

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of

RUSBEL MALES-ANDRANGO,

Appellant(s)

VS.

SAN FRANCISCO PUBLIC WORKS

BUREAU OF STREET USE & MAPPING,

Respondent

Appeal No. **25-039**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on September 25, 2025, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on September 18, 2025, of Public Works Order No. 212111 (The Public Works Department revoked Street Vendor Permit No. 24VDR-00149 because the permittee was not in compliance with City rules and regulations on multiple accounts).

ORDER NO. 212111

FOR HEARING ON November 5, 2025

Address of Appellant(s):

Address of Other Parties:

Rusbel Males-Andrango, Appellant(s)
5827 Charlotte Drive
San Jose, CA 95123

N/A



Date Filed: September 25, 2025

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 25-039

I / We, **Paul Males**, hereby appeal the following departmental action: **ISSUANCE of Public Works Order No. 212111 (revocation of Street Vending Permit No. 24VDR-00149)** by the **San Francisco Public Works Department** which was issued or became effective on **September 18, 2025**, to **Paul Males** .

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **October 16, 2025, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.lamarre@sfgov.org, and gregory.slocum@sfdpw.org

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **October 30, 2025, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.lamarre@sfgov.org, and rpmsunglasses@gmail.com

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, November 5, 2025, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the Preliminary Statement of Appeal.

Appellant or Agent:

Signature: Via Email

Print Name: Paul Males, appellant

Good morning, Members of the board.

My name is Rusbel Males-Andrango, my permit number is 24VDR-00149 and I am here to request another appeal as last time I only had three minutes to expose my case and time was not enough.

My motives for appealing are.

I believe I am a victim of a group of vendors who are targeting me and complaining about me while they are all breaking the same rules and no revocation has been applied to them. I have not complained about them because I feel that constantly taking pictures is a form of harassment and it makes me uncomfortable. I also have reason to believe that these vendors have teamed up with a SFDPW officer who I have seen talking to them and pointing at me.

She has treated the other vendors in a permissive manner while I am being targeted. She has been unfair and intimidating with repeated visits to my space while ignoring the rest of the vendor's violations. While I have never disrespected her or been verbally aggressive towards her.

The reason I believe this is because I have received multiple threats from my family stating that they will have me removed from vending program at whatever cost. They are always harassing me, taking pictures of my every movement and even getting to the point of sending a gang member to threaten and intimidate me and my wife. (I have video proof which is not attached because I believe it is not relevant to this hearing)

And I never received a written notice on the result of my first appeal, but somehow the other vendors already knew my permit had been revoked and used this information to mock me. After hearing some of the vendors' comments I decided to write an email asking for an update and turns out my appeal was denied on the 18th (stated on my order number 212027) but I only got a notice after I Requested an update on August 23rd. screenshot attached.

I am not the only vendor who steps away from their booth, or who has help, I am not the only one who exceeds the space limit and most of the vendors have various permits in order to secure more lottery spaces. I have a power point presentation with supporting pictures.

I respectfully request another opportunity to be able to work in an organized manner and I ask for the officers to be fair and enforce the rules equally. I promise to comply with the rules.

Thank you for your time and understanding



San Francisco Public Works
General – Director's Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 212111

September 18, 2025

On September 10, 2025, pursuant to Public Works Order No. 2102027 a Public Works hearing was held to consider the revocation of Street Vendor Permit 24VDR-00149 Rusbel Paul Males.

Public Works staff presented evidence of the occasions when the appellant was not in compliance with City rules and regulations on multiple accounts.

Following Public Works' presentation, time was made available for the appellant to present, and the public to comment. The appellant presented reasons why Public Works should repeal its decision to revoke his permit. No members of the public commented on this hearing item.

Henceforth, Public Works is upholding the denial of this permit application request.

APPEAL:

This Order and determination may be appealed to the Board of Appeals within 15 days of September 18, 2025.

Board of Appeals

49 South Van Ness Ave, Suite 1475 (14th Floor) San Francisco, CA 94103

Phone: 628-652-1150

Email: Boardofappeals@sfgov.org

Note: Office Visits by Appointment Only

More information about how to file an appeal can be obtained by calling 628-652-1150 or by emailing the Board of Appeals at Boardofappeals@sfgov.org. For additional information on the San Francisco Board of Appeals and to view Appeal Process Overview, please visit their website at <http://sfgov.org/bdappeal/>

X 8179336C84404A5...

Degrafinried, Alaric
0954 Director of Strategic Initiative

X 073CF73A4EA6486...

Short, Carla
Director of Public Works

APPELLANT(S) DID NOT SUBMIT A BRIEF

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)

October 30, 2025

President John Trasviña

Vice President Jose Lopez

Commissioner Rebecca Saroyan

Commissioner Rick Swig

City and County of San Francisco

Board of Appeals

49 South Van Ness, Suite 1475

San Francisco, CA 94103

Subject: Respondent's Brief (Appeal No. 25-039, Males vs. SFPW-BSM)

Dear President Trasviña, Vice President Lopez, Commissioner Saroyan, and Commissioner Swig:

The Department of Public Works ("Public Works") submits this respondent's brief for Appeal No. 25-039.

Introduction

The Board of Appeals should uphold Public Works' revocation of the vending permit of appellant Paul Males, also known as "Rusbel Paul Males" or "Rusbel Males-Andrago" ("Appellant") based on Appellant's multiple failures to comply with the City's vending laws, regulations, and requirements. Article 5.9 of the Public Works Code authorizes the Public Works Director to "revoke or suspend a Vendor's permit" upon the occurrence of a "fourth

violation within twelve months of the first violation.” (S.F. Pub. Works Code Sec. 5.9-11(c)(1)(D).)

The record establishes that Appellant committed four violations within a twelve-month period, and Appellant’s extensive record of noncompliance constitutes a sufficient basis for the Public Works Director to revoke Appellant’s permit. Appellant’s claims that other vendors have failed to comply with the City’s vending laws, regulations, and requirements does not excuse Appellant’s noncompliance. Moreover, Appellant’s bald claims that Appellant has suffered “selective enforcement” is not legally sufficient to prevail on a legal theory that Appellant suffered unlawful selective enforcement or any other deprivation of Appellant’s rights. Failure to uphold the permit revocation would discourage good faith vendors from obtaining and/or complying with the terms of the required vendor permits while also undermining the City’s ability to enforce its vending laws.

Background Facts

Appellant is known for selling sunglasses and clothing at various locations along the Embarcadero. Between September 20, 2023 and August 17, 2025, Appellant received eleven Notices of Violation, comprised of ten citations for violating Article 5.9 of the Public Works Code and one warning. With respect to the current permit revocation, Appellant committed four violations within a twelve-month period between September 23, 2024 and August 17, 2025. Specifically, Appellant received two Notices of Violation (Citation No. 092324-001-001 and 092324-001-002) for multiple violations at different times of the day on September 23, 2024, one Notice of Violation (Citation No. 040525-001-004) on April 5, 2025, and another Notice of Violation (Citation No. 081725-005-001) on August 17, 2025. On this basis, on August 19,

2025, the Street Vendor Enforcement Task Force requested that Public Works revoke Appellant's street vendor permit.

At the Director's hearing considering the revocation of the Appellant's vendor permit, on September 10, 2025, Public Works representative Emily Khin presented photographs of Appellant's vending activities and the Notices of Violation, noting Appellant's "multiple citations upon violations of Article 5.9 and Administrative Regulations for Mobile Vendors on the Port of San Francisco." (See Public Works Slide Presentation, Street Vendor Permit 24VDR-00149 Revocation, attached as Exhibit 4, at 2.) In addition, Public Works stated, "the Appellant has violated program rules and regulations on multiple accounts; exceeding the permitted space, vending without a permit, and not being on site" and "Public Works seeks to maintain the revocation of the permit due to non-compliance with Article 5.9 and Port Administrative Regulations for Mobile Vendors." (Exhibit 4 at 10.) Appellant presented reasons Public Works should not revoke his permits, highlighting other vendors' purported misdeeds without contesting the Notices of Violation that Public Works issued to Appellant. Following the hearing, Public Works upheld the revocation of Appellant's street vendor permit on September 18, 2025.

Now, Appellant requests the "reinstate[ment] of [Appellant's] vendor permit," "correct[ion of] selective enforcement," and the "equal treatment of all vendors." (Appellant's Presentation, "Appeal of Permit Revocation," attached as Exhibit 5, at 68.)

San Francisco Vendor Permit Requirements

In San Francisco, no person may "Vend" on any City property without obtaining a permit pursuant to Article 5.9 of the Public Works Code (attached as Exhibit 1). To Vend includes "[t]o

sell, offer for sale, expose or display for sale, solicit offers to purchase or lease, or barter Food or Merchandise.” (S.F. Pub. Works Code Sec. 5.9-2.) Vendors in possession of a permit must comply with various requirements in Article 5.9 of the Public Works Code as well as the applicable Public Works Orders and regulations including Public Works Order No. 206887 (the “City Vending Regulations,” attached as Exhibit 2). On property within the jurisdiction of the Port of San Francisco, vendors must also comply with the Port of San Francisco’s Administrative Regulations for Mobile Vendors, dated September 9, 2022 (“Port Vending Regulations,” attached as Exhibit 3, together with Article 5.9 and the City Vending Regulations, the “City Vending Laws”).

Public Works may issue a Notice of Violation for “any violation of Article 5.9, or the Rules and Regulations ... that occurs on a public right-of-way ... or any other street, sidewalk, alley, walkway, or pedestrian path available to the public.” (S.F. Pub. Works Code Sec. 5.9-11(b).) The Port Vending Regulations state: “In addition to prohibitions on the sale of the sale of alcohol, cannabis, other controlled substances, ammunition, animals, counterfeit goods, firearms, or tobacco, which exist in local, state, or federal law, Mobile Vendors are prohibited from Vending any harmful or dangerous items or noise-making devices.” (Port Vending Regulations citing Op. Std. §§3.a – 3.b.)

Violations of the City Vending Laws subject the vendor to a graduated set of administrative fines under state and local law. Within a twelve-month period, vending with a permit but in violation of the City’s rules and regulations may result in a \$100 fine for the first violation, \$200 for the second violation, and \$500 for the third and subsequent violations. (S.F. Pub. Works Code Sec. 5.9-11(c)(2).) “In addition to any other authorized enforcement activity, *the Director may revoke or suspend a Vendor’s permit for the remainder of its term upon a*

fourth violation within 12 months of the first violation.” ((S.F. Pub. Works Code Sec. 5.9-11(c)(1)(D).) (Id. (emphasis added).)

One purpose of permit suspension and revocation is to temporarily prohibit the vendor from vending until suspension concludes or a new permit is issued. Suspension and revocation allow enforcement officials to access the more severe administrative fines related to vending without a permit described above (*compare* S.F. Pub. Works Code Sec. 5.9-11(c)(1) *with* 5.9-11(c)(2)). In cases of repeated warnings and violations that result in no or minimal changes in behavior, permit suspension and revocation are important tools authorized under law to enforce the City Vending Laws and maintain public spaces for the enjoyment of and use by lawful vendors and the public at large.

ARGUMENT

1. APPELLANT ACKNOWLEDGES COMMITTING VIOLATIONS AND DOES NOT CONTEST NOTICES OF VIOLATION.

Appellant does not contest the bases for the aforementioned Notices of Violation. Indeed, Appellant has acknowledged “I step away from my vending space ... but I always come back,” “[He] [e]xceed[s] the space limit, but other vendors also exceed the limit and still have their permits,” and he stopped “selling Sports teams logos,” “attaching metal grids to wooden structures at pier 43 (*sic*),” and “sleeping near vending spaces.” (Exhibit 5 at 4 – 5.)

2. OTHER VENDORS’ NONCOMPLIANCE DOES NOT JUSTIFY APPELLANTS’ NONCOMPLIANCE.

Instead of providing evidence that would exonerate Appellant from the Notices of Violation, Appellant submitted 58 pages of his slide presentation purporting to identify other vendors’ wrongdoing and errors. (Exhibit 5 at 8 – 66.) Appellant’s attempt to divert the Board’s

attention to other vendors' wrongdoing does not absolve Appellant from his numerous and significant violations of the City's Vending Laws.

3. APPELLANT'S CONCLUSORY ALLEGATIONS OF SELECTIVE ENFORCEMENT ARE INSUFFICIENT TO CLAIM APPELLANT'S RIGHTS WERE VIOLATED.

Appellant alleges that he has been "targeted" and that one Public Works' street inspector "has been unfair and intimidating with repeated visits to my space while ignoring the rest of the vendor's violations." (Preliminary Statement for Appeal No. 25-039, attached as Exhibit __, at 3.) Yet Appellant has failed to provide details and to elaborate upon the ways in which this inspector was allegedly "unfair and intimidating." These allegations, without more, do not constitute a claim against the City on the basis of unlawful "selective enforcement."

Courts have recognized the impropriety of "selective" or "discriminatory prosecution" in situations where "others are generally not prosecuted for the same conduct" and "[t]he decision to prosecute this defendant was based upon impermissible grounds such as race, religion or the exercise of constitutional rights." (*Church of Scientology v. C.I.R.* (9th Cir. 1987), 823 F.2d 1310, 1320-1321.) First, despite Appellant's claims, other vendors have been cited on the same grounds as Appellant. For example, appellant Savior Micallef in Board Appeal No. 25-040 also received Notice of Violation claiming that Mr. Micallef's vending apparatus exceeded the space allowed under Mr. Micallef's permit. Second, Appellant has not alleged – and no evidence has been presented to support any claim – that the treatment Appellant received was based on Appellant's race, religion, or exercise of constitutional rights.

In addition, Appellant may be attempting to claim that he suffered unequal treatment in violation of Appellant's rights. The California equal protection clause (Cal. Const., art. I, § 7, subd. (a)) "provides that persons who are similarly situated with respect to the legitimate purpose

of a law must be treated alike under the law.” (*Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal.App.4th 837, 857.) As a matter of law, a plaintiff who does not allege membership in a suspect class or group may state a claim as a “class of one.” (*Id.*) Such a plaintiff must allege that “(1) the plaintiff was treated differently from other similarly situated persons, (2) the difference in treatment was intentional, and (3) there was no rational basis for the difference in treatment.” (*Id.* at 858.) It is “well established” that “individualized discretionary decisions will not support a class of one claim,” particularly when a claim is premised on “the discretion necessarily inherent in enforcing city codes and ordinances as to individual properties containing different violations and different classes and types of owners.” (*Squires v. City of Eureka* (2014) 231 Cal.App.4th 577, 595; see also *Oyler v. Boles* (1962) 368 U.S. 448, 456.)

Here, Appellant has not alleged any facts demonstrating that the City’s actions lacked a rational basis. Indeed, “[p]roving the absence of a rational basis can be an exceedingly difficult task. In some circumstances involving complex discretionary decisions, the burden may be insurmountable.” (*Las Lomas Land Co., supra*, 177 Cal.App.4th at 859.) This burden is especially high in individualized code enforcement cases, and Appellant has failed to meet this burden. (See *Squires, supra*, 231 Cal.App.4th at 595.)

It is well established that “an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion.” (*Heckler v. Chaney* (1985) 470 U.S. 821, 831.) In *Heckler*, the United States Supreme Court recognized that “an agency decision not to enforce often involves a complicated balancing of a number of factors which are peculiarly within its expertise” and the agency “must not only assess whether a violation has occurred, but whether agency resources are best spent on this violation or another, whether the agency is likely to succeed if it acts, whether the particular

enforcement action requested best fits the agency's overall policies, and, indeed, whether the agency has enough resources to undertake the action at all.” (*Id.*) Importantly, the court observed that an agency “generally cannot act against each technical violation of the statute it is charged with enforcing.” (*Id.*) Similarly, due to the limited staff and other resources available for Public Works’ vendor permit enforcement, Public Works must exercise discretion to enforce the City’s Vending Laws most effectively, efficiently, and equitably.

Conclusion

For the reasons set forth herein, the Board of Appeals should not grant this appeal. While Appellant’s efforts to make his space “smaller and smaller” and though Appellant claims he has “only 2 citations this year,” Appellant’s conduct to date, including conduct and violations of the City’s Vending Laws that prompted Appellant to receive four Notices of Violation, warrant the revocation of Appellant’s permits. (See Exhibit 5 at 5.) San Francisco’s successful economic recovery and resurgence as a desirable vacation destination requires partnership and cooperation between the City, San Francisco residents, and private businesses such as the Appellant. San Francisco’s recovery will be stymied and delayed without meaningful enforcement of the City’s Vending Laws against those, like Appellant, who chronically violate the City’s Vending Laws.

EXHIBIT 1

San Francisco Public Works Code, Article 5.9
("PERMIT REGULATIONS FOR VENDORS")

ARTICLE 5.9:

PERMIT REGULATIONS FOR VENDORS

Sec. 5.9-1.	General Background and Findings.
Sec. 5.9-2.	Definitions.
Sec. 5.9-3.	Permit Required; Mandatory Display; Proof of Purchase.
Sec. 5.9-4.	Vendor Permit Type.
Sec. 5.9-5.	Permit Application; Fee.
Sec. 5.9-6.	Vending Restrictions and Requirements.
Sec. 5.9-7.	Exemptions.
Sec. 5.9-8.	Delegation of Authority for Rulemaking.
Sec. 5.9-9.	Good Neighbor Policies.
Sec. 5.9-10.	Outreach and Education.
Sec. 5.9-11.	Enforcement.
Sec. 5.9-12.	Reporting Required.
Sec. 5.9-13.	Undertaking for the General Welfare.
Sec. 5.9-14.	Severability.

SEC. 5.9-1. GENERAL BACKGROUND AND FINDINGS.

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

(b) United Nations Plaza (“UN Plaza”) is a 1.66-acre public square that is a key entrance point to the City’s busy Civic Center. UN Plaza has longstanding public safety, health, and welfare challenges due in part to unregulated vending and criminal activity in the area. Unregulated vending contributes to congestion at UN Plaza resulting in the obstruction of pedestrian and chair-user access to the public right-of-way, obstruction of first responders’ lines of sight, and concealment of unlawful activity. Unregulated vending at UN Plaza fuels unlawful activity that leads to a high volume of 9-1-1 calls, incident reports, and arrests in and around UN Plaza’s immediate vicinity, including 4,046 calls for service, 168 incident reports, and 62 arrests at UN Plaza, in 2021 alone.

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

(d) UN Plaza is heavily patronized year-round. Pre-pandemic, about 25,000 daily weekday San Francisco Municipal Railway (“MUNI”) and Bay Area Rapid Transit (“BART”) public transit riders would access the Civic Center station near UN Plaza, and about 3,500 City, state, and federal employees would make their way to work by passing through UN Plaza. Ridership on BART and Muni have continued to rebound since the depths of the pandemic, particularly in 2021, as much of the economy has reopened and many members of the community have received the COVID-19 vaccine. Further, congestion at UN Plaza is heightened on days that the Market is in operation.

(e) 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.

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

(g) 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 consumers’ 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.

(h) The City seeks to prioritize health and safety while expanding economic opportunities for those who aspire to vend lawfully in a manner consistent with SB 946. The City recognizes that regulation of vending benefits the City as a whole, as it leads to orderly commerce and safeguards public health. The City seeks to provide vendors with the ability to operate in a safe and professional manner that enhances the public’s experience while providing increased economic opportunities. To achieve these goals, the City needs to

restrict and limit vending in certain areas and under certain circumstances to prevent or minimize public health, safety, and welfare concerns, while ensuring that the permit application process is accessible to all vendors, including vendors with limited business experience and limited English proficiency.

(i) In 2021, the Port of San Francisco initiated a vending program pursuant to Ordinance No. 118-21 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, to 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, which program shall be discontinued and merged with the vending program authorized for the City in this ordinance.

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

■ (Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

SEC. 5.9-2. DEFINITIONS.

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

Administrative Citation. An administrative fine for a violation of this Article 5.9, as described in Section 5.9-11.

Certified Farmers' Market. A farmers' market operated in accordance with California Health Code Section 440(d) and 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 Department of Public Works.

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

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

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

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

Merchandise. Any item that is neither Food, nor unpackaged food, nor food that is cooked or prepared onsite, and that is not an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code.

Notice of Violation. A Notice of Violation for a violation of this Article 5.9, as described in Section 5.9-11.

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

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

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

Stationary Vendor. A 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, as they may be amended.

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

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 Vendor includes but is not limited to Roaming Vendor, Sidewalk Vendor, and Stationary Vendor. In addition, if a Vendor Vends as an employee or agent of another person or entity, that person or entity is also a Vendor. The term Vendor does not include a person or entity that Vends from a Mobile Food Facility as defined by Public Works Code Section 184.80.

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

■ (Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022; amended by Ord. [90-24](#), File No. 240056, App. 5/10/2024, Eff. 6/10/2024; Ord. [171-24](#), File No. 240439, App. 7/12/2024, Eff. 8/12/2024)

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

(a) No person may Vend on any City property, 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, except on property regulated by Article 7 of the Park Code, without first having obtained either a Roaming Vendor permit or a Stationary Vendor permit pursuant to this Article 5.9.

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

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

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022; amended by Ord. [90-24](#), File No. 240056, App. 5/10/2024, Eff. 6/10/2024; Ord. [171-24](#), File No. 240439, App. 7/12/2024, Eff. 8/12/2024)

SEC. 5.9-4. VENDOR PERMIT TYPE.

(a) The Department shall issue Vending permits to applicants under Section 5.9-5. Each Vendor permit must:

- (1) Include a photograph of the Vendor to prevent the sale or transfer of the permit.
- (2) Identify whether the permit authorizes the permittee to Vend Food, Vend Merchandise, or Vend both Food and Merchandise, except as provided in subsection (b).

(b) Notwithstanding subsection (a), the Department may issue a time-limited 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 Vendors as further described in the permit.

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022; amended by Ord. [90-24](#), File No. 240056, App. 5/10/2024, Eff. 6/10/2024; Ord. [171-24](#), File No. 240439, App. 7/12/2024, Eff. 8/12/2024)

SEC. 5.9-5. PERMIT APPLICATION; FEE.

(a) **Department Permit.** The Department shall establish a uniform application process through which a Vendor may request, and upon approval receive, a Vendor permit. The application process shall be easily accessible to individuals with limited business experience and limited English language proficiency. The permit application shall require:

- (1) The name, phone number, and current mailing address of the Vendor.
- (2) A description of the Food and/or Merchandise that the Vendor intends to Vend.
- (3) The locations where the Vendor requests to Vend.
- (4) An attestation by the Vendor that the Vendor procured the Food and/or Merchandise, whether new or used, through a transaction authorized by law, including but not limited to, bartering and foraging.
- (5) For any Food and/or Merchandise to Vend, whether new or used, an attestation by the Vendor that the Vendor will maintain proof of ownership or authorization to sell the Food and/or Merchandise and will produce the documentation of same immediately upon request.
- (6) A certification by the Vendor that to the Vendor's knowledge and belief, the information submitted for the permit application is true.
- (7) Proof of Identity, as described in Administrative Code Section 95.2 and as it may be amended, of the Vendor.
- (8) If the Vendor is an agent of an individual, company, partnership, corporation, or other entity (each a "principal"), the name and business address of the principal.
- (9) The Vendor's California seller's permit number (California Department of Tax and Fee Administration sales tax number), if applicable.
- (10) Any other information deemed relevant by the Department.

(b) **Confidentiality of Permit Application Data.** The Department shall maintain confidentiality of Vendor's personal identifying information to the extent permitted by law. The Department shall inform applicants about the circumstances under which the information they provide in the application could become public or be disclosed.

(c) **Additional Permit Conditions.**

(1) Each permit that applies to a Vendor that uses an energy source, including but not limited to propane, butane, or battery, shall be conditioned on the Vendor obtaining approval from the 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 Fire Marshal.

(2) Each permit for Food Vending shall be conditioned on the 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.

(3) Each Vendor permit issued pursuant to this Article 5.9 and the approval, as applicable, of the Fire Marshal (see subsection (c)(1)) and/or the Department of Public Health (see subsection (c)(2)), shall authorize inspection by the City of the Vendor's operations at any time during operating hours, as long as the inspecting agency provides at least 48-hours' notice.

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

(d) **Permit Fee.** The Department shall identify the reasonable regulatory costs for the administrative enforcement and any adjudication of this Article 5.9, 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 Vendor permit and permit renewal an amount that does not exceed the reasonable regulatory costs described in this subsection (d), 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 5.9, which fee shall be waived in accordance with California Business and Professions Code Section 16102, as it may be amended, and as applicable. After consulting with the Controller, and by no later than two months after the effective date of the ordinance in Board File No. 211292 establishing this Article 5.9, the Department shall publish on its website a schedule of all fees charged by the Department under this Section 5.9-5, and shall submit that fee schedule to the Clerk of the Board of Supervisors for inclusion in Board File No. 211292. The permit fee shall be adjusted annually in accordance with Public Works Code Section 2.1.2.

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

(e) **Permit Fee Waiver.** The Department shall adopt regulations via Director's Order authorizing the Director to fully waive fees for new permits and partially waive fees for permit renewals, for reasons including, but not necessarily limited to, economic hardship and a Vendors' status as a nonprofit corporation exempt from federal taxation under 26 U.S.C. Section 501(c)(3), as it may be amended. The partial waiver of renewal fees shall be on a sliding scale and the amount waived shall be determined based on the economic hardship of each individual Vendor or the financial circumstances of a nonprofit corporation.

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

(g) Permit Renewal.

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

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

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

(h) Application Denial; Appeal.

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

- (A) the applicant failed to provide any required information or prerequisite approvals identified in this Section 5.9-5, 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 5.9-11, 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;
- (E) the proposed Vending location may lead to or exacerbate objective safety, health, and welfare concerns; or
- (F) 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 Vendor in a lawful manner.

(2) The applicant may appeal the Department's rejection of an application for a Vendor permit in writing to the Director within 30 days of the rejection. The Director may investigate the rejection and consider any claims by the applicant, and shall either affirm or reverse the rejection within a reasonable time following receipt of the written appeal. Upon denial of a permit by the Director, an applicant may appeal the Director's decision, to the Board of Appeals, in accordance with Section 8 of the Business and Tax Regulations Code, as amended from time to time.

SEC. 5.9-6. VENDING RESTRICTIONS AND REQUIREMENTS.

(a) **Certified Farmers' 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 that authorizes the temporary use of, or encroachment in or 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 shall also be provided to any Vendor whom the Director previously specifically permitted to operate within the immediate vicinity of the temporary special permit during the period that the temporary special permit is effective.

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

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

(e) **Residential Zones.** Stationary Vendors may not operate in any RH (Residential, House) districts as defined in the Planning Code.

(f) **Hours of Operation.** Each Vendor permit shall include permissible Vending hours, which shall be consistent and not in conflict with any limitations on hours of operation imposed by federal, state, and City laws, including but not limited to the Police Code and the Planning Code Zoning Control Tables, on other businesses or uses on the streets on which the Vendor operates. Each Vendor shall not Vend at times other than the hours authorized in the Vendor's permit.

(g) **Business Registration.** Each 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.

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022; amended by Ord. [90-24](#), File No. 240056, App. 5/10/2024, Eff. 6/10/2024; Ord. [171-24](#), File No. 240439, App. 7/12/2024, Eff. 8/12/2024)

SEC. 5.9-7. EXEMPTIONS.

(a) This Article 5.9 does not govern:

- (1) Food products being sold as part of a fundraiser by a non-profit entity; or
- (2) the sale of an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code; or
- (3) the operation of, or any sale within, a Certified Farmers' Market; or
- (4) the operation of, or any sale within, a permitted Swap Meet; or
- (5) Vending on property regulated by Article 7 of the Park Code; except UN Plaza and Hallidie Plaza; or

(6) Vending within areas permitted under Article 6 (Interdepartmental Staff Committee on Traffic and Transportation ("ISCOTT")) of the Transportation Code.

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

■ (Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

SEC. 5.9-8. DELEGATION OF AUTHORITY FOR RULEMAKING.

(a) **Rules and Regulations Authorized.** The Department, in consultation with the Office of Economic and Workforce Development and the Human Rights Commission, may adopt Rules and Regulations related to the administration and enforcement of this Article 5.9, in order to further the purposes of this Article 5.9, and to promote public health, safety, or welfare. The Rules and Regulations may include but are not necessarily limited to:

- (1) Standards for approving permits.

(2) Additional requirements regulating the time, place, and manner of Vending, including prohibiting Vending in certain locations, if the Rules and Regulations are directly related to objective health, safety, or welfare concerns.

(3) Notice requirements of new Rules and Regulations regarding the time, place, and manner of Vending, including locations where Vending is prohibited.

(4) The process for granting fee waivers.

(5) Requirements to maintain sanitary conditions.

(6) Requirements necessary to ensure compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), as it may be amended, and other disability access standards.

(7) Requirements necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities.

(8) Requirements necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of a park.

(9) The process for selecting organizations to accept donated goods pursuant to Section 5.9-11(f)(3).

(10) Any other Rules and Regulations in order to further the purposes of this Article 5.9 and promote public health, safety, or welfare.

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

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022; amended by Ord. [90-24](#), File No. 240056, App. 5/10/2024, Eff. 6/10/2024; Ord. [171-24](#), File No. 240439, App. 7/12/2024, Eff. 8/12/2024)

SEC. 5.9-9. GOOD NEIGHBOR POLICIES.

(a) Vendors shall operate in accordance with the following good neighbor policies:

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

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

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

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

(b) The Director may adopt additional and/or more specific good neighbor policies as long as they are consistent with the principles in this Section 5.9-9.

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

SEC. 5.9-10. OUTREACH AND EDUCATION.

(a) The Department shall conduct extensive outreach and education in a manner that is accessible to all Vendors, including Vendors with limited business experience and limited English proficiency, in order to provide Vendors sufficient notice regarding the requirements of this Article 5.9, including information about the application process and good neighbor policies, as well as any applicable Rules and Regulations.

(b) The Department shall also provide Vendors information about:

(1) How to obtain assistance filling out the permit application.

(2) Workforce development opportunities and job placement programs.

(c) The Department shall conduct extensive outreach and education prior to the operative date for enforcement of this Article 5.9 as stated in Section 5.9-11(a).

(d) If this Article 5.9 is modified to include new requirements or if the Department adopts new Rules and Regulations, the Department shall conduct additional outreach and education for a period of 4 weeks in a manner that is accessible to all Vendors, including Vendors with limited business experience and limited English proficiency, before Enforcement Officials may issue a Notice of Violation concerning a new requirement or new Rule and Regulation pursuant to Section 5.9-11.

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

SEC. 5.9-11. ENFORCEMENT.

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

(b) **Notice of Violation.** Any Enforcement Official may issue a Notice of Violation for any violation of this Article 5.9 , or of the Rules and Regulations that interpret and implement this Article, and as described in subsection (c) below, 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, or pedestrian path available to the public. The Notice of Violation shall include: (1) information identifying the Offender, (2) details of the violation, (3) the name or identifying number of the Enforcement Official, (4) a general description of administrative fines, and payment method and options, including the ability-to-pay determination, (5) a general description of the appeals process, (6) information about the requirements of this Article 5.9 and any applicable Rules and Regulations that interpret and implement this Article, (7) information about who to contact for assistance related to this Article 5.9 , and (8) information about workforce development opportunities and job placement programs.

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

(1) Vending that violates a requirement in this Article 5.9 or in the Rules and Regulations that interpret and implement this Article, other than failure to possess a valid license or permit shall be subject to the following:

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

(B) An administrative fine equal to \$200 for a second violation within 12 months of the first violation.

(C) An administrative fine equal to \$500 for a third violation, and each subsequent violation, within 12 months of the first violation.

(D) In addition to any other authorized enforcement activity, the Director may revoke or suspend a Vendor's permit for the remainder of its term upon a fourth violation within 12 months of the first violation.

(2) Vending without a valid permit shall be subject to the following:

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

(B) An administrative fine equal to \$500 for a second violation within 12 months of the first violation.

(C) An administrative fine equal to \$1,000 for a third violation, and each subsequent violation, within 12 months of the first violation.

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

(3) Failure to pay an Administrative Citation described in this subsection (c) 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 (c) may not be assessed.

(4) When assessing an Administrative Citation authorized in this subsection (c), 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. The Enforcement Official shall give notice to the Vendor of the right to request an ability-to-pay determination and instructions or other materials for requesting an ability-to-pay determination. The Vendor may request an ability-to-pay determination at any time while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program. The Director's determination shall be final. If the Vendor meets the ability-to-pay criteria, the Department shall accept 20% of the total administrative fine specified in subsection (c)(1) or (c)(2), as applicable, as full satisfaction.

(5) To the extent permitted by State law, the amounts of the administrative fines identified in subsections (A) through (C) of subsections (c)(1) and (c)(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 Director, in consultation with the Controller, may adjust the administrative fine amounts in this Section 5.9-11 each year, without further action by the Board of Supervisors, to reflect changes in the relevant Consumer Price Index.

(6) Within 30 days of issuance, the Vendor shall pay the Administrative Citation unless the Vendor files a written appeal 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 (c)(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 (c)(4). The Director shall consider any claims or defenses by the appellant, and shall issue and mail a written decision on the appeal within a reasonable time of receipt of the written appeal. Within 20 days of the Director's decision upholding a fine in whole or in part, the Vendor shall pay the Administrative Citation. The Vendor may seek judicial review of an Administrative Citation pursuant to subsection (c)(1) in San Francisco Superior Court pursuant to Government Code Section 53069.4.

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

(8) **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.

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

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

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

(B) After the Enforcement Official orders a permitted Vendor to cease Vending, the 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 5.9.

(3) (A) **Verbal Warning Followed By Removal of Food, Merchandise, and Vending Paraphernalia.** If a Vendor fails, within 10 minutes, to remove Food, or Merchandise, or any other Vending paraphernalia from the location following an order to cease Vending, or fails to follow any other orders the Enforcement Official may issue to mitigate safety hazards, the Enforcement Official or the Department may remove any or all of the items. Prior to removal by the Enforcement Official or the Department, the Enforcement Official shall provide the Vendor a verbal warning of the impending removal and impoundment, and shall urge the Vendor to make every effort to remove the items, or cause their removal. The Department shall document in its records the date and time the verbal warning was provided.

(B) **Removal of Food, Merchandise, or Vending Paraphernalia Within 120 Days of Verbal Warning.** Following a verbal warning from the Enforcement Official at any time within a 120-day period, if a Vendor fails to follow an order to cease Vending, or fails to follow any other orders the Enforcement Official may issue to mitigate safety hazards, the Enforcement Official or the Department may remove any or all Food, Merchandise, or any other Vending paraphernalia from the location subject to the order to cease Vending.

(4) Where the Department actually removes any items, the Enforcement Official shall issue an Administrative Citation to the Vendor. The 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 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 (c)(8). Vendor items that have been removed and stored may be recovered by the Vendor 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. If the Vendor filed a written appeal pursuant to subsection (c)(6) and the appeal is not resolved within 90 days, the Department shall continue to store Vendor's items until the appeal is resolved in order to allow Vendor to recover items. After 90 days, or as soon as the Vendor's appeal is resolved if longer than 90 days, the Department shall donate non-Food items to organizations providing services to people who are unhoused, as appropriate. Prior to making any donations, the Department shall adopt regulations governing the process for selecting organizations to accept these donated goods.

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

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

(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 5.9, 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 5.9.

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022; amended by Ord. [90-24](#), File No. 240056, App. 5/10/2024, Eff. 6/10/2024; Ord. [171-24](#), File No. 240439, App. 7/12/2024, Eff. 8/12/2024)

CODIFICATION NOTE

- 1. So in Ord. [90-24](#) and Ord. [171-24](#).

SEC. 5.9-12. REPORTING REQUIRED.

The Department shall report to the Board of Supervisors regarding the implementation of this Article 5.9, annually for the first three years after the effective date of the ordinance in Board File No. 211292 establishing this Article; and once every three years thereafter. The report shall include but not be limited to the following: number of applications; number of permits issued; number of permits renewed; locations approved for Vending; locations excluded from Vending; outreach and education efforts; outreach and education outcomes; number of Notice of Violations issued; number of written warnings issued; number of Administrative Citations issued; fines collected; and outstanding fines.

- (Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

SEC. 5.9-13. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Article 5.9, 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.

■ (Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

SEC. 5.9-14. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Article 5.9, 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 5.9 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.

(Added by Ord. [44-22](#), File No. 211292, App. 3/22/2022, Eff. 4/22/2022)

EXHIBIT 2

Public Works Order No. 206887

("City Vending Regulations")



San Francisco Public Works
General – Director's Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 206887

ADOPTING GUIDELINES FOR THE ISSUANCE OF PERMITS, AND FOR INSPECTION AND ENFORCEMENT OF STREET VENDORS OPERATING WITHIN THE PUBLIC RIGHTS-OF-WAY, EFFECTIVE JULY 28, 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. The Director may require an unobstructed and accessible path of travel that exceeds six feet based on site conditions, including pedestrian volume.
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 Registration and Proof of Ownership:

1. Vendors must clearly display a copy of their credentials, including Business Registration 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 unaltered, original 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 (SFPDH) 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 days and 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 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 three years 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 individual or 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; or
 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; or
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 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.

X

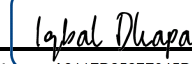
DocuSigned by:



Huff, Nicolas
Bureau Manager

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DocuSigned by:



Ko, Albert J
City Engineer

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DocuSigned by:



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Short, Carla
Interim Director of Public Works

EXHIBIT 3

Port of San Francisco's Administrative Regulations for Mobile Vendors, September 9, 2022

("Port Vending Regulations")

Port of San Francisco
Executive Director
ADMINISTRATIVE REGULATIONS
for
Mobile Vendors

Approved By:  BD2F0B693FFE43F...
Executive Director
Elaine Forbes

on September 9, 2022
Date

1. Authority; Purpose; and Effective Date.

- a. The following Administrative Regulations are promulgated by the Executive Director pursuant to Port Code section 2A.5 and Operational Standards section 5.
- b. The purposes of the Administrative Regulations are to implement and provide site-specific application of the Operational Standards.
- c. The Effective Date of the Administrative Regulations is the date of approval.

2. Definitions.

- a. **Administrative Citation.** An administrative fine for a violation of this Article 2A, as described in Section 2A.8(b). (Port Code §2A.1.)
- b. **Administrative Regulations** means the rules and regulations of the Executive Director of the Port, as may be promulgated or amended from time to time, and which implement and provide site-specific application of the Operational Standards. (Op. Std. §2.a.)
- c. **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. (Port Code §2A.1.)
- d. **City.** The City and County of San Francisco. (Port Code §2A.1.)
- e. **Department.** The Port. (Port Code §2A.1.)
- f. **Director.** The Executive Director of the Port, or the Executive Director's designee. (Port Code §2A.1.)
- g. **Enforcement Official.** Officers, employees, and contractors of the Port, and of such other departments and agencies of the City, as designated by the Director. (Port Code §2A.1; see section 10.b of the Administrative Regulations for delegation.)

h. **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. (Port Code §2A.1.)

i. **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. (Port Code §2A.1.)

j. **Mobile Vendor or 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 Code §2A.1.)

k. **Operational Standards** mean the guidelines and general standards applicable to Mobile Vendors as approved from time to time by the Port Commission. (Op. Std. §2.b.)

l. **Port.** The Port of the City and County of San Francisco. Also, designated as the Department. (Port Code §2A.1.)

m. **Roaming Mobile Vendor.** A Mobile Vendor that moves from place to place and stops intermittently to complete a Vending transaction. (Port Code §2A.1.)

n. **Rules and Regulations.** The Rules and Regulations of Mobile Vendors as described in Section 2A.5 of this Article. (Port Code §2A.1.)

o. **Stationary Mobile Vendor.** A Mobile Vendor that Vends from one or more fixed locations. (Port Code §2A.1.)

p. **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. (Port Code §2A.1.)

q. **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. (Port Code §2A.1.)

r. **Vending Equipment** means all of the materials that a Mobile Vendor uses to Vend in accordance with Section 6 of the Administrative Regulations. Vending

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Equipment includes but is not limited to a pushcart, pedal-driven cart, wagon, or other nonmotorized conveyance, a stand, display, showcase, table, rack, or other movable structure, and any boxes or storage devices containing Food or Merchandise.

- s. **Vendor** means a “Mobile Vendor” as defined above.

3. Permits.

- a. The Real Estate Division of the Port will issue vendor permits through a uniform application process.

- b. Permit Required; Mandatory Display. (Port Code §2A.2.)

- (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.

- c. Mobile Vendor Permit Type. (Port Code §2A.3.)

- (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.

- (c) A Mobile Vendor permit authorizing the permittee to Vend either Merchandise or Food and Merchandise may also Vend an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code if the Mobile Vendor has obtained a Street Artist Certificate under Article 24 of the Police Code.

- d. Permit Fee. (Op. Std. §4.)

The Port shall collect an annual permit fee pursuant to Port Code Section 2A.4, equal to One Hundred Dollars (\$100). 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.

- e. Permit Application. (Port Code §2A.4.)

- (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:

- Vendor.
- (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.

f. Additional Port Permit Requirements.

Pursuant to Port Code sections 2A.4(a)(7) and 2A.4(f)(1)(e), the following requirements, if applicable, are additional preconditions to the issuance of a Mobile Vendor permit. Lapse or revocation of applicable approvals or requirements described below shall, by operation of law, automatically invalidate any Mobile Vendor permit without further action by the Port.

(1) Each Mobile Vendor permit issued pursuant to Article 2A of the Port Code shall require the Mobile Vendor to procure and maintain insurance in coverages and amounts as determined by the City's Risk Manager.

(2) Each Mobile Vendor permit issued pursuant to Article 2A of the Port Code shall require any Mobile Vendor that Vends an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code shall obtain a Street Artist Certificate in accordance with Article 24 of the Police Code.

g. Permit Expiration. (Port Code §2A.4(d).)

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.

4. Vending Hours of Operations.

Vending shall be permitted between the hours of 8:00 am to 9:00 pm in order to maintain the scenic nature and facilitate the public's use and enjoyment of the San Francisco Bay and recreational opportunities. (Op. Std. §3.e.)

5. Vending Location.

a. Certified Farmer's Market or Swap Meet. (Port Code §2A.5(a).)

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. (Port Code §2A.5(b).)

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. Stationary Mobile Vendors.

(1) To immediately implement Operational Standards 3.a and 3.b, Stationary Mobile Vendors will only be permitted in designated vending locations established by marking stalls on the pavement, and identified on a map posted on the Port's website of stationary Vending locations and the number of stalls at each location.

(2) Commencing in July 2022, Vending stalls at the Pier 45, Pier 43, Powell and The Embarcadero, and Pier 1/2 locations (Stalls A-1, A-2, B-1, B-2, B-3, C-1, C-2, G-1 and G-2) will be allocated according to the process and under the rules set forth in Attachment A. Vending stalls at all other stationary Vending locations may be used on a first come, first served

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basis for each day. Vendors must remove all Vending Equipment and all other belongings from the stall at the end of each day. No Vendor may use the same stall for two consecutive days, even if they are the first to arrive on the second day. No individual vendor may use two stalls at the same time.

6. Vending Equipment.

a. Vending is restricted to non-motorized conveyances, stands, or pushcarts. Vending is not allowed from an automobile regardless of whether the automobile is parked in a lawful parking space. (Port Code §2A.1.)

b. Vending Equipment may not be more than 10 feet in length, 10 feet in depth, and 10 feet in height, including wheels, axles, umbrellas, tents, or canopies, and other appurtenances. When in use, the umbrella, tent, or canopy shall not exceed 10 feet in height as measured from ground level to its highest point. The umbrella, tent, or canopy must be made of a sturdy and safe material and must be attached and anchored to the Vending Equipment in such a way that sudden bursts of wind will not dislodge it. (Op. Std. §§3.a. & 3.b.)

c. A Roaming Mobile Vendor may have no more than one (1) umbrella that complies with the requirements in Administrative Regulation Section 6.b. The umbrella cannot be attached to any public or private fixture, such as the sidewalk, street furniture, fence, rail, bench, bike rack, tree, pole, sign, or other publicly-owned object. (Op. Std. §§3.a. & 3.b.)

d. No connection to external power, piping, or plumbing is allowed. The Vending Equipment must be entirely self-contained.

e. Signage is permitted only if attached to the Vending Equipment or the Mobile Vendor's person. Signage may not be attached to any public or private fixture, such as the sidewalk, street furniture, fence, rail, bench, bike rack, tree, pole, sign, or other publicly-owned object. (Op. Std. §§3.a – 3.b.)

f. Vending Equipment must not lean against or attach to a permanent building or structure.

g. Each Stationary Mobile Vendor shall be limited to two (2) chairs. The chairs may be placed behind or next to (but not in front of) the Vending Equipment. (Op. Std. §3.a.)

h. Mobile Vendors are prohibited from placing Vending Equipment in a parking stall or a designated parking area for automobiles, bicycles, scooters, pedicabs or other mobility devices. (Op. Std. §§3.a – 3.c.)

i. Food and Merchandise must be securely fastened to or secured within the Vending Equipment. Mobile Vendors must ensure that sudden bursts of wind will not dislodge Food or Merchandise. (Op. Std. §§3.a – 3.c.)

j. Mobile Vendors shall not leave Vending Equipment, or Food or Merchandise, unattended. For the purposes of these Administrative Regulations, unattended means that the Mobile Vendor is not within 10 feet of the Vending Equipment and/or the Food or Merchandise.

k. Vending Equipment shall not be chained or fastened to the sidewalk, street furniture, fence, rail, bench, bike rack, tree, pole, sign, or other publicly-owned object. (Op. Std.

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§§3.a – 3.c.)

l. Mobile Vendors must display their Port-issued Mobile Vendor permit on their Vending Equipment when operating. To the greatest extent feasible, the Permit shall be placed on the upper left-hand corner of Vending Equipment on the side that faces the public or is nearest the path of pedestrian travel. (Port Code §2A.2(b).)

m. Mobile Vendors must maintain, possess, and display or show all local authority permits required by either the State or City.

n. Food or Merchandise shall not be displayed directly upon a street, sidewalk, pathway, pier, wharf, or grass or landscaping, or other structure (street furniture, fence, rail, bench, bike rack, tree, pole, sign, or other publicly-owned object), or any public place. (Op. Std. §§3.a – 3.b.)

o. Stationary Vending Equipment shall be parallel to the curb, with the longest side of the Vending Equipment parallel to the curb.

p. Stationary Mobile Vendors shall store any Food and Merchandise, and any accessory items entirely within or beneath the Vending Equipment. Food, merchandise, and any accessory items shall not be stored or piled alongside, behind, or in front of the Vending Equipment. (Op. Std. §§3.a – 3.b.)

q. In addition to prohibitions on the sale of alcohol, cannabis, other controlled substances, ammunition, animals, counterfeit goods, firearms, or tobacco, which exist in local, state, or federal law, Mobile Vendors are prohibited from Vending any harmful or dangerous items or noise-making devices. (Op. Std. §§3.a – 3.b.)

r. No Mobile Vendor may Vend in any location that would reduce the clear path of travel below the minimum needed to allow adequate circulation. This minimum clearance shall be 16 feet on the Embarcadero Promenade due to its high pedestrian volumes, or 6 feet elsewhere on Port property.

s. All applicable parking regulations shall be observed.

t. Due to high pedestrian volume, no Mobile Vendor may Vend within any Port property within the Oracle Park Special Event Area defined by SFMTA during the two hours immediately before an event and the two hours immediately after an event, unless written consent from SFMTA is first obtained.

u. Mobile Vendors shall not make excessive noise and are prohibited from using speakers, amplifiers, musical instruments, or noise-making devices. (Op. Std. §§3.a – 3.b.)

7. Energy Sources.

a. No Mobile Vendor shall use any power source that poses a fire or public safety hazard or wet cell battery with removable fill caps. (Op. Std. §§3.a – 3.b.)

b. No Mobile Vendor shall connect to any building, vehicle, or any City or Port power source. (Op. Std. §§3.a – 3.b.)

8. Trash, Recycle, Compost, and Other Debris.

- a. Mobile Vendors are responsible for clean-up and removal of any Food or Merchandise, and any item, package, refuse, waste, litter or other materials occurring because of or related to Vending Food or Merchandise.
- b. Mobile Vendors are prohibited from placing any liquid or solid waste, or debris of any kind, in Port trash, recycle, or compost receptacles.
- c. Mobile Vendors must bring their own vermin-proof trash receptacles and remove any and all waste, refuse and litter collected or discarded as a result of preparing, selling or consuming food items or merchandise on Port property.

9. Good Neighbor Policies. (Port Code §2A.7.)

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.

10. Enforcement and Appeals.

- a. Port Code §2A.8.
- (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.

b. Identification of Enforcement Officials. The following individuals (“Enforcement Officials”) are empowered to issue a Notice of Violation and Administrative Citation for any violation of Port Code Article 2A, the Operational Standards, or the Administrative Regulations:

- (1) Port Property Managers
- (2) Port Wharfingers
- (3) Port Security and Emergency Planning Manager and 0931 Proposition F vending enforcement personnel reporting to such Manager and/or the Assistant Port Director
- (4) Agents or employees of Allied Security, or similar Port security services contractor, when assigned to patrol Port property or Port projects.

c. Notice of Violation.

(1) To ensure the accuracy of Administrative Citations, Enforcement Officials, upon witnessing a Vendor violate Port Code Article 2A, the Operational Standards, or the Administrative Regulations, may issue a Notice of Violation to the Vendor. The Notice of Violation shall include: (i) information identifying the Offender, (ii) details of the violation, (iii) the name or identifying number of the Enforcement Official, and a general description of (iv) administrative fines, payment method and options, including the ability-to-pay determination, (v) the appeals process.

(2) The Port will use the information included in a Notice of Violation to issue an Administrative Citation to the Vendor within 15 calendar days of issuing the Notice of Violation.

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

11. Amendment, Replacement, and Waiver of Administrative Regulations.

a. The Executive Director may amend, replace, or otherwise alter any of the Administrative Regulations in conformance with local and state law at any time and as needed to further the purposes of the Operational Standards, Article 2A of the Port Code, and in accordance with state law. Note, the following sections of the Administrative Regulations are excerpts of the Port Code or Operational Standards and may not be amended by the Executive Director: 2.a – 2.q, 3.b – 3.e (excluding 3.c(c)),

3.g, 5.a – 5.b, 9, and 10.a, inclusive. (Op. Std. §5.a.)

b. Any revisions to the Administrative Regulations shall not take effect until the Administrative Regulations have been published on the Port's website and adequate signage informing the public and Mobile Vendors of the applicable Administrative Regulations are posted. (Op. Std. §5.b.)

c. The Executive Director may temporarily waive application of any Administrative Regulation. Waiver shall be documented in writing and identify how the waiver implements or furthers one or more of the purposes of the Operational Standards or of local or state law.

ATTACHMENT A
VENDING STALL ALLOCATION PROCESS

All stalls are available on a first come first served basis except for the following locations: Pier 45 (A-1, A-2), Pier 43 (B-1, B-2, B-3), Powell & The Embarcadero (C-1, C-2) and Pier 1/2 (G-1, G-2) which will be subject to the following allocation process on Fridays, Saturdays and Sundays.

Port staff will allocate stalls to permitted vendors on a monthly basis via the following steps:

1. Port staff will ask each applicant who satisfies all permit issuance requirements to indicate if the permitted vendor would be interested in being scheduled for a vending stall at one of the locations listed above on a Friday, Saturday, or Sunday. Vendors may enter their names in the lottery for each, any, or all of the four locations:
Pier 45
Pier 43
Powell & The Embarcadero
Pier 1/2
A vendor may communicate at any time to Port staff that such vendor is no longer interested in joining lotteries for each, any, or all of the four locations; such vendor will be removed as requested.
2. Prior to 10am on the date two days before the first Friday to be scheduled (the "Lottery Date") Port staff will assemble a list of all vendors interested in participating in the lottery for each of the spaces listed above. On the Lottery Date, Port staff will hold a blind drawing to assign all vendors interested in each respective location a number from 1 to "n" for each location ("n" equaling the number of interested vendors in each location).
3. Port staff will perform the lottery drawings for each location in the following order: first for the location with the greatest number of vendors entered for the lottery (*i.e.*, the highest "n"); second for the location with the second greatest number of vendors; etc., until the lottery is completed for the location with least number of interested vendors. If there is an equal number of vendors that have entered their names into the lottery for more than one location, then the lotteries shall be held in order of the northernmost location to the southernmost location.
4. Using numbers assigned in the blind drawing for each respective location, Port staff will allocate vendors to each stall per day in numerical order for the lottery period (as shown in the following example lottery table):

Vendor Number Assigned in Each Location Lottery	Lottery For Most- Requested Location (Date)	Lottery for the 2nd Most-Requested Location (Date)	Lottery for the 3rd Most-Requested Location (Date)
1	A-1 (1st Friday)	B-1 (1st Friday)	C-1 (1st Friday)
2	A-2 (1st Friday)	B-2 (1st Friday)	C-2 (1st Friday)
3	A-1 (1st Saturday)	B-3 (1st Friday)	C-1 (1st Saturday)
4	A-2 (1st Saturday)	B-1 (1st Saturday)	C-2 (1st Saturday)
5	A-1 (1st Sunday)	B-2 (1st Saturday)	C-1 (1st Sunday)
6	A-2 (1st Sunday)	B-3 (1st Saturday)	C-2 (1st Sunday)
Etc.	A-1 (2nd Friday)	B-1 (1st Sunday)	C-1 (2nd Friday)

5. Conflicting Allocations.

As set forth in Section 5.c.2 of the Regulations, no vendor may occupy two vending stalls at the same time. Accordingly, Port staff will take steps to ensure that no vendor is assigned to two stalls on the same day. During the second and subsequent lotteries, if a vendor has previously been assigned to a location with greater demand for the same day, then the next vendor without a conflict from prior location-based lotteries shall be assigned the stall in the second or subsequent lottery. The vendor with a conflict would be assigned the next available date that does not have a conflict, and assignments would proceed in that order from there unless and until there is another date with a conflict.

For example and with reference to the lottery table above: If Vendor X was assigned number “1” in the first lottery (*i.e.* assigned vending stall A-1 on the first Friday) and Vendor X also entered the third lottery and was assigned number “2,” Vendor X would be ineligible for assignment to stall C-2 and the next vendor number without a conflicting allocation would be assigned to that stall (*e.g.*, vendor number “3” would be assigned to stall C-2 for the first Friday). Vendor X would be assigned to stall C-1 for the first Saturday, vendor number 4 would be assigned to stall C-2 for that day and stall allocations would continue until all available dates and stall locations were allocated for the lottery period, with further conflicts being resolved in the same manner.

6. Upon completion of the scheduling process, Port staff will provide the final schedule to vendors, PMs, Wharfingers, any private security personnel in contract with Port, and interested Port staff.

Port staff will repeat the lottery process for the four locations on the date that is two days before the first Friday to be scheduled. If that date is a City holiday or the Wednesday before Thanksgiving, step 1 will be performed by the preceding Tuesday.

Final review draft

6/14/22

If a Vendor does not occupy its stall by 10am on the Vendor's assigned day, such stall shall be available on a first-come, first-served basis to any permitted Stationary Mobile Vendor, provided Vendor did not utilize the same stall on the immediately preceding day.

EXHIBIT 4

Public Works Slide Presentation

Street Vendor Permit 24VDR-00149 Revocation



Street Vendor Permit 24VDR-00149

Revocation

Appellant: Rusbel Paul Males

Public Works Representative: Emily Khin

Background

- Appellant has received multiple citations upon violations of Article 5.9 and Administrative Regulations for Mobile Vendors on the Port of San Francisco
- Complaints have been received regarding the appellant camping at the vending spots overnight
- August 19, 2025 – Street Vendor Enforcement Task Force requested the revocation of Rusbel Paul Males's Street Vendor Permit, 24VDR-00149

Reasons for Violations

- Per Article 5.9-3 a permit is required to vend within the public right of way and the vendor must display the permit and provide proof of ownership.
- Per Port Administrative Regulations for Mobile Vendors, Vending Equipment may not be more than 10 feet in length, 10 feet in depth, and 10 feet in height, including wheels, axles, umbrellas, tents, or canopies, and other appurtenances.
- Per Port Administrative Regulations for Mobile Vendors, Mobile Vendors shall not leave Vending Equipment, or Food or Merchandise, unattended. For the purposes of these Administrative Regulations, unattended means that the Mobile Vendor is not within 10 feet of the Vending Equipment and/or the Food or Merchandise.

Citations 022524-007-005 and 030724-008-001

City and County of San Francisco Public Works Bureau of Street and Mapping
49 South Van Ness Avenue, 3rd Floor, San Francisco CA 94133
Citation Number: 022524-007-005

Date: 02/25/24
Inspection Time: 1:55 pm
Notification Time: 1:55 pm
Location: Public Works Permit 33
Complainant No.:
Inspector Badge Number: 607 Phone: (415) 271-2000

Issued to: Paul Males
Company: [Redacted]
Phone: [Redacted]

NOTICE OF VIOLATION: By service of this NOTICE OF VIOLATION, which you are receiving as the owner, contractor, official representative, agent or responsible party, you are hereby notified that you are in violation of the City ordinance(s) identified below. For further instructions and notification, please see reverse of side of this notice of violation. **Contact Inspector for verification when all Code requirements are met.**

Code Section (see reverse of form for applicable code section)	Description, including manner in which violation is to be remedied (i.e., "Owner's government. Remedies shall be limited to permit or stoppage of work.")	Deadline to correct (A, B, C, D, E, or F as provided)	Administrative Penalty or Fine if not corrected	Date of Re-inspection / Completion	Inspector Initials
1 Public Works Code § 5.0-3 Order No.	Unpermitted Vending / No Permit Displayed Refusal to Cease Vending-Relocate Failure to Provide Proof of Ownership Non-Compliant Display / Occupancy	Immediate	\$250 - 1st \$500 - 2nd \$1,000 Each Additional	Re-inspected: <input type="checkbox"/> Corrected <input type="checkbox"/> Not-corrected Final Correction:	
2				Re-inspected: <input type="checkbox"/> Corrected <input type="checkbox"/> Not-corrected Final Correction:	

I acknowledge receipt of proper notice and understand if corrective action is not taken to remedy the violation, the owner, contractor, official representative, agent or responsible party may be subject to fines or penalties in accordance with the San Francisco Municipal Code. I do not dispute this notice, nor any of the corrective actions required or penalties levied.
Name (Printed): Paul Males Signature: [Redacted] Date: 2/27/24

I am over the age of 18 years and not a party to this action. I am employed by the City & County of San Francisco and the State of California and the City & County of San Francisco that on (Month, Day) February, 25 of (Year) 2024. I personally served: ☒ I served via email (Name(s) of Violator(s): Paul Males) I served via certified mail: ☐ I served via email: ☐
Issued and served by: [Redacted] Department: Public Works Phone: (415) 271-2000

Thursday, March 7, 2024 at 1:48:07 PM
San Francisco CA 94133
United States

City and County of San Francisco Public Works Bureau of Street and Mapping
49 South Van Ness Avenue, 3rd Floor, San Francisco CA 94133
Citation Number: 022524-007-005

Date: 02/25/24
Inspection Time: 1:55
Notification Time: 1:55
Location: Public Works Permit 33
Complainant No.:
Inspector Badge Number: 607 Phone: (415) 271-2000

Issued to: Paul Males
Company: [Redacted]
Phone: [Redacted]

NOTICE OF VIOLATION: By service of this NOTICE OF VIOLATION, which you are receiving as the owner, contractor, official representative, agent or responsible party, you are hereby notified that you are in violation of the City ordinance(s) identified below. For further instructions and notification, please see reverse of side of this notice of violation. **Contact Inspector for verification when all Code requirements are met.**

Code Section (see reverse of form for applicable code section)	Description, including manner in which violation is to be remedied (i.e., "Owner's government. Remedies shall be limited to permit or stoppage of work.")	Deadline to correct (A, B, C, D, E, or F as provided)	Administrative Penalty or Fine if not corrected	Date of Re-inspection / Completion	Inspector Initials
1 Public Works Code § 5.0-3 Order No.	Unpermitted Vending / No Permit Displayed Refusal to Cease Vending-Relocate Failure to Provide Proof of Ownership Non-Compliant Display / Occupancy	Immediate	\$250 - 1st \$500 - 2nd \$1,000 Each Additional	Re-inspected: <input type="checkbox"/> Corrected <input type="checkbox"/> Not-corrected Final Correction:	
2				Re-inspected: <input type="checkbox"/> Corrected <input type="checkbox"/> Not-corrected Final Correction:	

I acknowledge receipt of proper notice and understand if corrective action is not taken to remedy the violation, the owner, contractor, official representative, agent or responsible party may be subject to fines or penalties in accordance with the San Francisco Municipal Code. I do not dispute this notice, nor any of the corrective actions required or penalties levied.
Name (Printed): Paul Males Signature: [Redacted] Date: 2/27/24

I am over the age of 18 years and not a party to this action. I am employed by the City & County of San Francisco and the State of California and the City & County of San Francisco that on (Month, Day) February, 25 of (Year) 2024. I personally served: ☒ I served via email (Name(s) of Violator(s): Paul Males) I served via certified mail: ☐ I served via email: ☐
Issued and served by: [Redacted] Department: Public Works Phone: (415) 271-2000

Sunday, February 25, 2024 at 1:05:35 PM
San Francisco CA 94133
United States

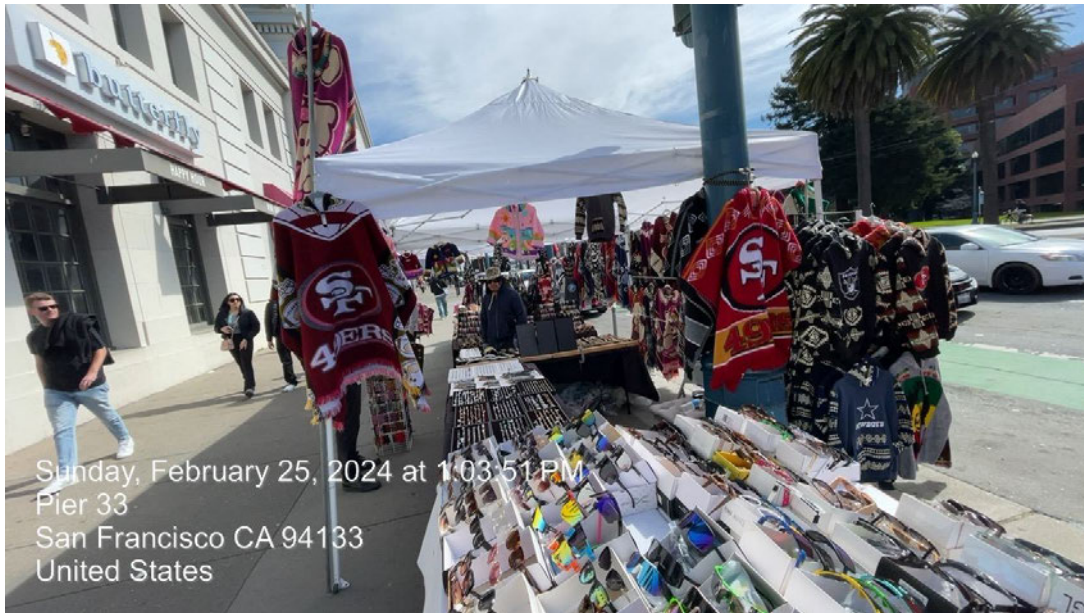


Thursday, March 7, 2024 at 1:38:33 PM
San Francisco CA 94133
United States

Additional photos for the previous citations

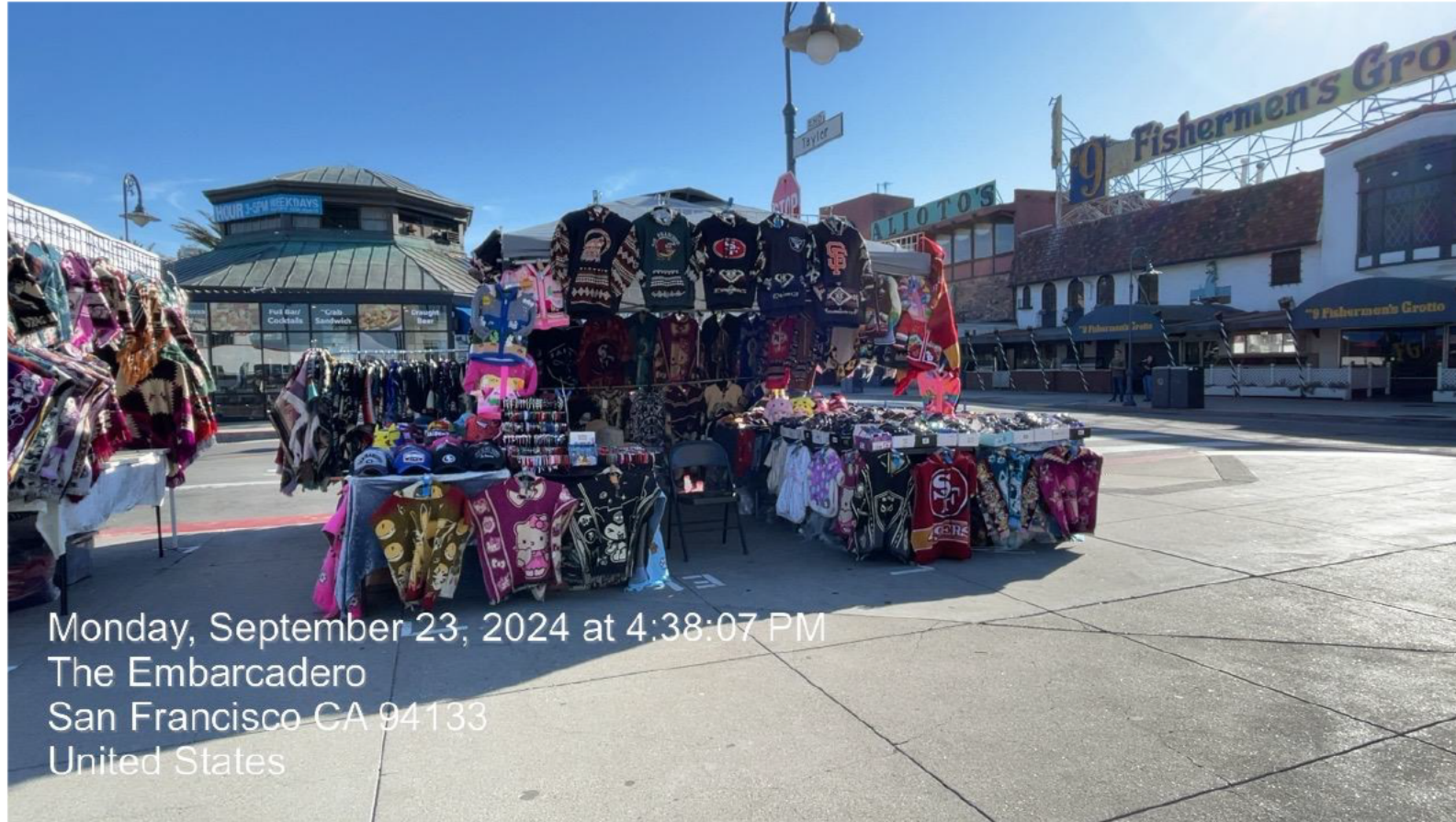


Thursday, March 7, 2024 at 1:34:46 PM
San Francisco CA 94133
United States



Sunday, February 25, 2024 at 1:03:51 PM
Pier 33
San Francisco CA 94133
United States

9/23/24 – Citation 092324-001-001



City and County of San Francisco Public Works Bureau of Street and Mapping
435 South Van Ness Avenue, 2nd Floor, San Francisco CA 94103
Citation Number: 092324-001-001

Date: 09/23/2024
Inspection Time: 3:44 PM
Location: PIER 45 E-1
Project No.: 24VDR-00056
Complaint No.:
Inspector: GO1 Phone: 622-272000

Issued to:
Name: JASON MALES
Company: BOM
Phone: [REDACTED]

NOTICE OF VIOLATION: By service of this NOTICE OF VIOLATION, we are notifying you as the owner, contractor, official representative, agent or responsible party, you are hereby notified that you are in violation of the City Ordinance(s) listed below. For further evaluations and verifications, please see reverse of side of this notice of violation. Contact Inspector for verification when all Code requirements are met.

Section	Description of Violation (See reverse of form for complete details)	Penalty (See reverse of form for complete details)	Status	Remarks
Public Works Code 8.5.3.3	No Permit Display Failure to Provide Proof of Ownership Non-Compliance Display / Occupancy Jason M. Males selling is not listed on permit as secondary vendor. over 10'x10' footprint Failure to provide proof of ownership.	\$100 - 1st \$200 - 2nd \$500 - Each Additional	Issued	Not corrected Final Correction

I acknowledge receipt of paper notice of violation of ordinance(s) and I understand that it is my duty to comply with the ordinance(s) and to correct the violation(s) within the time specified. I am hereby notified that I am in violation of the ordinance(s) listed below. I am hereby notified that I am in violation of the ordinance(s) listed below. I am hereby notified that I am in violation of the ordinance(s) listed below.

I am over the age of 18 years and am not a party to this action. I am employed by the City & County of San Francisco. I am hereby notified that I am in violation of the ordinance(s) listed below. I am hereby notified that I am in violation of the ordinance(s) listed below. I am hereby notified that I am in violation of the ordinance(s) listed below.

Signature of Violator: JASON MALES
Signature of Inspector: GO1
Date: 9/23/24
Phone: 622-272000

BY ORDER OF THE DIRECTOR OF PUBLIC WORKS, A FINANCIAL PENALTY OF \$ PER DAY PER INCIDENT IS HEREBY IMPOSED. FINANCIAL PENALTIES ACCRUE DAILY UNTIL CORRECTIVE ACTIONS HAVE BEEN TAKEN AND VERIFIED BY THE INSPECTOR.



**Port of San Francisco
Permitted Vending Program:**

Guía de espacio para proveedores
商販档摊位置指南

 DO - Stay within your 10x10 designated space.

HACER - Manténgase dentro de su espacio designado de 10x10.

可以留在指定的10x10 空间 之内。

-  DO - Comply with Port vending guidelines.

HACER - Cumplir con las pautas de venta del puerto.

遵守港口售货指南。



⊗ DON'T - afix, attach, hang, mount or alter in anyway Port pergola.

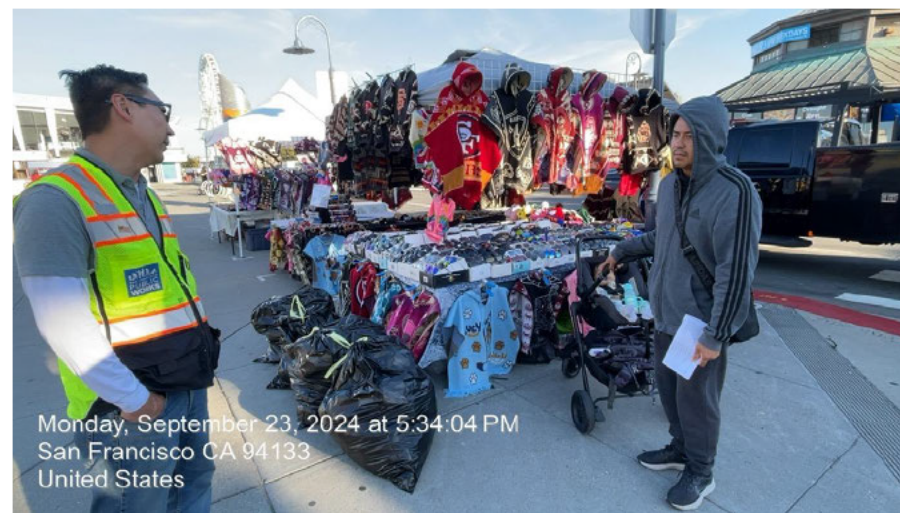
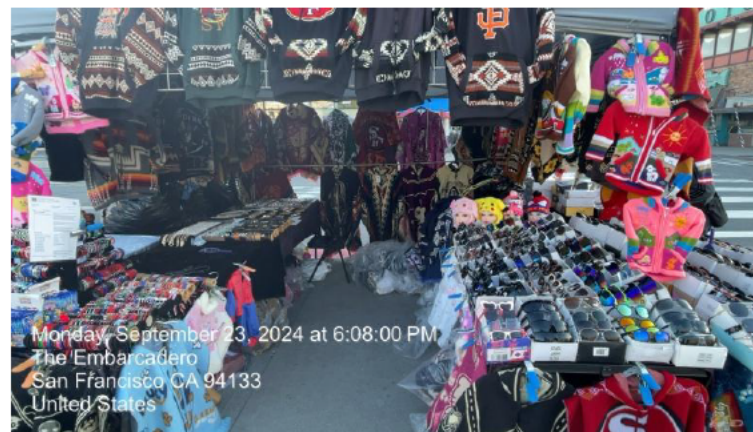
NO HACER - fijar, fijar, colgar, montar o alterar de cualquier forma Pérgola portuaria.

不可以以任何方式固，连接，
悬挂，安装或更改港口的棚架。

- ⊗ DON'T - expand outside of your 10x10 designated space.

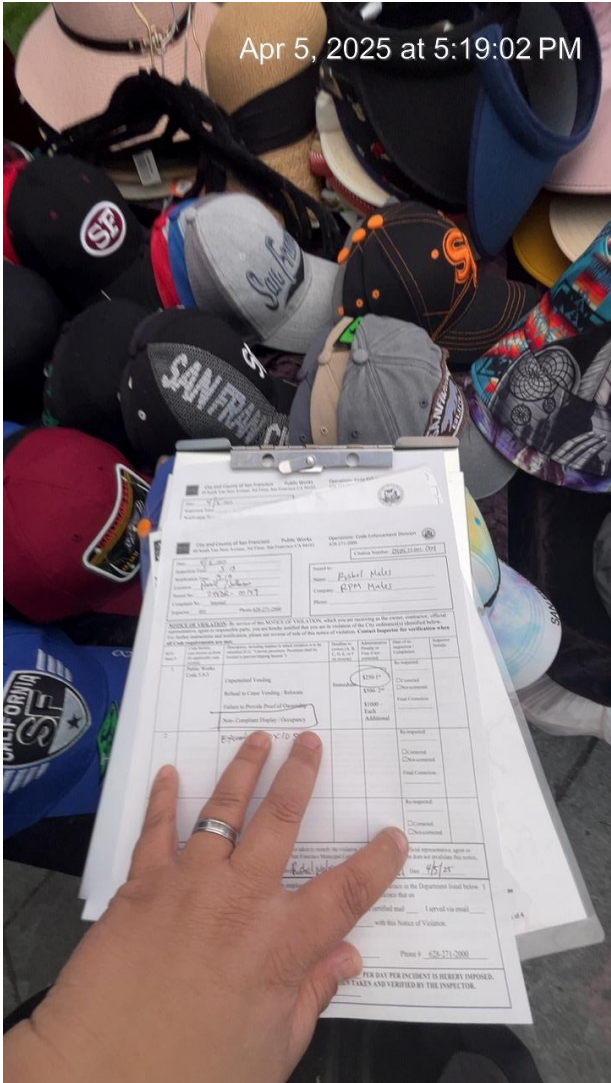
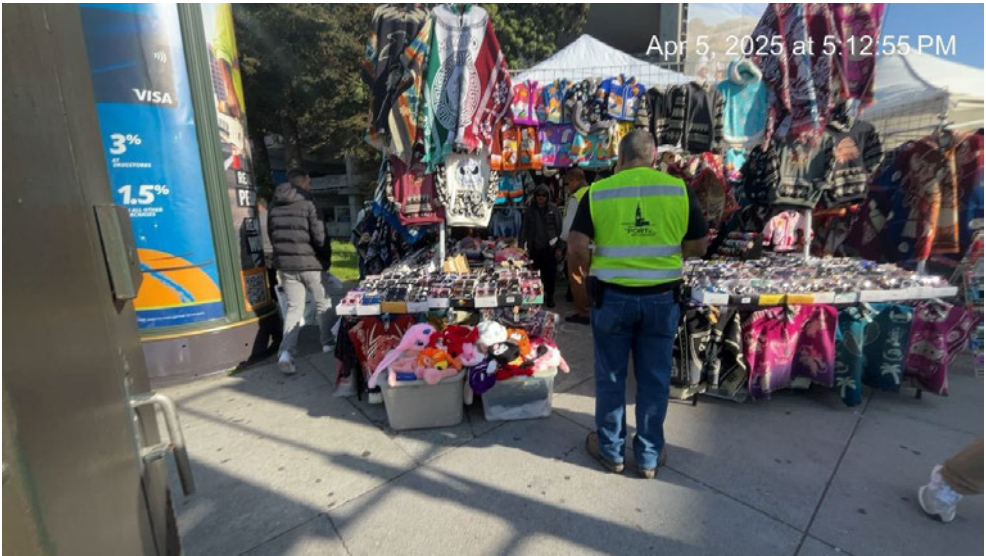
NO HACER - expanda fuera de su espacio designado de 10x10.

不可以延伸到指定的10x10空间之外。

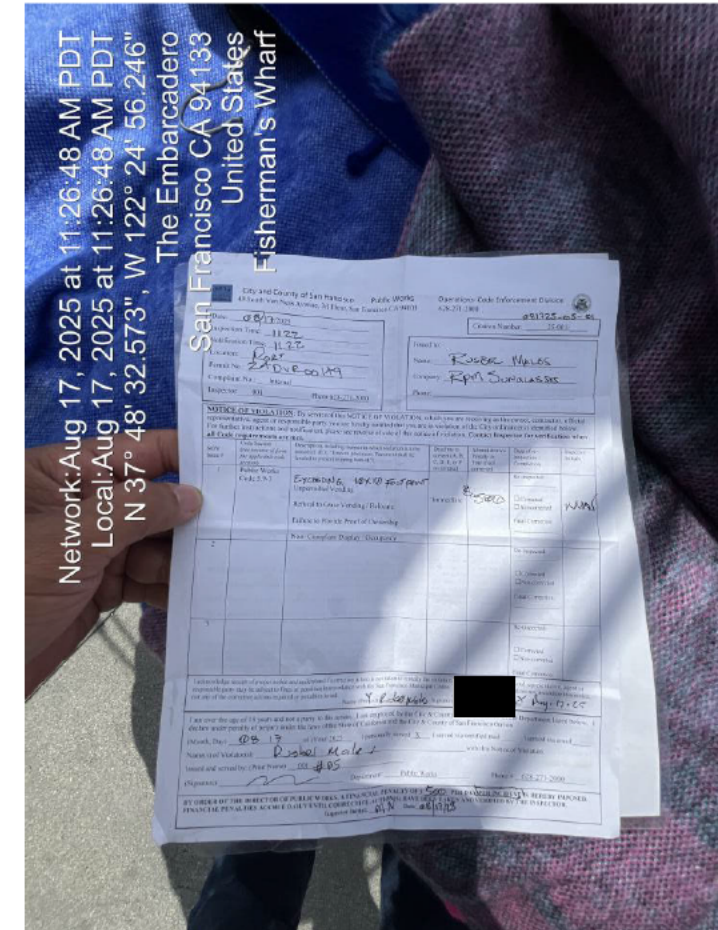
[illegible]

Monday, September 23, 2024 at 6:28:20 PM
The Embarcadero
San Francisco CA 94133
United States

4/5/2025 – Citation 040525-001-004



8/17/2025 Citation 081725-005-001



Conclusion

- As the evidence provided shows, the Appellant has violated program rules and regulations on multiple accounts; exceeding the permitted space, vending without a permit, and not being on site.
- Public Works seeks to maintain the revocation of the permit due to non-compliance with Article 5.9 and Port Administrative Regulations for Mobile Vendors

EXHIBIT 5

Appeal of Permit Revocation

RPM SUNGLASSES

PERMIT # 24VDR-00149

Name: Rusbel Males-Andrango

Appeal of Permit Revocation

RPM SUNGLASSES

Permit # 24VDR-00149

Name: Rusbel Males-Andrango

Motives of appeal

- Unfair treatment, repeated and targeted visits to my booth.
- Unequal enforcement
- I received a \$500 dollar citation for exceeding the space limit when other vendors only get a warning.
- I believe the officer has a personal interest in my case.

Reasons I believe this

- Received multiple threats from other vendors
- I have seen the officer talking to vendors for long periods of time.
- This officer would make repeated visits to my booth while ignoring the rest of the vendors and their violations.

Allegations against me

- Being away from vending space
- Leaving someone else in my booth.
- In occasion I step away from my vending space to take care of my infant son, or to get food for my family, but I always come back.
- Exceeding the space limit, but other vendors also exceed the limit and still have their permits.

Rules I have complied

- Stopped selling Sports teams logos.
- Stopped attaching metal grids to the wooden structures at pier 43.
- Stopped sleeping near vending spaces.
- And I have made an effort in making my space smaller and smaller.
- Only 2 citations this year.

Before and After



Evidence

Here is proof other vendors break the rules and they have not had their permits revoked

Selective enforcement has been applied to me

Vendor

Maria Males 24VDR-00202

- Exceeds space limit
- Uses multiple permits in lottery.
- Permits:
 - Hardy Maldonado-Males
24VDR-00198
 - Alex Maldonado
24VDR-00204
 - Nelson Maldonado
24VDR-00209



Aug-23-2025
space B2
Maria Males
24VDR-00202

- Has double rack outside of space limit
- Has ponchos attached to front wooden structures



Aug-24-2025 space G1

Maria Males 24VDR-00202



The tent is 10x10
Tables outside of space limit.

Vendor

Juana Andrango 24VDR-00203

- Exceeds space limit
- Uses other permits for lottery:
- Priyanka Jindal (daughter)
- 24VDR-00189
- Harrases and provokes vendors
- Has history of doing this before
- Case CCH-22-584535



Aug-22-2025 space G2

Juana Andrango 24VDR-00203



Exceeding space limit.
Rack outside of space limit.
Each table is 6 feet long.

Vendor

Gladys Cushcagua (no permit)

- Is not a permit holder
- Uses other persons permit:
- Oyagata Jose Santiago
- 24VDR-00162
- Has been selling without
- Any problem for past years



Vendor

Oyagata Jose Santiago 24VDR-00162

- Leaves another person in booth
- No revocation of permit

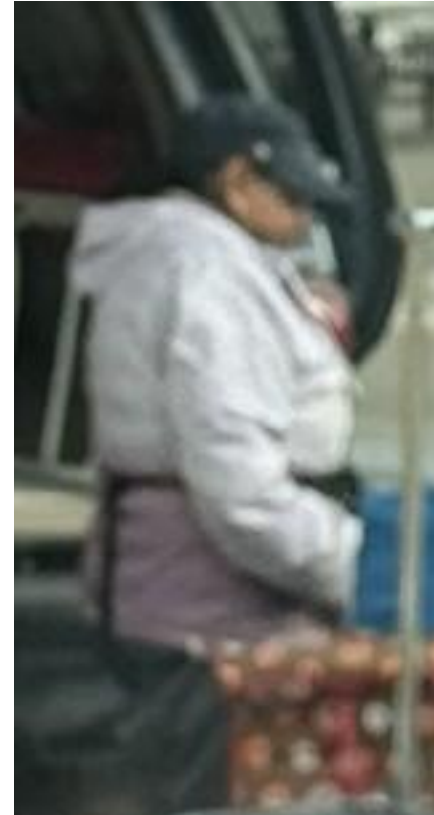


Aug-22-2025 space G1

Vendor

Maria Anrango 24VDR-00201

- Exceeds space limit
- Still selling NFL logos
- Uses following permit for
- lottery:
- Ananda Camuendo
(daughter)
- 24VDR-00180



Aug-22-2025 space A2

Maria Anrango 24VDR-00201



The tent is 10x10
Tables outside of space limit.

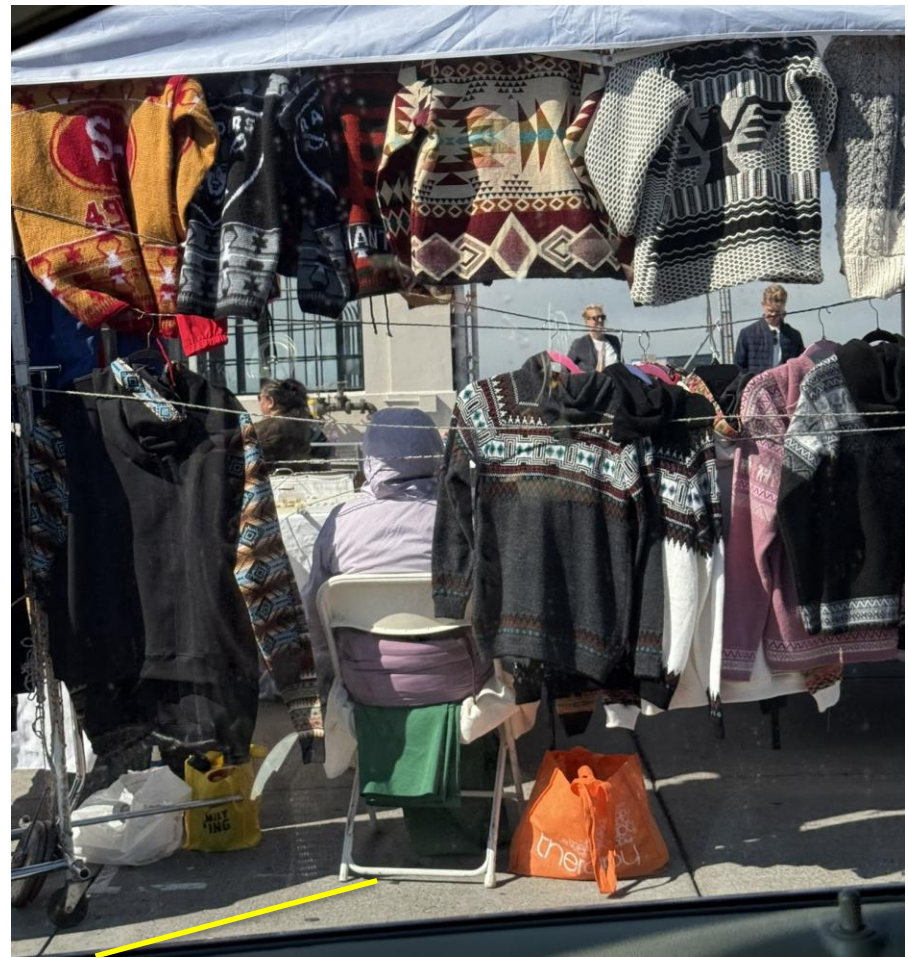
Aug-22-2025
space A2
Maria Anrango
24VDR-00201

- The tent is 10x10
- Tables outside of space limit.



Aug-22-2025 space A2

Maria Anrango 24VDR-00201



Still selling NFL and giants logos. Notice in the bottom left corner the space limit is exceeded

Aug-23-2025 space G1

Maria Anrango 24VDR-00201



Space limit Exceeded

Vendor

Diego Sinchico 24VDR-00188

- Exceeds space limit
- Still selling NFL logos
- Sleeps on booths overnight
- Locks table with chains
- Gets drunk during operating Hours.
- Has loud speaker and gas Generator



Vendor

Diego Sinchico 24VDR-00188

- Uses following permit for lottery:
- Jenny Muenala 24VDR-00187
- Jennifer Sinchico 24VDR-00207
- Harrasses me and my family constantly
- Hired a gang member to threaten us.

Aug-9-2025 11:19PM Pier 5
Diego Sinchico 24VDR-00188

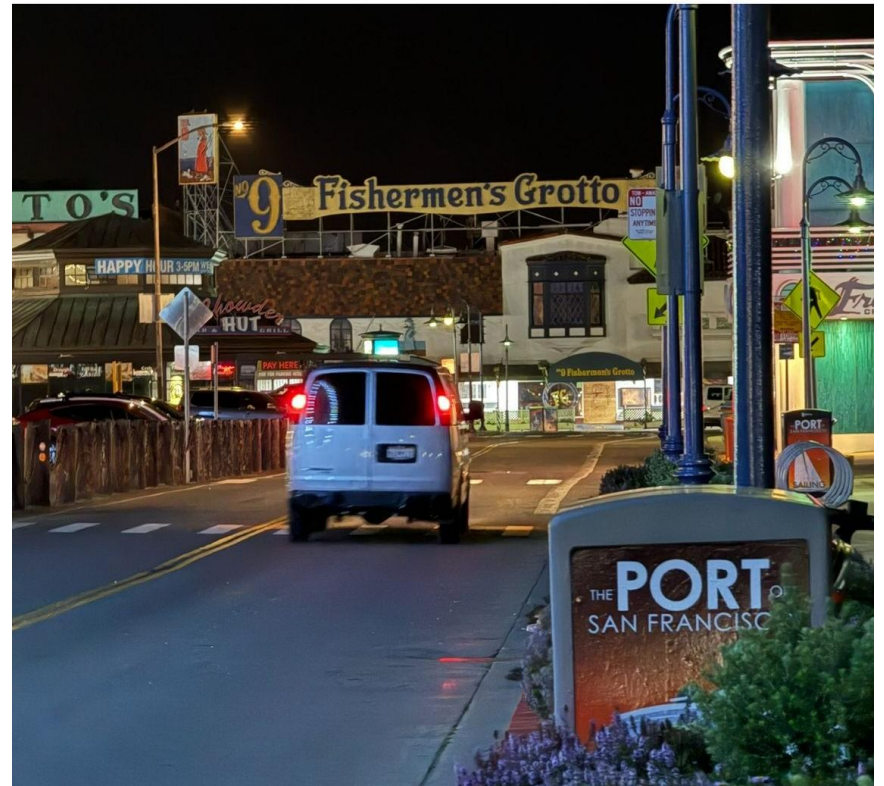


Locks table with chain



28 de marzo

9:45 p.m.



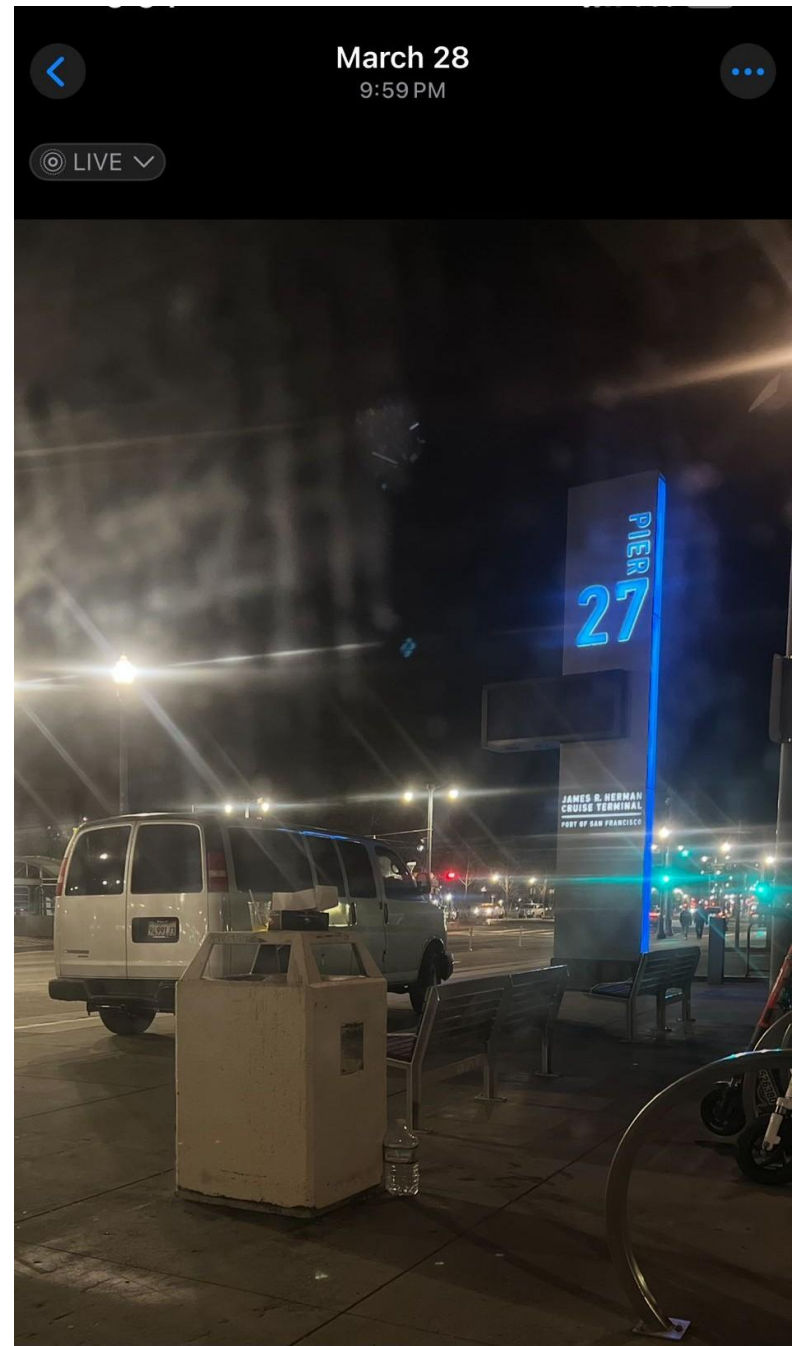
Explanation

On March 28th 2025

Diego S. locks a table with chain and lock in order to secure space B1 for Maria Males
(They share the key)

Then proceeds to sleep on vending space at pier
27

Mar-28-2025 9:59PM
Pier 27
Diego Sinchico
24VDR-00188



May-31- 2025 space B1
Diego Sinchico 24VDR-00188





Apr-20-2025

7:05pm

Pier 5

-Drinking

-loud speaker

-exceed space

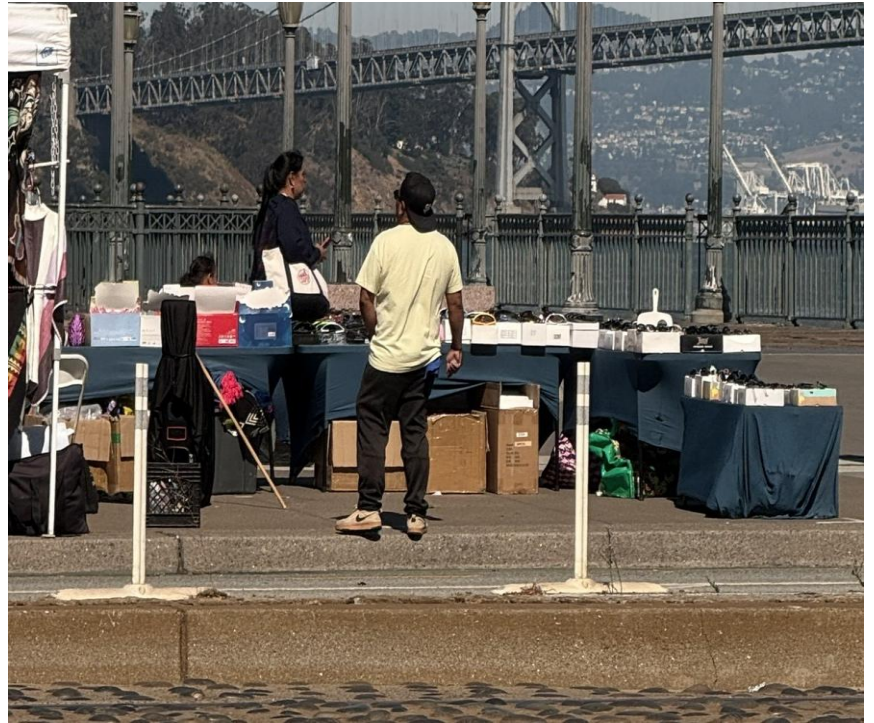
-rack outside of
vending space



Uses 2 spaces with one permit
Aug-22-2025 pier 5



Uses 2 spaces with one permit
Aug-22-2025 pier 5



Rack outside of space limit

Aug-22-2025 pier 5



Aug-23-2025 space B2

Diego Sinchico 24VDR-00188

- Still selling NFL logos
- Exceeding space



Aug-23-2025 space B2

Diego Sinchico 24VDR-00188

- Still selling NFL logos
- Exceeding space
- Gas generator



Aug-23-2025 space B2

Diego Sinchico 24VDR-00188

- Rack outside of space



Vendor

Sayri Cushcagua 24VDR-00210

- Exceeds space limit
- Still selling sports logos

• Uses following
Permit for lottery:
Lucila Cahuasqui
24VDR-00211



Aug-23-2025 Pier 5

Aug-23-2025 Pier 5

Sayri Cushcagua 24VDR-00210

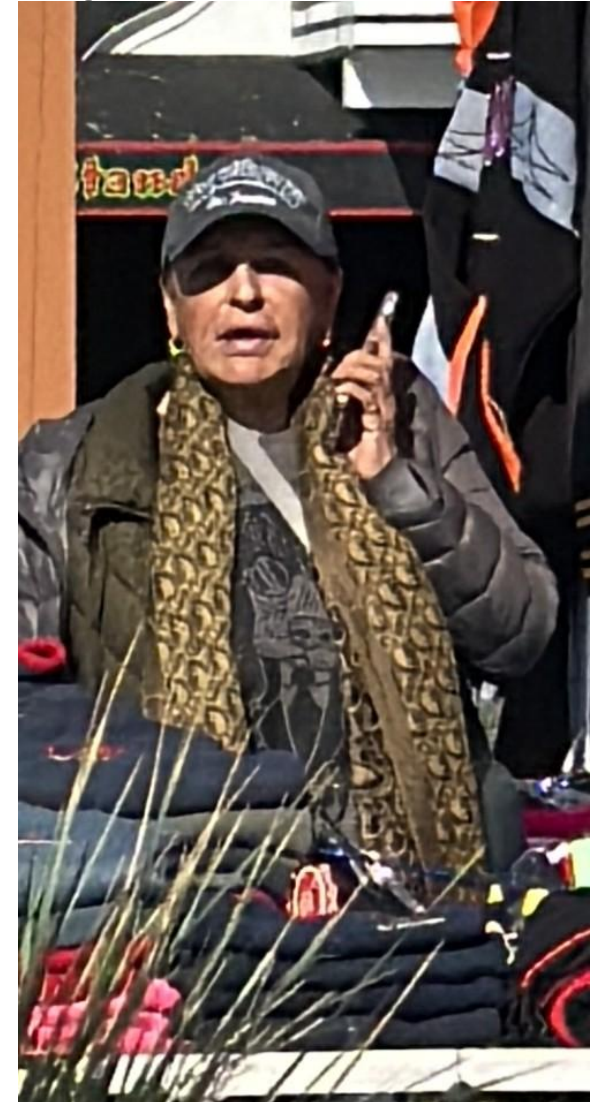


Using two spaces, both exceeding space limit
Still selling sports logos

Vendor

Susan/Carmen- No permit

- Not a permit holder
- The officer says she has a permit.
- Never shows up in lottery results.
- Exceeds space limit
- Leaves her space to another person for long periods
- Sleeps next to booths
- Uses permit:
- Alfred Palma 24VDR-00158



Susan/Carmen- No permit

Alfred Palma 24VDR-00158

- Allows Susan to use his permit.
- Is never present
- No revocation of permit

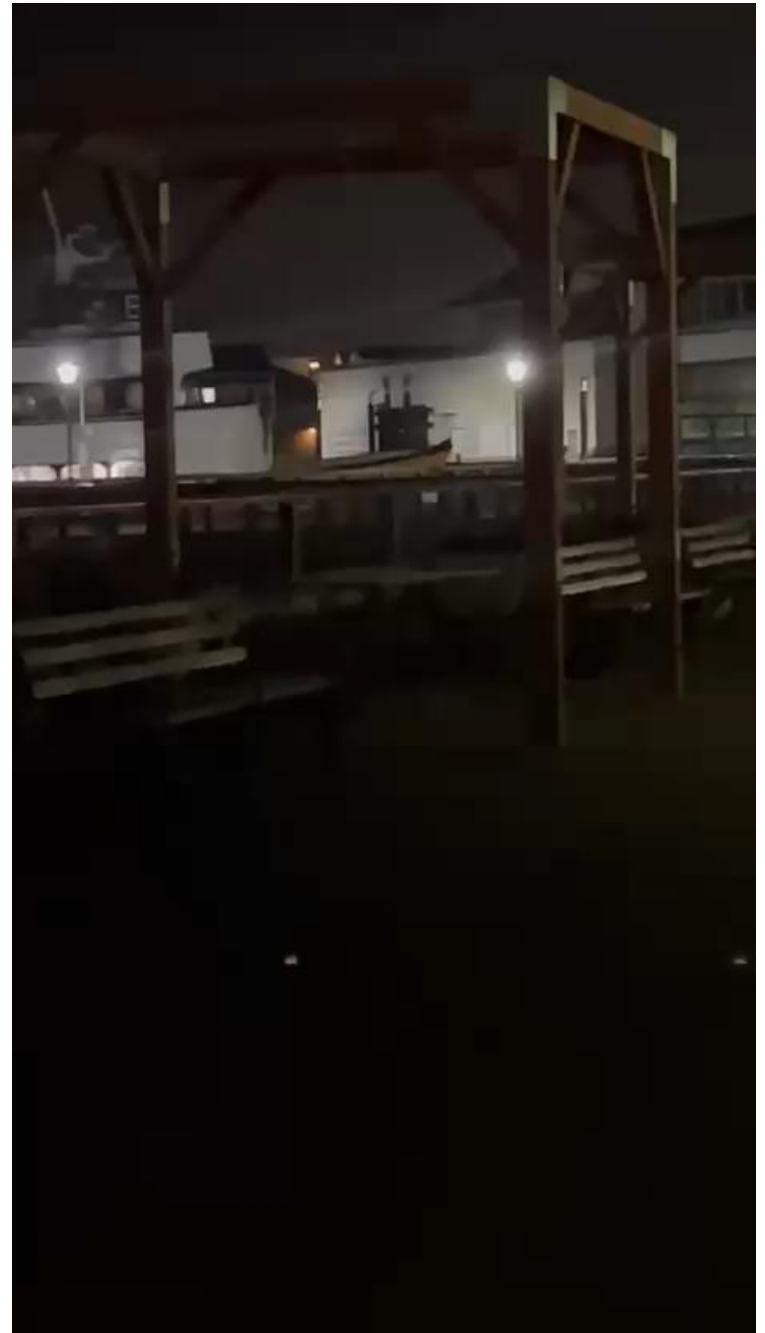
Vendor

Susan/Carmen- No permit



Oct-10-2024
Susan/Carmen-
No permit

sleeping by booth



Aug- 31-2025 space A2 Susan/Carmen



Aug- 31-2025 space A2

Susan/Carmen



Vendor

Jaime Peralta 25VDR-00007

- Doesn't set up at designated area
- No revocation of permit



Aug-22-2025
Jaime Peralta 25VDR-00007



Aug-23-2025
Jaime Peralta 25VDR-00007



Vendor

Isidro Perez 24VDR-00114

- Doesn't set up at designated area
- Sells sports logos
- Has workers



Aug-23-2025 pier 33
Isidro Perez 24VDR-00114



Aug-24-2025 pier 33
Isidro Perez 24VDR-00114



Aug-25-2025 pier 33
Isidro Perez 24VDR-00114



Sept-5-2025 pier 33
Isidro Perez 24VDR-00114



Vendor

Maruja Morales 24VDR-00168

- Still sells sports logos
- Still sets up at Ferry building after Sept 1st
- Exceeds space limit



Sept-5-2025 Ferry building Maruja Morales 24VDR-00168



Sept-5-2025 Ferry building Maruja Morales 24VDR-00168



Sept-6-2025 Ferry building Maruja Morales 24VDR-00168



Vendor

Jinfang Zheng 24VDR-00214

- Exceeds space limit
- Attaches metal grids to wooden structures
- Leaves his space from 12pm-6pm aprox.



Aug-22-2025 9:31am
Jinfang Zheng 24VDR-00214



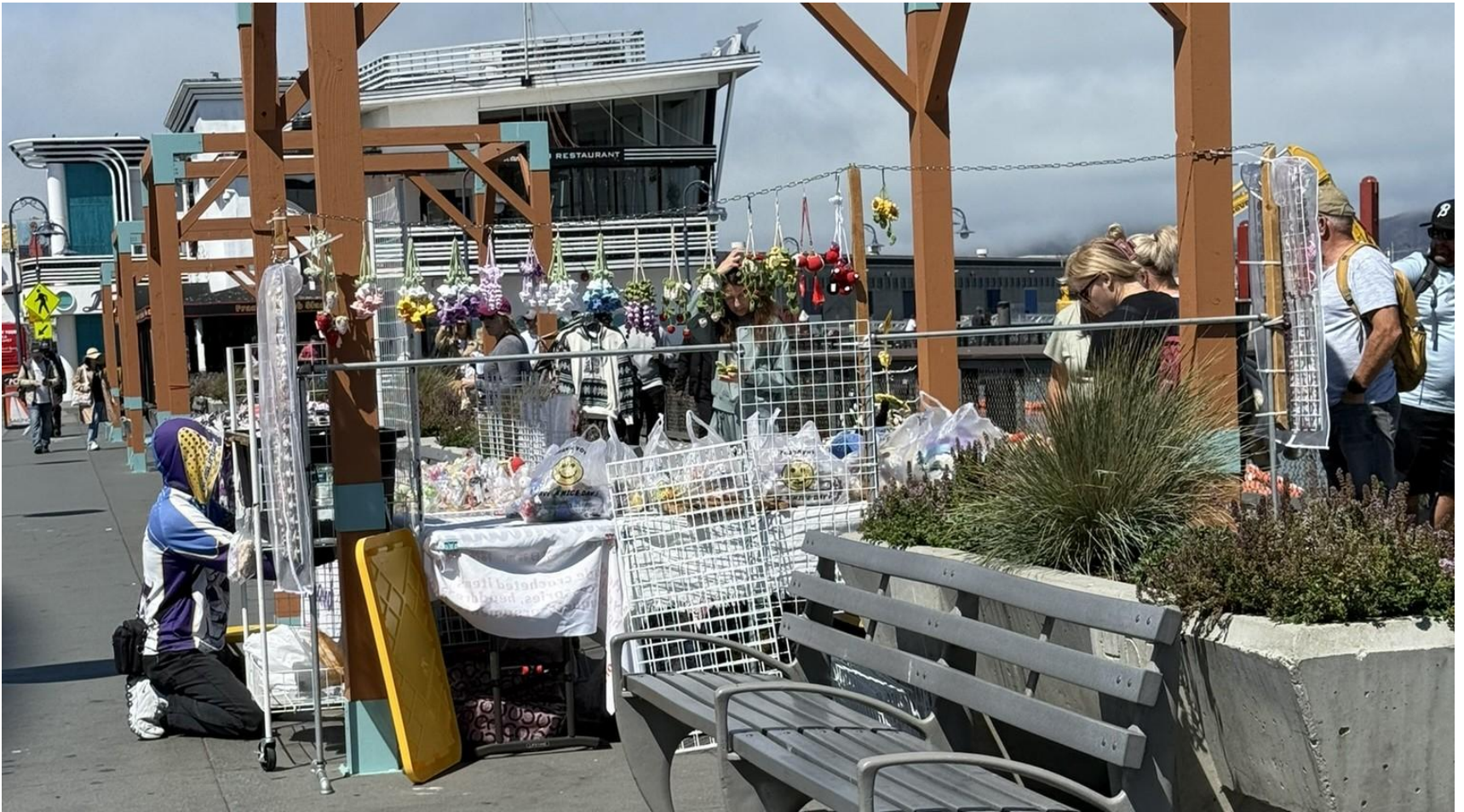
Aug-22-2025 3:10pm
Jinfang Zheng 24VDR-00214



Aug-22-2025 5:50pm
Jinfang Zheng 24VDR-00214



Aug-25-2025 11:48pm
Jinfang Zheng 24VDR-00214

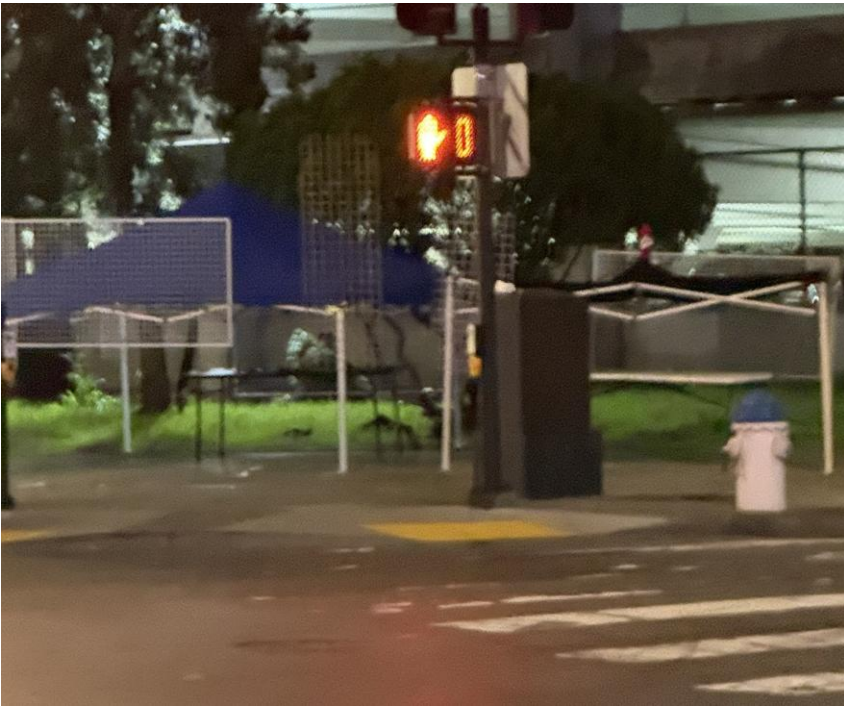


Aug-25-2025 5:03pm
Jinfang Zheng 24VDR-00214



Vendors Sleeping in booths

Jan-20-2025 6:30am
Adriana Hernandez 24VDR-00193



Vendors Sleeping in booths
Sept-2-2024 4:39am
Maria Anrango 24VDR-00201



Vendors Sleeping in booths

Sept-2-2024 4:39am

Maria Anrango 24VDR-00201

This is
her car



VENDORS AT FERRY B. AFTER SETP 1



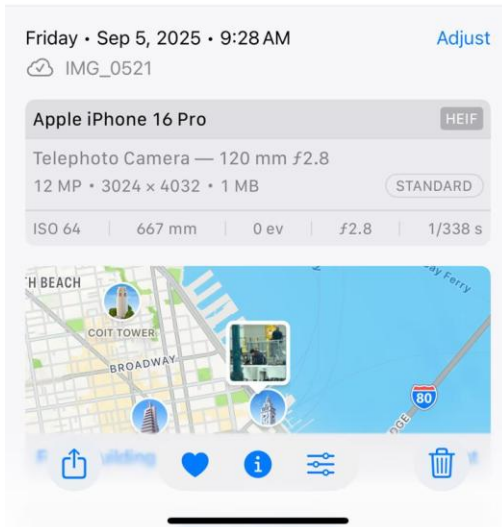
VENDORS AT FERRY B. AFTER SETP 1



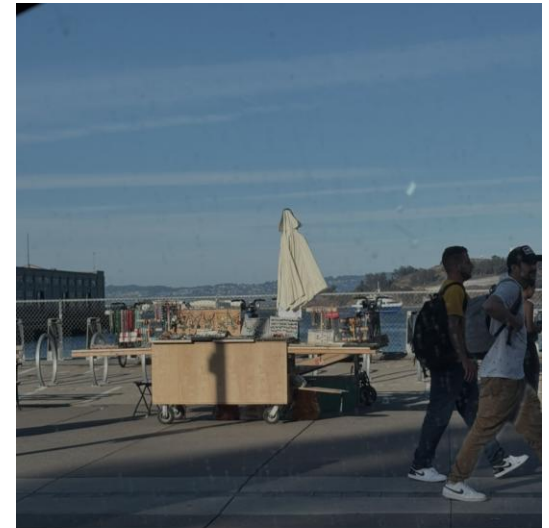
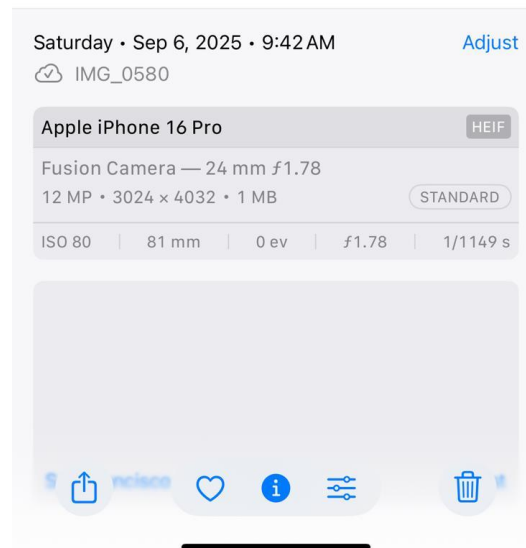
VENDORS AT FERRY B. AFTER SETP 1



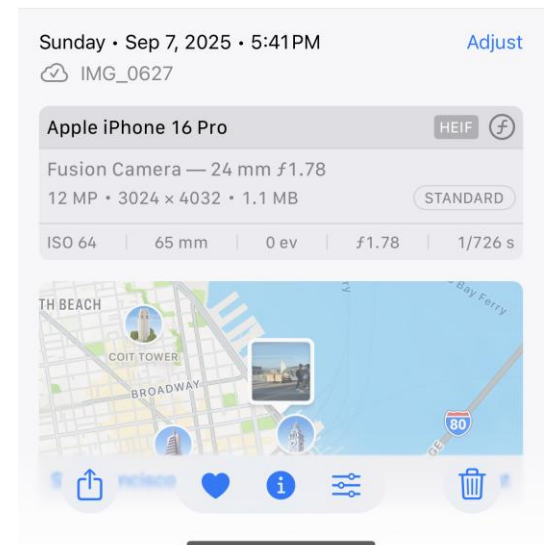
Add a Caption



Add a Caption



Add a Caption



Timestamped Pictures

- I will create an online folder with all the time stamped pictures for authenticity.

My Request

- • Reinststate my vendor permit.
- • Review and correct selective enforcement.
- • Ensure equal treatment of all vendors.

My promise

- I promise to comply with the rules
- Make my booth fit within the space limit
- Be present during operation hours
- Pay citations that are due.

Closing

Thank you for your time and understanding