

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rosalynn Hughey

SUBJECT: UPDATE ON ROAMING (MOBILE) PEDDLER MANAGEMENT **DATE:** April 28, 2020

Approved /s/
 Kim Walesh

Date **4/29/2020**

INFORMATION

This update on the implementation of the amended Peddler Permit Ordinance, roaming (mobile) peddler management, and Council direction to explore safe mobile peddler locations within the 500-foot buffer zone at SAP Center, AVAYA Stadium, Municipal Stadium and Convention Center was originally planned to be presented at the March 23, 2020 Community and Economic Development Committee meeting. However, due to cancellation of the meeting, the update is being provided as an Information Memo instead.

BACKGROUND

On September 17, 2018, Senate Bill (SB 946) was signed by Governor Brown. SB 946 required cities to allow sidewalk vending commencing on January 1, 2019. Under the new law, the state mandated local jurisdictions to support and facilitate sidewalk vendors (peddlers), but allowed them to continue to regulate reasonable time, place and manner.

On October 8, 2019, Council approved an ordinance amending Title 6, Chapter 6.54 of the San Jose Municipal Code (The Peddler Permit Ordinance) to conform to State law and adopted a resolution amending the Administrative Citation Schedule of Fines to establish and revise existing fines in accordance with State law.

State law allows for two types of vendors: stationary (a person who vends from a fixed location) and roaming (a vendor who moves from place to place and stops only to complete a transaction). Specific changes adopted by Council to conform to SB946 included:

- Limiting peddling in a residential zone to the hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time and 9:00 a.m. to 7:00 p.m. Pacific Daylight Time.
- Requiring food peddlers to possess and display a valid permit from the County of Santa Clara Department of Environmental Health and comply with all food preparation and fire codes.

- Restricting peddling within 500 feet of City-permitted temporary special events, such as street fairs, festivals, or parades; schools during hours of operation; or permitted certified farmers' markets or swap meets.
- Restricting approved location peddlers from vending in areas zoned exclusively residential.
- Proper trash disposal requirement.
- Requirement that peddlers must meet ADA accessibility requirements.

Staff was also directed by Council to work with SAP Center, AVAYA Stadium, Municipal Stadium and the Convention Center to identify and designate, if possible, safe locations on public property within the 500' radius at each venue where peddlers could congregate.

ANALYSIS

Roaming (Mobile) Peddler Management, Outreach & Implementation Efforts

Once Council adopted the new regulations, staff embarked on an awareness campaign to help inform the peddler community of the adopted changes. The goal of the awareness campaign was to educate peddlers of the rules for sidewalk vending and provide details to become a permitted peddler within the City of San José, and bring awareness of the consequences should regulations be violated. Efforts also included the promotion of Veggielutions' Eastside Grown Program which provides free, technical training on how to become a permitted vendor, including how to meet the health and safety standards required by Santa Clara County. The "Mobile Sidewalk Vendor" flyer (attached), produced by the Department of Planning, Building and Code Enforcement (PBCE) and printed in both English and Spanish, was used to provide peddler outreach and education in the field at venue events. A digital copy of the education flyer was provided to the County of Santa Clara Department of Environmental Health ensuring they were aware of the peddler educational campaign and the reference to their website for permit information.

Most of the roaming (mobile) peddlers in San Jose have not acquired permits from the San Jose Police Department (SJPD), which eliminated the ability to communicate directly with individual peddlers through the permit process. Therefore, it was determined that the most effective strategy to connect with and educate the peddler community was through direct engagement in the field. PBCE, SJPD Permits Unit, and Economic Development staff identified a series of popular events that were expected to attract roaming (mobile) peddlers during the 2019 holiday period (November 27 through December 30, 2019) and scheduled PBCE staff to distribute the flyers at these specific events. In total, 11 PBCE Inspectors filled 66 positions totaling 342.5 hours over 18 days. Below is a general summary of the outreach, education, and enforcement efforts performed by PBCE staff:

- *Venues:* The majority of peddler outreach efforts were conducted in downtown San Jose near permitted outdoor holiday events (e.g. Downtown Ice, Christmas in the Park, Winter Wonderland) with an additional four events occurring at the SAP Center and AVAYA

Stadium. Additionally, San Jose Police Permits Unit conducted outreach at the Our Lady of Guadalupe Church December festival that attracts a considerable number of peddlers.

- *Outreach and Education:* At a minimum, over 255 peddlers received flyers. The actual number of peddlers receiving outreach is higher than 255 since PBCE staff observed some peddlers in the downtown area were part of a larger, organized group which were considered as one entity. Additionally, outreach efforts conducted by SJPD Permits Unit at Our Lady of Guadalupe Church were not quantified.
- *Permitting and Compliance:* In most cases, when advised of the amended rules, peddlers voluntarily complied with the regulations including moving from place to place verses maintaining stationary positions and/or shifting position to avoid disabled access areas. There were three incidents that required additional Police assistance, including one which required Police response to diffuse a physical altercation between two peddlers competing for the same location. The majority of peddlers did not display or have the required permits. Two peddlers were reported to have the required San Jose Police Permit and one peddler had the County Health Permit.

To ensure on-going engagement continues to occur during events that attract roaming (mobile) peddlers, flyers were provided to management staff at SAP Center, AVAYA Stadium and Team San Jose for on-site distribution.

Outreach Insights

The goal of the 2019 awareness campaign was to educate peddlers on peddler regulations, inform peddlers on ways to become a permitted peddler, and bring awareness of consequences should regulations be violated. Initially, during the early stages of the outreach campaign, distribution of the flyer was effective. However, over a period of time, the same peddlers appeared in the same areas, making outreach efforts redundant. Eventually, peddlers would discard the flyer rather than retain it. Some peddlers would comply by leaving the area only to return later to the same location. Additionally, peddlers would only institute roaming (mobile) efforts when Code Enforcement staff were within sight; otherwise, they would remain stationary throughout the event in the public right of way.

As a result of the awareness campaign, one peddler has applied for permits with the San Jose Police Department-Permits Unit and no peddlers have pursued assistance with Veggelution.

Designation of Safe Locations for Roaming (Mobile) Peddlers

To determine availability of safe locations for roaming (mobile) peddlers by venue, staff from the San Jose Police Department and Office of Economic Development did the following work:

- Reviewed site maps,
- Conducted site inspections of areas;
- Spoke with venue management and safety staff;
- Investigated existing and future land use designations;
- Obtained roaming (mobile) peddler practices from venue operators; and

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- Analyzed venue capacities and typical pedestrian and traffic flow near each of the locations.

Overall, staff determined that designating a permanent location for peddlers within the 500' radius of the identified venues while maintaining safe ingress/egress is not feasible. The specific findings by venue are noted below:

- *Municipal Stadium:* The public sidewalks around Municipal Stadium are narrow with existing impediments (e.g. utility boxes, light poles, tree roots, etc.), which further limit pedestrian travel. Designating a safe location for peddlers would further obstruct sidewalk areas near the venue.
- *Convention Center:* The convention and cultural facilities are adjacent to major transit areas and traffic lanes within the city center. Although the west and east sidewalk areas adjacent to the Convention Center are wide and could appear to accommodate sidewalk peddlers, the type of activity in these areas such as hotel access, facility entrance/exit, garage entrance/exits, taxi cab parking, etc. precludes these areas to be designated as a safe peddler location.
- *AVAYA Stadium:* The areas adjacent to AVAYA Stadium are designated as private property and many of the undeveloped areas near the stadium are slated for future private development, including office towers and a hotel. Due to the limited public areas and need to maintain sidewalk ingress and egress for stadium and local businesses, a designated safe area for peddlers was unable to be identified.
- *SAP Center:* After overlaying the requirements of the Traffic & Parking Management Plan for SAP Center and reviewing the pedestrian ingress and egress patterns for the venue, it was determined that the sidewalk area north of SAP Center before Highway 87 could be the most viable option to designate as a peddler location. Peddlers could be directed to this area of designation during events. However, based on past peddler practice and behaviors, it can be assumed that the peddlers will not remain contained in the designated space for the duration of the event.

Permanent designations of safe peddler locations within 500' of any of the identified venues is not recommended to ensure that the public right of way remains open and unobstructed for safe pedestrian travel and safe ingress/egress of events.

/s/

ROSALYNN HUGHEY, Director
Planning, Building and Code Enforcement

For questions, please contact Tammy Turnipseed, Event Director, at (408)793-4343 or Rachel Roberts, Deputy Director-Code Enforcement Division at (408) 535-7719.

Attachment: Mobile Sidewalk Vendor Flyer

City of San José Rules For MOBILE SIDEWALK VENDORS

San José's rules for mobile sidewalk vending emphasize public safety and respecting permitted events.

RULES: Mobile sidewalk vendors must...

1. **Display County Health Permit.** Visibly display your valid permit from Santa Clara County Department of Environmental Health.
2. **Not sell alcohol.** The state Alcoholic Beverage Control license for selling alcohol is not available to mobile sidewalk vendors, and any vendors caught selling alcohol may face criminal fines and penalties.
3. **Practice public safety and cleanliness by complying with codes.** Be sure to comply with all food preparation and fire codes. Properly dispose of trash and recyclables.
4. **Keep moving and maintain space.** You may stop only to complete a transaction. Keep a minimum 3-foot open space on the sidewalk and in your path of travel. Avoid jammed areas.
5. **Avoid disabled access areas.** Do not block any areas marked for disabled access.
6. **Stay 500 feet away from these areas:**
 - Farmers markets or swap meets
 - Schools during hours of operation
 - City-permitted events such as street fairs, festivals, and parades
 - During events at:
 - SAP Center
 - Avaya Stadium
 - San José McEnery Convention Center
 - Excite Ballpark (San José Municipal Stadium)
7. **Obey time restrictions in residential zones.** In residential areas, you may operate only between:
 - 9:00 a.m. to 5:00 p.m. - Mid-November to mid-March
 - 9:00 a.m. to 7:00 p.m. - Mid-March to mid-November

If you break the rules...

- **You will be asked to move along** if you pass through prohibited areas or try to remain in one place.
- **You may be cited and fined.** The City may issue you an administrative citation starting at \$100 for a first violation of the rules listed above.



How to Become a Permitted Vendor

Get Your Required Permits and Business Tax Certificate

- **Peddler Permit from San José Police Department**
www.sjpd.org/pdf_forms/peddler_application.pdf
Phone: 408-277-4452
- **Mobile Food Facility Permit from Santa Clara County Department of Environmental Health**
www.sccgov.org/sites/cpd/programs/MFF/Pages/home.aspx
Phone: 408-918-3400
- **City of San José Business Tax Certificate**
businesstax.sanjoseca.gov/service/san-jose-business-tax-registration

Resources

Police Officers' Guide to Mobile Peddlers - For a copy, contact the San José Police Department, Permits Unit at 408-277-4452.

Veggielution's Eastside Grown Program provides free training on how to become a permitted vendor.
Website: veggielution.org/eastside-grown-1
Phone: 408-753-6705

Reglas de la Ciudad de San José para los VENDEDORES AMBULANTES

Las reglas de San José para la venta móvil en las banquetas enfatizan la seguridad pública y el respeto a los eventos permitidos.

REGLAS: Los vendedores ambulantes deben...

1. **Exhibir el Permiso de Salud del Condado.** Exhiba visiblemente su permiso válido del Departamento de Salud Ambiental del Condado de Santa Clara.
2. **No vender alcohol.** La licencia estatal de Control de Bebidas Alcohólicas para la venta de alcohol no está disponible para los vendedores ambulantes, y cualquier persona vendiendo alcohol puede enfrentar multas y sanciones penales.
3. **Practicar la seguridad pública y la limpieza cumpliendo con los códigos.** Asegúrese de cumplir con todos los códigos de preparación de alimentos e incendios. Deseche adecuadamente la basura y los materiales reciclables.
4. **Mantenerse en movimiento y mantener el espacio.** Solo puede detenerse para completar una transacción. Mantenga un espacio abierto mínimo de 3 pies en la banqueta y en su camino. Evite las áreas congestionadas.
5. **Evitar las áreas de acceso para discapacitados.** No bloquee ninguna de las áreas marcadas para el acceso de personas discapacitadas.
6. **Mantenerse a 500 pies de distancia de estas áreas:**
 - Tianguis o mercados de agricultores
 - Escuelas durante las horas de operación
 - Eventos permitidos por la Ciudad, como ferias callejeras, festivales y desfiles
 - Durante los eventos en:
 - El Centro SAP
 - El Estadio Avaya
 - El Centro de Convenciones McEnery en San José
 - Excite Ballpark (El Estadio Municipal de San José)
7. **Obedecer las restricciones de tiempo en las zonas residenciales.** En áreas residenciales, usted puede operar solamente entre:
 - 9:00 a.m. y 5:00 p.m. - Mediados de noviembre a mediados de marzo
 - 9:00 a.m. y 7:00 p.m. - Mediados de marzo a mediados de noviembre



Si rompe las reglas...

- **Se le pedirá que siga adelante** si pasa por áreas prohibidas o intenta permanecer en un solo lugar.
- **Usted puede ser citado y multado.** La Ciudad puede emitirle una citación administrativa a partir de \$100 por una primera violación de las reglas mencionadas anteriormente.

Cómo convertirse en un Vendedor Autorizado

Obtenga los Permisos y Certificados de Impuestos de Negocios Requeridos

- **Permiso de Vendedor Ambulante del Departamento de Policía de San José**
www.sjpd.org/pdf_forms/peddler_application.pdf
Teléfono: 408-277-4452
- **Permiso para Instalaciones Móviles de Alimentos del Departamento de Salud Ambiental del Condado de Santa Clara**
www.sccgov.org/sites/cpd/programs/MFF/Pages/home.aspx
Teléfono: 408-918-3400
- **Certificado de Impuestos de la Ciudad de San José**
businessstax.sanjoseca.gov/service/san-jose-business-tax-registration

Recursos

Guía de Oficiales de Policía para Vendedores

Ambulantes - Para obtener una copia, comuníquese con el Departamento de Policía de San José, Unidad de Permisos al 408-277-4452.

El Programa VeggieLution's Eastside Grown ofrece capacitación gratuita sobre cómo convertirse en un vendedor autorizado.

Sitio web: veggielution.org/eastside-grown-1
Teléfono: 408-753-6705