



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
Paul Joseph

SUBJECT: Peddler Permit Ordinance
Amendment

DATE: March 3, 2025

Approved	Date:
	3/12/25

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Approve an ordinance amending Chapter 6.54 of Title 6 of the San José Municipal Code (Peddler Permit Ordinance).

SUMMARY AND OUTCOME

The Administration proposes amending Chapter 6.54 of Title 6 of the San José Municipal Code (Peddler Permit Ordinance)¹ to add provisions for impounding goods and equipment from peddlers under certain circumstances. Over the past year, staff piloted various unpermitted peddling enforcement strategies in alignment with City Council direction. During this pilot, staff identified San José Police Department (SJPD) or County of Santa Clara (County) impound of peddler goods or equipment to be the most effective enforcement strategy. While SJPD can impound goods and property under existing authority, the proposed Peddler Permit Ordinance updates would streamline enforcement authority and remove permitting barriers. Enforcement of the Peddler Permit Ordinance is currently limited; broader enforcement would require additional staff time and financial resources, potentially necessitating City Council direction and budget allocation.

BACKGROUND

Beginning on January 1, 2019, State of California Senate Bill 946 required cities to allow sidewalk peddling for two types of peddlers: stationary (a person who peddles from a

1
https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT6BULIRE_CH6.54PEP
EOR

fixed approved location) and roaming (a mobile peddler who moves from place to place and stops only to complete a transaction).² The SJPd Permits Unit classifies these two types of peddlers (respectively) as “approved location peddlers” and “mobile peddlers.” Under Senate Bill 946, municipalities cannot enact blanket bans on peddling, but can reasonably regulate the time, place, and manner that peddlers operate. Notably, Senate Bill 946 prohibits the use of criminal penalties for peddling violations. Cities are limited to the issuance of administrative citations and must consider a person’s ability to pay when resolving the citation.

On October 8, 2019, City Council approved an ordinance amending Chapter 6.54 of the San José Municipal Code (Peddler Permit Ordinance) to conform to state law.³ The City’s Peddler Permit Ordinance includes, but is not limited to, the following regulations.

- Requires food peddlers to obtain and display a valid permit from SJPd and the County. Approved location peddlers must have their location approved by SJPd.
- No peddling is allowed within 500 feet of City-permitted temporary special events, such as street fairs, festivals, or parades.
- No peddling is allowed within 500 feet of schools, farmers’ markets, flea markets, and swap meets during hours of operation.
- No peddling is allowed within 500 feet of SAP Center, PayPal Park, Excite Ballpark, and the San José McEnery Convention Center on event days.
 - Note: pursuant to the Arena Management Agreement, the City is contractually obligated to enforce the 500-foot rule at the SAP Center.

The Fiscal Year (FY) 2024-2025 Adopted Budget included \$100,000 to promote health and safety through enforcement of the Peddler Permit Ordinance during 2024 Downtown holiday events.⁴ An additional \$78,000 in unexpended funds from the FY 2023-2024 Adopted Budget to address peddling around the SAP Center were rebudgeted to FY 2024-2025 to support unpermitted peddler enforcement efforts.⁵

In addition to these enforcement measures, the FY 2024-2025 Adopted Budget also included \$20,000 for the Mesa Redonda program at Prosperity Labs to provide comprehensive training and incubation programs for local food entrepreneurs. The City Manager’s Office of Economic Development and Cultural Affairs (OEDCA) staff executed this contract, and the program has graduated one cohort of 12 food entrepreneurs and recently launched a second cohort of 14 businesses. Through Prosperity Labs, Spanish-speaking entrepreneurs engaged in the pre-venture phase and trained cohort participants with basic business skills such as marketing, business

² https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB946

³ <https://sanjose.legistar.com/View.ashx?M=F&ID=7739782&GUID=E4E5ADF2-4F01-4BDE-95F4-0DE3B9DB8C50>

⁴ <https://www.sanjoseca.gov/home/showpublisheddocument/115774/638717709976570000>

⁵ <https://www.sanjoseca.gov/home/showpublisheddocument/106750/638367848009000000>

scalability, operational efficiency, tax preparation, and food safety management skills. All training is conducted by Prosperity Labs in Spanish.

Pilot Enforcement Efforts

In response to recent City Council direction, the City Manager's Office of Administration, Policy, and Intergovernmental Affairs and OEDCA (City Manager's Office (CMO) working group) explored and tested the effectiveness of City and County unpermitted peddler enforcement mechanisms at key events. In response to City Council direction, this enforcement has focused largely on the SAP Center and 2024 Downtown holiday events. A few additional enforcement efforts have been conducted at the San José Civic San José McEnery Convention Center, and the West Wind Capitol Flea Market.

Enforcement strategies to date have included:

- SJPD sworn staffing maintaining pedestrian walkways on key corridors and ensuring the safety of City and County staff during enforcement operations.
- Code Enforcement staff conducting inspections and issuing administrative citations for violations of the Peddler Permit Ordinance.
- Partnership operations with the County's Department of Environmental Health inspectors to conduct inspections and impound food for California Health and Safety Code Section 114381 violations.⁶
- Department of Transportation Parking and Traffic Control Officers conducting traffic enforcement and issuing parking tickets for violations at 2024 Downtown holiday events. This enforcement strategy addressed concerns from previous events where peddler supply vans were parked illegally.
- Department of Transportation and OEDCA staff identifying and removing unattended peddler equipment.

Enhanced BeautifySJ, SJPD, and Code Enforcement staffing levels to support enforcement operations have been and continue to be conducted on overtime due to limited staff resources.

For additional background on unpermitted peddling enforcement, reference the September 11, 2024, Unpermitted Peddlers Enforcement Pilot Information Memorandum.⁷ A forthcoming information memorandum, scheduled for release in March 2025, will provide additional information on Downtown peddler enforcement activities during the holiday season.

⁶ https://california.public.law/codes/ca_health_and_safety_code_section_114381.2

⁷ <https://www.sanjoseca.gov/home/showpublisheddocument/114403/638617380531370000>

ANALYSIS

While the City's recent peddler enforcement strategies have helped deter unpermitted peddlers, peddlers have continued to adapt their behavior and operate in an unsafe manner. While most peddlers who set up at SAP Center have been deterred by a year of outreach and enforcement, those who remain are increasingly defiant of requests by SAP Center staff and SJPD to keep key safety corridors clear. The remaining peddlers continue to rush venue exits during egress and block traffic lanes in the parking lot, causing grave concerns for public safety. The CMO working group therefore worked with the City Attorney's Office and community stakeholders to identify options for more effective enforcement and opportunities to support peddlers to become permitted.

Peer City Analysis

The CMO working group met with several other municipalities, including the City of Santa Clara, City of Sacramento, City of Long Beach, City and County of San Francisco, and City of San Diego to understand their approaches to peddling enforcement. The CMO working group also asked cities about local barriers to peddlers getting permitted and following regulations.

Growing concerns by event organizers, professional sports organizations, and brick-and-mortar restaurants have motivated these cities to increase unpermitted peddling enforcement in recent years. Of particular interest to San José Downtown stakeholders is the approach adopted by the City of San Diego. The City of San Diego updated its Sidewalk Vending Ordinance to provide authority to impound peddler food and equipment for operating without a San Diego County Environmental Health Permit.⁸ Under its updated ordinance, the City of San Diego may also impound food and equipment for refusing to provide identification to a Code Enforcement Inspector, leaving items unattended, and obstructing pedestrian or vehicular movement, in addition to other grounds. The City of San Diego uses on-duty police officers to initiate impound, and a hazardous material contractor arrives to collect and store impounded items. This approach has been successful in deterring and reducing unpermitted peddling.

Peddler Impound Pilot at SAP Center

Due to the success observed at the City of San Diego, the CMO working group collaborated with the City Attorney's Office to launch a limited peddler equipment impound pilot at the SAP Center in January 2025. Under San José Municipal Code 13.24.010 Streets and Sidewalk Obstructions⁹ and San José Municipal Code 10.20.150

⁸ <https://docs.sandiego.gov/municode/MuniCodeChapter03/Ch03Art06Division01.pdf>

⁹ https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT13STSIPUPL_CH13.24STSI0B_13.24.010REOB

Trespassing on Public Property¹⁰ SJPD can currently impound peddler goods and equipment. When peddler equipment and goods are impounded, the owner, if present, is given information about reclaiming their property for up to 90 days. Staff are partnering with Tucker Construction to store items in a storage container, reunite owners with property, and dispose of property if not claimed after 90 days. Any food and flammable items are disposed of immediately. An allocation of \$20,000 from the unpermitted peddler pilot budget has been provided for this effort. Seven carts have been impounded to date. Since the start of the pilot, fewer peddlers have attempted to set up and sell at subsequent events. There is currently no charge to reclaim an impounded cart and one peddler has been reunited with their equipment. This pilot program is expected to run at SAP Center through the end of FY 2024-2025 or until funds are expended.

Peddler Permit Ordinance Modifications

While the pilot impound program at SAP Center has been successful, the Administration recommends updating several aspects of the Peddler Permit Ordinance to (1) streamline enforcement authority; (2) clarify City regulations; and (3) remove a barrier for peddlers to become permitted.

Streamline Enforcement Authority

The existing authority to impound peddler food and equipment is geographically based. Streamlining impound authority under the Peddler Permit Ordinance formalizes the City's enforcement actions and clearly delineates circumstances where SJPD may impound goods or equipment. For example, San José Municipal Code 13.24.010 Streets and Sidewalk Obstructions only applies when peddlers are in the right of way on streets and sidewalks. When peddlers are in the parking lot of the SAP Center, impound authority is derived from San José Municipal Code 10.20.150 Trespassing on Public Property. Adding impound provisions to the Peddler Permit Ordinance facilitates streamlined enforcement that is irrespective of geography but based on unsafe practices.

Clarify City Regulations

The City's existing authority to impound goods and equipment is difficult to communicate to stakeholders and members of the public. Updating the Peddler Permit Ordinance with clearly articulated grounds based on public safety facilitates clearer messaging and education. The City's desired outcome is for peddlers to come into compliance with our permitting process and regulations. Clarifying authority helps educate peddlers on regulations critical to their safety and the safety of the public. Peddling enforcement work also requires strong partnerships with event organizers,

¹⁰https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT10PUPEMOWE_CH10.20OFAGPR_PT5TR_10.20.150TRPRPRWH

venues, and businesses. The ability to clearly articulate enforcement powers facilitate increased collaboration with partners.

Remove a Barrier for Peddlers to Becoming Permitted

As previously stated, the goal of this work is to encourage peddlers to become permitted to ensure they are aware of and following applicable regulations for safety and food handling. The CMO working group identified the Peddler Permit Ordinance's commercial general liability insurance requirement as a barrier to peddlers becoming permitted due to its added cost. This requirement was raised as a barrier by the City of Santa Clara Police Department during peddler enforcement shadowing at Levi's Stadium. Insurance requirements are also listed as a financial barrier in the City of Long Beach's analysis on their sidewalk vending regulations.¹¹ Further, the County also does not require insurance for peddlers to obtain their Mobile Food Facility Permit. Eliminating this unnecessary and burdensome requirement eases the path to permitting for many who may not be able to afford to obtain coverage. In place of the insurance requirement, the Administration recommends adding a requirement for peddlers to sign an indemnification and hold harmless agreement with the City. While this change protects the City's legal interests, it may make it more difficult for a member of the public who is harmed by a peddler to seek financial compensation. However, more permitted peddlers facilitate a safer environment where food handling and safety regulations are more likely to be adhered to.

Staff Recommendation

The CMO, SJPD, and the City Attorney's Office have reviewed Chapter 6.54 (Peddler Permit Ordinance) of the San Jose Municipal Code and are recommending revisions to the ordinance.

Proposed changes to the ordinance include:

- **6.54.215 General Operating Requirements**
 - Add requirement that a mobile unit and any equipment, goods, wares, merchandise, food, products, and anything or representation of value associated with a mobile unit shall not be left unattended at any time.
- **6.54.265 Regulations for Peddler Permits – City Manager:**
 - Update reference from the City's Downtown Strategy 2000 to the City's Downtown Strategy 2024.

¹¹ <https://longbeach.legistar.com/View.ashx?M=F&ID=11940192&GUID=FDE18781-45F9-4F0F-8B39-8C2FEFC11AFB>

- **6.54.270 Insurance for Peddlers**
 - Replace requirement for peddlers to carry commercial general liability insurance with a waiver and release of liability, indemnification and hold harmless, and an acknowledgement of risk.

- **6.54.405 Mobile Unit Impoundment:**
 - Add section to give the City authority to impound peddler goods and equipment for any of the following reasons:
 - Peddling in areas prohibited for safety under 6.54.215(a);
 - Blocking or obstructing the free movement of pedestrians or vehicles or obstructing or blocking a path of egress from a building, fire connection, or fire hydrant in violation of California Fire Code;
 - Peddling food or food products without a County permit;
 - Chaining, fastening, or affixing equipment to structures, utilizing any structure in the right-of-way as an extension of the mobile unit, or leaving peddling equipment or goods unattended;
 - Peddling in apparent violation of the ordinance and refusing or failing to provide identification upon request by a City employee;
 - Refusing to remove equipment after fifteen minutes after being instructed to do so by a City employee; and
 - Peddling in a manner that creates an imminent and substantial danger or environmental hazard to the health, safety, or general welfare of the public or the property at the location of the peddling equipment, including but not limited to, violations of the California Fire Code.
 - City staff may immediately dispose of impounded goods that cannot be safely stored or that are perishable. (This includes fuel and flammable items.)
 - The person from whom the goods or mobile unit or associated equipment were taken shall, if present, be provided instructions for retrieval of impounded items.
 - Impounded items may be claimed for up to 90 days provided that a description of the items is presented. After 90 days, the City may dispose of impounded items.

Next Steps

Updating the Peddler Permit Ordinance facilitates streamlined enforcement authority, increases understanding of regulations, and removes a barrier to becoming permitted. However, expanding enforcement beyond limited Downtown special events and City-owned facilities or continuing enforcement into FY 2025-2026, requires new investments of staff time and financial resources within OEDCA and/or SJPD. Given the level of effort this work entails, staff may require City Council direction and potentially additional resources through the annual budget process, as implementation and/or

further policy work would need to be balanced against other workload, overall financial conditions, and budget priorities.

EVALUATION AND FOLLOW-UP

An informational memorandum with additional details on unpermitted peddler enforcement efforts at 2024 Downtown holiday events will be released in March 2025. The Community and Economic Development Committee will receive an update on results from the SAP Center peddler impound pilot as part of the June 23, 2025 Annual Downtown Progress Report.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the City Manager's Budget Office, the City Manager's Office of Administration, Policy, and Intergovernmental Relations, the Fire Department, and the Planning, Building and Code Enforcement Department.

The County of Santa Clara Department of Environmental Health helped inform this memorandum.

PUBLIC OUTREACH

During outreach and enforcement activations over the past year, City staff have disseminated an informational flyer included in the **Attachment**. The SJPD Crime Prevention team also has an informal contact list of some unpermitted peddlers who have participated in previous community engagement efforts. The team has sent various messages to these contacts to keep them updated on the City's unpermitted peddler-related activities.

On October 21, 2024, the CMO working group organized an outreach meeting for unpermitted peddlers at the Roosevelt Community Center in coordination with SJPD. This meeting was conducted entirely in Spanish and attended by approximately 30 people. Representatives from SJPD, the County, and OEDCA presented on peddler regulations and informed participants of upcoming peddler enforcement efforts at 2024 Downtown holiday events. Prosperity Labs, Access SBDC (the nonprofit Access Small Business Development Center and part of the greater NorCal SBDC network), and the County also provided information on programs and resources for becoming a permitted peddler.

The CMO working group has maintained consistent communication with the County and peer cities, including Santa Clara, Sacramento, Long Beach, San Francisco, and San

Diego. Additionally, the team coordinated efforts with leadership at the SAP Center and Team San José.

This memorandum will be posted on the City's Council Agenda website for the March 25, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

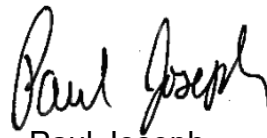
CEQA

Not a Project, Public Project File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
Nanci Klein
Director, City Manager's
Office of Economic
Development and Cultural Affairs


Paul Joseph
Chief
Police Department

The principal author of this memorandum is Kailyn Kenney, Assistant to the City Manager, City Manager's Office of Administration, Policy, and Intergovernmental Affairs. For questions, please contact Rick Galea, Sergeant, San José Police Department at richard.galea@sanjoseca.gov and Nathan Donato-Weinstein, Downtown Manager, City Manager's Office of Economic Development and Cultural Affairs at nathan.donato-weinstein@sanjoseca.gov.

ATTACHMENT: City of San José Food Vending Rules Outreach Flyer

City of San José Food Vending Rules



Sidewalk food vendors must be permitted by the City of San José and Santa Clara County to operate in the City of San José.

- Vendors who violate these rules may face fines and confiscation of food and equipment.
- Unattended or chained equipment (tents, chairs, tables) may be confiscated and relocated for retrieval.
- Vendors selling alcohol may face criminal penalties; The police are conducting undercover operations.

There are additional rules that govern vending.

Please visit: bit.ly/3Afld3T or scan the QR code.



Other Resource to Consider:

- Apply for a Microenterprise Home Kitchen Operations (MEHKO) permit bit.ly/3yvt90e

HOW TO BECOME A PERMITTED VENDOR

Get Your Required Permits and Business Tax Certificate

- Peddler Permit from San José Police Department
bit.ly/SJPDPPermitApp
Phone: 408-277-4452
- Mobile Food Facility Permit from Santa Clara County Department of Environmental Health
bit.ly/3SBwJNq
Phone: 408-918-3400
- City of San José Business Tax Certificate
bit.ly/SJBusinessTax

Organizations that can assist with the permitting process:

- Prosperity Lab
Email: Armando@prosperitylab.org
or Aline@prosperitylab.org
Phone: 408-547-3190
- Access SBDC
Email: Info@accesssbdc.org
Phone: 408-385-9800
- Yacanex Business Group
Email: yacanex@ybusinessgroup.com
Phone: 408-816-2072

Call the City of San José at (408) 277-4452 and the County of Santa Clara at (408) 918-3400 for more information on how to start a permitted operation.

Ciudad de San José

Reglas de Venta de Alimentos



Los vendedores ambulantes de comida deben tener permiso de la Ciudad de San José y del Condado de Santa Clara para operar en la Ciudad de San José.

- Vendedores que rompen estas reglas pueden enfrentar multas y confiscación de alimentos y equipos.
- Equipos desatendidos o encadenados (carpas, sillas, mesas) podrán ser retirados y reubicados para su recuperación.
- Los vendedores que venden alcohol pueden enfrentar sanciones penales; La policía está realizando operaciones encubiertas.

Existen reglas adicionales que rigen la venta.

Visite: bit.ly/3Afld3T o escanee el código QR.



Otro recurso a considerar:

- Solicite un permiso de operaciones de cocina doméstica para microempresas (MEHKO) bit.ly/3yvt90e

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 bit.ly/SJPDPermitApp
Número telefónico: 408-277-4452
- Permiso para Instalaciones Móviles de Alimentos del Departamento de Salud Ambiental del Condado de Santa Clara bit.ly/SCCMobileFood
Número telefónico: 408-918-3400
- Certificado de Impuestos de la Ciudad de San José bit.ly/SJBusinessTax

Organizaciones que pueden ayudar con el proceso de permiso:

- Prosperity Lab
Correo electrónico: Armando@prosperitylab.org o Aline@prosperitylab.org
Número telefónico: 408-547-3190
- Access SBDC
Correo electrónico: Info@accesssbdc.org
Número telefónico: 408-385-9800
- Yacanex Business Group
Correo electrónico: yacanex@ybusinessgroup.com
Número telefónico: 408-816-2072

Llame a la Ciudad de San José al (408) 277-4452 y al Condado de Santa Clara al (408) 918-3400 para obtener más información sobre cómo iniciar una operación permitida.