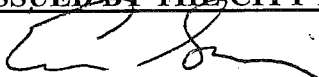


REGULATIONS FOR APPROVED LOCATION PEDDLERS
OPERATING IN THE CITY OF SAN JOSÉ

ISSUED BY THE CITY MANAGER



for **DEBRA FIGONE**

ON: NOV 21 2013

REGULATIONS FOR APPROVED LOCATION PEDDLERS

PART I - GENERAL PROVISIONS

SECTION 1-1. PURPOSE AND AUTHORITY.

Chapter 6.54 of the San José Municipal Code ("Code") sets forth the permitting and licensing requirements and procedures for persons peddling in the City of San José ("City"). These regulations specifically pertain to a peddler peddling from a fixed location in the public right-of-way, supplement the provisions of Chapter 6.54 as they pertain to such peddlers, and are issued by the City Manager pursuant to Chapter 6.54 of the Code. These regulations will be referred to as "Regulations for Approved Location Peddlers Operating in the City of San José". It shall be unlawful for any person permitted or licensed under Chapter 6.54 to peddle from a fixed location in the public right-of-way, or any person required to be so permitted or licensed, whether or not such person is actually permitted or licensed, to violate any of these regulations. A copy of Chapter 6.54 of the Code and these regulations are available on the City's website at www.sanjoseca.gov.

SECTION 1-2. APPLICATION PROCESS.

- A. Any person wishing to peddle from a fixed location in the public right-of-way shall apply for an Approved Location peddler permit by completing an application for said permit pursuant to the procedures set forth in Chapter 6.54 of the Code. Applications are available at the Permits Unit of the San José Police Department or online at www.sjpd.org.
- B. Approved Location peddler permits will be coordinated for processing by the San José Police Department.

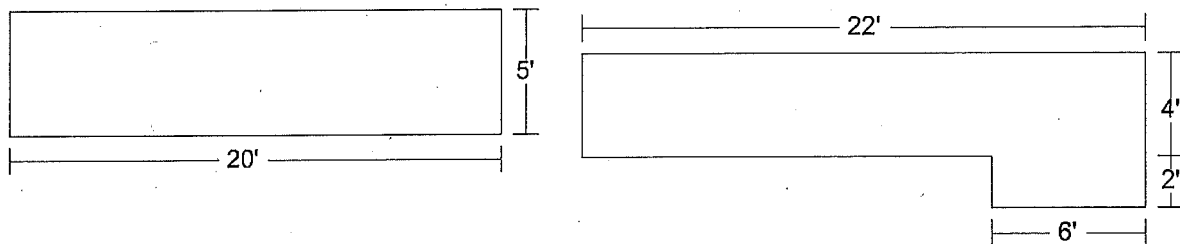
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REGULATIONS FOR APPROVED LOCATION PEDDLERS

PART II – OPERATIONAL REQUIREMENTS

SECTION 2-1. SPACE RESTRICTIONS AND USE OF APPROVED LOCATION.

- A. The San José Chief of Police may issue an Approved Location peddler permit to any person authorizing that person to peddle from and utilize a footprint of up to no more than one hundred (100) square feet ("peddler footprint") on the sidewalk portion of the public street. Each Approved Location peddler shall maintain the minimum peddler footprint necessary for his or her operation. Example layouts of the maximum peddler footprint permissible are shown below.



- B. No Approved Location peddler permit may be issued for any location within one hundred fifty (150) feet of residentially zoned or used property, with the exception of the San José State University Campus area and the Downtown Street Vendors Program Area, as those areas are defined in Chapter 6.54 of the Code.
- C. No Approved Location peddler shall peddle from a mobile unit, as such unit is defined in Chapter 6.54 of the Code, that exceeds ten (10) feet in height, as measured from the ground to the highest point of said mobile unit.
- D. No Approved Location peddler shall use or have any movable or permanent stand, table, chair, ice chest, canopy or any other equipment within his or her peddler footprint, except that he or she may have one stool for his or her own use and one stand-alone umbrella which shall be no more than (9) feet in diameter and anchored by an umbrella stand.
- E. All Approved Location peddlers are required to maintain the layout of their peddler footprint as described in the site plan submitted pursuant to Chapter 6.54 of the Code and approved by the San José Chief of Police.
- F. In the areas defined as the San José State University Campus Area and the Downtown Street Vendors Program Area, the boundaries of one peddler footprint shall not come within ten (10) feet of the boundaries of another peddler footprint. In all other locations, the boundaries of one peddler footprint shall not come within two hundred (200) feet of the boundaries of another peddler footprint.

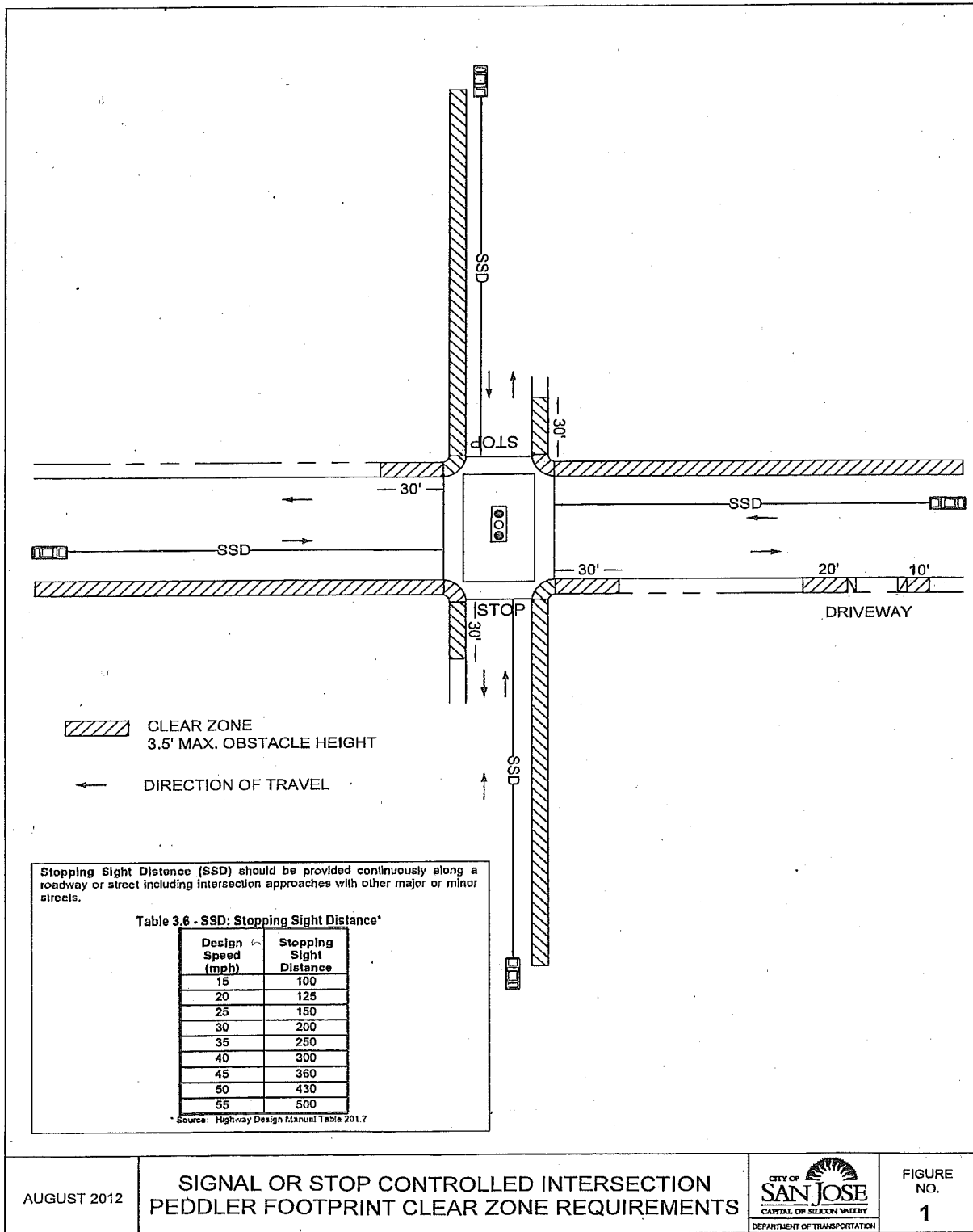
REGULATIONS FOR APPROVED LOCATION PEDDLERS

- G. A minimum clearance of eighteen (18) inches shall be maintained between the edge of any peddler footprint and any adjacent street curb not designated by the City as a red, blue, white or yellow zone, as measured from the section of the street curb which is closest to the public street.
- H. A minimum clearance of five (5) feet shall be maintained between the edge of any peddler footprint and any street curb which is designated by the City as a red, blue, white or yellow zone, as measured from the closest edge of such designated section of the street curb.
- I. A minimum clearance of five (5) feet shall be maintained between the edge of any peddler footprint and any ADA curb ramp, as measured from the closest edge of the ADA curb ramp.
- J. A minimum clearance of fifteen (15) feet shall be maintained between the edge of any peddler footprint and any fire hydrant.
- K. In no event shall a peddler footprint, or anything contained therein, block direct access to San José Fire Department Connections.

[Regulations Continued On Next Page.]

REGULATIONS FOR APPROVED LOCATION PEDDLERS

- L. The following minimum clearances, as measured from the elongation of the curb on the intersecting street to the edge of the peddler footprint closest to the intersection, shall be maintained:



REGULATIONS FOR APPROVED LOCATION PEDDLERS

- M. A minimum clearance of twenty (20) feet shall be maintained between the edge of any peddler footprint and the approach of any driveway, as measured from the closest edge of such driveway. A minimum clearance of ten (10) feet shall be maintained between the edge of any peddler footprint and the departure of any driveway, as measured from the closest edge of such driveway.
- N. A minimum of four (4) feet shall be maintained between the edge of any peddler footprint and any other structure not otherwise specified herein, including but not limited to street light poles, parking meters, and trees.
- O. Notwithstanding the minimum distances required in subsections "G." through "N." above, the San José Chief of Police may require a greater distance to be maintained between the edge of any peddler footprint and any street curb, curb ramp, curb cut or driveway if such distance is reasonably necessary to prevent interference with public safety or with the safe or free passage of pedestrian or vehicular traffic.
- P. The weight, material or design of the Approved Location peddler's mobile unit, equipment or other products ("merchandise") shall not be such that it is likely to damage any part of the surface of the Approved Location.
- Q. Fluids, liquids or other material generated by the Approved Location peddler's mobile unit, equipment or merchandise shall not leak from the mobile unit, equipment or merchandise onto the surface of the Approved Location or flow into nearby storm drains.
- R. Each Approved Location peddler's mobile unit shall be self-contained. No utility wires shall be exposed on the sidewalk or run from the mobile unit to another location outside or beyond the mobile unit.

SECTION 2-2. MINIMUM HOURS OF OPERATION FOR PEDDLERS IN THE DOWNTOWN STREET VENDORS PROGRAM AREA.

- A. Any Approved Location peddler operating in the Downtown Street Vendors Program Area shall operate for no less than fifteen (15) hours per week and for not less than three (3) days per week.
- B. The minimum hours of operation provided in Section A can be met with the Approved Location peddler peddling from the original Approved Location; a location within a Downtown Special Event, as provided for in Chapter 6.55 of the Code; or, an alternate Approved Location approved by the San José Chief of Police.

REGULATIONS FOR APPROVED LOCATION PEDDLERS

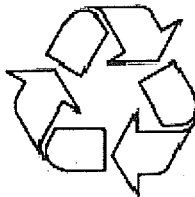
SECTION 2-3. PERMITTED HOURS OF OPERATION.

Approved Location peddlers may operate during the following hours:

- A. An Approved Location peddler operating within the Downtown Street Vendor Program Area may operate on a daily basis between the hours of 6:00 a.m. and 12:00 a.m. (midnight).
- B. An Approved Location peddler operating outside the Downtown Street Vendor Program Area may operate on a daily basis between the hours of 6:00 a.m. and 7:00 p.m., or one-half hour after sunset, whichever comes first.

SECTION 2-4. MINIMUM REQUIREMENTS FOR PEDDLER OPERATIONS.

- A. All Approved Location peddlers shall provide, within their footprint and for public use, at least one durable trash can of no more than thirty (30) gallon capacity. In addition, all Approved Location peddlers shall be responsible for ensuring that the Approved Location is maintained free of debris, including trash, food, liquid or waste, resulting from their operation, regardless of whether the debris originated from the use of their mobile unit or a customer or patron.
- B. All Approved Location peddlers peddling food and/or beverages shall also provide, within their footprint and for public use, at least one durable recycling can of no more than thirty (30) gallon capacity displaying the internationally recognized recycling symbol shown below.



- C. All mobile units used by Approved Location peddlers shall have signage that identifies the type of goods, wares, merchandise, food, products or any other thing or representation of value being peddled from the mobile unit. One (1) square foot of signage shall be allowed for every two (2) linear feet of mobile unit frontage.
- D. No furnishings or fixtures shall be installed in such a manner as to become permanently affixed to or a part of the surface of the Approved Location.

REGULATIONS FOR APPROVED LOCATION PEDDLERS

SECTION 2-5. OTHER LEGAL REQUIREMENTS.

- A. All Approved Location peddlers shall be responsible for ensuring that they and their agents and employees conduct their peddler business and maintain their mobile units and peddler footprints in a manner that complies with all laws, including, but not limited to the following: the Americans with Disabilities Act ("ADA"), and all federal, state and local building and fire codes.
- B. Approved Location peddlers shall defend, indemnify and hold harmless the City and its officers, employees and agents against all claims, loss, liability, damages, judgments, decrees, costs and expenditures which the City or its officers, employees or agents may suffer, or which may be recovered or obtainable against the City or its officers, employees or agents, proximately caused by, arising out of, or resulting from the Approved Location peddler's peddling activity, to the fullest extent permitted by law, save and except the City's sole negligence or willful misconduct.

SECTION 2-6. CLEAN-UP AND REPAIR PROCEDURES.

- A. Immediately following the conclusion of operations on any given day, all Approved Location peddlers shall remove from the Approved Location all mobile units, equipment, goods, wares, food or merchandise related to the peddling.
- B. Immediately following the conclusion of operations on any given day, all Approved Location peddlers shall remove from the Approved Location all trash and recyclables generated by the peddler, related to the peddling, or placed in the trash and recycle containers provided by the peddler. All trash shall be delivered to a permitted waste facility or stored for collection by one of the City's Solid Waste and Recycling Franchisees as provided for in Chapter 9.10 of the Code, except that the Approved Location peddler may separate cans, bottles, newspapers, and other recyclables from the trash for recycling. Recyclable materials, including cans and bottles, newspapers and magazines, or any other recyclables placed in the recycling or trash containers, shall be delivered to a recycling center or stored for separate collection by a recycling collector as provided for in Chapter 9.10 of the Code.
- C. Immediately following the conclusion of operations on any given day, all Approved Location peddlers shall restore the surface of the Approved Location to its condition as it existed prior to the peddler engaging in any peddling activities at the Approved Location.

REGULATIONS FOR APPROVED LOCATION PEDDLERS

SECTION 2-7. FIRE EXTINGUISHER

Every Approved Location peddler shall, at all times, carry or maintain on his or her mobile unit a fire extinguisher of the type and size approved by the San José Fire Department.

SECTION 2-8. GENERAL NOISE REQUIREMENTS.

- A. No Approved Location peddler shall use, play or caused to be used or played any amplifier, loudspeaker, or any other instrument or device used for the production of sound, beyond the hours permitted for operation.
- B. Any amplifier, loudspeaker, or other instrument or device used for the production of sound during the permitted hours shall not create a disturbance of the peace as that term is used in Chapter 10.16 of the Code.