

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 6.55 OF TITLE 6 OF THE SAN JOSE MUNICIPAL, DOWNTOWN SPECIAL EVENTS, TO REDUCE THE AREA WITHIN WHICH APPROVED LOCATION PEDDLERS' PERMITS MAY BE SUSPENDED DURING A DESIGNATED DOWNTOWN SPECIAL EVENT BY LIMITING THE SUSPENSION AREA TO THE SPECIAL EVENT BOUNDARY, AUTHORIZE PEDDLERS WITHIN THE SPECIAL EVENT BOUNDARY TO TEMPORARILY PEDDLE AT ALTERNATIVE APPROVED LOCATIONS OUTSIDE THE BOUNDARY FOR THE DURATION OF THE DOWNTOWN SPECIAL EVENT, AND CLARIFY THE EXCEPTIONS TO THE REQUIREMENT FOR EVENT ORGANIZERS TO PROVIDE APPROVED LOCATION PEDDLERS AN EQUAL OPPORTUNITY TO PARTICIPATE IN THE DOWNTOWN SPECIAL EVENT

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Chapter 6.55 of Title 6 of the San José Municipal Code is amended in its entirety, to be numbered, entitled and to read as follows:

**CHAPTER 6.55
DOWNTOWN SPECIAL EVENTS**

Part 1
Definitions

6.55.010 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Chapter.

6.55.020 Department

“Department” means the Office of Cultural Affairs, a division of the Office of Economic Development within the Office of the City Manager, or such other office or department designated by the City Manager to administer this Chapter.

6.55.030 Director

“Director” means the Chief Development Officer, or such other director designated by the City Manager to administer this Chapter.

6.55.040 Downtown

“Downtown” means the area bounded by the following streets and portions of streets: to the north, St. John Street from Autumn Street to 10th Street; to the south, San Fernando Street from Autumn Street to Highway 87, then San Carlos Street from Highway 87 to 1st Street, then San Fernando Street from 1st Street to 10th Street; to the west, Autumn Street from St. John Street to San Fernando Street, then Highway 87 from San Fernando Street to San Carlos Street; and to the east, 10th Street from St. John Street to San Fernando Street, then 1st Street from San Fernando Street to San Carlos Street.

6.55.0530 Downtown Special Event

“Downtown Special Event” means any outdoor public or private event occurring in one or more of the special event zones in the Downtown and which is declared to be a Downtown Special Event by the Director of the department of convention and office of cultural affairs.

6.55.0620 Public Areas

"Public Areas" means any structure or open space, which is accessible from or included as part of a public right-of-way. It includes, but is not limited to, streets, sidewalks, plazas, parks, buildings, bridges, parking garages, and sports and recreational facilities.

6.55.070 Special Event Boundary

"Special Event Boundary" means the Public Areas within which a Downtown Special Event is permitted to be held, pursuant to permits issued to the event organizer, as designated in the authorization letter from the Department.

6.55.080 Vendor

"Vendor" means a person that sells, displays or offers for sale, disseminates, or provides goods, wares, merchandise, food, products, materials, or any other thing or representation of value to the general public at a fixed location within a Special Event Boundary under an approved location permit issued pursuant to Chapter 6.54 of the Code.

6.55.010 Special Event Zones

The following "special event zones" in the downtown are hereby established:

A. "Zone 1" is the Plaza Park area including as follows:

1. Plaza Park boundaries from curb to curb encompassing the park perimeter;

2. All public areas along Market Street between San Fernando and San Carlos Streets;

3. Paseo de San Antonio and Fairmont Plaza walkway from Market Street to South First Street;

4. Public areas along Park Avenue from Market Street to Almaden Boulevard.

B. "Zone 2" is the parade route area including as follows:

1. All public areas along Santa Clara Street between Tenth and Market Streets and all public areas along each cross street between Santa Clara and Tenth and Market Streets for one block in each direction to the next cross street intersection;

2. All public areas along Market Street between Santa Clara and San Carlos Streets and all public areas along each cross street for one block in each direction to the next cross street intersection;

3. Paseo de San Antonio and Fairmont Plaza walkway from Market Street to South First Street; and

4. All public areas along Park Avenue from Market Street to Almaden Boulevard.

C. "Zone 3" is the major festival site including as follows: all public areas bounded by Santa Clara Street to the north, Market Street to the east, San Carlos Street to the south and the Guadalupe Parkway (Route 87) to the west.

D. "Zone 4" is an additional parade route area including as follows:

1. All public areas along Santa Clara Street between Autumn and Market Streets and all public areas along each cross street between Autumn and Market Street for one block in each direction to the next cross street;
2. All public areas along Market Street between Santa Clara and San Carlos Streets and all public areas along each cross street for one block in each direction to the next cross street intersection;
3. Paseo de San Antonio and Fairmont Plaza walkway from Market Street to South First Street; and
4. All public areas along Park Avenue from Market Street to Almaden Boulevard.

Part 2

Downtown Special Events

6.55.20040 Declaration of Downtown Special Events

- A. The director of the department of convention and cultural affairs shall at the director's discretion declare public events in the downtown area to be downtown special events based on the predicted size and duration of the event, the predicted audience size and the economic, promotional, cultural and historical significance of the event to the City of San José.
- AB. Any person seeking to have a public or private event declared to be a Downtown Special Event shall apply to the Director for such a declaration no less than ninety (90) days prior to the event.

B. The Director shall declare a public or private event in the Downtown authorized by the Department to be a Downtown Special Event within a reasonable period of time after the applicant submits a completed application to the Director, but in no event later than the date specified in Section 6.55.240.

C. The director shall make a determination as to whether or not the applicant's proposed public event shall be declared to be a downtown special event within a reasonable period of time after the applicant submits a completed application to the director.

CD. If At the same time the Director determines that designates a proposed public or private event should be designated as a Downtown Special Event, the Director shall further specify the Special Event Boundary within which special event zone or zones the event shall occur and the times and dates of the event, subject to the event organizer having obtained all required authorizations and permits.

6.55.21050 Suspension of Peddlers' Permits

All approved location permits issued pursuant to Chapter 6.54 of the Code for approved locations within the designated Special Event Zone Or zones Boundary shall be suspended for the duration of any declared Downtown Special Event. If any such permit holder peddles at the alternative approved location designated in the permit, the permit shall only be suspended in part, as applied to the primary approved location, and shall remain in full force and effect as applied to the alternative approved location.

6.55.22060 Preclusion of Peddlers from Special Event Boundary designated Zones

No person holding a peddler's permit issued pursuant to Chapter 6.54 of the Code may peddle within the designated Special Event zone or zonesBoundary for the duration of any declared Downtown Special Event unless the holder of a peddler's permit has a written agreement with the event organizer to participate in the Downtown Special Event.

6.55.230 Peddling in Alternative Approved Locations

Any person holding an approved location permit issued pursuant to Chapter 6.54 of the Code within the Special Event Boundary who does not participate in the Downtown Special Event may peddle at the alternative approved location designated in his or her approved location permit in compliance with all terms and conditions of the permit, if the alternative approved location is not also within a Special Event Boundary.

6.55.24070 Notice to Approved Location Peddlers of suspension of peddling

- A. No later than thirty (30) days prior to the Downtown Special Event, the Director shall provide notice of the times and dates on which the Downtown Special Events will occur and the zones Special Event Boundary within which the Downtown Special Event will be held to all persons having current approved location permits issued pursuant to Chapter 6.54 of the Code within the zone or zonesarea declared to be the Special Event zonesBoundary.
- B. Such notice shall be mailed by first class mail to the approved location permittee at the address listed on the permit.
- C. Such notice shall advise all persons with approved location permits for locations within the Special Event Boundary that during the term of the Downtown Special Event, their permits are suspended for peddling within the special event zones Special Event Boundary listed in the Director's notice during the term of the

downtown special event, but they may peddle at the alternative approved location designated in their respective permits, if the location is not also within a Special Event Boundary.

- D. The notice shall further state that persons with approved location permits issued pursuant to Chapter 6.54 of the Code who have an approved location within a the Special Event zone Boundary designated by the Director for a Downtown Special Event pursuant to Section 6.55.040.D200 C. shall be given the same opportunity to participate in the Downtown Special Event as the event organizer offers to its own vendors subject to the exceptions specified in Section 6.55.260. The notice shall include the name, address and telephone number of the event organizer.

6.55.25080 Equal Opportunity for Approved Location Peddlers

- A. No The event organizer shall deny provide persons with valid approved location permits, issued pursuant to Chapter 6.54 of this Code, who have an approved location with in a the Special Event zone Boundary designated by the Director for a Downtown Special Event pursuant to Section 6.55.050.D6.55.200 C., the same opportunity to participate in a declared Downtown Special Event as the event organizer offers to its own vendors.

- B. If the Director determines that the event organizer has not complied with subsection A., the event organizer shall not be eligible to apply for a declaration of a Downtown Special Event for twenty-four (24) months following the date on which the Director makes the determination. If the Director determines there are grounds for this determination, the following process shall apply.

1. The Director shall send to the event organizer written notice of the Director's proposed determination of ineligibility for a Downtown Special Event declaration for noncompliance with subsection A. The notice shall

advise that the determination shall become final unless the event organizer files a written objection with the Director within the time period specified in subsection B.2.

2. The written objection must be received by the Director within ten (10) calendar days of the date of service of the notice of proposed determination. If a written objection is not received within this time period, the proposed determination shall become final.
3. If a written objection is received within the time period specified in subsection B.2, the Director shall send written notice of the Director's final determination within a reasonable period of time after receipt of the objection.
4. The decision of the Director shall be final.

6.55.260 Exceptions

Notwithstanding Section 6.55.250, the event organizer shall not be required to provide approved location peddlers an opportunity to participate in the Downtown Special Event if: (a) the event equipment and structures take up all available space within the Special Event Boundary, (b) the event organizer does not have or allow any vendors at the Downtown Special Event, or (c) the Downtown Special Event is a private function not open to the general public.

6.55.27090 Terms and Conditions for Vendor Participation

The event organizer shall have control over the terms and conditions under which persons chosen to provide vending services will operate at a declared Downtown

Special Event including, but not limited to, products sold, hours of sale, fees and
Vvendor locations.

6.55.28100 Interference with a designated Downtown Special Event

- A. It shall be unlawful for a person to place any booth, table, chair, stool, object, structure, vehicle, or piece of equipment in any Public Area located within a designated Special Event zone Boundary for which an event organizer has been issued a permit without the consent of the event organizer.
- B. This Section shall not apply to persons acting under the direction or control of the City.

PASSED FOR PUBLICATION of title this _____ day of _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk