[Various Codes - Mobile Vendor Regulation]

Ordinance adopting regulation of vending within the jurisdiction of the Port of San Francisco, requiring permits, and authorizing permit fee and enforcement actions in the Port Code; requiring the Port and the Department of Public Health to report to the Board of Supervisors about regulatory implementation and health and safety enforcement; amending provisions of the Port Code and repealing peddler regulations in the Police Code to comply with state law regarding sidewalk vending; amending provisions of the Administrative, Business and Tax Regulations, Health, and Transportation Codes to conform with state law and new Port Code regulations regarding vending; and adopting findings under the California Environmental Quality Act.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco

Section 1. Environmental Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 210566 and is incorporated herein by reference.
Section 2. General Findings.

(a) The Port of San Francisco ("Port") manages the waterfront as the gateway to a
deadline city, and advances environmentally and financially sustainable maritime,
recreational, and economic opportunities to serve the City and County of San Francisco
("City"), the Bay Area, and California.

(b) The Port is home to many of San Francisco’s leading visitor destinations, and
welcomed over 24 million visitors annually before the COVID-19 pandemic.

(c) In furtherance of the City’s recovery from the pandemic, the Port is committed to
supporting the growth of waterfront jobs and providing space for new and expanding
businesses on Port property, while maintaining public health and safety as well as scenic and
recreational opportunities.

(d) Vending, because it has a relatively low barrier to entry, encourages
entrepreneurship, represents a significant sector of San Francisco’s local economy, and
provides economic opportunity for people to support themselves and their families, which is a
City priority.

(e) A well-regulated vending program would ensure the Port’s streetscape can
remain a vibrant and dynamic marketplace, with unparalleled historic, scenic, and recreational
value that can be safely enjoyed by all. Regulations are needed for several reasons: to
accommodate vending, including vendors’ equipment, while safeguarding pedestrian and
chair-user movement on sidewalks, streets, and other public spaces; to prevent unsanitary
conditions and ensure trash and debris are removed by vendors; and to protect the scenic
and natural character of the Port of San Francisco’s parks and waterfront, and the recreational
opportunities the areas provide.

(f) In 2018, then-Governor Jerry Brown signed Senate Bill 946 ("SB 946"), which
decriminalized street vending across California and constrained local regulatory authority. SB
946 seeks to create entrepreneurial and economic development opportunities for immigrant and low-income communities, increase access to desired goods, contribute to a safe and dynamic public space, and promote the safety and welfare of the public by encouraging local authorities to support and properly regulate vending.

(g) The Board of Supervisors (“Board”) seeks to prioritize health and safety, protect the scenic and natural character of our City’s parks and open spaces, and the waterfront, while expanding economic opportunities for those who aspire to vend lawfully in a manner consistent with SB 946. The Board recognizes that regulation of vending benefits the City as a whole, as it leads to orderly commerce and safeguards public health. The Board seeks to provide vendors with the ability to operate in a safe, professional, and meaningfully enforceable manner that enhances the visitor experience at the waterfront and provides increased economic opportunities; and

(h) The Board seeks to create a vending program which provides permitting and regulation of street vendors on Port property.

Section 3. The Port Code is hereby amended by adding Article 2A, to read as follows:

**ARTICLE 2A: PERMIT REGULATIONS FOR MOBILE VENDORS**

**SEC. 2A.1. DEFINITIONS.**

For the purpose of this Article 2A, the following words and phrases have the following meanings:

**Administrative Citation.** An administrative fine for a violation of this Article 2A, as described in Section 2A.8(b).

**Certified Farmers’ Market.** A farmers’ market operated in accordance with Health Code Section 440(d) and with Chapter 10.5 (commencing with section 47000) of Division 17 of the California Food and Agricultural Code, as each may be amended, and any implementing regulations.
City. The City and County of San Francisco.

Department. The Port.

Director. The Executive Director of the Port, or the Executive Director’s designee.

Enforcement Official. Officers, employees, and contractors of the Port, and of such other departments and agencies of the City, as designated by the Director.

Food. Any food, foodstuffs, or beverage for human consumption, and is inclusive of the definitions of “Food” in Health Code Section 440(b) and in California Health and Safety Code section 113781, as each may be amended.

Merchandise. Any item that is not Food and that is not an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code.

Mobile Vendor. A person or entity that Vends Food or Merchandise from a pushcart, pedal-driven cart, wagon, or other nonmotorized conveyance, or from one’s person or a stand, display, showcase, table, rack, or other movable structure. The term Mobile Vendor is comprised of each Roaming Mobile Vendor and each Stationary Mobile Vendor, and includes but is not limited to a Sidewalk Vendor as defined in California Government Code section 51036, as it may be amended from time to time. If a Mobile Vendor Vends as an employee or agent of another person or entity, that person or entity is also a Mobile Vendor.

Port. The Port of the City and County of San Francisco. Also, designated as the Department.

Roaming Mobile Vendor. A Mobile Vendor that moves from place to place and stops intermittently to complete a Vending transaction.

Rules and Regulations. The Rules and Regulations of Mobile Vendors as described in Section 2A.5 of this Article.

Stationary Mobile Vendor. A Mobile Vendor that Vends from one or more fixed locations.
Swap Meet. A swap meet operated in accordance with Article 6 (commencing with section 21660) of Chapter 9 of Division 8 of the California Business and Professions Code, as it may be amended, and any regulations adopted in accordance with that chapter.

Vend (and variations such as Vends, Vending). To sell, offer for sale, expose or display for sale, solicit offers to purchase, or barter Food or Merchandise. Vending includes offering free samples of Food or Merchandise that are also for sale, or negotiating fees for Food or Merchandise.

SEC. 2A.2. PERMIT REQUIRED; MANDATORY DISPLAY.

(a) No person may Vend on any property within the regulatory jurisdiction of the Port, including a public right-of-way (as that term is defined in Public Works Code Section 2.4.4) or any other street, sidewalk, alley, walkway, or pedestrian path available to the public, without first having obtained either a Roaming Mobile Vendor permit or a Stationary Mobile Vendor permit pursuant to this Article 2A.

(b) A Mobile Vendor shall prominently display a Mobile Vendor permit that corresponds with the Mobile Vendor’s business activity while Vending in accordance with this Article 2A.

SEC. 2A.3. MOBILE VENDOR PERMIT TYPE.

(a) Each Mobile Vendor permit must identify whether the permit authorizes the permittee to Vend Food, Vend Merchandise, or Vend both Food and Merchandise.

(b) The Department may issue a time-limited Mobile Vendor permit to a nonprofit corporation that is exempt from federal taxation under 26 U.S.C. section 501(c)(3), as it may be amended, and which permit may apply to multiple Mobile Vendors as further described in the permit.

SEC. 2A.4. PERMIT APPLICATION; FEE.

(a) Department Permit. The Department shall establish a uniform application process through which a Mobile Vendor may request, and upon approval receive, a Mobile Vendor permit. The permit application shall require:

(1) The name, phone number, and current mailing address of the Mobile Vendor.
(2) A description of the Food and/or Merchandise to Vend.

(3) A certification by the Mobile Vendor that to their knowledge and belief, the information submitted for the permit application is true.

(4) Proof of Identity, as described in Administrative Code Section 95.2 and as it may be amended, of the Mobile Vendor.

(5) The California seller’s permit number (California Department of Tax and Fee Administration sales tax number), if applicable, of the Mobile Vendor.

(6) If the Mobile Vendor is an agent of an individual, company, partnership, or corporation (each a “principal”), the name and business address of the principal.

(7) Any other information deemed relevant by the Department.

(b) Additional Permit Conditions.

(1) Each Mobile Vendor shall register with the Tax Collector pursuant to Article 12 (Business Registration) of the Business and Tax Regulations Code, if applicable. Separate fees may apply and be payable to the Tax Collector.

(2) Each permit that applies to a Mobile Vendor that uses an energy source, including propane, butane, or battery, is conditioned on the Mobile Vendor obtaining approval from the Port Fire Marshal and complying with sections of the Fire Code that apply to the use of flammable gas, flammable liquids, compressed gas, open flames, and other energy sources. Separate fees may apply and be payable to the Port Fire Marshal.

(3) Each permit for Food Vending is conditioned on the Mobile Vendor obtaining a permit to operate a food facility from the Department of Public Health pursuant to Health Code Section 452, as it may be amended. Separate fees may apply and be payable to the Department of Public Health.

(4) Each Mobile Vendor permit issued pursuant to this Article 2A and the approval, as applicable, of the Tax Collector (issuance of business registration certificate; see subsection (b)(1)).
Port Fire Marshal (see subsection (b)(2)), and the Department of Public Health (see subsection (b)(3)),
shall authorize inspection by the City of the Mobile Vendor’s operations at any time during operating
hours.

(5) The applicable conditions of this subsection (b) are preconditions to the issuance
of a Mobile Vendor permit. Lapse or revocation of approvals, as applicable, from the Tax Collector,
Port Fire Marshal, or Department of Public Health shall, by operation of law, automatically invalidate
any Mobile Vendor permit without further action by the Department.

(c) Permit Fee. The Department shall identify the reasonable regulatory costs for the
administrative enforcement and any adjudication of this Article 2A, including but not limited to the
Department’s costs to issue permits, perform investigations, conduct inspections, issue administrative
citations or other enforcement actions, and audit permittees. The Department shall charge applicants
for each Mobile Vendor permit and permit renewal an amount that does not exceed the reasonable
regulatory costs described in this subsection (c), and may include the actual costs that other agencies,
boards, commissions, or departments of the City incur in connection with the processing or
administration of this Article 2A, which fee shall be waived in accordance with California Business and
Professions Code section 16102, as it may be amended, and as applicable. The fee set forth in this
subsection (c) shall be approved by the Port Commission and may be adjusted each year, without
further action by the Board of Supervisors. In addition, separate annual fees may apply and be payable
to the Tax Collector, Department of Public Health, and the Port Fire Marshal for any approvals
required by each department.

(d) Permit Expiration. Each Mobile Vendor permit shall expire one year after issuance by
the Department unless renewed or unless the particular circumstances warrant a permit term of less
than one year.

(e) Permit Renewal.
Each Mobile Vendor permit may be renewed annually so long as the Mobile Vendor remains in compliance with this Article 2A, including payment of all fees due to the City and compliance with the Good Neighbor Policies.

Each Mobile Vendor permit renewed by the Department is not operative unless and until the Mobile Vendor has within 30 days of the date of renewal obtained approvals, as applicable, from the Port Fire Marshal and the Department of Public Health.

(f) Application Denial; Appeal

(1) The Department may reject an application for Mobile Vendor permit for any of the following reasons: (A) the applicant failed to provide any required information or prerequisite approvals identified in this Section 2A.4, or provided incorrect or incomplete information, and failed to correct the application within a reasonable time identified by the Department; (B) the applicant knowingly presented false and material information or knowingly omitted material information; (C) the applicant previously received a permit, which permit was revoked pursuant to Section 2A.8, and the revocation occurred within one year of the application; (D) the applicant submitted a substantially similar application that was rejected within the past year; or (E) good cause, including but not limited to violations of federal, state, or City law that in the Department’s judgment are relevant to whether the applicant would perform as a Mobile Vendor in a lawful manner.

(2) The rejection of an application for a Mobile Vendor permit may be appealed in writing to the Director within 10 days of rejection. The Director may investigate the rejection and consider any claims by the applicant, and shall either affirm or reverse the rejection within 30 days of receipt of the written appeal.

SEC. 2A.5. VENDING RESTRICTIONS; DELEGATION OF AUTHORITY.

(a) Certified Farmer’s Market or Swap Meet. No person, without written approval of the Director, may Vend within the immediate vicinity of a permitted Certified Farmers’ Market or a permitted Swap Meet during the operating hours of that Certified Farmers’ Market or Swap Meet.
(b) **Temporary Special Permit.** No person, without written approval of the Director, may vend within the immediate vicinity of a temporary special permit issued by the City, or any of its departments or agencies, that authorizes the temporary use of, or encroachment on, the sidewalk or other public area, including an encroachment permit, special event permit, or temporary event permit for purposes including filming, parades, or outdoor concerts. This prohibition against vending shall be effective only for the limited duration of the temporary special permit. Any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the temporary special permit must also be provided to any Mobile Vendor specifically permitted by the Director to operate in the immediate vicinity of the temporary special permit.

(c) **Rules and Regulations Authorized.**

(1) The Department, and any other agency (including but not limited to a department or commission) of the City that governs the use of public property (including but not limited to the Port Commission and its Executive Director), may adopt additional requirements regulating the time, place, and manner of vending if the requirements are directly related to objective health, safety, or welfare concerns. Such Rules and Regulations may impose, but are not limited to imposing, (A) further requirements to maintain sanitary conditions; or (B) requirements necessary to ensure compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), as amended, and other disability access standards.

(2) The Department, and any other agency (including but not limited to a department or commission) of the City that governs the use of public property (including but not limited to the Port Commission and its Executive Director) may prohibit Stationary Mobile Vendors from vending in a park if the operator of the park has signed an agreement for concessions that exclusively permits vending of food, merchandise, or both by one or more concessionaires.

(3) The Department, and any other agency (including but not limited to a department or commission) of the City that governs the use of public property (including but not limited
to the Port Commission and its Executive Director), may adopt additional requirements regulating the
time, place, and manner of Vending in one or more parks if the requirements are: (A) directly related to
objective health, safety, or welfare concerns; or (B) necessary to ensure the public’s use and enjoyment
of natural resources and recreational opportunities; or (C) necessary to prevent an undue
concentration of commercial activity that unreasonably interferes with the scenic and natural character
of the park.

SEC. 2A.6. EXEMPTIONS.

This Article 2A does not govern:

(a) the sale of an art or craft regulated under Article 24 (Regulating Street Artists) of the

Police Code; or

(b) the operation of, or any sale within, a Certified Farmers’ Market; or

(c) the operation of, or any sale within, a permitted Swap Meet.

SEC. 2A.7. GOOD NEIGHBOR POLICIES.

Mobile Vendors shall operate in accordance with the following good neighbor policies:

(a) Mobile Vendors shall be individually responsible for any garbage, detritus, or debris
that directly results from their Vending activity;

(b) Noise and odors shall be contained within the immediate area of the Mobile Vendor so
as not to be a nuisance to neighbors; and

(c) Mobile Vendors shall urge patrons to not litter and to maintain the safety, cleanliness,
quiet, peace, and orderliness of the area; and

(d) Stationary Mobile Vendors shall provide for proper and adequate storage and disposal
of garbage, detritus, and debris.

SEC. 2A.8. ENFORCEMENT.

(a) Nuisance Declaration. Any violation of this Article 2A, or any applicable Rules and

Regulations, constitutes a public nuisance.
(b) **Administrative Citation.** Any Enforcement Official may issue an Administrative Citation as described below for any violation of this Article 2A, or of the Rules and Regulations that interpret and implement this Article, that occurs on a public right-of-way (as that term is defined in Public Works Code Section 2.4.4) or any other street, sidewalk, alley, walkway, wharf, pier, or pedestrian path available to the public:

_____ (1) Vending that violates a requirement in this Article or in the Rules and Regulations, other than failure to possess a valid license or permit:

__________ (A) An administrative fine equal to $100 for a first violation.

__________ (B) An administrative fine equal to $200 for a second violation within twelve months of the first violation.

__________ (C) An administrative fine equal to $500 for a third violation, and each subsequent violation, within twelve months of the first violation.

__________ (D) In addition to any other authorized enforcement activity, a Mobile Vendor’s license and/or permit may be revoked or suspended for the remainder of its term upon a fourth or subsequent violation.

_____ (2) Vending without a valid license or permit:

__________ (A) An administrative fine equal to $250 for a first violation.

__________ (B) An administrative fine equal to $500 for a second violation within twelve months of the first violation.

__________ (C) An administrative fine equal to $1,000 for a third violation, and each subsequent violation, within twelve months of the first violation.

__________ (D) Upon submission of proof of a valid permit, the administrative fines set forth in subsections (A) through (C) of this subsection (b)(2) shall be reduced to equal the administrative fines set forth in subsections (A) through (C) of subsection (b)(1), as those amounts may be revised pursuant to subsection (b)(5).
(3) Failure to pay an Administrative Citation described in this subsection (b) shall not be punishable as an infraction or misdemeanor; further, additional fines, fees, assessments, or any other financial conditions beyond those authorized in this subsection (b) may not be assessed.

(4) When assessing an Administrative Citation authorized in this subsection (b), the Director shall take into consideration the person’s ability to pay the fine using the criteria described in subsection (a) or (b) of California Government Code section 68632, as it may be amended. Notice shall be given to the Mobile Vendor of the right to request an ability-to-pay determination and instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program. If the Mobile Vendor meets the ability-to-pay criteria, the Department shall accept 20% of the total administrative fine specified in subsection (b)(1) or (b)(2), as applicable, as full satisfaction.

(5) The amounts of the administrative fines identified in subsections (A) through (C) of subsections (b)(1) and (b)(2) shall automatically increase or decrease to the maximum amount authorized under California Government Code section 51039, as it may be amended. If section 51039 is repealed and not replaced with a similar limitation on administrative fines, then the administrative fine amounts in this Section 2A.8 may be adjusted each year, without further action by the Board of Supervisors, to reflect changes in the relevant Consumer Price Index.

(6) Within 10 days of issuance, the Administrative Citation must be paid unless a written appeal is filed with the Director. The grounds of appeal are limited to error or abuse of discretion in the issuance of the Administrative Citation. The Director may make an ability-to-pay determination pursuant to subsection (b)(4), but inability to pay shall not be grounds for rescinding the Administrative Citation or reducing the amount required to satisfy the fine to an amount less than the amount specified in subsection (b)(4). The Director may investigate the Administrative Citation and any claims by the appellant, and shall issue and mail a written decision on the appeal within 30 days of
receipt of the written appeal. Within 20 days of the Director’s decision upholding a fine in whole or in part, the Administrative Citation must be paid. The method for judicial review of an Administrative Citation pursuant to subsection (b)(1) is an appeal filed with San Francisco Superior Court pursuant to Government Code section 53069.4.

(7) Collection of Fines. The failure of any person to pay a fine assessed by administrative citation within the required time constitutes a debt to the City. Simple interest at 10% per year shall accrue on unpaid amounts. The City may file a civil action including a small claims action or may pursue any other legal remedy to collect such money.

(c) Temporary Order to Cease Vending and Removal.

(1) Any Enforcement Official may order a Mobile Vendor to promptly cease Vending when, in the judgment of the Enforcement Official, (A) the Mobile Vendor constitutes a safety hazard, including but not limited to impeding the safe use of a public right of way by pedestrians and persons with disabilities, or (B) when the presence of an emergency so requires, or (C) if the Mobile Vendor is unpermitted.

(2) (A) After the Enforcement Official orders an unpermitted Mobile Vendor to cease Vending, the Mobile Vendor must discontinue any Vending and remove all Food, Merchandise, and any other Vending paraphernalia from property within the regulatory jurisdiction of the Port. A failure to promptly obey any such orders from an Enforcement Official is a violation of this Article 2A.

(B) After the Enforcement Official orders a permitted Mobile Vendor to cease Vending, the Mobile Vendor must discontinue any Vending and follow the orders of the Enforcement Official with regard to removing and relocating all Food, Merchandise, and any other Vending paraphernalia, and any other orders the Enforcement Official may give to mitigate safety hazards, and no further Vending may occur until the conditions that caused the order to cease Vending have been abated to the satisfaction of the Enforcement Official. A failure to promptly obey any such orders from an Enforcement Official is a violation of this Article 2A.
(3) If a Mobile Vendor fails, within a reasonable time, to remove Food, or Merchandise, or any other Vending paraphernalia from the location subject to the order to cease Vending, or to follow any other orders the Enforcement Official may issue to mitigate safety hazards, the Enforcement Official may order the Department to remove any or all of the items. Prior to removal by the Department, the Enforcement Official shall warn the Mobile Vendor of the impending removal and impoundment, and shall urge the Mobile Vendor to make every effort to remove the items, or cause their removal. Where the Department actually removes any items, the Enforcement Official shall issue an Administrative Citation to the Mobile Vendor. The Mobile Vendor shall pay the actual costs of removal and storage of any items impounded, and of disposal of any items the storage of which may cause public health, safety, or infestation issues. The Mobile Vendor may contest the liability for these costs by timely appealing the Administrative Citation. However, these actual costs to the City are not subject to reduction based on the ability to pay; actual costs are a debt to the City that may be collected in the same manner as provided in subsection (b)(7). Mobile Vendor items that have been removed and stored may be recovered within 90 days from the date of removal and upon payment of a sum equal to the costs of removal, plus any reasonable transport and storage costs, as determined by the Department, and any costs incurred by the Department in disposing of any items contained in the Mobile Food Facility.

(d) Other Violations. Any violation of this Article 2A, or of the Rules and Regulations that interpret and implement this Article, that occurs on either: any area open to the public on private property, or on public property other than a Public right-of-way (as that term is defined in Public Works Code section 2.4.4) or any other street, sidewalk, alley, walkway or pedestrian path available to the public, may be subject to one or more of the following:

(1) An administrative fine as described in subsection (b).

(2) Civil Action.
(A) The Department may refer violations to the City Attorney to maintain an action for injunction to restrain to cause the correction or abatement of the violation of this Article 2A, and for recovery of any City department’s enforcement and abatement costs (including but not limited to costs for removal, storage, impoundment, and disposal).

(B) The City shall be awarded its reasonable attorney’s fees and costs incurred in enforcing this Article 2A.

SEC. 2A.9. EXTORTION.

Any extortion of a Mobile Vendor (including but not limited to extortion by a person or entity who employs or facilitates Vending by the Mobile Vendor, a member of the public, or an Enforcement Official), will be punishable under Section 518 of the California Penal Code and any attempted extortion of a Mobile Vendor will be punishable under Section 524 of the California Penal Code.

SEC. 2A.10. REPORTING REQUIRED.

The Department, in consultation with the Department of Public Health, shall report to the Board of Supervisors regarding the implementation of this Article 2A and any health and safety enforcement actions related to Mobile Food Vendors: six months after the effective date of Article 2A; annually for the first three years after the effective date of Article 2A; and once every three years thereafter (see Health Code Section 452.2 (Reporting Required)).

SEC. 2A.11. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Article 2A, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SEC. 2A.12. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Article 2A, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Article. The Board of Supervisors hereby declares that it would have passed this Article 2A and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of the Article or application thereof would be subsequently declared invalid or unconstitutional.

Section 4. The Port Code is hereby amended by revising Sections 2.8, 6.3, and 6.4, to read as follows:

SEC. 2.8. PEDDLING AND VENDING **REGULATED** MERCHANDISE OR PRINTED MATERIAL.

(a) No person shall, may Vend (as that term is defined in Section 2A.1 of the Port Code), or bring, or cause to be brought, for the purposes of Vend sale or barter, or have for sale, or sell or exchange, or offer for sale or exchange any food, beverage, goods, wares, or merchandise within the jurisdiction of the Commission in any park without first having obtained a permit (in accordance with Article 2A of the Port Code), or a concession, license, or lease from the Executive Director.

(b) The Commission, Executive Director, or designee may adopt Rules and Regulations applicable to all Vending on property under the jurisdiction of the Commission, in accordance with Section 2A.5 of the Port Code.

(c) Any Vending in violation of this Section 2.8, Article 2A Port Code, or any Rules and Regulations adopted by the Commission, Executive Director, or designee shall be subject to the enforcement provisions in Section 2A.8 of the Port Code.

SEC. 6.3. PERMITS REQUIRED.

No person shall, without a permit, perform any of the following acts in any park:

* * *
(C) Vend Food or Merchandise unless in accordance with Section 2.8 and Article 2A of the Port Code. Sell or offer for sale books, newspapers, periodicals, or other printed material.

* * * *

(J) Sell or Provide food to persons, except that no permit is required when a person participating in a picnic or social gathering of 25 or fewer persons provides food to others who are also participating in the picnic or social gathering.

* * * *

SEC. 6.4. ADDITIONAL ACTIVITIES REQUIRING PERMITS.

(A) Attention is called to other provisions of this Code which require persons engaging in certain activities to obtain a permit, including, but not limited to, the following:

* * * *

(2) Bringing, or causing to be brought, for the purposes of sale or barter, or having for sale, or selling or exchanging, or offering for sale or exchange any food, beverage, goods, wares or merchandise;

(23) Constructing or maintaining any building, structure, tent or any other thing in any park that may be used for housing accommodations or camping;

(34) Remaining in any park for the purpose of sleeping between the hours of 10:00 p.m. and 6:00 a.m. in order to provide security services between said hours in any park.

* * * *

Section 5. The Police Code is hereby amended by revising Section 660.2, and deleting Sections 864 through 870, as follows:

SEC. 660.2. UNLAWFUL SOLICITATION.

* * * *
(h) No individual shall engage in sales solicitations for charitable purposes by means of selling goods, products, services, or merchandise on the public sidewalks:

(1) Within five feet of any of the following:

* * * *

(b) A person *Vending Food, and/or Merchandise, peddling goods, products or services* pursuant to a permit issued under *Article 2A of the Port Code, Article 17.3 or Article 13 of the San Francisco Police Code, Article 5 of the San Francisco Public Works Code, or any other provision of the *San Francisco Charter or San Francisco Municipal Code.*

* * * *

(j) No individual shall engage in sales solicitations for charitable purposes by means of selling clothing, jewelry, or any other goods, products, services or merchandise in any area of the City and County of San Francisco unless that person obtains the appropriate *peddling* permit pursuant to *Articles 13, 17.3 or Article 24 of the San Francisco Police Code or Article 2A of the Port Code.* This *subsection (j)*Section shall not apply to the sale of books, pamphlets, buttons, bumperstickers, posters or any other type of item that has no intrinsic value or purpose other than to communicate a message.

* * * *

SEC. 864. REGULATING PEDIddERS IN FRONT OF CERTAIN ENTRANCES.

It shall be unlawful for any peddler, huckster, or vendor of fish, vegetables, fruit, game, poultry, groceries, produce, dairy products, wood, candy, confectionery, racing tips and handicaps, tickets to entertainments, excursions to picnics, goods, wares and merchandise, to solicit patronage or to sell his wares in front of any entrance, exit or gangway of any ferry landing, wharf, depot, theater, circus, hall or any place where people are assembled, within 12 feet thereof.

SEC. 864.1. PENALTY.
Any person who shall violate the provisions of Section 864 of this Article shall be guilty of an infraction or a misdemeanor. If charged as an infraction, the penalty shall be as follows:

A. Upon a first conviction thereof, such person shall be punished by a fine not to be less than $50 nor to exceed $500.

B. Upon a second conviction thereof, such person shall be punished by a fine not to be less than $250 nor to exceed $500.

C. Upon a third conviction thereof, such person shall be punished by a fine not to be less than $400 nor to exceed $500.

If charged as a misdemeanor, the penalty therefor shall be by imprisonment in the County Jail not exceeding six months or a fine not exceeding $500. The complaint charging such violation shall specify whether the violation charged is a misdemeanor or an infraction.

SEC. 869. PERMIT REQUIRED.

Except as provided in Articles 24, 24.1 and 24.2 of this Code, it shall be unlawful for any person to peddle goods, wares or merchandise, or any article, material or substance, of whatsoever kind, including persons selling fruits, vegetables, fish, fowl, nuts and eggs on the public streets or sidewalks of the City and County of San Francisco without first having obtained a permit from the Chief of Police and having paid the fees and been granted a license as required by law.

Excluded from the provisions of this Section are property under the jurisdiction of the Recreation and Park Commission of the City and County of San Francisco, and the Board of Education of the City and County of San Francisco and areas designated by the Board of Supervisors as places where a street artist certified pursuant to initiative Ordinance 483-75, Proposition L on the November 4, 1975 ballot, may sell, offer for sale, expose for sale, or solicit offers to purchase any craft or work of his or her own creation.
Every person currently holding a peddler permit pursuant to Section 869 of this Article prior to
the effective date of this ordinance is hereby deemed to be holding a permit as required under this
Section.

SEC. 869.1. PENALTY.

(a) Any person who shall violate the provisions of Sections 869 through 869.15 of this
Article shall be guilty of an infraction or a misdemeanor. If charged as an infraction, the penalty shall
be as follows:

(1) Upon a first conviction thereof, such person shall be punished by a fine not to be
less than $50 nor to exceed $500.

(2) Upon a second conviction thereof, such person shall be punished by a fine not to
be less than $250 nor to exceed $500.

(3) Upon a third conviction thereof, such person shall be punished by a fine not to
be less than $400 nor to exceed $500.

If charged as a misdemeanor, the penalty therefor shall be by imprisonment in the County Jail
not exceeding six months or a fine not exceeding $500. The complaint charging such violation shall
specify whether the violation charged is a misdemeanor or an infraction.

(b) In addition to the penalty set forth above in Section 869.1(a), any person who shall
violate any provision of Sections 869 through 869.15 shall be subject to revocation or suspension of
any permit issued by the City and County, following adequate notice and a hearing before the Chief of
Police or a designate.

SEC. 869.2. LIMITATIONS ON ISSUANCE OF PERMITS.

(a) The Chief of Police may issue a permit for a location, which location shall not be within
two blocks or 600 feet, whichever is greater, of an established business which sells the same type of
food or other merchandise as intended by said applicant, or of any location previously established and
currently being operated by a licensed peddler selling the same type of food or other merchandise as
intended by said applicant.

(b) This ordinance does not apply to those peddlers and street artists regulated by Articles
24, 24.1 and 24.2 of this Code.

SEC. 869.3. LOCATION RESTRICTIONS.

The Chief of Police may issue a peddler permit only when he finds that the following location
and time requirements are met:

(a) The location shall:

(1) Leave unobstructed for pedestrian passage on any sidewalk a space not less than
10 feet wide.

(2) Not occupy a space extending more than 4½ feet from the curb line of any
sidewalk, nor wider than four feet nor extending more than five feet above the sidewalk.

(3) Not be within 18 inches of the curb line of any sidewalk.

(4) Not be closer than 7½ feet from sprinkler inlets, and wet and dry standpipe
inlets, measured from the outer edge of the standpipe bank from the building line to the sidewalk edge.

(5) Not be within 12 feet of the outer edge of any entrance way to any building or
facility used by the public including but not limited to doors, driveways and emergency exits measured
in each direction parallel to the building line and thence at a 90 degree angle to the curb.

(6) Not be on any sidewalk adjacent to a curb which has been duly designated
pursuant to local ordinance or regulation as a white, yellow, blue, or red zone, or a bus zone.

(7) Not be within five feet of any crosswalk or fire hydrant.

(8) Leave unobstructed fire escapes, underneath and perpendicular from the
building to the street, five feet from both ends of the fire escape.

(9) Not be within five feet of inflammable liquid vents and fill pipes when tanks are
not being filled nor within 25 feet while tanks are being filled.
(b) No peddler shall peddle goods, wares or merchandise between the hours of 12:00 a.m. (midnight) and 6:00 a.m. the following day.

(c) Notwithstanding any other provision of this Code, no peddler or pushcart peddler, as defined in Section 1330 of the San Francisco Police Code, shall peddle goods, wares or merchandise:

(1) In any "P" district, as defined in Section 234 of the City Planning Code (Part II, Chapter II, San Francisco Municipal Code), located on Twin Peaks or in any areas in or adjacent to Open Space Districts located on Twin Peaks.

(2) On the north side of Jefferson Street between Jones and Taylor.

**SEC. 869.4. PEDDLER PERMIT TO NATURAL PERSON ONLY.**

No peddler permit granted pursuant to Section 869 of this Article shall be issued except to an individual natural person and in no event to any business, firm, partnership or corporation. No more than one permit shall be issued to any one person.

**SEC. 869.5. PEDDLER TO PERSONALLY PEDDL.**

No person shall be granted a peddler permit pursuant to Section 869 of this Article unless the applicant has declared under penalty of perjury his or her intention to personally operate under the permit for at least 50 percent of the actual hours of operation.

**SEC. 869.6. LOG TO BE MAINTAINED.**

Every person who shall be granted a peddler permit pursuant to Section 869 of this Article shall maintain a log on a form approved by the Chief of Police indicating the day, date and hours of operation at the authorized location, including the name of the person or persons operating during those times. The log for the 30 previous calendar days shall be kept in the possession of the peddler or peddler employee at all times while operating and shall be open to inspection by any police officer or any Health Department inspector of the City and County of San Francisco. Said log shall be retained by the peddler for a period of one year.

**SEC. 869.7. APPLICATION FOR PEDDLER PERMIT.**
Every person desiring a peddler permit pursuant to Section 869 of this Article shall file an application with the Chief of Police upon a form provided by the Chief of Police requiring the applicant to submit:

(a) Two photographs of the applicant 1" x 1" in size.

(b) A statement of the specific location where the applicant proposes to operate, the days of the week, and time(s) of the day of intended operation, and the specific item or items to be sold, which shall be the only item(s) sold under the permit.

(c) A set of fingerprints as required by the Chief.

(d) Such other relevant information deemed pertinent by the Chief of Police.

SEC. 869.8. INSPECTION BY HEALTH DEPARTMENT.

No permit to peddle food products for human consumption in the City and County of San Francisco shall be granted unless the applicant has been issued a Certificate of Sanitation by the Director of Public Health.

SEC. 869.9. PEDDLER EMPLOYEE.

No peddler may employ at any one time more than one peddler employee. The only exception to this prohibition is employment by a peddler of persons who have peddler employee permits authorizing employment by that peddler, which permits were issued prior to the effective date of this ordinance.

Every person desiring a peddler employee permit shall file an application with the Chief of Police upon a form provided by said Chief of Police. Application shall be accompanied by:

(a) Signed statement from the permittee peddler verifying his intention to employ the applicant, and indicating specific location where the peddler employee will peddle.

(b) Two photographs of the applicant 1" x 1" in size.

(c) A set of fingerprints as required by the Chief of Police.

(d) Such other relevant information deemed pertinent by the Chief of Police.

SEC. 869.10. OPERATION OF PEDDLER EMPLOYEE.
In no case shall the peddler employee operate, at the same time as the permit holder is operating, at any location other than the location at which the permit holder is operating.

SEC. 869.11. FEES — PEDDLER AND PEDDLER EMPLOYEE.

Every applicant for a peddler or peddler employee permit shall pay a filing fee as specified in Section 2.26 of Part II, Chapter VIII of the San Francisco Municipal Code (Police).

SEC. 869.12. PEDDLERS, PEDDLER EMPLOYEES, LICENSE FEE.

Every person granted a peddler permit or peddler employee permit to peddle goods, wares or merchandise, or fish, vegetables or fruit, or food products for human consumption, or any other article in any manner, shall pay to the Tax Collector an annual license fee. The license fee shall be paid annually on or before March 31, in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code. In calculating the fees earned herein by the Health Department pursuant to the provisions of Section 6.402 of the Charter of the City and County of San Francisco, a percentage of the license fee shall be credited to the Health Department pursuant to the annual determination by the Controller as provided by Section 2.21 of this Code.

SEC. 869.13. LICENSE FEES — PRORATION SCHEDULE — DATE PAYABLE.

All licenses issued under the provisions of Section 869.12 shall be due and payable, on a calendar year basis, prorated with regard to the calendar year on a monthly basis.

SEC. 869.14. PEDDLERS, FREE.

The Tax Collector may issue a free or gratuitous license to a person liable to pay the license tax required by Section 869.12 and set by Section 2.27 of this Code when the Chief of Police shall have certified that it has been shown by good and sufficient evidence that the person applying for said license was a soldier, sailor or marine of the United States who received an honorable discharge or a release from active duty under honorable conditions from such service or that he or she is physically and absolutely unfitted to earn a livelihood by any other means.

SEC. 869.15. IDENTIFICATION CARD.
The Chief of Police shall issue to each peddler and peddler employee an identification card which shall contain a photograph of the permittee with the number of the permit in figures plainly discernible. The Chief of Police shall determine the manner and form of any other information that may be placed upon this identification card. Such identification card shall be in the possession of the peddler or peddler employee at all times while operating, and shall be immediately produced upon request to any police officer or Health Department inspector. Peddlers and peddler employees shall return to the Police Department the identification card upon discontinuance of operation, revocation or suspension of permit, or upon termination of the peddler employee.

SEC. 869.16. RULES AND REGULATIONS BY CHIEF OF POLICE OR DIRECTOR OF PUBLIC HEALTH.

The Chief of Police or the Director of Public Health may adopt, after a noticed public hearing, rules and regulations supplemental to this ordinance and not in conflict therewith. The rules and regulations shall become effective 10 days following the adoption by either the Chief of Police or the Director of Public Health.

SEC. 869.17. SUSPENSION AND REVOCATION OF PERMIT.

The Chief of Police may suspend or revoke any peddler or peddler employee permit if he finds, after a noticed public hearing, that any of the following conditions exist:

(a) — Fraud, misrepresentation or false statement contained in the application for permit.

(b) — Violation of provisions of this Article or the San Francisco Municipal Code regarding peddling.

(c) — Peddling by a peddler employee at a location not approved by the Chief of Police.

(d) — Conviction of a felony if the crime was committed during the time the permittee was working under the permit or relates to the business conducted under the permit and endangers the health and safety of the public.
(e) — Violations of provisions of the Municipal Traffic Code or the California Vehicle Code, relating to the operation of the permit.

(f) — Conduct violating any City ordinance or state statute which conduct occurred during the time the permittee was working under the permit or which conduct relates to the business conducted under the permit and endangers the health and safety of the public.

(g) — Failure to pay the required license fee.

(h) — Operation under the peddler's permit of a business other than that for which the permit was issued.

SEC. 869.18. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SEC. 870. PEDDLING WHERE SIGN "NO PEDDLERS" DISPLAYED PROHIBITED.

It shall be unlawful for any peddler, or any person pretending to be a peddler, for the purpose of selling or pretending to sell, goods, wares or merchandise, or any article, material or substance of whatsoever kind, to ring the bell or knock at the door of any residence or dwelling wherein a sign bearing the words "No Peddlers" or words of similar import, is painted or affixed so as to be exposed to public view, or to peddle or pretend to peddle goods, wares or merchandise, or any article, material or substance, of whatsoever kind, in any building, wherein, or wherein a sign bearing the words "No Peddlers," or words of similar import, is painted or affixed so as to be exposed to public view.
Section 6. The Administrative Code is hereby amended by revising Sections 94.3 and 94A.7, to read as follows:

SEC. 94.3. REGULATIONS FOR CITY PLAZAS.

(d) The following operational requirements shall apply to City Plazas and shall be posted in a prominent location in each City Plaza:

(1) **Peddling and Vending Merchandise.** No person shall bring, or cause to be brought, for the purposes of sale or barter, or have for sale, or sell in exchange, or offer for sale or exchange any goods, wares, or merchandise in the City Plaza, except for which the City and County of San Francisco issues any required permit or other authorization. Notwithstanding the above provision, the sale or distribution of newspapers, periodicals, or other printed or otherwise expressive material is allowed subject to the applicable requirements of the Public Works Code.

SEC. 94A.7. OPERATIONAL REQUIREMENTS.

(b) Operational Requirements.

(2) **Peddling and Vending Merchandise.** No person shall bring, or cause to be brought, for the purposes of sale or barter, or have for sale, or sell in exchange, or offer for sale or exchange any goods, wares, or merchandise in the People Place unless the City has issued any required permit or other authorization. Notwithstanding the previous sentence, the sale or distribution of newspapers, periodicals, or other printed or otherwise expressive material is allowed subject to the applicable requirements of the Public Works Code.
Section 7. The Business and Tax Regulations Code is hereby amended by revising Section 1.36, to read as follows:

SEC. 1.36. PEDDLING/VENDING.

For Vending/peddling – by the Police Department Port of San Francisco; subject to the approval of the Public Health Department for food Vending, if applicable peddlers (See Article 2A of the Port Code).

Section 8. The Health Code is hereby amended by adding Section 452.2 and revising Section 714, to read as follows:

SEC. 452.2. REPORTING REQUIRED.

The Department of Public Health, in consultation with the Port of San Francisco, shall report to the Board of Supervisors regarding the implementation of Article 2A of the Port Code and any health and safety enforcement actions related to Mobile Food Vendors: six months after the effective date of Article 2A of the Port Code; annually for the first three years after the effective date of Article 2A of the Port Code; and once every three years thereafter (see Port Code Section 2A.10 (Reporting Required)).

SEC. 714. PERMIT REQUIRED.

Every person, firm, partnership or corporation maintaining, conducting, or operating a kennel, pet shop, pet hospital, refuse collection truck, or swill truck or peddler wagon, except those peddler wagons used for peddling as defined in Sections 132, 132.2 and 132.5 of Part III of the San Francisco Municipal Code, shall obtain prior to the commencement of operation a permit from the Department of Public Health. Every person, firm, partnership or corporation subject to a license fee provided for in Sections 132, 132.2 and 132.5 of Part III of the San Francisco Municipal Code shall obtain from the Department of Public Health a Certificate of Sanitation for each cart or vehicle used therefor.
**Permit Conditions.** The permit provided in this Section (714) shall set forth the commercial uses permitted and shall be valid until suspended or revoked. Said permit shall not be transferable and shall be deemed revoked upon sale, transfer, or assignment of the commercial use for which the permit was issued.

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Section 9. The Transportation Code is hereby amended by revising Section 6.6, to read as follows:

**SEC. 6.6. TEMPORARY USE OF STREETS FOR STREET FAIRS.**

* * * *

(k) **Authorization to Sell Goods; Unauthorized Sales.** The sponsor of a street fair shall determine which individuals or organizations may sell goods or merchandise on a street that has been closed for the purposes of conducting a street fair, provided, however, that such authorization shall not be withheld on the basis of the race, sex, religion, creed, national origin, or sexual orientation of the person seeking such authorization. Individuals seeking to sell goods or merchandise in a street that has been closed for the purpose of a street fair without the authorization of a sponsor may be cited for violating San Francisco Police Code Section 869 (peddling without a permit). Nothing in this Section shall be construed to deprive the Department of Public Health of its authority to determine that foods or beverages may be sold.

* * * *

Section 10. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
ordinance unsigned, or the Mayor does not sign the ordinance within ten days after receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

Section 11. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative, Business and Tax Regulations, Health, Park, Police, Port, and Transportation Codes that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:  /s/ JUSTIN D. BIGELOW
Deputy City Attorney
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Ordinance adopting regulation of vending within the jurisdiction of the Port of San Francisco, requiring permits, and authorizing permit fee and enforcement actions in the Port Code; requiring the Port and the Department of Public Health to report to the Board of Supervisors about regulatory implementation and health and safety enforcement; amending provisions of the Port and Public Works Codes, and repealing peddler regulations in the Police Code, to comply with state law regarding sidewalk vending; amending provisions of the Administrative, Business and Tax Regulations, Health, and Transportation Codes to conform with state law and new Port Code regulations regarding vending; and adopting findings under the California Environmental Quality Act.

July 12, 2021 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 12, 2021 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

July 20, 2021 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

July 27, 2021 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/27/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved

8/4/21