

This certificate is awarded to

**Cindy Jakel-Smith**

Congratulations! You have completed

**ServSafe® California  
Food Handler Assessment**



ANSI ACCREDITED PROGRAM  
CERTIFICATE ISSUER  
#0655

Certificate Number **877026**

Date **6/23/2012**

Expiration Date **6/23/2015**

Note: This certificate may not receive reciprocity outside the state of California, or in the counties of Riverside, San Bernardino, and San Diego.

ServSafe is a registered trademark of the National Restaurant Association. The ServSafe logo is a registered trademark of the National Restaurant Association. All other trademarks are the property of their respective owners. © 2012 National Restaurant Association. All rights reserved.



174 W Jackson Blvd, Ste 1500  
Chicago IL 60604 2814  
1.800.765.2122  
www.restaurant.org www.ServSafe.com

**CITY OF CLAYTON  
PLANNING COMMISSION  
STAFF REPORT**

**Meeting Date:** January 27, 2015

**Item No.:** 5.b.

**From:** Charlie Mullen  
Community Development Director



**Subject:** Public Hearing to consider a City-initiated Ordinance amending and/or updating various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors (ZOA-01-15).

**Applicant:** City of Clayton

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**REQUEST**

Public Hearing to consider a City-initiated Ordinance amending and/or updating various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60, and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors (ZOA-01-15).

**PROJECT INFORMATION**

Location: Citywide

General Plan Designation: Citywide

Zoning Classification: Citywide

Public Notice: On January 16, 2015, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the city.

**BACKGROUND**

City staff have recently received inquiries relating to mobile vending, particularly mobile food vendors. These inquiries prompted staff to take a closer look at various Chapters of the Clayton Municipal Code pertaining to and regulating mobile vendors. After reviewing the applicable City Codes, staff determined that updating various Code Sections, definitions, regulations, and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 and 17.70, pertaining to Mobile Vendors, including mobile food vendors and mobile retail vendors was necessary and warranted.

In researching the current Municipal Code as it pertains to mobile vendors, staff also researched the history of the current codes and ordinances, and determined that they originated from Ordinance No. 22 adopted August 4, 1964, Ordinance No. 181 adopted May 17, 1978, and Ordinance No. 208 adopted November 4, 1981. Given the length of time since the last review and update on this topic appears to be over 33 years ago, this proactive review and update of the applicable codes would further appear to be warranted and timely.

### **DISCUSSION**

Periodically, cities are prompted by inquires from businesses and/or the general public to review their Municipal Code as it pertains to certain matters or topics. Recent inquires pertaining to the permitting of mobile vendors, particularly mobile food vendors, has prompted such a review. Upon conducting a thorough review of the applicable Clayton Municipal Code Chapters relating to Mobile Vendors, specifically Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60, and 17.70 of Titles 5, 10, and 17, staff has determined that Ordinance amendments to these Chapters are warranted in order to update and integrate the various code sections, definitions, regulations, and permit procedures.

As part of staff's review process, we also reviewed the mobile vending regulations of approximately 14 other communities, particularly the Cities of San Ramon, Lathrop, Davis Woodland, and Santa Cruz. Reviewing other community regulations was very beneficial in updating and crafting particular components and regulations in the proposed Ordinance to best suit the City of Clayton. The City Attorney has also provided important input into the proposed Mobile Vendor Ordinance.

The following is a summary of the proposed Ordinance amendments by numerical Title and Chapter or Section:

### **Title 5** **BUSINESS LICENSES & TAXES**

Sections 5.04.540 and 5.12.340 are being renamed "Mobile food vendor" for internal consistency and to cover a broader definition of uses and activities.

Section 5.12.010.E is the definition for "Mobile food vendor" and is being amended and updated for internal consistency and to cover a broader definition of uses and activities.

### **Title 10** **VEHICLES & TRAFFIC**

Section 10.36.120 is being deleted in its entirety as it will be covered by the general definition of "Mobile Vending".

Section 10.36.130 is the definition for "Mobile vending" and is being amended and updated for internal consistency and to cover a broader definition of uses and activities to include both mobile food vending and mobile retail vending. The permit process and reviewing body is also proposed to be change from an ambiguous "written permit" from the City Engineer subsequent to City Council authorization to a discretionary "Use Permit" from the Planning Commission. The Use Permit process has a clearly defined and tractable process and processing fee. This land

use process provides for public hearing review before the Planning Commission, while still allowing for City Council review of appeals or referrals.

Section 10.36.150 is being amended to add administrative citation authority in addition to the revocation authority and adds cross references to the applicable provisions of the Clayton Municipal Code.

## Title 17 ZONING

Chapter 17.04 Definitions is being amended to add new definitions for “Mobile Food Vendor,” “Mobile Retail Vendor,” and “Mobile Vendor.” Renumbering of some existing definitions is also required. The mobile food vendor definition is specific to food sales and uses only, while mobile retail food vendor basically covers all non-food retail sales. The mobile vendor definition is the broad use category that includes all mobile food vendors and all mobile retail vendors.

Chapter 17.36 General Regulations is being amended to add new Section 17.36.084 for Mobile Vendor to establish the permit process and regulations for all mobile vendors, including mobile food vendors and mobile retail vendors. The primary permit process for year-round mobile vendors will be the Use Permit process.

An exception to the Use Permit process will apply to mobile vendors that obtain a Temporary Use Permit for not more than a combined total of 45 days or 4 individual events per calendar year. The Use Permit exception also applies to mobile vendors that are part of a primary special event that is approved by the City, for example the Art and Wine Festival and Oktoberfest.

Section 17.36.084 also includes minimum submittal requirements, standards, and conditions that clarify the information needed for Use Permit and Temporary Use Permit submittals and the standards and conditions that will apply to mobile vendors. The standards and conditions are established to protect and promote the health, safety, and general welfare of the community.

Chapter 17.60 Use Permits is amended to add “Mobile Vendors” to the list of uses that require a Use Permit.

Chapter 17.70 Temporary Use Permits is amended to add “Mobile Vendors” to the list of use that requires a Temporary Use Permit.

It is the opinion of staff and the City Attorney that the proposed Ordinance language will provide an efficient and effective update of the Clayton Municipal Code Chapters as they relate to Mobile Vendors.

### CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the proposed text amendments and updates to the Clayton Municipal Code may have a significant effect on the environment, and therefore it is not subject to CEQA.

**RECOMMENDATION**

Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 01-15, recommending City Council approval of an Ordinance amending and/or updating various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors.

**ATTACHMENTS**

1. Planning Commission Resolution No. 01-15, with attachment:  
Exhibit A – Draft Mobile Vendor Ordinance (in ~~strikeout~~/red-underline changes)

X:\Com Dev\Z O A\2015\ZOA-01-15 - Mobile Vendors Ord\ZOA-01-15 - SRPC-MobileVendorOrd.Update - PC.mtg.1.27.15.docx

**CITY OF CLAYTON  
PLANNING COMMISSION  
RESOLUTION NO. 01-15**

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**RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE  
AMENDING CHAPTERS 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 AND 17.70 OF THE  
CLAYTON MUNICIPAL CODE RELATING TO MOBILE VENDORS  
(ZOA-01-15)**

**WHEREAS**, this Ordinance will amend and/or update various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code pertaining to mobile vendors, including mobile food vendors and mobile retail vendors to help protect the public health, safety and general welfare; and

**WHEREAS**, the Clayton Planning Commission held a duly-noticed public hearing on January 27, 2015, at which they adopted Resolution No. 01-15 recommending City Council approval of the proposed Ordinance to amend the Clayton Municipal Code relating to Mobile Vendors of food products and non-food products; and

**WHEREAS**, the Planning Commission has determined that, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3), it can be seen with certainty that there is no possibility that the proposed amendments and/or updates to the Clayton Municipal Code may have a significant effect on the environment and, therefore, is not subject to CEQA; and

**WHEREAS**, the Planning Commission has determined that the proposed amendments and/or updates to the Clayton Municipal Code do not conflict with and are in general conformance with the Clayton General Plan; and

**WHEREAS**, proper notice of this public hearing was given in all respects as required by law; and

**WHEREAS**, the Planning Commission has reviewed all written evidence and oral testimony presented to date.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Clayton based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of the proposed Ordinance to amend the Clayton Municipal Code relating to Mobile Vendors, attached hereto as Exhibit A and incorporated herein by this reference.

**PASSED AND ADOPTED** by the Planning Commission of the City of Clayton at a regular meeting on the 27<sup>th</sup> day of January, 2015.

**Planning Commission  
Resolution No. 01-15**

APPROVED:

ATTEST:

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Dan Richardson  
Chair

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Charlie Mullen  
Community Development Director

**ATTACHMENTS**

Exhibit A – Draft Ordinance pertaining to Mobile Vendors

X:\Com Dev\Z O A\2015\ZOA-01-15 - Mobile Vendors Ord\PC Reso. 01-15 - Mobile Vendor Ord..docx

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTERS 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 AND 17.70 OF THE CLAYTON MUNICIPAL CODE RELATING TO MOBILE VENDORS (ZOA-01-15)**

**THE CITY COUNCIL  
City of Clayton, California**

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:**

**WHEREAS**, this Ordinance will amend and/or update various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code pertaining to mobile vendors, including mobile food vendors and mobile retail vendors, to help protect the public health, safety and general welfare; and

**WHEREAS**, the Clayton Planning Commission held a duly-noticed public hearing on January 27, 2015, at which they adopted Resolution No. 01-15 recommending City Council approval of the proposed Ordinance to amend the Clayton Municipal Code relating to Mobile Vendors of food products and non-food products; and

**WHEREAS**, the Clayton City Council, at regular public meetings on *(Date)*, 2015 and *(Date)*, 2015, held duly-noticed public hearings to review and consider an Ordinance to amend the Clayton Municipal Code relating to Mobile Vendors of food products and non-food products; and

**WHEREAS**, the City Council has determined that, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3), it can be seen with certainty that there is no possibility that these amendments and/or updates to the Clayton Municipal Code may have a significant effect on the environment and, therefore, is not subject to CEQA; and

**WHEREAS**, proper notice of this public hearing was given in all respects as required by law; and

**WHEREAS**, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this local matter.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are hereby incorporated into this Ordinance.

**Section 2. Amendment.** Sections 5.04.540, 5.12.010, and 5.12.340 of Chapters 5.04 and 5.12 of Title 5 Business Licenses & Taxes of the Clayton Municipal Code are hereby amended in part to read as set forth in Exhibit A, incorporated herein by this reference.

**Section 3. Amendment.** Section 10.36.120 of Chapter 10.36 of Title 10 Vehicles & Traffic of the Clayton Municipal Code is hereby amended in part to read as set forth in the attached Exhibit B, incorporated herein by this reference.

**Section 4. Amendment.** Specified Sections of Chapter 17.04 Definitions, Chapter 17.36 General Regulations, Chapter 17.60 Use Permits and Chapter 17.70 Temporary Use Permits of Title 17 Zoning of the Clayton Municipal Code are hereby either amended in part to read as set forth in the attached Exhibit C, incorporated herein by this reference.

**Section 5. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

**Section 6. Conflicting Ordinances Repealed.** Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

**Section 7. Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Sections 2, 3 and 4 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on *(Date)*, 2015.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on *(Date)*, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
David T. Shuey, Mayor

ATTEST

\_\_\_\_\_  
Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

\_\_\_\_\_  
Malathy Subramanian, City Attorney

\_\_\_\_\_  
Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on *(Date)*, 2015, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on *(Date)*, 2015.

\_\_\_\_\_  
Janet Brown, City Clerk

EXHIBIT A

Title 5  
BUSINESS LICENSES & TAXES

**Amendment.** Sections of Chapter 5.04 Business Licenses and Taxes Generally of the Clayton Municipal Code is hereby amended in part to read as set forth below:

Sections:

5.04.540 Mobile food vendor.~~Lunch wagon, catering truck.~~

**Amendment.** Section 5.04.540 of Chapter 5.04 Business Licenses and Taxes Generally of the Clayton Municipal Code is hereby amended in part to read in full as set forth below:

5.04.540 Mobile food vendor.~~Lunch wagon, catering truck.~~

**Amendment.** Sections of Chapter 5.12 Food Handling Activities of the Clayton Municipal Code is hereby amended in part to read as set forth below:

Sections:

5.12.340 License fees—Mobile food vendor.~~Retail food vehicle—food peddler.~~

**Amendment.** Section 5.12.010.E. of Definitions of Chapter 5.12 Food Handling Activities of the Clayton Municipal Code is hereby amended to read in full as set forth below:

E. "Mobile food vendor~~Retail food vehicle~~" means any vehicle, pushcart, trailer, wagon, portable stand or temporary location, designed or used or intended to be used, by or for any one or more of, but not limited to, the following persons and/or uses: bakery distributor, fish or meat peddler, food salvage distributor, fruit, nut and/or vegetable distributor, grocery distributor, commercial or industrial catering, ~~mobile~~ food cooking and/or preparation unit, and itinerant restaurant. It includes, but is not limited to, any vehicle, pushcart, trailer, wagon, portable stand or temporary location, from which animal food, bakery products, fish, shell fish, seafood, fruits and nuts, vegetables, meats, poultry, preserves, jelly, relish, milk or any other dairy products, fresh, frozen or non-perishable food or food products, ice cream, shaved ice or yogurt products, ice or beverages, whether in bulk, canned, wrapped, bottled, packaged, or any other form, are sold or kept for sale at retail, or are distributed to the consumer.

**Amendment.** Section 5.12.340 of Chapter 5.12 Food Handling Activities of the Clayton Municipal Code is hereby amended in part to read as set forth below:

5.12.340 License fees—Mobile food vendor~~Retail food vehicle—Food peddler.~~

EXHIBIT B

Title 10  
VEHICLES & TRAFFIC

**Amendment.** Sections of Chapter 10.36 Stopping Standing Parking of the Clayton Municipal Code is hereby amended in part to read as set forth below:

Sections:

~~10.36.120 Vending from vehicle.~~

10.36.130 Mobile vending ~~Selling food from parked vehicle~~ Permit required.

**Amendment.** Section 10.36.120 of Chapter 10.36 Stopping Standing Parking of the Clayton Municipal Code is hereby deleted in its entirety as set forth below:

~~10.36.120 Vending from vehicle. Except with written permission from the city engineer, subsequent to city council authorization, no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanges, or any lunch wagon or eating car or vehicle, on any portion of any street within this city. In issuing a permit, the city council may impose such conditions as they deem appropriate to preserve the public peace, safety and welfare. The provisions of this section shall not apply to persons delivering such articles upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution. Notwithstanding the foregoing, the city council shall not issue any permit permitting any type of vending from any vehicle, wagon or pushcart parked upon a city arterial street. (Ord. 208, 1981; Ord. 148, 1975; Ord. 71, 1969; Ord. 22, 1964).~~

**Amendment.** Section 10.36.130 of Chapter 10.36 Stopping Standing Parking of the Clayton Municipal Code is hereby amended in part to read as set forth below:

10.36.130 Mobile vending ~~Selling food from parked vehicle~~ Permit required. No person, vehicle, pushcart, trailer, wagon, portable stand or temporary location, designed or used or intended to be used, by or for any one or more of, but not limited to, mobile food vendors and/or mobile retail vendors (as defined in Chapter 17.04 of the Clayton Municipal Code) shall park, ~~or stand~~ or locate permanently or temporarily on any public or private street, sidewalk, parking lot, easement or right-of-way ~~any lunch wagon, eating cart or vehicle, or pushcart from which articles of food or drink are sold or offered for sale without first obtaining a Use Permit approval from the Planning Commission for a Mobile Food Vendor and/or Mobile Retail Vendor, as specified and required under Section 17.36.084 of the Clayton Municipal Code.~~ written permit to do so from the city engineer, subsequent to city council authorization, which shall designate the specific location in which such cart shall stand. In issuing a permit, the city council may impose such conditions as they deem appropriate to preserve the public peace, safety and welfare. Notwithstanding the foregoing, the city council shall not issue any permit permitting any type of vending from any vehicle, wagon, or pushcart parked upon a city arterial street. (Ord. 208, 1981).

**Amendment.** Section 10.36.150 of Chapter 10.36 Stopping Standing Parking of the Clayton Municipal Code is hereby amended in part to read as set forth below:

10.36.150 Permits—~~Cited or~~ Revoked when. Whenever any permit is granted under the provisions of Sections ~~10.36.120 through 10.36.130 and~~ 10.36.140 such permits may be administratively cited or revoked in accordance with the applicable provisions of the Clayton Municipal Code, including but not limited to Chapters 1.14 and 17.64. ~~and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, specified therein, no person shall park or stand any vehicle, wagon, or pushcart on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section and Sections 10.36.120 through 10.36.140, such permit shall be forthwith revoked by the city engineer upon the filing of the record of such conviction with such officer and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation. (Ord. 148, 1975; Ord. 71, 1969, Ord. 22, 1964).~~

EXHIBIT C

Title 17  
ZONING

**Amendment.** Sections of Chapter 17.04 Definitions of the Clayton Municipal Code is hereby amended in part to read as set forth below:

Sections:

17.04.142 Mobile Food Vendor

17.04.143 Mobile Retail Vendor

17.04.144 Mobile Vendor

17.04.14~~5~~2 Non Conforming Use

17.04.14~~6~~5 Off-Street Loading Facility

17.04.14~~7~~6 Off-Street Parking Facility

**Amendment.** Chapter 17.04 Definitions of the Clayton Municipal Code is hereby amended in part to read as set forth below:

17.04.142 Mobile Food Vendor. “Mobile Food Vendor” means any vehicle, pushcart, trailer, wagon, portable stand or temporary location, designed or used or intended to be used, by or for any one or more of, but not limited to, the following persons and/or uses: bakery distributor, fish or meat peddler, food salvage distributor, fruit, nut and/or vegetable distributor, grocery distributor, commercial or industrial catering, food cooking and/or preparation unit, and itinerant restaurant. It includes, but is not limited to, any vehicle, pushcart, trailer, wagon, portable stand or temporary location, from which animal food, bakery products, fish, shell fish, seafood, fruits and nuts, vegetables, meats, poultry, preserves, jelly, relish, milk or any other dairy products, fresh, frozen or non-perishable food or food products, ice cream, shaved ice or yogurt products, ice or beverages, whether in bulk, canned, wrapped, bottled, packaged, or any other form, are sold or kept for sale at retail, or are distributed to the consumer. See Section 17.36.084 for permits required and regulations.

17.04.143 Mobile Retail Vendor. “Mobile Retail Vendor” means any vehicle, pushcart, trailer, wagon, portable stand or temporary location, designed or used or intended to be used, by or for any one or more of, but not limited to, the following persons and/or uses: sales of non-perishable goods, items or merchandise, new or used, including but not limited to art or art objects, auto parts or equipment, candles, electronic equipment, handmade crafts, housewares, household goods, flowers, flags, furniture, jewelry, landscape plants and goods, rugs, sports equipment or memorabilia, yard ware and yard accessories, or other similar items which are sold or kept for sale at retail, or are distributed to the consumer. See Section 17.36.084 for permits required and regulations.

17.04.144 Mobile Vendor. “Mobile Vendor” means any business, person or use defined as either a Mobile Food Vendor or as a Mobile Retail Vendor.

17.04.14~~5~~2 Non Conforming Use.

17.04.14~~6~~5 Off-Street Loading Facility.

17.04.14~~7~~6 Off-Street Parking Facility.

**Amendment.** Sections of Chapter 17.36 General Regulations of the Clayton Municipal Code is hereby amended in part to read as set forth below:

Sections:

17.36.084 Mobile Vendor – Permits and Regulations.

**Amendment.** Chapter 17.36 General Regulations of the Clayton Municipal Code is hereby amended in part to add new Section 17.36.084 to read as set forth below:

**17.36.084 Mobile Vendor – Permits and Regulations.** The purpose of these regulations is to promote the health, safety, convenience, prosperity, and general welfare by requiring that mobile food vendors and mobile retail vendors provide the community and customers with a minimum level of cleanliness, quality, safety, security and comply with all applicable licensing and permitting requirements of the City of Clayton and Contra Costa County.

A. Use Permit Required. In order to conduct a mobile vendor business operation within the City of Clayton all mobile vendors, including mobile food vendors and mobile retail vendors shall be required to obtain Use Permit approval from the Planning Commission, in accordance with the Use Permit processing provisions of Chapter 17.60. All mobile vendors applying for individual Use Permits shall also be required to comply with the following applicable Subsection C. Minimum Use Permit Submittal Requirements, Standards and Conditions. Notwithstanding the foregoing, a mobile vendor exclusively operating in the right-of-way in compliance with all terms and conditions of this chapter and other applicable law shall be granted a Use Permit.

B. Exceptions. The exception to the Use Permit requirement shall only apply when either a mobile food vendor and/or mobile retail vendor applies and receives administrative approval of a Temporary Use Permit or is part of a special event that applies and receives administrative approval of a Temporary Use Permit, in accordance with the Temporary Use Permit processing provisions of Chapter 17.70. All mobile vendors applying for individual Temporary Use Permits shall also be required to comply with the following applicable Subsection C. Minimum Use Permit Submittal Requirements, Standards and Conditions.

C. Minimum Use Permit Submittal Requirements, Standards and Conditions.

1. Any business or person(s) desiring to conduct in a mobile vendor operation, as defined by Chapter 17.04 of this code, shall submit a completed Use Permit application, including a written description of their mobile vending operation, applicable plans and information as deemed necessary, and pay a Use Permit processing fee as established from time to time by City Council resolution.

2. The mobile vending operation or activity as proposed by the applicant shall comply with all applicable laws including, but not limited to, the applicable building, fire, health, safety and zoning, regulations under state law, county codes and this code.
3. If applicable, provide a copy of the vehicle's current registration and of the vehicle insurance policy, and maintain current validity of the documentation with the City during the full term of the Use Permit.
4. Provide at least two photographs (showing different exterior views) of each vehicle, pushcart, trailer, wagon, portable stand or temporary location.
5. Each mobile vendor business operation must supply a Live Scan background check of each individual person working for said business in the City of Clayton to the Clayton Police Department and a California identification card to prove that he or she is the person in the background check.
6. Prior to commencement of business operations all mobile food vendors shall provide the city with a copy of their approved Contra Costa County Mobile Food Facility Application/Permit.
7. Prior to commencement of business operations each mobile vendor business operation shall obtain a city Business License and display it prominently at all times when conducting business in the city.
8. For mobile food vendors provide to and maintain with the City a list of all food items that will be offered for sale. Nonfood items are not allowed for sale from mobile food vendors.
9. For mobile retail vendors provide to and maintain with the City a list of all goods, items and merchandise that will be offered for sale. Food items are not allowed for sale from mobile retail vendors.
10. Permitted hours of operation for mobile vendors operating in a public right-of-way are from dawn to 9:00 pm. Permitted hours of operation for mobile vendors in all residential zoning districts locations are from dawn to dusk, unless otherwise restricted or allowed under an approved Use Permit or Temporary Use Permit.
11. Mobile vendors shall not operate within one hundred (100) feet of any street intersection controlled by a crosswalk, traffic light, or stop sign.
12. Mobile vendors shall not operate within five hundred (500) feet of another mobile vendor.
13. Mobile vendors shall not stop in one location for more than three (3) hours, except in residential zoning districts in which case mobile vendors shall not stop for more than ninety (90) minutes in one location. Mobile vendors shall not return to the same location on the same calendar day.
14. No mobile vendor shall locate within three hundred (300) feet of the property line of a school between seven a.m. and four p.m. on days when school is in service or during a school event.
15. No mobile vendor shall locate, park or stop in a location on or along an arterial street or on a public or private street, sidewalk, parking lot, easement or right-of-way that prohibits parking or stopping of vehicles or conflicts with other signed or designated restrictions.
16. No mobile vendor shall interfere with access, driveways, aisles, or circulation, and shall not operate in a place where the operation will create a traffic hazard.

17. No mobile vendor shall locate on a sidewalk, trail or any area that may impede foot traffic or interfere with pedestrian movement or create a pedestrian hazard.
18. Vending from a vehicle, wagon, pushcart or trailer is prohibited on the exposed street and/or traffic side of the vehicle, wagon, pushcart or trailer.
19. Portable tables, chairs, shade structures and signs are prohibited.
20. Mobile vendors shall provide waste containers and take away all waste generated or associated with their activity, and properly and legally dispose of said waste.
21. No mobile vendor shall use live or amplified music or sound, unless otherwise allowed under an approved but Use Permit or Temporary Use Permit for an ice cream truck.
22. Mobile vendors shall comply with all applicable fire protection and safety requirements prescribed by the Contra Costa County Fire Protection District.
23. Additional Use Permit conditions of approval may be imposed and/or required based on the specifics of each individual request.

**Amendment.** Chapter 17.60 Use Permits of the Clayton Municipal Code is hereby amended in part to add new Subsection 20. of Section 17.60.030.C. to read as set forth below:

17.60.030 Use Permits Required.

C. Commercial Related Uses.

20. Mobile Vendors (as specified and regulated in Section 17.36.084).

**Amendment.** Chapter 17.70 Temporary Use Permits of the Clayton Municipal Code is hereby amended in part to add new Section G. of Section 17.70.020 to read as set forth below:

17.70.020 Conditionally permitted uses.

G. Mobile Vendors (as specified and regulated in Section 17.36.084).

~~H.G.~~ Other similar temporary uses.