




The seal of the City of Santa Clara, California, featuring a mission building, the year 1852, and the text "CITY OF SANTA CLARA CALIFORNIA" and "THE MISSION CITY".

Action to Approve Introduction of an Ordinance Amending City Code to Create a Limited-Term Pilot Project Regulating Vending Upon Certain Public Sidewalks and Pedestrian Paths Surrounding Levi's Stadium on Event Days Including the Waiver of Certain Business and Permit Fees

**Item #6, RTC 23-726**

July 18, 2023

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## Background

- January 1, 2019 – SB 946 goes into effect to limit local enforcement authority against illegal sidewalk vendors
- January 2019 – CAO memo to staff outlines SB 946 limits and challenges presented
- Winter 2022 – Mr. Howard Gibbins raised concerns to Council regarding sidewalk vending during events at Levi's Stadium
- January 2023 – SB 972 goes into effect further limiting local enforcement authority
- April 18, 2023 – RTC 23-211 summarizes limits imposed by SB 946, recommends a pilot program focused on Levi's stadium and solicits City Council direction

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**POST MEETING MATERIAL**



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## April 18<sup>th</sup> Council Direction

*Prepare a temporary ordinance amendment and permit process for stadium event days that would define areas where sidewalk vending could not occur due to health and/or safety concerns, within a to-be-determined stadium footprint. The Ordinance should also contain provisions to prohibit vending in parking lots associated with the stadium event. The temporary Ordinance should be established for a pilot period of August 2023 to January 2024 to evaluate impacts. At that time, the Police Department should return to the City Council with recommendations for implementation for the 2024 concert and NFL seasons, as well as how the Ordinance may need to be amended to apply in other areas of the City such as City parks.*

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## This Item Presents the Pilot Program Ordinance for City Council Action

The Proposed Pilot Program includes:

- Proposed amendments to various sections of City Code
- Area footprint for Ordinance implementation
- Communication plan to vendors prior to implementation and during the pilot period
- Enforcement plan
- Potential partnerships with other enforcement agencies and stakeholders
- Modifications to the existing permitting process
- Pilot Program fee and tax waiver
- Post pilot-program considerations and future updates to Council

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## Overview of SB 946

- Stated Purpose: Promote entrepreneurship and economic opportunities for immigrant and low- income communities as a matter of “statewide concern”
- Specific scope: Food/merchandise vendors operating from a non-motorized stand/cart upon public sidewalks or pedestrian paths
- Local regulations limited only to those that directly address objective health, safety and welfare concerns (e.g., “time, place and manner restrictions”)
- Local regulations may not limit the total number of vendors in the City or impose regulations based on minimizing adverse economic impacts to other businesses
- No criminal penalties allowed; only administrative citations per a set fine schedule
- “Ability to pay” determination process must be created, with statutory ability to reduce fine by up to 80%

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## Challenges Facing City Staff

- The current City Code does not align with recently adopted legislation
- SB 946 details multiple constraints by location
  - General
  - Parks
  - Farmer’s Markets and/or Swap Meets
  - Temporary Special Permit Areas
- The Police and Parks and Recreation Departments have identified multiple safety concerns associated with the operation of sidewalk vendors
- Without criminal enforcement, the actions that can be taken “out in the field” against violators are highly limited and the repercussions of being in violation are of relatively minor consequence
- Levi’s Stadium crowds attract a large number of unlicensed vendors that create substantial adverse impacts on event days

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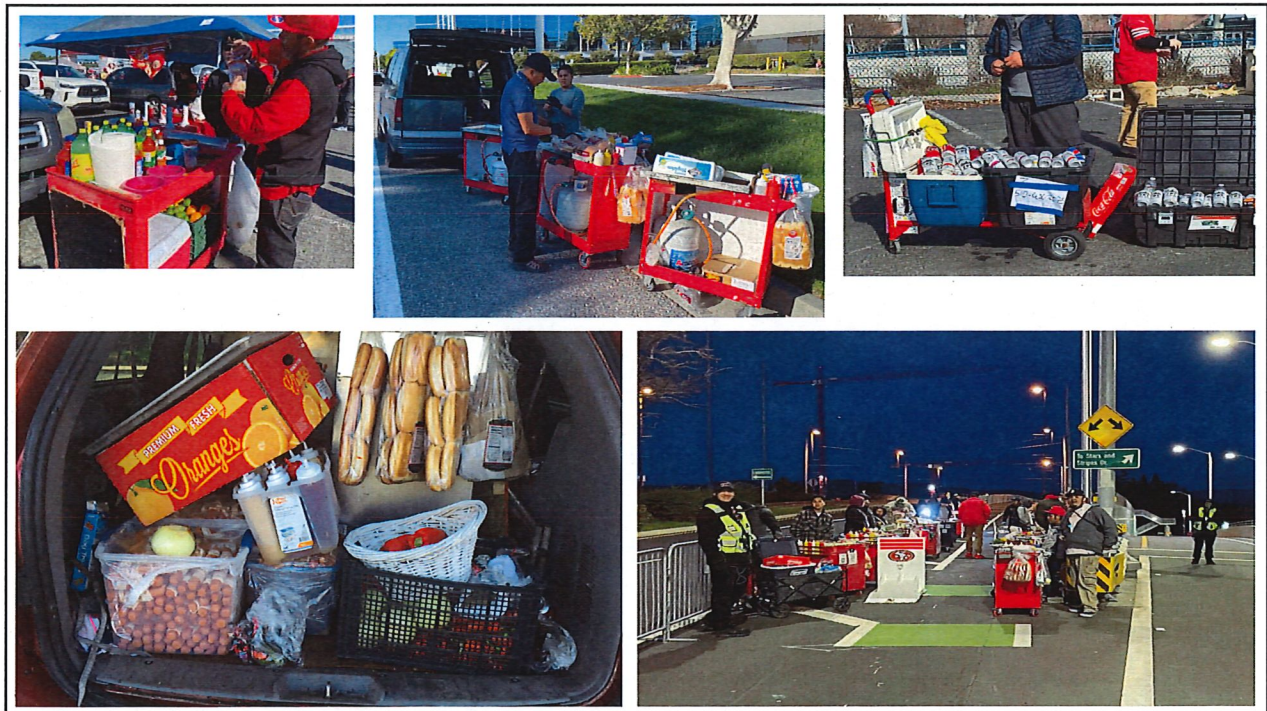


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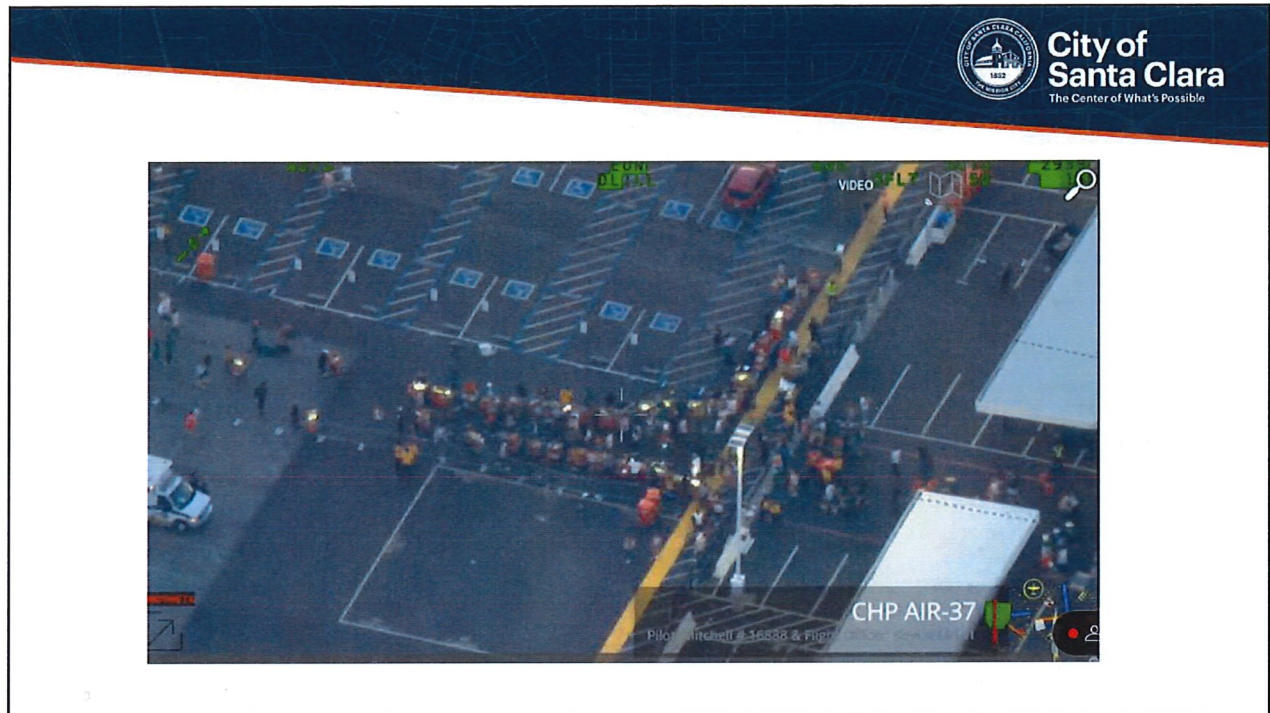
## Stadium Health, Safety and Welfare Concerns

- Traffic congestion by customer queues extending into driving lanes, bicycle and pedicab traffic
- Vending carts and customer queues restrict the ability to use/pass on the sidewalk (ADA)
- Inadequate waste disposal causing increased tripping/slipping dangers in highly dense areas
- Location of vending carts not incorporated into the traffic management plan
- Use of propane tanks within highly dense areas
- Hot greasy cook tops without structures for safety clearances and required fire extinguishing devices
- Intoxicated attendees causing fights connected with massive groups traveling through narrow pathways
- Merchandise sales of unsafe or inappropriate items in highly dense areas
- Alcohol being sold without Alcoholic Beverage Control permits and lack of consideration of age consumption laws
- Unsafe food preparation, storage and handling practices


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## Proposed Amendments to City Code

- **Modify Chapter 9.05.165 - Prohibited Activities within the Parking Facilities with Limits on Activities Adjacent to the Stadium**
  - Prohibitions on peddling within the Parking Facilities remain, with amendments to indicate that the prohibition on peddling on the perimeter sidewalks of the stadium is now allowed, but only on the terms of the “Stadium Pilot Program” set forth Chapter 5.05 of the SCMC
- **Amend Chapter 5.05 – Solicitors and Peddlers to Add “Article IV. Stadium Pilot Program”**
  - Prohibition of all vending activity on specified stretches of sidewalks/paths (the pilot program footprint) surrounding the Stadium for particular time periods on event days
  - Outside of the prohibited timeframes, vending activity within the pilot program footprint shall be allowed, subject to certain regulatory requirements, such as:
    - Obtaining a permit from the City
    - Proof of health permits and food handler training for sale of food or beverage
    - Sale of alcoholic beverages is prohibited
    - Vendors shall not operate in a manner that violates ADA access
    - New administrative penalties structure

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## Proposed Stadium Footprint for Ordinance Implementation

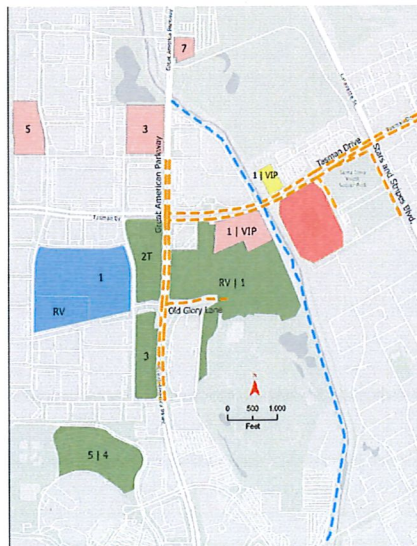
- Tasman Drive (from Great America Parkway to Calle de Sol)
- Tasman Drive eastbound off-ramp to Star and Stripes Drive (slip-ramp)
- Tasman Drive stairways to Stars and Stripes Drive
- Great America Parkway (from Bunker Hill Drive to Patrick Henry Drive)
- Stars and Stripes Drive (from the Tasman Drive eastbound off-ramp to Bill Walsh Way)
- San Tomas Aquino Creek Trail (from Great America Parkway to Agnew Road)
- Old Glory Lane (east of Great America Parkway)

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## Proposed Prohibited Locations

Area Map with Parking Lots



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## Proposed Allowed Areas for Sidewalk Vending

- Tasman Drive west of Great America Parkway
- Tasman Drive east of Calle de Sol
- Great America Parkway north of Bunker Hill Lane
- Great America Parkway south of Patrick Henry Drive
- Old Glory Lane west of Great America Parkway
- Old Ironsides Drive
- Stars and Stripes north of the Tasman Drive



## Proposed Allowable Vending Locations






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## Waiver of Fees and Business License Tax (Pilot Project \$30k funded by Stadium Authority)

- To encourage regulatory compliance, staff is recommending that Council authorize waiving all City solicitor/peddler fees and taxes during the pilot program period for vendors operating solely within this pilot program footprint
- Waiver will operate on a first come, first serve basis
- Stadium Authority staff plans to allocate \$30,000 of Stadium Authority funds to support this initiative
- Vendors will still be responsible for all third-party fees and costs
- Vendors that desire to operate City-wide will still be required to pay all permitting fees and charges

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## Program Implementation

- Public/Vendor Communications
- Enforcement
- Potential Partnerships
- Information Gathering and Reporting

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## Public/Vendor Communication

- Disseminate information regarding the pending changes on the following existing resources:
  - City and Police Department websites
  - Police Department social media platforms
- Written notice to existing sidewalk vendors with valid permits
- Dissemination of informational flyers during upcoming Stadium events to sidewalk vendors
- Coordination with Stadium Management to create and post signage on site according to the approved pilot program footprint
- Staff will make efforts to prepare materials in multiple languages whenever possible

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## Enforcement

- Levi's Stadium has a Code of Conduct and security plan with a progressive scale of enforcement (e.g., guest services, private security, law enforcement) for Code of Conduct violations to ensure guests enjoy a positive event day experience. SCPD and its local, State and Federal law enforcement partners assist with implementation of this layered security plan
- Staff recommends a similarly progressive approach to conducting enforcement under this pilot project
- Progressive enforcement (e.g., education, warning, opportunity to correct, citation for non-compliance) are available options
- Parking lot enforcement is handled similarly:
  - Private security (Levi's Stadium) for violations on Stadium property or Stadium parking lots
  - Non-sworn personnel for progressive enforcement on Stadium property or Stadium parking lots
  - Sworn peace officer personnel for enforcement on sidewalks and public right-of-way

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## Proposed Pilot Program Administrative Fine Structure

- The updated penalty schedule in accordance with SB 946 includes:
  - \$100 for a first violation
  - \$200 for a second violation within one year of the first violation
  - \$500 for each additional violation within one year of the first violation
  - a local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations
- The violation of failing to obtain a permit is punishable by stricter penalties as follows:
  - \$250 for a first violation
  - \$500 for a second violation within one year of the first violation
  - \$1,000 for each additional violation within one year of the first violation
- All fines and fees are subject to reduction (up to 80%) based on demonstrated hardship

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## Potential Partnerships

- Santa Clara County Health Department
- California Alcoholic Beverage Control
- Stakeholders

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## Information Gathering and Reporting

- Staff intends to gather the following relevant information to assist in evaluating program successes, failures and possible improvements for future Council consideration, such as:
  - Number of vending permits and fee waivers issued
  - Number of vending permits denied or revoked
  - Number of written warnings and citations issued as well as the administrative fines collected
  - Expenses to implement the permit program and conduct enforcement of the regulations
  - Proposed changes to the pilot project footprint, City Code, and other regulations as a result of the pilot program experiences
  - Discussion of potential costs associated with a longer-term program

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## Proposed Next Steps

- Update forms online and begin accepting Sidewalk Vendor applications
- Council consideration tonight, July 18, 2023
- Second reading and adoption scheduled for August 22, 2023
- Pilot program Ordinance amendments would go into effect 30-days thereafter (September 21, 2023), with phased-in implementation
- Pilot to continue through January 2024
- Return to City Council in Spring 2024 with an evaluation and recommendation

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## Recommendation

- Waive first reading and approve introduction of an ordinance amending Chapter 5.05 (Solicitors and Peddlers) and Section 9.05.165 (Activities and Conduct Prohibited in Parking Facilities Adjacent to the Stadium or Parking Facilities Used for Stadium Events) of the Santa Clara City Code to Create a Limited-Term Pilot Project Regulating Vending Upon Certain Public Sidewalks and Pedestrian Paths Surrounding Levi's Stadium on Event Days Pursuant to SB 946; and,
- Waive fees and taxes for all required City business licenses and permits, for qualified sidewalk vendors operating at stadium events during the pilot program period (September 21, 2023 through January 31, 2024) on a first come first serve basis in an amount not to exceed \$30,000; and authorize the City Manager to develop administrative guidelines to implement the fee waiver program.

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