

City of Oakland

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 Excess Litter Fee declaration and pay an annual fee on or before September 30th of each year. The basis for the fee is your annual gross receipts--except receipts for the sale of alcohol, gasoline or automotive services or products. Your fee covers the period from October 1 through September 30th of the following year. Eligible businesses in Business Improvement Districts (BID) that currently pay BID assessments are required to pay only 50% of the litter fee. Vehicular food vendors are not subject to the fee.

ELIGIBLE BUSINESSES DEFINED: (ORD 12727)

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 fee is 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 or reduce fee** any eligible business from the Excess Litter Fee if they determine that:

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.
3. The business has a program to reduce litter originating from the business and that the program actually decreases the burden of corresponding litter cleanup or other cost to the City from litter originating from that business.

HOW DO I FILE AN APPEAL?

Businesses may appeal directly to a designated hearing officer by filing an appeal form. The form (scroll down to see form below) must be submitted by the due date stated on the City's notice and must include an appeal filing fee of \$67.50. The filing fee will be refunded to you if your appeal is upheld.

Through written declarations and other evidence submitted with the form, all appeals must demonstrate to the hearing officer one of the following conditions to reduce or exempt the business from the fee: 1) By definition of the ordinance, the business is not subject to the fee; 2) The business has been misclassified (should be small vs. medium, etc.); 3) The business is in a BID and/or has its own litter cleanup program.

Upon receipt of your appeal form, declaration, and administrative appeal fee, the hearing officer will send you a notice of the hearing date. The hearing officer may issue any orders or impose any

conditions consistent with the purposes of the Litter Fee Ordinance. The determination of the hearing officer is final.

WHAT IF I PAY LATE OR FAIL TO COMPLY?

Failure to pay the fee by the specified due date determined by the Finance and Management Agency is a violation of the ordinance. The violation will result in a 10% to 50% penalty of the fee due, and interest will accrue at one percent per month until the liability is paid.

Failure to complete the declaration and return it to the City before the due date will cause a \$50.00 non-compliance fee to be assessed against you.

City of Oakland
Business Tax Section – Excess Litter Fee Program
250 Frank H. Ogawa Plaza, Suite 1320
Oakland, CA 94612
Phone: (510) 238-3360 Fax: (510) 238-7128
Email: elf@oaklandnet.com

If you have any concerns or complaints regarding your litter collection please call: (510) 615-5566

If you need assistance in Spanish, Chinese or Vietnamese please call the Equal Access hotline at (510) 238-6812

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。

Nếu quý vị cần sự giúp đỡ bằng tiếng Việt, xin vui lòng gọi văn phòng Bình Đẳng Trong Việc Sử Dụng (Equal Access) tại số (510) 238-6812.



CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 1320 OAKLAND, CALIFORNIA 94612

Financial Services Agency
Business Tax Section – EXCESS LITTER FEE PROGRAM

(510) 238-3360
TDD (510) 238-3254

EXCESS LITTER FEE APPEALS FORM

IMPORTANT: APPEALS MUST BE RECEIVED OR POSTMARKED NO LATER THAN THE DUE DATE ON YOUR DECLARATION TO BE CONSIDERED. PLEASE INCLUDE AN APPEAL FILING FEE OF \$67.50. A HEARING OFFICER WILL CONTACT YOU WITH THE DATE AND TIME OF YOUR HEARING.

Account Number: ELF - _____

1. Name of Business _____ Telephone _____

2. Business Address _____ City _____ State _____ Zip Code _____

3. Name of Owner _____ Telephone _____

APPEAL REASON:

- Eligible Business (definition)
- Classification (small, medium or large)
- Further exemption (see OMC 12727, Sec. 5f)
- Business has own litter cleanup program (see OMC 12727, Sec. 9B)
- Other: _____

STATEMENT OF APPEAL: (Please be brief but thorough.)

Check here if providing attachments.

SIGN: _____ DATE: _____
(Signature Required)

Please forward this form with your declaration to:

City of Oakland
Business Tax Section – EXCESS LITTER FEE PROGRAM
250 Frank H. Ogawa Plaza, Suite 1320
Oakland, CA 94612
Phone: (510) 238-3360 Fax: (510) 238-7128

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