

## Excess Litter Fee Program



### WHAT IS THE EXCESS LITTER FEE PROGRAM?

On February 21, 2006, The City of Oakland adopted Ordinance 12727, enacting an Excess Litter Fee on Fast Food Businesses, Convenience Markets, Gasoline Station Markets and Liquor Stores. The purpose of this ordinance is to create and maintain safe, clean and sanitary streets, sidewalks, and public spaces by assessing a fee on businesses known to generate particularly high amounts of disposable materials that end up as trash and litter on the streets. The fee will not only provide the resources to collect and dispose of such trash to keep our City clean, but will also prevent trash and litter from entering the City's storm water runoff system, and potentially polluting those waters and/or hampering the proper performance of our system.

### WHO IS REQUIRED TO FILE AND PAY?

- Fast Food Businesses
- Convenience Markets
- Gasoline Station Markets
- Liquor Stores

Every eligible business must file an annual Excess Litter Fee declaration on or before Aug 30 of each year, providing gross receipts. Gross receipts do not include the receipts from the sale of alcohol, gasoline or automotive services or products. Eligible businesses in Business Improvement Districts (BID) that currently pay BID assessments are subject to only 50% of the litter fee. After receipt of the declaration, the City will send you a fee assessment invoice. Payment of fees must be made within 15 days of issue date. Vehicular food vendors are not subject to the fee.

### ELIGIBLE BUSINESSES DEFINED: (ORD 12727) [www.oaklandnet/litterfeeordinance.com](http://www.oaklandnet/litterfeeordinance.com)???

**CONVENIENCE MARKET** means any business engaged in the retail sale of food, beverages, and small personal convenience items, primarily for immediate off-premises consumption and typically found in establishments with long or late hours of operation but excludes delicatessens and other specialty food shops and businesses, businesses that are engaged in Large-Scale Combined Retail and Grocery sales Commercial Activities, as defined by Oakland Municipal code Section 17.10.345, and businesses that have a sizeable assortment of fresh fruits and vegetables and fresh-cut meat

**FAST FOOD BUSINESS:** means any business engaged in the retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Businesses may also exhibit other design and operating characteristics, including: (a) a limited menu; (B) food is typically ordered and served at a service counter; (C) food is paid for prior to consumption; (D) the facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. They also include certain activities accessory to the above, as specified in Section 17.10.040. In those areas of the city subject to the vehicular food vending pilot program ordinance, a business engaged in "vehicular food vending," as defined by Section 17.10.290, is not considered a Fast Food Business.

**GASOLINE MARKET** means any business engaged in the retail sale of food, beverages and small personal convenience items along with the retail sale of gasoline but excludes any business engaged in Large-Scale Combined Retail and Grocery Sales Commercial Activity as defined in Oakland Municipal Code Section 17.10.345, and excludes wholesale clubs or other establishments selling primary bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic access fee.

**LIQUOR STORE:** means any business engaged in Alcoholic Beverage Sales Commercial Activity, as defined in Oakland Municipal Code Section 17.10.300, but excludes any business engaged in Large-Scale Combined Retail and Grocery Sales Commercial Activity as defined in Oakland Municipal Code Section 17.10.345, and excludes wholesale clubs or other establishments selling primary bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic access fee.

## HOW MUCH AM I REQUIRED TO PAY?

The annual excess litter fees are based on the gross receipts of your business classification:

Large Business with annual gross receipts of \$1,000,000 or more pay \$3,815.00.

Medium business with annual gross receipts between \$500,000 and \$999,999 pay \$910.00

Small Business with annual gross receipts between \$5,000 and \$499,999 pay \$230.00

Annual gross receipts between \$0 and \$4,999 there is no fee.

Note: Gross receipts shall not include the receipts for the sale of alcohol, gasoline or automotive services or products.

## WHO IS ELIGIBLE FOR REDUCED FEES OR EXEMPTION?

Eligible businesses in Business Improvement Districts (i.e. Rockridge, Montclair and Fruitvale) that are currently paying assessments to a business improvement district shall pay only 50% (fifty) percent of the fee.

The City Administrator or her designee may **further exempt** any eligible business from the Excess Litter Fee if they determine that (OMC 12727, SEC 5F):

1. Such eligible Businesses' respective Business Improvement District is not within 3 blocks of a Targeted Street or
2. If Eligible Businesses' respective Business Improvement District is within 3 blocks of a Targeted Street, and the business improvement district has an effective program to clean up litter originating from the eligible businesses on the Targeted Street.

## HOW DO I FILE AN APPEAL?

An owner of a business/business property assessed with Excess Litter Fees may appeal such assessment directly to a hearing officer designated by the City Administrator. Such appeal must be submitted by the due date of the City's notice. The appeal filing fee is \$67.50. The administrative fee will be refunded to you if your appeal is granted.

The Appeal must state and may only proceed if based upon at least one of the following: 1) Eligible Business (definition). 2) classification (small, medium or large) and 3) further exemption.

Upon receipt of your appeal form, declaration, and administrative appeal fee, the hearing officer will schedule a hearing and send you a written notice of the date. The hearing officer may issue any orders or imposed conditions consistent with the purposes of the Litter Fee Ordinance. The determination of the hearing office shall be final.

## WHAT IF I PAY LATE OR FAIL TO COMPLY?

Failure to pay the fee owed as determined by the Finance and Management Agency within 15 days of the invoice date is a violation of the ordinance. Such violation will result in a 10% to 50% penalty and interest will accrue at one percent per month until liability is paid.

Failure to complete the declaration and return it to the City in a timely manner, will result in a \$50.00 fee assessment.

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Si desea obtener esta información en español, por favor llame a la Línea Directa Sobre Acceso Equitativo al (510) 238-6812.

若需要中文協助，請致電平等使用服務專線 (510) 238-6812。

Neáu quýu vò cànn sớ giuúp ñỗ òàng tiếng Việät, xin vui lòng gọi về òàng Bình Nẵng Trong Việäc Sớ Dủing (Equal Access) tại số (510) 238-6812.