

ADOPTING GUIDELINES FOR THE ISSUANCE OF PERMITS, AND FOR INSPECTION AND ENFORCEMENT OF STREET VENDORS OPERATING WITHIN THE PUBLIC RIGHTS-OF-WAY, EFFECTIVE July 1, 2022

I. **Purpose & Scope:** Pursuant to Article 5.9 of the Public Works Code (Permit Regulations for Vendors), this Public Works Order defines rules and regulations for street vending in the public right-of-way. This Order provides guidelines unique to those seeking to vend merchandise and pre-packaged food and drink, but not vending of other food and drink items subject to Article 5.8 of the Public Works Code (Mobile Food Facilities).

II. **Rules and Regulations for Vendors Within the Public Right-of-way**

A) Vending Locations:

1. Applicants must state defined locations where they intend to Vend. Roaming Vendors should define a route and submit an exhibit or description of their locations with their application. Proposed locations that may lead to or exacerbate objective safety, health, or welfare concerns, in the discretion of the Director, may be denied.
2. Stationary Vendors may not operate in areas that are exclusively residential.
3. Vendors may not operate in proximity to Certified Farmer's Markets or Swap Meets without written consent from the Director of Public Works or their designee.
4. No Vendors, who are not already approved sellers in the course of a permitted Certified Farmers' Market, may operate in United Nations Plaza or Hallidie Plaza without written consent from the Director of Public Works.
5. 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, temporary event permit for purposes including filming, parades, or outdoor concerts, or activities permitted via Article 6 of the Transportation Code (ISCOTT). 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.
6. Public Works may restrict locations on the basis of public health, safety and welfare. For example, pedestrian access to the sidewalk must not be compromised by vending.
7. Vending on property within the regulatory jurisdiction of the Port of San Francisco may be subject to additional conditions.

B) Sidewalk Accessibility:

1. Vending may not interfere with public access of the right-of-way at any time.
2. Vendors must allow for a minimum six-foot wide unobstructed and accessible path of travel at all times when vending in the public right-of-way.
3. Vendors are subject to the following enhanced clearance requirements when operating proximate to the following locations:
  - a) Arts Commission approved Street Artist License – Eight (8) Feet
  - b) Fire Hydrants – Seven (7) Feet
  - c) Bus Zones or Blue Zones – Twelve (12) Feet
4. Vendors shall maintain a minimum two (2) foot clearance along the curbside when operating adjacent to existing on-street parallel parking.
5. Any equipment or belongings of Vendors must be mobile, and at no point may a vendor make any type of alteration to the public right-of-way. Any equipment placed on the right-of-way to support Vending activity must be actively attended and promptly removed at the close of Vending operations. Equipment may not obstruct utilities, construction activity, commercial activity permitted through other Public Works permits (including, but not limited to, activity under a Shared Spaces, Café Table and Chair, or Display Merchandise permit), or impact access to other facilities within the public right-of-way.

C) Business License and Proof of Ownership:

1. Vendors must clearly display a copy of their credentials, including Business License and Vending Permit, while actively engaged in vending in the public right-of-way.
2. Per Public Works Code Sections 5.9-3 and 5.9-5(a)(5), Vendors must be able to demonstrate proof of ownership for new Merchandise and Pre-packaged food or drink being sold. For example, Vendors may provide receipts for the goods being sold. In the absence of proof of ownership requested by an Enforcement Official, vendors must within 15 calendar days be able to provide a written explanation for their lack of proof of ownership.
3. Merchandise being sold must be consistent with the description of wares and/or pre-packaged food or drink provided in the permittee's permit application.

D) Fire and Health Requirements:

1. Any Vendor seeking to sell food or drink must also obtain appropriate permits from the San Francisco Department of Public Health (SFDPH) for food Vending and San Francisco Fire Department (SFFD) when using an energy source, including but not limited to propane, butane, or battery.
2. Any required approvals from SFDPH and SFFD must be obtained within 90 days after approval of a Public Works permit. Renewal permits shall become inoperative if any required SFDPH and SFFD permits are not obtained at the conclusion of the 90-day period.
3. This permit program is solely for pre-packaged food or drink in original packaging. Those seeking to serve prepared food or drink in the public right-of-

way must apply for a Mobile Food Facility permit subject to Public Works Code Article 5.8.

4. Vendors shall comply with the current Fire Code and guidelines including providing and maintaining minimum distances required for building access, exit egress, and access to SFFD protection services.
5. Vendors are responsible for maintaining cleanliness, and limiting noises and odors proximate to their vending location as it relates to the permittee's vending operation, and shall abide by the Good Neighbor Policies as outlined in Public Works Code Section 5.9-9 and Section VI of this Order.

E) Additional Requirements:

1. Vendors may not alter or make improvements to the right-of-way in any manner.
2. Permits may not be transferred.
3. Vendors must prominently display the permit that corresponds with the Vendor's business activity while Vending.

F) Exemptions:

Consistent with Public Works Code Section 5.9-7, the Order does not apply to the following:

1. Food or drink products being sold as part of a fundraiser by a non-profit entity;
2. The operation of, or any sale within, a Certified Farmer's Market;
3. The operation of, or any sale within, a permitted Swap Meet;
4. Vending on property regulated by Article 7 of the Park Code, except UN Plaza and Hallidie Plaza; or
5. Vending within areas permitted under Article 6 (ISCOTT) of the Transportation Code.

**III. Permit Application Process:**

A) The permit applicant shall provide a completed application form including all information and supplemental attachments as deemed relevant by Public Works, including:

1. A photo of the applicant.
2. A description of what they will Vend on their permit application, including if they intend to Vend pre-packaged food or drink, merchandise, or both.
3. The location(s) they intend to Vend. Roaming Vendors may submit a map exhibit that illustrates their route.
4. Their proposed hours of operation.
5. An attestation stating that any merchandise being sold is obtained legally.
6. Submission of a permit fee pursuant to the latest Public Works Fee Schedule.
7. Proof that the applicant maintains general liability insurance throughout the term of the permit in the amount of at least \$1,000,000 per occurrence/\$2,000,000 in the aggregate to respond to claims made against the City and County of San Francisco (e.g. an additional insured endorsement in favor of the City).

8. Proof of eligibility for fee waiver or discount, if seeking a fee waiver or discount subject to Section IV of this Order (Permit Fee Waiver and Partial Waiver)
- B) Public Works will maintain confidentiality of permit application information to the extent allowable by law.
- C) Failure to provide the required information, knowingly providing false information, or submitting a duplicate application of a permit that was already revoked or rejected within the past year shall result in rejection of a permit application and/or revocation of an already approved permit.
- D) **Renewals:** Permits are renewable on an annual basis. Permittees are required to provide application renewal materials, as prescribed by the Department, as well as the required permit renewal application fee as is consistent with the latest Public Works Fee Schedule prior to the expiration date of their permit in order for their permit to be renewed.
- E) **Appeals:** An applicant may appeal the Department's rejection of an application for a Vendor permit within thirty (30) calendar days of the rejection. If the permit remains denied after Public Works' review of the appeal, an applicant may appeal the decision to the Board of Appeals within fifteen (15) calendar days of Public Works' final decision.

#### **IV. Permit Fee Waiver and Partial Waiver**

- A) **Individuals:** Individuals applying for a permit may be eligible for an initial permit application fee waiver, and a 50% reduced renewal fee if their family income is less than or equal to 200% of the U.S. Department of Health and Human Services' Poverty Guidelines. Demonstration of eligibility can be established with proof of participation in one of the following programs:
  1. California State Medi-Cal
  2. Electronic Benefits Transfer (EBT)
  3. SFMTA Lifeline card
  4. Women Infant and Children (WIC) Benefits

Applicants shall provide identification cards associated with these programs when applying for their permit.

An income verification form may be completed in lieu of identifying documents if applicable.

- B) **Organizations:** Organizations classified as tax-exempt under section 501(c)(3) of the U.S. Internal Revenue Code may be eligible for a 50% reduced initial application and renewal application fee if one of the following applies:
  1. The organization's funding does not exceed \$2.5 million annually.
  2. The organization is a Community Benefit District (CBD)
  3. The organization supports a cultural district
  4. The organization has a mission of supporting economic development or community vitalization.

**V. Enforcement and Potential Penalties:**

- A) Enforcement of this Order shall be consistent with Article 5.9 of the Public Works Code
- B) Violation of rules outlined in this Order constitute a public nuisance.
- C) Failure to operate within outlined rules may result in a Notice of Violation.
- D) Administrative Citation or Fines. Issuance of Administrative Citations or Fines for violation of this Order shall be consistent with Section 5.9-11 of the Public Works Code.
- E) Public Works may compel a Vendor to promptly cease sales when pedestrian access is encumbered by Vending or a Vendor is unpermitted.
- F) Unpermitted Vendors must promptly gather merchandise and/or dismantle displays at the direction of Public Works or any other enforcement official as prescribed by Public Works Code Article 5.9.
- G) If a Vendor does not comply with an order from an enforcement official to remove merchandise, Public Works may seize said merchandise and issue an administrative citation, consistent with Article 5.9-11.
- H) If a Vendor has failed to recover the items within 90 days (including any required payment for the costs of the removal), or if the Vendor filed an appeal, upon the resolution of the Vendor's appeal if longer than 90 days, the Department may donate non-Food items to a local organization servicing unhoused individuals per Section 5.9-11 of the Public Works Code. The Department shall solicit participation for organizations, and merchandise will be donated to participating organizations on a rotational or lottery-based basis.

**VI. Good Neighbor Policies**

- A) Vendors shall operate in accordance with the following good neighbor policies:
  - a. Vendors shall be individually responsible for any garbage, detritus, or debris that directly results from their Vending activity.
  - b. Vendors shall contain noise and odors within the immediate area of the Vendor so as not to cause a nuisance to neighbors.
  - c. Vendors shall urge patrons to not litter and to maintain the safety, cleanliness, quiet, peace, and orderliness of the area.
  - d. Vendors shall provide for proper and adequate storage and disposal of garbage, detritus, and debris.

**VII. Hold Harmless Clause:**

- A) In consideration of the permittee using the sidewalk, the permittee shall promise and agree to comply with all applicable regulations.
- B) In addition, the permittee shall agree on its behalf to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (collectively referred to as the "City") from and against and all losses, liabilities, expenses, actions, claims, demands, injuries, damages, fines, penalties, suits, costs or judgements including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by, or negligence of, Assignee

or its subcontractors, or the officers, agents or employees of either, while engaged in the practices authorized by this Order, (ii) any accident, damage, death, or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the practices authorized by this Order, (iii) any accident, injuries or damages to any person(s) or accident, damage or injury to any real or personal property, good will, in, upon or in any way allegedly connected with the practices authorized by this Order from any cause or claims arising at any time, and potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligations arises at the time such claim is tendered to permittee by the City and continues at all times thereafter. The permittee shall agree that the indemnification obligations assumed under this Order shall survive expiration of the Order or completion of practices authorized by this order. The permittee shall assume all maintenance and liability associated with the items allowed to be placed in the public right-of-way under this Order.