

1 [Various Codes - Street Vendor Regulation]

2

3 **Ordinance amending the Public Works Code to regulate vending, require permits for**
4 **vending, and authorize permit fees and enforcement actions; amending provisions of**
5 **the Administrative, Business and Tax Regulations, Park, and Police Codes to conform**
6 **with those amendments; amending the Port Code to merge its permit program with the**
7 **Public Works permit program; repealing reporting provisions from the Health Code;**
8 **and adopting findings under the California Environmental Quality Act.**

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

13

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

15 Section 1. Environmental Findings.

16 The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. 211292 and is incorporated herein by reference.

20

21 Section 2. The Public Works Code is hereby amended by adding Article 5.9, consisting
22 of Sections 5.9-1, 5.9-2, 5.9-3, 5.9-4, 5.9-5, 5.9-6, 5.9-7, 5.9-8, 5.9-9, 5.9-10, and 5.9-11, to
23 read as follows:

24

25 **ARTICLE 5.9: PERMIT REGULATIONS FOR VENDORS**

1 **SEC. 5.9-1. GENERAL BACKGROUND AND FINDINGS.**

2 (a) The City and County of San Francisco (“City”) is committed to supporting the growth of
3 City jobs and providing space for new and expanding businesses, while maintaining public health,
4 safety, and welfare.

5 (b) United Nations Plaza (“UN Plaza”) is a 1.66-acre public square that is a key entrance
6 point to the City’s busy Civic Center. UN Plaza has longstanding public safety, health, and welfare
7 challenges due in part to unregulated vending and criminal activity in the area. Unregulated vending
8 contributes to congestion at UN Plaza resulting in the obstruction of pedestrian and chair-user access
9 to the public right-of-way, obstruction of first responders’ lines of sight, and concealment of unlawful
10 activity. Unregulated vending at UN Plaza fuels unlawful activity that leads to a high volume of 9-1-1
11 calls, incident reports, and arrests in and around UN Plaza’s immediate vicinity, including 3,733 calls
12 for service, 141 incident reports, and 48 arrests at UN Plaza, in 2021 alone.

13 (c) UN Plaza is home to the Heart of the City Farmers’ Market (“Market”), a nonprofit,
14 independent, farmer-operated food justice organization, that has served San Francisco’s low-income
15 Tenderloin neighborhood since 1981. The Market is the largest farmers’ market Electronic Benefits
16 Transfer (“EBT”) program in California, allowing CalFresh, CalWorks, and other cash benefit
17 recipients to access food and cash benefits. Over 20,000 customers rely on the Market for groceries in
18 large part because there are no supermarkets in the Tenderloin neighborhood. Recently, public safety
19 concerns due to unregulated vending and criminal activity have caused the Market to lose five vendors.
20 The unregulated vending and accompanying criminal activity at UN Plaza impact the ability of the City
21 to provide a safe and accessible Market for the public, including families, children, and seniors, as well
22 as the farmers who sell their goods.

23 (d) UN Plaza is heavily patronized year-round. Pre-pandemic, about 25,000 daily weekday
24 San Francisco Municipal Railway (“MUNI”) and Bay Area Rapid Transit (“BART”) public transit
25 riders would access the Civic Center station near UN Plaza, and about 3,500 City, state, and federal

1 employees would make their way to work by passing through UN Plaza. Ridership on BART and Muni
2 have continued to rebound since the depths of the pandemic, particularly in 2021, as much of the
3 economy has reopened and many members of the community have received the COVID-19 vaccine.
4 Further, congestion at UN Plaza is heightened on days that the Market is in operation.

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

8 (f) A well-designed vending program is beneficial because it: (1) provides minimum
9 standards for vending, including vendors’ equipment; (2) safeguards pedestrian and chair-user
10 movement on sidewalks, streets, and other public spaces; (3) prevents unsanitary conditions and
11 ensures that trash and debris are removed by vendors; and (4) prevents or minimizes public health,
12 safety, or welfare hazards caused or exacerbated by unregulated vending.

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

19 (h) The City seeks to prioritize health and safety while expanding economic opportunities
20 for those who aspire to vend lawfully in a manner consistent with SB 946. The City recognizes that
21 regulation of vending benefits the City as a whole, as it leads to orderly commerce and safeguards
22 public health. The City seeks to provide vendors with the ability to operate in a safe and professional
23 manner that enhances the public’s experience while providing increased economic opportunities. To
24 achieve these goals, the City needs to restrict and limit vending in certain areas and under certain
25 circumstances to prevent or minimize public health, safety, and welfare concerns.

1 (i) In 2021, the Port of San Francisco initiated a vending program pursuant to Ordinance
2 No. 118-21 to accommodate vending, including vendors' equipment, while safeguarding pedestrian and
3 chair-user movement on sidewalks, streets, and other public spaces; to prevent unsanitary conditions
4 and ensure trash and debris are removed by vendors; and to protect the scenic and natural character of
5 the Port of San Francisco's parks and waterfront, and the recreational opportunities the areas provide,
6 to ensure the Port's streetscape can remain a vibrant and dynamic marketplace, with unparalleled
7 historic, scenic, and recreational value that can be safely enjoyed by all, which program shall be
8 discontinued and merged with the vending program authorized for the City in this ordinance.

9 (j) This ordinance creates a vending program that provides for permitting and regulation of
10 street vendors on City property that is both meaningfully enforceable and consistent with SB 946.

11
12 **SEC. 5.9-2. DEFINITIONS.**

13 For the purpose of this Article 5.9, the following words and phrases have the following
14 meanings:

15 **Administrative Citation.** An administrative fine for a violation of this Article 5.9, as described
16 in Section 5.9-9.

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

20 **City.** The City and County of San Francisco.

21 **Department.** The Department of Public Works.

22 **Director.** The Director of the Department of Public Works or the Director's designee.

23 **Enforcement Official.** Officers, employees, and contractors of the Department, and of such
24 other departments and agencies of the City that the Director authorizes to assist in carrying out
25 enforcement functions in a Memorandum of Understanding or otherwise.

1 **Food.** Any pre-packaged food, foodstuffs, confectionary, condiment, or beverage for human
2 consumption that a Vendor is reselling in its original packaging.

3 **Hallidie Plaza.** The area defined by Section 2.01(b) of the Park Code.

4 **Merchandise.** Any item that is not Food and that is not an art or craft regulated under Article
5 24 (Regulating Street Artists) of the Police Code.

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

8 **Rules and Regulations.** The Rules and Regulations of Vendors as described in Section 5.9-6 of
9 this Article.

10 **Sidewalk Vendor.** Sidewalk Vendor has the meaning set forth in California Government Code
11 Section 51036, as it may be amended.

12 **Stationary Vendor.** A Vendor that Vends from one or more fixed locations.

13 **Swap Meet.** A swap meet operated in accordance with Article 6 (commencing with section
14 21660) of Chapter 9 of Division 8 of the California Business and Professions Code, as it may be
15 amended, and any regulations adopted in accordance with that chapter, as they may be amended.

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

19 **Vendor.** A person or entity that Vends Food or Merchandise from a pushcart, pedal-driven
20 cart, wagon, or other nonmotorized conveyance, or from one's person or a stand, display, showcase,
21 table, rack, or other movable structure. The term Vendor includes but is not limited to Roaming
22 Vendor, Sidewalk Vendor, and Stationary Vendor. In addition, if a Vendor Vends as an employee or
23 agent of another person or entity, that person or entity is also a Vendor. The term Vendor does not
24 include a person or entity that Vends from a Mobile Food Facility as defined by Public Works Code
25 Section 184.80.

1 United Nations Plaza. The area defined by Section 2.01(b) of the Park Code.

2
3 **SEC. 5.9-3. PERMIT REQUIRED; MANDATORY DISPLAY; PROOF OF PURCHASE.**

4 (a) No person may Vend on any City property, including a public right-of-way (as that term
5 is defined in Public Works Code Section 2.4.4) or any other street, sidewalk, alley, walkway, or
6 pedestrian path available to the public, except on property regulated by Article 7 of the Park Code,
7 without first having obtained either a Roaming Vendor permit or a Stationary Vendor permit pursuant
8 to this Article 5.9.

9 (b) A Vendor shall prominently display a valid Vendor permit that corresponds with the
10 Vendor's business activity while Vending in accordance with this Article 5.9.

11 (c) Upon request by an Enforcement Official, a Vendor shall immediately provide proof of
12 ownership or authorization to sell the Food and/or Merchandise that the Vendor is Vending.

13
14 **SEC. 5.9-4. VENDOR PERMIT TYPE.**

15 (a) The Department shall issue Vending permits to applicants under Section 5.9-5. Each
16 Vendor permit must identify whether the permit authorizes the permittee to Vend Food, Vend
17 Merchandise, or Vend both Food and Merchandise, except as provided in subsection (b).

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

21
22 **SEC. 5.9-5. PERMIT APPLICATION; FEE.**

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

1 (1) The name, phone number, and current mailing address of the Vendor.

2 (2) A description of the Food and/or Merchandise that the Vendor intends to Vend.

3 (3) The locations where the Vendor requests to Vend.

4 (4) An attestation by the Vendor that they will maintain proof of ownership or

5 authorization to sell the Food and/or Merchandise to Vend and that they will produce the

6 documentation immediately upon request.

7 (5) A certification by the Vendor that to their knowledge and belief, the information

8 submitted for the permit application is true.

9 (6) Proof of Identity, as described in Administrative Code Section 95.2 and as it may

10 be amended, of the Vendor.

11 (7) The California seller's permit number (California Department of Tax and Fee

12 Administration sales tax number), if applicable, of the Vendor.

13 (8) If the Vendor is an agent of an individual, company, partnership, corporation, or

14 other entity (each a "principal"), the name and business address of the principal.

15 (9) Any other information deemed relevant by the Department.

16 (b) **Additional Permit Conditions.**

17 (1) Each permit that applies to a Vendor that uses an energy source, including but

18 not limited to propane, butane, or battery, shall be conditioned on the Vendor obtaining approval from

19 the Fire Marshal and complying with sections of the Fire Code that apply to the use of flammable gas,

20 flammable liquids, compressed gas, open flames, and other energy sources. Separate fees may apply

21 and be payable to the Fire Marshal.

22 (2) Each permit for Food Vending shall be conditioned on the Vendor obtaining a

23 permit to operate a food facility from the Department of Public Health pursuant to Health Code Section

24 452, as it may be amended. Separate fees may apply and be payable to the Department of Public

25 Health.

1 (3) Each Vendor permit issued pursuant to this Article 5.9 and the approval, as
2 applicable, of the Fire Marshal (see subsection (b)(1)) and/or the Department of Public Health (see
3 subsection (b)(2)), shall authorize inspection by the City of the Vendor's operations at any time during
4 operating hours.

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

9 (c) **Permit Fee.** The Department shall identify the reasonable regulatory costs for the
10 administrative enforcement and any adjudication of this Article 5.9, including but not limited to the
11 Department's costs to issue permits, perform investigations, conduct inspections, issue administrative
12 citations or other enforcement actions, and audit permittees. The Department shall charge applicants
13 for each Vendor permit and permit renewal an amount that does not exceed the reasonable regulatory
14 costs described in this subsection (c), and may include the actual costs that other agencies, boards,
15 commissions, or departments of the City incur in connection with the processing or administration of
16 this Article 5.9, which fee shall be waived in accordance with California Business and Professions
17 Code Section 16102, as it may be amended, and as applicable. After consulting with the Controller,
18 and by no later than two months after the effective date of the ordinance in Board File No. 211292
19 establishing this Article 5.9, the Department shall publish on its website a schedule of all fees charged
20 by the Department under this Section 5.9-5, and shall submit that fee schedule to the Clerk of the Board
21 of Supervisors for inclusion in Board File No. 211292. The permit fee shall be adjusted annually in
22 accordance with Public Works Code Section 2.1.2.

23 In addition, separate annual fees may apply and be payable to the Tax Collector, Department of
24 Public Health, and the Fire Marshal for any approvals required by each department.

1 (d) **Permit Fee Waiver.** The Department shall adopt regulations via Director’s Order that
2 authorize the Director to waive fees for reasons including, but not necessarily limited to, economic
3 hardship and a Vendors’ status as a nonprofit corporation exempt from federal taxation under 26
4 U.S.C. Section 501(c)(3), as it may be amended.

5 (e) **Permit Expiration.** Each Vendor permit shall expire if not renewed by its Renewal Date
6 in subsection (f)(1) unless revoked or unless the Director determines on issuance of the permit that the
7 particular circumstances warrant a permit term of less than one year.

8 (f) **Permit Renewal.**

9 (1) Each Vendor permit may be renewed annually so long as the Vendor remains in
10 compliance with this Article 5.9, including payment of all fees due to the City and compliance with the
11 Good Neighbor Policies in Section 5.9-8. The permit renewal date (“Renewal Date”) shall be the date
12 that the Director issues the decision to renew the permit or conditionally renew the permit, and shall be
13 the same day of the year, selected by the Director, for all Vendor permits.

14 (2) Each Vendor permit renewed by the Department shall be operative for 90 days
15 from the date of renewal, but shall become inoperative if by the end of that 90-day period, the Vendor
16 has not obtained approvals, as applicable, from the Fire Department and Department of Public Health.
17 A permittee shall still owe the renewal fee in subsection (c) if the Vendor permit becomes inoperative
18 under this subsection (f)(2), and shall not be entitled to a refund or proration as a result of the Vendor
19 permit becoming inoperative.

20 (3) Pursuant to Section 76.1 of Article 2 of the Business and Tax Regulations Code,
21 the fees in subsection (c), above, for renewing a Vendor permit shall be due and payable annually on or
22 before March 31, for the 12-month period commencing with the most recent Renewal Date prior to
23 March 31. If a permittee ceases Vending between the Renewal Date and the next March 31, such
24 permittee shall still owe the fees due on that March 31 for the entire 12-month period commencing with
25 the most recent Renewal Date prior to March 31, and shall not be entitled to any refund or proration.

1 (g) Application Denial; Appeal.

2 (1) The Department may reject an application for a Vendor permit for any of the
3 following reasons:

4 (A) the applicant failed to provide any required information or prerequisite
5 approvals identified in this Section 5.9-5, or provided incorrect or incomplete information, and failed
6 to correct the application within a reasonable time identified by the Department;

7 (B) the applicant knowingly presented false and material information or
8 knowingly omitted material information;

9 (C) the applicant previously received a permit, which permit was revoked
10 pursuant to Section 5.9-9, and the revocation occurred within one year of the application;

11 (D) the applicant submitted a substantially similar application that was rejected
12 within the past year;

13 (E) the proposed Vending location may lead to or exacerbate objective safety,
14 health, and welfare concerns; or

15 (F) good cause, including but not limited to violations of federal, state, or City
16 law that in the Department's judgment are relevant to whether the applicant would perform as a
17 Vendor in a lawful manner.

18 (2) The applicant may appeal the Department's rejection of an application for a
19 Vendor permit in writing to the Director within 10 days of the rejection. The Director may investigate
20 the rejection and consider any claims by the applicant, and shall either affirm or reverse the rejection
21 within a reasonable time following receipt of the written appeal. Upon denial of a permit by the
22 Director, an applicant may appeal the Director's decision, to the Board of Appeals, in accordance with
23 Section 8 of the Business and Tax Regulations Code, as amended from time to time.

24
25 **SEC. 5.9-6. VENDING RESTRICTIONS; DELEGATION OF AUTHORITY.**

1 (a) **Certified Farmers' Market or Swap Meet.** No person, without written approval of the
2 Director, may Vend within the immediate vicinity of a permitted Certified Farmers' Market or a
3 permitted Swap Meet during the operating hours of that Certified Farmers' Market or Swap Meet.

4 (b) **Temporary Special Permit.** No person, without written approval of the Director, may
5 Vend within the immediate vicinity of a temporary special permit issued by the City that authorizes the
6 temporary use of, or encroachment in or on, the sidewalk or other public area, including an
7 encroachment permit, special event permit, or temporary event permit for purposes including filming,
8 parades, or outdoor concerts. This prohibition against Vending shall be effective only for the limited
9 duration of the temporary special permit. Any notice, business interruption mitigation, or other rights
10 provided to affected businesses or property owners under the temporary special permit shall also be
11 provided to any Vendor whom the Director previously specifically permitted to operate within the
12 immediate vicinity of the temporary special permit during the period that the temporary special permit
13 is effective.

14 (c) **United Nations Plaza.** No person, without written approval of the Director may Vend at
15 UN Plaza, unless it is an approved seller in the course of a permitted Certified Farmers' Market. The
16 Director, in consultation with the General Manager of the Recreation and Park Department or the
17 General Manager's designee, may approve a Vending permit at UN Plaza if the Director finds that the
18 issuance of such a permit would not objectively undermine public health, safety, or welfare.

19 (d) **Hallidie Plaza.** The Director, in consultation with the General Manager of the
20 Recreation and Park Department or the General Manager's designee, may approve a Vending permit
21 at Hallidie Plaza if the Director finds that the issuance of such a permit would not objectively
22 undermine public health, safety, or welfare.

23 (e) **Rules and Regulations Authorized.** The Department may adopt additional
24 requirements regulating the time, place, and manner of Vending, including prohibiting Vending in
25 certain locations, if the rules and regulations are directly related to objective health, safety, or welfare

1 concerns. Such Rules and Regulations may impose, but are not limited to imposing, (A) further
2 requirements to maintain sanitary conditions; (B) requirements necessary to ensure compliance with
3 the Americans with Disabilities Act of 1990 (Public Law 101-336), as it may be amended, and other
4 disability access standards; (C) requirements necessary to ensure the public's use and enjoyment of
5 natural resources and recreational opportunities; or (D) requirements necessary to prevent an undue
6 concentration of commercial activity that unreasonably interferes with the scenic and natural character
7 of a park. The Department may also adopt rules and regulations related to the administration of this
8 Article 5.9, including but not limited to standards for approving permits, in order to further the
9 purposes of this Article 5.9 and promote public health, safety, or welfare.

10 (f) **Port of San Francisco.** The Port Commission and its Executive Director, in
11 consultation with the Department, may adopt additional requirements regulating the time, place, and
12 manner of Vending within the regulatory jurisdiction of the Port of San Francisco, including
13 prohibiting Vending in certain locations, if the rules and regulations are directly related to objective
14 health, safety, or welfare concerns. Such Rules and Regulations may impose, but are not limited to
15 imposing, (1) further requirements to maintain sanitary conditions; (2) requirements necessary to
16 ensure compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), as it may be
17 amended, and other disability access standards; (3) requirements necessary to ensure the public's use
18 and enjoyment of natural resources and recreational opportunities; or (4) requirements necessary to
19 prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and
20 natural character of a park.

21 (g) **Notice of New Requirements.** Any new requirement regulating the time, place, and
22 manner of Vending, including additional areas where vending is prohibited, shall be posted on the
23 Department's website to provide sufficient notice to Vendors.

24
25 **SEC. 5.9-7. EXEMPTIONS.**

1 (a) This Article 5.9 does not govern:

2 (1) Food products being sold as part of a fundraiser by a non-profit entity; or

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

4 of the Police Code; or

5 (3) the operation of, or any sale within, a Certified Farmers' Market; or

6 (4) the operation of, or any sale within, a permitted Swap Meet; or

7 (5) Vending on property regulated by Article 7 of the Park Code; except UN Plaza

8 and Hallidie Plaza; or

9 (6) Vending within areas permitted under Article 6 (Interdepartmental Staff

10 Committee on Traffic and Transportation ("ISCOTT")) of the Transportation Code.

11 (b) This Article 5.9 does not supersede or alter Article 24 (Regulating Street Artists) of the
12 Police Code. A Vendor permit authorizing the permittee to Vend either Merchandise or Food and
13 Merchandise in accordance with Section 5.9-4 may also Vend an art or craft regulated under Article 24
14 (Regulating Street Artists) of the Police Code if the Vendor has obtained a Street Artist Certificate
15 under Article 24 of the Police Code.

16
17 **SEC. 5.9-8. GOOD NEIGHBOR POLICIES.**

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

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

21 (b) Vendors shall contain noise and odors within the immediate area of the Vendor so as not
22 to cause a nuisance to neighbors; and

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

1 (d) Stationary Vendors shall provide for proper and adequate storage and disposal of
2 garbage, detritus, and debris; and

3 (e) Any additional regulations adopted by the Director, consistent with the principles in this
4 Section 5.9-8.

5
6 **SEC. 5.9-9. ENFORCEMENT.**

7 (a) Nuisance Declaration. Any violation of this Article 5.9, or of any applicable Rules and
8 Regulations, constitutes a public nuisance.

9 (b) Notice of Violation. Any Enforcement Official may issue a Notice of Violation for any
10 violation of this Article 5.9, or the Rules and Regulations that interpret and implement this Article, and
11 as described in subsection 5.9-9(c) below, that occurs on a public right-of-way (as that term is defined
12 in Public Works Code Section 2.4.4) or any other street, sidewalk, alley, walkway, or pedestrian path
13 available to the public. The Notice of Violation shall include: (1) information identifying the Offender,
14 (2) details of the violation, (3) the name or identifying number of the Enforcement Official, and a
15 general description of (4) administrative fines, payment method and options, including the ability-to-
16 pay determination, and (5) the appeals process.

17 (c) Administrative Citation. The Department will use the information included in the Notice
18 of Violation to issue an Administrative Citation for any violation of this Article 5.9, or the Rules and
19 Regulations that interpret and implement this Article, as described below, within 15 calendar days of
20 issuing the Notice of Violation:

21 (1) Vending that violates a requirement in this Article 5.9 or in the Rules and
22 Regulations, other than failure to possess a valid license or permit:

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

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

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

3 (D) In addition to any other authorized enforcement activity, the Director may
4 revoke or suspend a Vendor's license and/or permit for the remainder of its term upon a fourth or
5 subsequent violation within twelve months of the first violation.

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

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

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

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

12 (D) If the Vendor submits proof of a valid permit that was effective at the time of
13 the citation, the administrative fines set forth in subsections (A) through (C) of this subsection (c)(2)
14 shall be reduced to equal the administrative fines set forth in subsections (A) through (C) of subsection
15 (c)(1), as those amounts may be revised pursuant to subsection (c)(5).

16 (3) Failure to pay an Administrative Citation described in this subsection (c) shall
17 not be punishable as an infraction or misdemeanor; further, additional fines, fees, assessments, or any
18 other financial conditions beyond those authorized in this subsection (c) may not be assessed.

19 (4) When assessing an Administrative Citation authorized in this subsection (c), the
20 Director shall take into consideration the person's ability to pay the fine using the criteria described in
21 subsection (a) or (b) of California Government Code Section 68632, as it may be amended. The
22 Enforcement Official shall give notice to the Vendor of the right to request an ability-to-pay
23 determination and instructions or other materials for requesting an ability-to-pay determination. The
24 Vendor may request an ability-to-pay determination at any time while the judgment remains unpaid,
25 including when a case is delinquent or has been referred to a comprehensive collection program. The

1 Director's determination shall be final. If the Vendor meets the ability-to-pay criteria, the Department
2 shall accept 20% of the total administrative fine specified in subsection (c)(1) or (c)(2), as applicable,
3 as full satisfaction.

4 (5) To the extent permitted by State law, the amounts of the administrative fines
5 identified in subsections (A) through (C) of subsections (c)(1) and (c)(2) shall automatically increase or
6 decrease to the maximum amount authorized under California Government Code Section 51039, as it
7 may be amended. If Section 51039 is repealed and not replaced with a similar limitation on
8 administrative fines, then the Director, in consultation with the Controller, may adjust the
9 administrative fine amounts in this Section 5.9-9 each year, without further action by the Board of
10 Supervisors, to reflect changes in the relevant Consumer Price Index.

11 (6) Within 10 days of issuance, the Vendor shall pay the Administrative Citation
12 unless the Vendor files a written appeal with the Director. The grounds of appeal are limited to error
13 or abuse of discretion in the issuance of the Administrative Citation. The Director may make an
14 ability-to-pay determination pursuant to subsection (c)(4), but inability to pay shall not be grounds for
15 rescinding the Administrative Citation or reducing the amount required to satisfy the fine to an amount
16 less than the amount specified in subsection (c)(4). The Director shall consider any claims or defenses
17 by the appellant, and shall issue and mail a written decision on the appeal within a reasonable time of
18 receipt of the written appeal. Within 20 days of the Director's decision upholding a fine in whole or in
19 part, the Vendor shall pay the Administrative Citation. The Vendor may seek judicial review of an
20 Administrative Citation pursuant to subsection (c)(1) in San Francisco Superior Court pursuant to
21 Government Code Section 53069.4.

22 (7) Administrative Citation Issuance Date. For purposes of payment and appeals
23 deadlines, the issuance date of any Administrative Citation delivered by the U.S. Postal Service shall be
24 5 calendar days after the date of mailing.

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

5 **(d) Temporary Order to Cease Vending and Removal.**

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

10 (2) (A) After the Enforcement Official orders an unpermitted Vendor to cease
11 Vending, the Vendor must discontinue any Vending and remove all Food, Merchandise, and any other
12 Vending paraphernalia from property within the City's jurisdiction. A failure to promptly obey any
13 such order from an Enforcement Official is a violation of this Article 5.9.

14 (B) After the Enforcement Official orders a permitted Vendor to cease Vending,
15 the Vendor must discontinue any Vending and follow the orders of the Enforcement Official with regard
16 to removing and relocating all Food, Merchandise, and any other Vending paraphernalia, and any
17 other orders the Enforcement Official may give to mitigate safety hazards, and no further Vending may
18 occur until the conditions that caused the order to cease Vending have been abated to the satisfaction
19 of the Enforcement Official. A failure to promptly obey any such orders from an Enforcement Official
20 is a violation of this Article 5.9.

21 (3) If a Vendor fails, within a reasonable time, to remove Food, or Merchandise, or
22 any other Vending paraphernalia from the location subject to the order to cease Vending, or fails to
23 follow any other orders the Enforcement Official may issue to mitigate safety hazards, the Enforcement
24 Official or the Department may remove any or all of the items. Prior to removal by the Enforcement
25 Official or the Department, the Enforcement Official shall warn the Vendor of the impending removal

1 and impoundment, and shall urge the Vendor to make every effort to remove the items, or cause their
2 removal. Where the Department actually removes any items, the Enforcement Official shall issue an
3 Administrative Citation to the Vendor. The Vendor shall pay the actual costs of removal and storage of
4 any items impounded, and of disposal of any items the storage of which may cause public health, safety,
5 or infestation issues. The Vendor may contest the liability for these costs by timely appealing the
6 Administrative Citation. However, these actual costs to the City are not subject to reduction based on
7 the ability to pay; actual costs are a debt to the City that may be collected in the same manner as
8 provided in subsection (c)(8). Vendor items that have been removed and stored may be recovered by
9 the Vendor within 90 days from the date of removal and upon payment of a sum equal to the costs of
10 removal, plus any reasonable transport and storage costs, as determined by the Department, and any
11 costs incurred by the Department in disposing of any items.

12 (e) **Other Violations.** Any violation of this Article 5.9, or of the Rules and Regulations, may
13 be subject to one or more of the following:

14 (1) An administrative fine as described in subsection (c).

15 (2) Civil Action.

16 (A) The Department may refer violations to the City Attorney to maintain an
17 action for injunction to restrain to cause the correction or abatement of the violation of this Article 5.9,
18 and for recovery of any City department's enforcement and abatement costs (including but not limited
19 to costs for removal, storage, impoundment, and disposal).

20 (B) The City shall be awarded its reasonable attorney's fees and costs incurred
21 in enforcing this Article 5.9.

22
23 **SEC. 5.9-10. UNDERTAKING FOR THE GENERAL WELFARE.**

24 In enacting and implementing this Article 5.9, the City is assuming an undertaking only to
25 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an

1 obligation for breach of which it is liable in money damages to any person who claims that such breach
2 proximately caused injury.

3
4 **SEC. 5.9-11. SEVERABILITY.**

5 If any section, subsection, sentence, clause, phrase, or word of this Article 5.9, or any
6 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
7 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
8 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
9 passed this Article 5.9 and each and every section, subsection, sentence, clause, phrase, and word not
10 declared invalid or unconstitutional without regard to whether any other portion of the Article or
11 application thereof would be subsequently declared invalid or unconstitutional.

12
13 Section 3. Chapter 1 of the Administrative Code is hereby amended by revising
14 Section 1.58, to read as follows:

15 **SEC. 1.58. PERMITS FOR UNITED NATIONS AND HALLIDIE PLAZAS.**

16 * * * *

17 (b) **Permitting Authorities.** Permits for the use of United Nations Plaza and Hallidie
18 Plaza shall be issued by the Recreation and Park Department ~~or the Recreation and Park~~
19 ~~Commission~~ according to the procedures and standards established for the issuance of permits
20 for the use of property under the jurisdiction of the Recreation and Park Commission;
21 provided, however, that the Recreation and Park Department ~~and the Recreation and Park~~
22 ~~Commission~~ shall only issue permits for activities that are recreational in nature or that are
23 engaged in primarily for the purpose of espousing or advocating causes or ideas, which
24 activities are generally recognized as protected by the First Amendment to the U.S.
25 Constitution. Permits to engage in any other type of activity in United Nations or Hallidie

1 Plaza, including permits for Vending under Article 5.9 of the Public Works Code, shall be issued by
2 ~~the~~ in accordance with the procedures in Articles 8B and 8C of the Park Code~~Board of Supervisors.~~
3 This section 1.58 does not alter the authority of the Art Commission to issue certificates for the sale of
4 an art or craft under Article 24 (Regulating Street Artists) of the Police Code.

5 (c) **Appeals.** An appeal from the denial of a permit application by the Recreation and
6 Park Department ~~or the Recreation and Park Commission~~ for the use of United Nations Plaza or
7 Hallidie Plaza shall be made to the Recreation and Park Commission pursuant to Article 7 of the
8 Park Code and any procedures for the filing and processing of permit applications that may be adopted
9 by the Recreation and Park Commission. An appeal from the denial of a permit application by the
10 Department of Public Works shall be made to the Board of Appeals according to the same procedures
11 that would otherwise apply to the denial of permits on property under the permitting jurisdiction of the
12 Department of Public Works.~~Board of Supervisors. An appropriate committee of the Board of~~
13 ~~Supervisors shall consider the appeal before it goes to the full Board, unless there is insufficient time~~
14 ~~before the date of the proposed event for committee review. If a quorum of the full Board cannot be~~
15 ~~convened in time to consider the appeal before the date of the proposed event, the procedure to be~~
16 ~~followed shall be that established in the Park Code or by Commission resolution for the appeal of the~~
17 ~~denial of a permit application by the Recreation and Park Department when a quorum of the~~
18 ~~Recreation and Park Commission cannot be convened in a timely manner to consider the appeal. In the~~
19 ~~event that neither the Code nor a Commission resolution contains such a procedure, the decision of the~~
20 ~~Recreation and Park Department shall be final.~~

21 (d) **Procedures; Restitution.** All procedures and standards, ~~other than procedures for~~
22 ~~appeal from the denial of a permit application, shall be the same~~ for permits issued by the
23 Recreation and Park Department for the use of United Nations Plaza and Hallidie Plaza shall
24 be the same as they are for permits issued for the use of park property. If a permittee uses
25 United Nations Plaza or Hallidie Plaza and damages it, or fails to clean up after the permitted

1 event, or otherwise leaves the property in a manner that requires the expenditure of labor or
2 money to restore the Plaza, the City and County of San Francisco may bill the permittee and
3 ~~otherwise seek any remedy authorized by law normally sought when the property involved is property~~
4 ~~under the jurisdiction of the Recreation and Park Commission.~~

5 * * * *

6 Section 4. Article 1 of the Business and Tax Regulations Code is hereby amended by
7 revising Section 1.36, to read as follows:

8 **SEC. 1.36. VENDING.**

9 For Vending – by the ~~Port of San Francisco~~ Department of Public Works; subject to the
10 approval of the Public Health Department for food Vending, if applicable (See ~~Article 2A of the~~
11 ~~Port Code~~ Article 5.9 of the Public Works Code).

12
13 Section 5. Article 8 of the Health Code is hereby amended by deleting Section 452.2,
14 as follows:

15 ~~**SEC. 452.2. REPORTING REQUIRED.**~~

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

21
22 Section 6. The Park Code is hereby amended by revising Section 2.01 of Article 2,
23 Section 8B.01 of Article 8B, and Sections 8C.01 and 8C.03 of Article 8C, to read as follows:

24 **SEC. 2.01. “PARK” DEFINED.**

1 (a) When used in this Code, the word “park” shall mean and include (1) all grounds,
2 roadways, avenues, squares, recreation facilities, and other property placed under the control,
3 management, and direction of the Recreation and Park Commission by the Charter of the City
4 and County of San Francisco; (2) the open space on the blocks bounded by Market, Folsom,
5 Third, and Fourth Streets which is under the control, management, and direction of the
6 Redevelopment Agency of the City and County of San Francisco, otherwise known as the
7 “Yerba Buena Gardens;” and (3) the open space generally known as the “Transbay Rooftop
8 Park” which is located on the roof of the facility located on the blocks bounded by Mission,
9 Beale, Howard, and Second Streets, and which is under the ownership, control, management,
10 and direction of the Transbay Joint Powers Authority (TJPA), provided that the TJPA Board of
11 Directors has not rescinded or revoked the TJPA resolution of consent to the enforcement of
12 the Park Code for the Transbay Rooftop Park, which is on file with the Clerk of the Board of
13 Supervisors in File No. 180087. The foregoing definitions of the word “park” shall not apply
14 where *unless* such word is otherwise defined within the section in which it appears. In addition,
15 the designation of Yerba Buena Gardens and the Transbay Rooftop Park as “parks” for
16 purposes of this Code does not effect a jurisdictional transfer of either property, does not
17 place either property under the jurisdiction and control of the Recreation and Park
18 Commission, does not render either property “park land” or “park property” as those terms are
19 used in any provision of the Charter, and does not entitle the City and County of San
20 Francisco to receive revenues that may be generated by either property.

21 (b) When used in Articles 3, 4 and 7 of this Code, the word “park” shall also include
22 the area comprising Fulton Street between Hyde and Market Streets and Leavenworth Street
23 between McAllister and Fulton Streets, which area was closed to vehicular traffic by San
24 Francisco Board of Supervisors Resolution No. 373-73 and is otherwise known as United
25 Nations Plaza, and the area that is bounded by the northwesterly line of Market Street, the

1 southerly line of Eddy Street and the westerly line of Lot 13, Assessor's Block 341, and is
2 otherwise known as Hallidie Plaza. The designation of United Nations Plaza and Hallidie
3 Plaza as parks for purposes of Articles 3, 4 and 7 of this Code does not effect a jurisdictional
4 transfer of these plazas, does not place these plazas under the jurisdiction and control of the
5 Recreation and Park Commission and does not render these plazas "park land" or "park
6 property" as those terms are used in any provision of the San Francisco Charter.

7 * * * *

8 **SEC. 8B.01. AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC**
9 **WORKS.**

10 With respect to United Nations Plaza, the Director of the Department of Public Works,
11 or ~~his or her~~ the Director's designee, shall have the authority to manage the Plaza and to
12 perform all functions with respect to United Nations Plaza that would otherwise be performed
13 by the Recreation and Park Department, the Recreation and Park Commission, the General
14 Manager of the Recreation and Park Department, the Superintendent of Parks, or the
15 employees of the Recreation and Park Department under Sections 3.03, 3.07, 3.16, 4.01,
16 4.12, and 4.13 of this Code. The Department of Public Works shall also have authority to issue
17 permits for Vending under Article 5.9 of the Public Works Code. The Recreation and Park
18 Department ~~or Commission and the Board of Supervisors~~ shall issue all other permits and all other
19 authorizations required by Articles 3, 4, and 7 of this Code pursuant to Section 1.58 of the ~~San~~
20 ~~Francisco~~ Administrative Code.

21 * * * *

22 **SEC. 8C.01. AUTHORITY OF THE DIRECTOR OF PROPERTY.**

23 With respect to Hallidie Plaza, the Director of Property, or ~~his or her~~ the Director's
24 designee, shall have the authority to manage the Plaza and to perform all functions with
25 respect to Hallidie Plaza that would otherwise be performed by the Recreation and Park

1 Department, the Recreation and Park Commission, the General Manager of the Recreation
2 and Park Department, the Superintendent of Parks, or the employees of the Recreation and
3 Park Department under Sections 3.03, 3.07, 3.16, 4.11, 4.12 and 4.13, of this Code. The
4 Department of Public Works shall have authority to issue permits for Vending under Article 5.9 of the
5 Public Works Code. The Recreation and Park Department ~~or Commission and the Board of~~
6 ~~Supervisors~~ shall issue all other permits and authorizations required by Articles 3, 4 and 7 of
7 this Code pursuant to Section 1.58 of the ~~San Francisco~~ Administrative Code.

8 **SEC. 8C.02. RULES AND REGULATIONS GOVERNING USE OF HALLIDIE**
9 **PLAZA.**

10 The Director of Property shall have jurisdiction to set the rules and regulations for
11 Hallidie Plaza pursuant to Sections 3.01 and 3.02 of this Code, violation of which rules and
12 regulations, when posted in Hallidie Plaza, shall constitute a misdemeanor or an infraction
13 pursuant to Article 10 of this Code. The signs posted to advise the public of rules and
14 regulations for Hallidie Plaza shall inform the public where a copy of the full text of the rule or
15 regulation can be obtained. Any such rule or regulation shall be consistent with Articles 3, 4
16 and 7 of this Code and shall be adopted after a noticed public hearing upon a finding by the
17 Director of Property or ~~his or her~~ the Director's designee that violation of the proposed rule or
18 regulation will be detrimental to the health, safety, or welfare of members of the public using
19 or passing through Hallidie Plaza or using adjacent property.

20 **SEC. 8C.03. ADDITIONAL ACTIVITIES REQUIRING PERMITS.**

21 The Director of Property shall have the authority to require a permit for additional
22 activities in Hallidie Plaza not enumerated in Articles 3, 4 and 7 of this Code when such a
23 requirement furthers the purposes set forth in Section 7.01 of this Code; provided that the
24 Department of Public Works shall have authority to issue permits for Vending under Article 5.9 of the
25 Public Works Code. A list of the additional activities for which permits are required shall be

1 posted at McLaren Lodge in Golden Gate Park and filed with the Secretary of the Recreation
2 and Park Commission and the Clerk of the Board of Supervisors and shall be made available
3 to the public upon request.

4
5 Section 7. Article 9.6 of the Police Code is hereby amended by revising Section 660.2,
6 to read as follows:

7 **SEC. 660.2. UNLAWFUL SOLICITATION.**

8 * * * *

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

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

12 * * * *

13 (b) A person Vending Food, and/or Merchandise, pursuant to any
14 applicable permit ~~issued under Article 2A of the Port Code~~, including but not limited to a permit
15 issued under Article 5.9 of the Public Works Code, or any other provision of the Charter or
16 Municipal Code.

17 * * * *

18 (j) No individual shall engage in sales solicitations for charitable purposes by
19 means of selling clothing, jewelry, or any other goods, products, services, or merchandise in
20 any area of the City unless that person obtains the appropriate permit, including but not limited
21 to a permit issued pursuant to Article 24 of the Police Code, ~~Article 2A of the Port Code~~ or Article
22 5.9 of the Public Works Code. This subsection (j) shall not apply to the sale of books, pamphlets,
23 buttons, bumper stickers, posters, or any other type of item that has no intrinsic value or
24 purpose other than to communicate a message.

25 * * * *

1 Section 8. The Port Code is hereby amended by revising Sections 2.8 (in Article 2)
2 and 6.3 (in Article 6), and by adding Section 2A.13 (to Article 2A), to read as follows:

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

5 (a) No person may vend ~~Vend~~ *(as that term is defined in Section 2A.1 of the Port Code)*,
6 or bring, or cause to be brought, for the purposes of ~~v~~vending any food, beverage, goods,
7 wares, or merchandise within the jurisdiction of the Commission without first having obtained
8 a permit *(in accordance with Article 2A of the Port Code)*, or a concession, license, or lease from
9 the Executive Director.

10 (b) The Commission, Executive Director, or designee may adopt Rules and
11 Regulations applicable to all vending ~~Vending~~ on property under the jurisdiction of the
12 Commission, in accordance with Section 5.9-6 of the Public Works Code ~~2A.5 of the Port Code~~.

13 (c) Any ~~v~~vending in violation of this Section 2.8, ~~Article 2A Port Code~~, or any Rules
14 and Regulations applicable to all vending ~~Vending~~ on property under the jurisdiction of the
15 Commission, in accordance with Section 5.9-6 of the Public Works Code ~~2A.5 of the Port Code~~.

16 **SEC. 6.3. PERMITS REQUIRED.**

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

18 * * * *

19 (C) Vend food or merchandise ~~Food or Merchandise~~ unless in accordance with Section
20 2.8 and any applicable permit or other authorization ~~Article 2A of the Port Code~~.

21 **SEC. 2A.13. SUNSET.**

22 (a) This Article 2A shall expire by operation of law when the vending program authorized
23 under Article 5.9 of the Public Works Code has issued its first vendor permit. Upon expiration of this
24 Article 2A, the City Attorney shall cause the Article to be removed from the Port Code.

1 (b) If this Article 2A expires prior to the expiration of any Mobile Vendor Permits issued by the
2 Port, those permits will remain in effect and permit Vending only on Port property until the first
3 Renewal Date (as defined in Section 5.9-5(f)(1) of Article 5.9 of the Public Works Code) following
4 issuance of the first vendor permit issued under the vending program authorized under Article 5.9 of
5 the Public Works Code, and shall expire if not renewed by that Renewal in accordance with Article 5.9
6 of the Public Works Code.

7
8 Section 9. Article 5.8 of the Public Works Code is hereby amended by revising Section
9 184.80, to read as follows:

10 **SEC. 184.80. DEFINITIONS.**

11 * * * *

12 **Mobile Food Facility.** Any vehicle or pushcart used in conjunction with a commissary
13 or other permanent food facility upon which food is sold or distributed at retail. Mobile Food
14 Facility does not include a “Transporter” used to transport packaged food from a food facility
15 or other approved source to the consumer. A Mobile Food Facility does not include any use
16 that sells goods, wares, or merchandise other than food or drink intended for human
17 consumption, or a Vendor holding a valid permit pursuant to Article 5-9, who sells pre-packaged
18 food, foodstuffs, confectionary, condiment, or beverage for human consumption that is being resold in
19 its original packaging. For purposes of this Article, a pushcart or a mobile caterer are both
20 referred to as a Mobile Food Facility unless specifically stated otherwise.

21 * * * *

22 Section 10. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24
25

1 ordinance unsigned, or the Mayor does not sign the ordinance within ten days after receiving
2 it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

3
4 Section 11. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
6 numbers, punctuation, charts, diagrams, or any other constituent part of the Municipal
7 Code that are explicitly shown in this legislation as additions, deletions, Board amendment
8 additions, and Board amendment deletions in accordance with the “Note” that appears under
9 the official title of the ordinance.

10
11
12
13 APPROVED AS TO FORM:

14 DAVID CHIU City Attorney

15
16
17
18
19 By: /s/Christina Fletes-Romo

20 Christina Fletes-Romo

21 Deputy City Attorney

22
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