



**CITY OF GLENDALE, CALIFORNIA
REPORT TO THE:**

Joint City Council Housing Authority Successor Agency Oversight Board

October 22, 2019

AGENDA ITEM

Report: Sidewalk Vendors and Compliance with Senate Bill No. 946.

1) Motion directing staff

COUNCIL ACTION

Public Hearing <input type="checkbox"/>	Ordinance <input type="checkbox"/>	Consent Calendar <input type="checkbox"/>	Action Item <input checked="" type="checkbox"/>	Report Only <input type="checkbox"/>
Approved for <u>10/22/19</u> calendar				

ADMINISTRATIVE ACTION

Submitted by:
Phil Lanzafame, Director of Community Development

Michael J. Garcia, City Attorney

Prepared by:
Carmen O. Merino, General Counsel - Police

Approved by:
Yasmin Beers, City Manager

Reviewed by:
Roubik Golanian, Assistant City Manager

Onnig Bulanikian, Director Community Services & Parks

Carl Povilaitis, Chief of Police

Yazdan Emrani, Director of Public Works

Signature _____

RECOMMENDATION

It is recommended that City Council provide direction to staff regarding the regulation of street vendors.

BACKGROUND/ANALYSIS

Historically, cities have had the ability to regulate sidewalk vending under the traditional police power/public safety rubric, including criminal enforcement against offending vendors. However, the enactment of Senate Bill 946 ("SB 946"), also known as the "Safe Sidewalk Vending Act," changed the legal landscape for sidewalk vendors by making the regulation and criminalization of sidewalk vending a matter of statewide concern. SB 946 became effective on January 1, 2019.

SB 946 was enacted to promote entrepreneurship and to provide economic development opportunities for immigrant and low-income communities. The legislative findings for SB 946 also declare that sidewalk vending contributes to a safe and dynamic public space and the "safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending."

SB 946 is codified in Government Code sections 51035 through 51039. SB 946 specifically prohibits cities from criminalizing sidewalk vending violations. Instead, a violation is punishable only by an administrative fine, pursuant to an ability-to-pay determination.

The statute defines "sidewalk vendors" as "persons who sell food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path." A sidewalk vendor can be roaming or stationary.

Under SB 946, cities may no longer prohibit sidewalk vendors although they may establish regulations related to sidewalk vending to protect valid health, safety and welfare concerns. If the City Council desires to enact a regulatory scheme to address sidewalk vending, any such scheme must comply with the following parameters.

SB 946 Prohibitions and Restrictions

Under SB 946, the City may not:

- Require a sidewalk vendor to operate within (or outside of) specific parts of the public right-of-way, except when directly related to "objective health, safety, or welfare concerns."
- Require a sidewalk vendor to first obtain the consent or approval of any non-governmental entity or individual before he or she can sell food or merchandise.
- Restrict sidewalk vendors to operate only in a designated neighborhood or area, except when the restriction is directly related to objective health, safety, or welfare concerns; however, stationary sidewalk vendors (as opposed to roaming sidewalk vendors) may be prohibited in exclusively residential zones.

- Restrict the overall number of sidewalk vendors permitted to operate within the local authority's jurisdiction, unless the restriction is directly related to objective health, safety, or welfare concerns.

SB 946 does not specifically define "objective health, safety, or welfare concerns" but states that "perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern."

With regard to sidewalk vendors of food items, under SB 946 such vendors are not exempt from state safety regulations and permit requirements.

Permitted Regulations

The City may adopt requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:

- Limitations on hours of operation (so long as they are not unduly restrictive) for vendors generally and for roaming vendors in residential areas;
- In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street;
- Requirements to maintain sanitary conditions;
- Requirements necessary to ensure compliance with the federal Americans with Disabilities Act and other disability access standards;
- Requiring the sidewalk vendor to obtain a permit for sidewalk vending and a valid business license;
- Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit;
- Prohibiting stationary sidewalk vendors in areas zoned for only residential uses;
- Requiring compliance with other generally applicable laws; and
- Requiring a sidewalk vendor to submit certain information on his or her operations.

Residential Zones

Stationary sidewalk vendors may be prohibited in residential zones but roaming vendors may only be restricted for reasons directly related to objective health, safety, or welfare concerns.

Parks

Under SB 946, the City may not prohibit a sidewalk vendor from selling food or merchandise in a city park. However, stationary sidewalk vendors (as opposed to roaming

sidewalk vendors) may be prohibited from vending in a park if the City has entered into an exclusive concessionaire agreement for the sale of food or merchandise.

The City may adopt additional requirements regulating the time, place, and manner of vending in a City park where the regulations are:

- Directly related to the objective health, safety, or welfare concerns;
- Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; or
- Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

Permitted Temporary Events

With respect to permitted special events, including certified farmers' markets and swap meets, the City may restrict or prohibit sidewalk vendors in areas located within the "immediate vicinity" of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. SB 946 does not define "immediate vicinity."

The City's Existing Regulations

The City is not required to adopt a new program to regulate sidewalk vendors if it has an established/existing program that substantially complies with SB 946. However, if the City does not adopt sidewalk vending regulations that comply with the new state law, the City may not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the statute.

As a result of SB 946, Glendale may no longer enforce Glendale Municipal Code ("GMC") section 9.14.140 which provides, in pertinent part:

- A. No person shall peddle from a stationary location on any public property, doorway of any building or unenclosed vacant lot.

- B. No person shall peddle foods or drinks intended for human consumption, or goods, wares or merchandise, from a vehicle which is nonmotorized or not licensed for street use by the state of California, on any public street or public property.
- C. Whenever the holder of any license provided for by, or issued under, this code uses any wagon, cart, tray, basket or other vehicle or receptacle in vending any such goods, wares or merchandise, such license shall be inserted, held and carried in a manner such that it is at all times in plain view in such vehicle or receptacle.

Glendale Municipal Code sections 5.04.020 and 5.08.470 allow the City to charge an annual fee for the issuance of a permit to peddlers engaged in the business of selling food or drink items or goods or merchandise. Under SB 946, these regulations may only be enforced by administrative citations.

Enforcement Mechanisms: Administrative Fines and Permit Rescission

As noted above, SB 946 provides that sidewalk vending violations may only be punishable through issuance of administrative fines. Council may wish to consider amending the Glendale Municipal Code to reflect that violations of the sidewalk peddler provisions are no longer misdemeanors or infractions and that violators are not subject to arrest. Under SB 946, a violation of a local authority's vending regulations is punishable as follows: \$100 for the first violation; \$200 for a second violation; and \$500 for each additional violation within one year of the first violation. These fine amounts are consistent with the Glendale's current administrative citation fine schedule for failure to obtain a peddling permit under 5.04.020.

SB 946 allows a local agency to rescind a permit issued to a sidewalk vendor upon the fourth violation or subsequent violations. The City Council may wish to consider authorizing this action in accordance with due process principles.

Under SB 946, if a local agency requires a sidewalk vendor to obtain a sidewalk vending permit, vending without a permit may be punishable by higher administrative fines. The administrative fines may not exceed \$250 for a first violation, \$500 for a second violation within one year of the first violation, and \$1000 for each additional violation within one year of the first violation. The City Council may also want to consider amending the Citywide Fee Schedule to reflect the higher administrative fines permitted for sidewalk vending without a permit.

With regard to the ability to pay component of SB 946, the City must provide notice to the violator that he or she has the right to request an ability-to-pay determination and make instructions available for doing so, and accept payment of 20% of the fine in full satisfaction if the violator earns less than 125% of the federal poverty line or receives certain means-tested government benefits. Alternatively, the City may allow the person to complete community service in lieu of paying the total administrative fine, may waive the fine, or may offer an alternative disposition.

Considerations for Glendale Municipal Code Amendments

It is advisable to amend the Glendale Municipal Code to remove inconsistencies between the Code and sidewalk vending activity now permitted by state law. If the City elects to enact time, place, and manner regulations for sidewalk vending, the City would have to make specific findings related to "objective health, safety or welfare concerns" when developing such regulations. To support findings of objective health, safety, or welfare concerns, the legislative record must be prepared as completely as possible to identify the government interests at play and why government regulation is needed. The City may want to also consider unintended consequences and whether alternative, non-regulatory approaches are available to address the concerns or conduct in question.

Council may take the following one or more actions:

- 1) Council may direct staff to return with proposed time, place, and manner regulations in the form of an ordinance for sidewalk vending generally. The draft ordinance could include regulations for: hours of operation, sanitation (trash in proper vendor owned receptacles and proper clean up and disposal of food items that fall onto the sidewalk including grease or other fluids), sidewalk accessibility, pedestrian safety,

student safety near schools, noise standards, and signs, among other permitted regulations.

Pasadena, Santa Monica, and West Hollywood have adopted sidewalk vending regulations, highlights of which are set forth below. The Pasadena, Santa Monica, and West Hollywood ordinances are attached as Exhibits A, B, and C, respectively.

Pasadena requires a permit and limits sidewalk vending to the following hours:

1. On sidewalks or pathways directly adjacent to or within residential areas between dawn and dusk daily; and
2. Operating in non-residential areas between the hours of 10:00 p.m. and 7:00 a.m.

Pasadena prohibits sidewalk vending activities at the following locations:

1. Pasadena City Hall;
2. Pasadena Civic Auditorium;
3. Any public property that does not meet the definition of a sidewalk;
4. Within 200 feet of a police station, fire station, or hospital;
5. Within 100 feet of another vendor, public or private school, place of worship, or child day care facility;
6. Within 15 feet of any marked crosswalk;
7. Within 5 feet of any traffic signal controller, traffic signal;
8. Within 3 feet of any utility meter, manhole, service box, parking meter, street light pole;
9. Within 10 feet of any driveway or alley;
10. Within 6 feet of any bus bench or bus shelter; and
11. Within 3 feet of any permitted sidewalk dining area.

Pasadena requires sidewalks occupied for vending activities to be not less than 10 feet in width, and the vending activities must permit at least 5 feet of unobstructed sidewalk. Pasadena also requires that sidewalk vendors immediately clean any food, grease or other fluid or item related to vending activities that falls on public property. In Pasadena, all signage must be attached to the sidewalk vending receptacle or the vendor's person.

Santa Monica requires a permit to engage in sidewalk vending activities. Santa Monica requires that all sidewalk vending stands, pushcarts or tables must not exceed 6 feet (length) by 4 feet (width) and must have locking wheels. Roaming vendors must maintain an unobstructed view over 4 feet in height from the ground to the table top of the cart. Hours of operation for roaming vendors in residential areas are limited to 8:00 a.m. to 9:00 p.m.

Santa Monica also requires food vendors to walk a 100 foot radius from the vending site after the close of business to gather and dispose of beverage and serving materials or other trash left by their customers. Vendors are prohibited from dumping any liquid or solid waste in any public trash cans or dumpsters, public rights-of-way, city streets, city sidewalks, parks, and beaches. Vendors are also required to provide rodent-proof trash receptacles and to remove all waste and litter collected or discarded as a result of preparing or consuming food items or selling merchandise.

West Hollywood requires sidewalk vendors to obtain a permit and prohibits them from:

1. Operating between 2:00 a.m. and 6:00 a.m.;
2. Operating within one block of a certified farmer's market and swap meet during the hours these events are operating;
3. Operating within one block of any public or private school between 8:00 a.m. and 5:00 p.m. on school days;
4. Using amplified sound unless expressly authorized;
5. Being within 25 feet of on-street valet loading zone, city designated passenger loading zone, or any taxicab stand;
6. Being within 200 feet of another vendor; and
7. Being upon or within any roadway, median strip or dividing section.

West Hollywood also requires sidewalk vendors to maintain the following unobstructed sidewalk clearances: 4 feet of unobstructed sidewalk when the sidewalk is no greater than 13 feet, 6 feet when the sidewalk is greater than 13 feet but no greater than 17 feet wide, and 8 feet when the sidewalk is greater than 17 feet wide. Umbrellas may be used by sidewalk vendors as long as the bottom edge of the umbrella is at least 7 feet from the surface of the sidewalk.

- 2) Council may review areas in the City that are highly congested with pedestrian or vehicular traffic, or have other unique safety concerns, and direct staff to return with an ordinance that restricts sidewalk vendors in these areas. Depending on the particular area, objective public safety and welfare concerns may support restricting sidewalk vendors in these areas during certain hours in order to ensure that individuals who use assistive devices such as walkers, canes, wheelchairs and other devices may use the sidewalks in a manner that is not impeded.

For example, West Hollywood prohibits sidewalk vendors in areas with a high concentration of night-life venues during the hours of 10:00 p.m. and 2:00 a.m.

In Pasadena, sidewalk vendors are prohibited in established business improvement districts, such as Old Pasadena Management District, South Lake Business District,

and the Pasadena Playhouse District, because of unusually high pedestrian and vehicular traffic volumes in these areas. Pasadena also prohibits sidewalk vending in specified areas with extremely narrow sidewalks.

Santa Monica prohibits vending from stationary carts in the area that constitutes the Third Street Promenade.

- 3) Council may direct staff to return with a proposed ordinance prohibiting stationary sidewalk vendors in residential zones and setting permitted hours and noise limitations for roaming sidewalk vendors in such zones.

West Hollywood prohibits roaming sidewalk vendors from operating within residential zones between 8:00 p.m. and 9:00 a.m. and also prohibits them from operating on any city block for more than 1 hour in any 4 hour period.

- 4) Council may request that staff return with a proposed ordinance prohibiting sidewalk vending within the immediate vicinity of permitted certified farmers' markets, permitted swap meets, and other designated areas where temporary special city permits have been issued during the limited operating hours of those events. The draft ordinance should include distance requirements in a definition for "within the immediate vicinity."

West Hollywood does not permit sidewalk vendors to operate within one block of a certified farmer's market or swap meet during the limited operating hours of these events. Pasadena prohibits sidewalk vending within the immediate vicinity of a permitted certified farmer's market and swap meet.

- 5) Council may ask staff to return with a proposed ordinance regulating stationary sidewalk vending in parks where there is an exclusive concessionaire agreement.

Pasadena prohibits sidewalk vendors from operating in the Brookside Golf Course area because the city has a concessionaire agreement.

- 6) Council may also direct staff to consider specific regulation of sidewalk vending in parks due to objective health, safety, or welfare concerns; related to ensuring the public's use and enjoyment of natural resources and recreational opportunities; or related to preventing an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

Santa Monica prohibits sidewalk vending within 50 feet of any public picnic area, playground area, playground equipment, public community center, athletic field, tennis court, or soccer field. Santa Monica also prohibits sidewalk vending within 50 feet of any athletic field, basketball court, softball/baseball diamond, tennis court, soccer field, or volleyball court while in use.

West Hollywood requires that vendors cease vending operations in any park 1 hour before park closing.

Meeting with Community Stakeholders

On October 14, 2019, staff met with representatives from the Glendale Chamber of Commerce, the Downtown Glendale Association, the Montrose Shopping Park Association, and the Montrose-Verdugo Chamber of Commerce to discuss SB 946. The representatives expressed general concerns about the impact of sidewalk vending on local businesses and business districts. They also raised specific concerns regarding the costs they incur in cleaning sidewalk areas where food is sold by the vendors. It was suggested that staff review the sidewalk vending ordinances adopted by Downey and Huntington Beach. These ordinances are attached as Exhibits D and E to this report. Stakeholders are anxious to see the city adopt appropriate regulations, especially in light of cleanup costs and accessibility issues.

FISCAL IMPACT

The fiscal impact of revised sidewalk vending legislation will mostly be associated with licensing/permitting and enforcement. If the Council directs preparation of a sidewalk vending regulatory program that includes permitting, staff will assess the appropriate fee structure to capture those costs and prepare a proposed fee resolution as well.

ALTERNATIVES

Alternative 1: The City Council may direct staff to return with proposed regulations for sidewalk vending consistent with SB 946.

Alternative 2: The City Council may decide not to request that staff draft proposed regulations.

Alternative 3: The City Council may consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

Not applicable.

EXHIBITS

- A) Pasadena Ordinance No. 7348
- B) Santa Monica Ordinance No. 2607
- C) West Hollywood Ordinance No. 19-1070U
- D) Downey Ordinance No. 19-1415
- E) Huntington Beach Ordinance No. 4179

M O T I O N

Moved by Council Member _____,
seconded by Council Member _____, that with
respect to the Report to Council dated October 22, 2019, pertaining to Sidewalk
Vending and Compliance with Senate Bill No. 946, the Council hereby directs staff as
follows:

Ayes:

Noes:

Abstain:

Absent:

APPROVED AS TO FORM


CITY ATTORNEY

DATE 10/16/19

Introduced by: Vice Mayor Hampton

ORDINANCE NO. 7348

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 6, TITLE 8, TITLE 10, AND TITLE 12 OF THE PASADENA MUNICIPAL CODE RELATED TO THE REGULATION OF SIDEWALK VENDORS

Whereas, in September of 2018, Governor Brown signed SB 946, which took effect on January 1, 2019; and

Whereas, SB 946, as codified prohibits cities from excluding sidewalk vendors from operating in any part of the City except when that restriction is directly related to objective health, safety, or welfare concerns; and

Whereas, recent counts of pedestrians on the sidewalks in the business improvement districts in Pasadena have been conducted demonstrating high foot traffic counts at varying intervals in these business improvement districts which include the Old Pasadena Management District, the South Lake Business Improvement District, and the Pasadena Playhouse Business Improvement District; and

Whereas, based on these high foot traffic counts, allowing sidewalk vending in these established business districts with the demonstrated high foot traffic would endanger the health, safety, and welfare in these areas; and

Whereas, these high foot traffic counts objectively demonstrate that the addition of sidewalk vendors to the sidewalks in these established business districts would impede the ability of those using assistive devices such as walkers, canes, wheelchairs and other devices from accessing and using the sidewalks in these established business districts and would pose a substantial threat to the health, safety, and general welfare of these vulnerable members of our community.

NOW THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and corresponding cost of publication, will be published by title and summary as permitted in Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

"Summary

As of January 1, 2019, all cities in California are required to comply with the State law which created new requirements supporting the sale of food items and other merchandise by sidewalk vendors, and prohibiting cities from regulating sidewalk vendors, except in accordance with the provisions of the bill. This Ordinance is intended to bring the City's Municipal Code into compliance with the new law. The Ordinance

provides revisions to Titles 6, 8, 10, and 12 of the Pasadena Municipal Code and expands economic opportunity for those aspiring to vend lawfully while placing limited regulations on vending to protect public health and safety in the community's most densely crowded locations and preserve the recreational enjoyment of the City's parks. The Ordinance is also designed to codify and preserve access associated with the Americans with Disabilities Act and to increase vendor accountability and reduce conflict among vendors and it authorizes the City Manager to promulgate implementing regulations.

Ordinance No. 7348 shall take effect 30 days after publication."



SECTION 2. Pasadena Municipal Code Title 6 (ANIMALS), Chapter 6.40 (RESTRICTION ON DISPLAY OF ANIMALS ON CITY PROPERTY), Table 6.40.020 is hereby amended to read as follows:

"Table 6.40.020

ANIMAL DISPLAY ORDINANCE

Event or Animal Display	Permitted	Prohibited	Exempt
Animals Displayed for Sale on public sidewalks		<u>X</u>	
Rodeos		X	
Wild or exotic animals		X	
Domestic animals	X (Approved registration statement required)		
Snakes and lizards	X (Approved registration statement required)		
Animals used in filming	X (Disclosure to filming and special events office of animals to be used required)		
Animals in Tournament of Roses Parade (excluding horses)	X (Approved registration statement required)		
Horses in Tournament of Roses Parade			X
Dog and cat exhibitions in city parks			X
Educational or therapeutic animal display sponsored by institute accredited by American			X

Zoological Association, Association of Sanctuaries, or the city poundmaster			
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SECTION 3. Pasadena Municipal Code Title 6 (ANIMALS), Chapter 6.40 (RESTRICTION ON DISPLAY OF ANIMALS ON CITY PROPERTY), is hereby amended to add a new Section 6.40.035 to read as follows;

"6.40.035 – Display of animals for sale on public sidewalks prohibited.

- A. It is unlawful for any person to display animals for sale, adoption, barter, or exchange, whether for compensation or otherwise, on any public sidewalk within the city.
- B. This prohibition shall not apply to government agencies; non-profit animal rescue organizations exempt from taxation under the Internal Revenue Code section 501(c)(3); humane societies; permitted dog or cat shows; or permitted pet stores which sell or transfer animals within the store."

SECTION 4. Pasadena Municipal Code Title 8 (HEALTH AND SAFETY), Chapter 8.64 (LITTER CONTROL), Section 8.64.020 (DEFINITIONS), Subsection I (SIDEWALK) is hereby amended to read as follows;

"8.64.020 - Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; the plural number includes the singular number; and words used in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- A. "City" means the City of Pasadena.
- B. "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- C. "Litter" means garbage, refuse and rubbish as defined herein and all other material which, if thrown, deposited or allowed to accumulate as herein prohibited, tends to create a danger to the public health, safety and welfare, and which is not within a receptacle provided therefor. "Litter" shall also mean any solid, liquid or semisolid substance or matter which is thrown, propelled, tossed, hurled or dropped upon any public place or sidewalk, or at or upon any person, animal or vehicle which is then participating in a "special event" as defined in Section 2.33.010. "Litter" shall

also mean any unsolicited written material, as defined in Section 9.44.010, that is distributed in violation of Section 9.44.040.

D. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

E. "Private premises" means any private property, together with any structure thereon, whether inhabited or temporarily or continuously uninhabited or vacant, including the yard, grounds, walks, driveway, porch, steps, vestibule or entryway thereof and any off-street parking area.

F. "Public place" means any and all public streets, sidewalks, gutters, boulevards, alleys or other public rights-of-way and any and all public buildings, parks, squares, grounds and publicly owned off-street parking area.

G. "Refuse" means all putrescible and nonputrescible solid wastes (except body waste) including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

H. "Rubbish" means nonputrescible solid waste consisting of both combustible and noncombustible wastes including, but not limited to, paper, wrappings, cardboard, tin cans, yard clippings, leaves, dirt (other than the natural soil, in place), wood, glass, bedding, crockery and similar materials.

I. "Sidewalk" means any surface provided primarily for the use of pedestrians within the city."

SECTION 5. Pasadena Municipal Code Title 10 (VEHICLES AND TRAFFIC), Chapter 10.61 (SKATEBOARDS, ROLLER SKATES, SCOOTERS AND EPAMD), is hereby amended to read as follows:

A.61.10 – Definitions:

A. "Skateboard" means any platform of any composition or size without a seat to which two or more wheels are attached and which is intended to be ridden or propelled by one or more persons standing or kneeling upon it.

B. "Roller skate" means any shoe, boot or other footwear to which is attached one or more wheels.

C. "Business district" shall have the meaning set forth in Sections 235 and 240 of the California Vehicle Code, except that the term shall also include the sidewalks and ways within pedestrian malls.

D. "Pedestrian mall" means any commercial property or plaza connecting or abutting commercial buildings or establishments, within which the sidewalks and ways

are restricted to the use of pedestrians as that term is defined in Section 467 of the California Vehicle Code.

E. "Sidewalk" means any surface provided primarily for the use of pedestrians within the city.

F. "Public building" means any building or structure constructed, owned or occupied to the extent of 50% or more by any public agency, entity or public benefit corporation.

G. "Scooter" means a human powered mobile device having 2 (two) to 4 (four) wheels, a deck to stand on, and handlebars.

H. "Electric assistive mobility devices" or "EPAMD" means those devices defined in Section 313 of the California Vehicle Code.

SECTION 6. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.04 (SIDEWALK REPAIR AND RECONSTRUCTION), Section 12.04.020 (DEFINITIONS), is amended to read as follows:

"12.04.020 - Definitions.

For the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

A. "City" means the city of Pasadena.

B. "Engineer" means the city engineer and superintendent of streets.

C. "Owner" means any person, firm or corporation, or the agent or representative of any person, firm or corporation in which is vested the title to any parcel of real property posted under this chapter.

D. "Repair" includes the repair, replacement, restoration or improvement of any sidewalk.

E. "Sidewalk" includes any surface provided primarily for the use of pedestrians within the city.

F. Words used in the plural include the singular and those used in the singular include the plural.

SECTION 7. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.10 (SIDEWALK VENDORS), is amended to add a new Section 12.10.010 (DEFINITIONS) to read as follows:

"12.10.010 - Definitions.

For purposes of this chapter, the following definitions apply:

A. "Immediate vicinity" means the streets abutting an activity or event (and any contiguous parking areas) and the sidewalks on either side of such streets, and includes any open or unoccupied space between the activity or event and the abutting streets and sidewalks.

B. "Person" means one or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.

C. "Sidewalk" means any surface provided primarily for the use of pedestrians within the city.

D. "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path. A sidewalk vendor may be either a:

1. "Roaming sidewalk vendor," which means a sidewalk vendor who moves from place to place and stops only to complete a transaction; or

2. "Stationary sidewalk vendor," which means a sidewalk vendor who vends from a fixed location.

E. "Vend" means to sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter food or merchandise, or to require someone to negotiate, establish or pay a fee before providing food or merchandise, even if characterized as a donation."

SECTION 8. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.10 (SIDEWALK VENDORS), is amended to add a new Section 12.10.020 (PROGRAM TO REGULATE SIDEWALK VENDING) to read as follows:

"12.10.020 - Program to regulate sidewalk vending—Permit requirements.

A. No person, either for themselves or any other person, shall engage in any sidewalk vendor activities within the City without first applying for and receiving a permit from the Director of Public Works, or the Director's designee, as provided in this chapter.

- B. A written application for a sidewalk vendor permit shall be filed with the Director, or the Director's designee, on a form provided by the City, and shall contain the following information:**
- 1. The name and contact information of the person applying to become a sidewalk vendor;**
 - 2. The name and contact information of all persons that will be employed as roaming sidewalk vendors or at a sidewalk vending receptacle;**
 - 3. The location(s) in the City where the sidewalk vendor intends to operate;**
 - 4. The day(s) and hours of operation the sidewalk vendor intends to operate at such location(s);**
 - 5. Whether the vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor and, if roaming, the intended path of travel;**
 - 6. The dimensions of the sidewalk vendor's sidewalk vending receptacle(s), including a picture of each sidewalk vending receptacle operating under the permit and any signs that will be affixed thereto;**
 - 7. Whether the sidewalk vendor will be selling food, merchandise, or both;**
 - 8. If the vendor is selling merchandise, a description of the merchandise to be sold;**
 - 9. A copy of the Pasadena health permit required for any sidewalk vendors selling food, as required by Chapter 8.16;**
 - 10. A copy of the Pasadena business license required for any vendors, as required by Chapter 5;**
 - 11. An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, State, and Federal laws;**
 - 12. A certification that, to their knowledge and belief, the information contained within the application is true;**
 - 13. An agreement by the sidewalk vendor to defend, indemnify, release and hold harmless the City, its City Council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation attorney's fees, disbursements and court costs) of every kind and nature**

whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, City, and/or the parties initiating or bringing such proceeding;

14. An acknowledgement that use of public property is at the sidewalk vendor's own risk, the City does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at their own risk;
 15. An acknowledgement that the sidewalk vendor will obtain and maintain throughout the duration of any permit issued under this chapter any insurance required by the ~~City's Risk Manager~~ Director;
 16. If the sidewalk vendor has operated in the City in the past, proof of prior sales tax allocation to the City; and
 17. Any other relevant information required by the Director, or the Director's designee.
- C. Each application for a sidewalk vendor permit shall be accompanied by a non-refundable application fee as established by resolution of the City Council. The application and permit is only applicable to the individual(s) named on the application.
- D. Within thirty (30) calendar days of receiving a complete application, the Director, or the Director's designee, may issue a sidewalk vendor permit, with appropriate conditions, as provided for herein, with findings based on all of the relevant information that:
1. The conduct of the sidewalk vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;
 2. The conduct of the sidewalk vendor will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the vendor;
 3. The conduct of such sidewalk vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;

4. The conduct of such sidewalk vending activity will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the City;
 5. The sidewalk vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this chapter;
 6. The sidewalk vendor's application contains all required information;
 7. The sidewalk vendor has not made a materially false, misleading or fraudulent statement of fact to the City in the application process;
 8. The sidewalk vendor has satisfied all the requirements of this chapter;
 9. The sidewalk vendor has satisfactorily provided all information requested by the Director, or the Director's designee, to consider the vendor's application.
 10. The sidewalk vendor has paid all applicable fees as set by City Council resolution; and
 11. The sidewalk vendor has adequate insurance to protect the City from liability associated with the sidewalk vendor's activities, as required by the Director and the City has been named as an additional insured.
- E. The Director, or the Director's designee, may, in his or her sole discretion, place additional conditions upon the issuance of the permit in order to insure the protection of the public rights-of-way and the rights of all adjoining property owners and the health, safety and welfare of the public.
- F. A sidewalk vendor permit is nontransferable. Any change in ownership or operation of a sidewalk vendor or sidewalk vending receptacle requires a new permit under this chapter.
- G. All permits issued under this chapter shall expire twelve (12) months from date of issuance.
- H. Permits shall be considered temporary and nonpermanent in nature, and permittee shall have neither property interest in, nor any entitlement to, the granting or continuation of any such permit.

- I. Permits may be terminated by the city, with or without cause, regardless of the nature and scope of financial or other interest in, or on account of the permit or the permitted use.
- J. Permits, vending activities and obstructions shall conform with all other applicable city and other governmental requirements including, without limitation, except as otherwise provided herein."

SECTION 9. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.10 (SIDEWALK VENDORS), Section 12.10.030 (AREAS WHERE VENDING IS PROHIBITED) is amended to read as follows:

"12.10.030 - Areas where vending is prohibited.

- A. **Vending Prohibited in Certain Parks.** Stationary sidewalk vendors are prohibited from vending in the following parks or open space because the city has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire: Brookside Golf Course area as that term is used in Chapter 3.32 (Arroyo Seco Public Lands).
- B. **Vending Prohibited Near Farmers' Markets.** Sidewalk vendors are prohibited within the immediate vicinity of a permitted certified farmers' market during the limited operating hours of that certified farmers' market. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, as may be amended, and any regulations adopted pursuant to that chapter.
- C. **Vending Prohibited Near Swap Meets.** Sidewalk vendors are prohibited within the immediate vicinity of a permitted swap meet during the limited operating hours of that swap meet. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, as may be amended, and any regulations adopted pursuant to that article.
 - 1. Sidewalk vendors are prohibited within the immediate vicinity of the swap meet held at the Rose Bowl Stadium, which includes the Brookside Park area and the Brookside Golf Course area as those terms are used in Chapter 3.32 (Arroyo Seco Public Lands) of the Pasadena Municipal Code, from 5:00 a.m. to 4:00 p.m. on swap meet event dates.
 - 2. Sidewalk vendors are prohibited in the immediate vicinity of the swap meet regularly operated at Pasadena City College.
- D. **Vending Prohibited Near Temporary Special Events.** Sidewalk vendors are prohibited within the immediate vicinity of an area designated for a temporary

special event for the limited duration of the temporary special permit. Any notice, business interruption mitigation, or other rights provided to affected businesses or property owners will also be provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. A "temporary special event" is a permit issued by the city, the RBOC, or the PCOC, for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, temporary event permit, contract, license agreement, temporary use permit, or any similar approval for purposes including, but not limited to, filming, parades, sporting events, festivals, carnivals, or outdoor concerts.

1. **Vending Prohibited in the Central Arroyo (as per Public Works Drawing No. 5698) During Certain Events.**
 - a. Sidewalk vendors are prohibited within the Central Arroyo, as well as on any streets abutting thereto and sidewalks on either side of such streets, from the time the parking lots open before the event until two hours after the event.
 - b. Sidewalk vendors are prohibited in the immediate vicinity of any minor event permitted in the Central Arroyo during the minor event, two hours before until two hours after the event.

2. **Vending Prohibited Near the Rose Parade and Related Activities.**
 - a. Sidewalk vendors are prohibited within the Parade Route and any adjacent streets as set forth in the annual Rose Parade Staging Plan ("Staging Plan"), from noon on the day before through 11:59 p.m. on the day of the Tournament of Roses Parade. "Parade Route" is defined as beginning at the Formation Area, north on Orange Grove Boulevard to Colorado Boulevard; east on Colorado Boulevard to Sierra Madre Boulevard; north on Sierra Madre Boulevard to Paloma Street, as well as sidewalks on either side of such streets. Adjacent streets include Green Street, Grand Avenue, St. John Street, Pasadena Avenue, Orange Grove Boulevard and other such streets immediately adjacent to the Parade Route as set forth in the annual Rose Parade Staging Plan, including sidewalks on either side of such streets. A copy of the Rose Parade Staging Plan is on file with the city.
 - b. During the Post Parade showcase, as scheduled by the Tournament of Roses, sidewalk vendors are prohibited from the Post Parade area as set forth in the Staging Plan, the immediate vicinity thereto, as well as within 500 feet of any entrance or exit to the Post Parade area.

- c. Notwithstanding the above, vendors with a foot peddler license (for general merchandise and food) and a New Year's vending permit from the health department (for food only) may vend within the rose parade route as so designated in such license. "

SECTION 10. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.10 (SIDEWALK VENDORS), is amended to add a new Section 12.10.040 (ADDITIONAL REQUIREMENTS REGULATING TIME, PLACE, AND MANNER OF SIDEWALK VENDING) to read as follows:

"12.10.040 - Additional requirements regulating the time, place, and manner of sidewalk vending.

- A. All sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:
 - 1. Conducting sidewalk vending activities shall be limited to the following hours:
 - a. On sidewalks or pathways directly adjacent to or within residential areas between dawn and dusk daily;
 - b. In non-residential areas between the hours of 7:00 a.m. and 10:00 p.m. daily;
 - 2. All food and merchandise shall be stored either inside or affixed to the sidewalk vendor receptacle or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the sidewalk vendor receptacle, the overall space taken up by the sidewalk vendor receptacle shall not exceed the size requirements provided in this section;
 - 3. The sidewalk vendor permit shall be displayed conspicuously at all times on the sidewalk vending receptacle or the sidewalk vendor's person. If multiple sidewalk vendors are staffing a sidewalk vendor receptacle or working as roaming sidewalk vendors, each person shall wear their permit on their person in a conspicuous manner;
 - 4. Sidewalk vendors shall not leave their sidewalk vending receptacle unattended to solicit business for their sidewalk vending activities;
 - 5. All signage and advertising related in any way to the sidewalk vendor shall be attached to the sidewalk vending receptacle, if any, or the sidewalk vendor's person;

6. Sidewalk vendors shall not use any electrical, flashing, wind powered, or animated sign;
7. Sidewalk vending receptacles shall not be stored on public property and shall be removed when not in active use by a sidewalk vendor;
8. All sidewalk vendors shall allow a police officer, firefighter, life safety services officer, code enforcement officer, health inspector, or other government official charged with enforcing laws related to the street vendor's activities, at any time, to inspect their sidewalk vending receptacle for compliance with this chapter and to ensure the safe operation used to prepare food;
9. No sidewalk vending receptacle shall contain or use explosive or hazardous materials with the exception of propane;
10. Sidewalk vendors that sell food shall have in their possession at all times they are conducting sidewalk vending activities the health permit required by Chapter 8.16;
11. Sidewalk vendors that sell food shall maintain a trash container in or on their sidewalk vending receptacle and shall not empty their trash into public trash cans. Sidewalk vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation;
12. Sidewalk vendors shall immediately clean up any food, grease or other fluid or item related to sidewalk vending activities that falls on public property;
13. Sidewalk vendors shall maintain a minimum five (5)-foot clear accessible path free from obstructions, including sidewalk vending receptacles and customer queuing area; and
14. Sidewalk vendors shall comply with the noise standards provided in Chapter 9.36.

B. Sidewalk vendors shall not engage in any of the following activities:

1. Renting merchandise to customers;
2. Displaying or advertising merchandise or food that is not available for immediate sale;
3. Selling of alcohol, marijuana, adult oriented material, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or marijuana;

4. Using an electrical outlet or power source that is owned by the City or another person other than the sidewalk vendor;
 5. Continuing to offer food or merchandise for sale, following, or accompanying any person who has been offered food or merchandise after the person has asked the sidewalk vendor to leave or after the person has declined the offer to purchase food or merchandise;
 6. Knowingly making false statements or misrepresentations during the course of offering food or merchandise for sale;
 7. Blocking or impeding the path of the person(s) being offered food or merchandise to purchase;
 8. Making any statement, gesture, or other communication which a reasonable person in the situation of the person(s) being offered food or merchandise to purchase would perceive to be a threat and which has a reasonable likelihood to produce in the person(s) a fear that the threat will be carried out;
 9. Touching the person(s) being offered food or merchandise without that person(s)' consent, or
 10. Placing their sidewalk vending receptacles outside of any pathway or sidewalk when engaging in sidewalk vending activities.
- C. All sidewalk vending occupancies or activities shall comply with the current Americans with Disabilities Act, as well as with the Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way.
- D. The minimum width of the public sidewalk to be occupied shall not be less than ten feet, and the vending occupancies or activities must permit at least five feet of unobstructed area of public walkway.
- E. No vending occupancies or activities shall occur within the following areas:
1. Fifteen (15) feet of any marked crosswalk or the curb return of any unmarked crosswalk;
 2. Five (5) feet of any traffic signal controller, traffic signals, or other emergency facility;
 3. Three (3) feet of any utility meter, manhole, service box, parking meter, street light pole or other utility;

4. Twenty (20) feet of an intersection (measured to the prolongation of the near curb of the intersecting street)
 5. Ten (10) feet of any driveway or alley approach;
 6. Five (5) feet ahead of, and twenty-five (25) feet to the rear of any sign marking a designated bus stop;
 7. Six (6) feet of any bus bench or bus shelter;
 8. Three (3) feet of any permitted sidewalk dining area or area improved with lawn, flowers, shrubs or trees or within three (3) feet of any display window of any building abutting the sidewalk or parkway or in such manner as to impede or interfere with the reasonable use of such window for display purposes;
 9. The boundary of a valet parking zone or loading/unloading zone.
- F. Use, occupation and obstruction of the public walkway which is permitted under this chapter may be temporarily suspended or revoked, without prior notice, when, in the discretion of the director, the police chief, or the fire chief, any such use, occupation or obstruction may interfere with public safety efforts or programs, street improvement activities, construction activities, cleaning efforts or other similar activities or with the health, welfare or safety of the citizens of the city.
- G. No placement of any type of fencing or other dividers is allowed around the vending occupancies or activities area.
- H. There shall be no modification of the texture of the surface of the public walkway.

SECTION 11. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.10 (SIDEWALK VENDORS), Section 12.10.050 (RESTRICTIONS ON SIDEWALK VENDORS IN CERTAIN NEIGHBORHOODS) is amended to read as follows:

"12.10.050 - Restrictions on sidewalk vendors in certain neighborhoods.

- A. Stationary sidewalk vendors are prohibited in areas that are zoned exclusively residential. This prohibition does not extend to roaming sidewalk vendors.
- B. Sidewalk vending in areas with extremely narrow sidewalks unreasonably interferes with the flow of pedestrians and disrupts access for persons with disabilities. The existing sidewalks on Walnut Street from Orange Grove Boulevard to Greenwood Avenue varies from seven (7) to eight (8) feet wide.

The existing sidewalk on Union Street from De Lacey Avenue to Lake Avenue is eight (8) wide. Sidewalk vending is prohibited in these areas.

- C. Established business improvement districts such as Old Pasadena Management District, South Lake Business District, and Pasadena Playhouse District, are extremely popular tourist destinations with unusually high pedestrian and vehicular traffic volumes. Due to the high foot traffic counts in these tourist destinations, sidewalk vending in these districts is prohibited to protect the public from injury;
- D. Sidewalk vendors shall not engage in sidewalk vending activities at the following locations:
1. Pasadena City Hall;
 2. Pasadena Civic Auditorium;
 3. Any public property that does not meet the definition of a sidewalk or pathway including, but not limited to, any alley, traffic median, square, street, or street end;
 4. Within two hundred (200) feet of a police station; a fire station; or a hospital
 5. Within one hundred (100) feet of:
 - a. Another sidewalk vendor;
 - b. A public or private school, a place of worship, or a large or general child day-care facility;
 - c. Any police officer, firefighter, lifeguard or emergency medical personnel who are actively performing their duties or providing services to the public;
 6. Within twenty (20) feet of a:
 - a. Fire hydrant;
 - b. Curb which has been painted white, yellow, green, blue, or red;
 - c. Automated teller machine;
 - d. Entrance or exit to a building, structure or facility; or

- e. Trash receptacle, bike rack, public restroom, or similar public use items.

SECTION 12. Pasadena Municipal Code Title 12 (STREETS AND SIDEWALKS), Chapter 12.10 (SIDEWALK VENDORS), is amended to add a new Section 12.10.060 (SIDEWALK VENDING REGULATIONS) to read as follows:

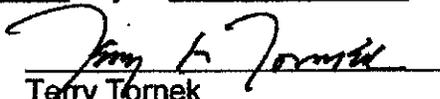
12.10.060 - Sidewalk vending regulations.

Sidewalk vending regulations are the implementation standards and specifications to assure compliance with state law, the Pasadena municipal code, and the preservation of public health, safety, and welfare of sidewalk vending in the City. The sidewalk vending regulations, and any revision thereto, may be promulgated by the city manager. Violations of the sidewalk vending regulations shall constitute a violation of this chapter. All published regulations shall be filed with the city clerk, be linked to the official website of the city, and be available in hard copy to any person upon request.

SECTION 13. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 14. This ordinance shall take effect 30 days after publication.

Signed and approved this 10th day of June, 2019.


Terry Tomek
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City

Council of the City of Pasadena at its meeting held this 10th day of June

2019, by the following vote:

AYES: Councilmembers Kennedy, Madison, Masuda, Vice Mayor Hampton,
Mayor Tornek

NOES: None

ABSENT: Councilmembers Gordo, McAustin, Wilson

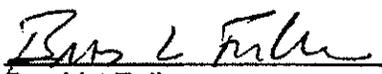
ABSTAIN: None

Date Published: June 13, 2019



Mark Jonsky
City Clerk

Approved as to form:



Brad L. Fuller
Assistant City Attorney



Ordinance Fact Sheet

TO: CITY COUNCIL DATE: JUNE 3, 2019
FROM: CITY ATTORNEY
SUBJECT: AMENDMENTS TO THE PASADENA MUNICIPAL CODE
RELATING TO SIDEWALK VENDORS

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 6, TITLE 8, TITLE 10, AND TITLE 12 OF THE PASADENA MUNICIPAL CODE RELATED TO THE REGULATION OF SIDEWALK VENDORS

RECOMMENDED COUNCIL ACTION:

1. Find that the proposed amendments are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Section 15061(b)(3) (general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment); and
2. Conduct a first reading of the proposed ordinance.

BACKGROUND

This Ordinance was first introduced at the meeting of May 20, 2019. Following the introduction, it was pointed out that three aspects of the Ordinance, as introduced, should be revised as described below. As such, the Ordinance is on the Agenda for first reading again.

1. Clarification of the prohibition of selling animals on public sidewalks.
2. Clarification of the definition of "sidewalk" as "any surface provided primarily for the use of pedestrians."
3. The use of propane was prohibited on sidewalk vending carts, but should be allowed to provide for hot food and water.

06/10/2019
MEETING OF 06/03/2019
AGENDA ITEM NO. 13 22

PURPOSES OF THE ORDINANCE:

The purpose of this ordinance is to provide additional revisions to the Pasadena Municipal Code to align with Senate Bill 946 relating to sidewalk vendors. Staff is proposing a vending program that expands economic opportunity for those aspiring to vend lawfully while placing limited regulations on vending to protect the public health, safety and welfare in the community's most densely crowded locations, and preserve the recreational enjoyment of the City's parks.

REASONS WHY LEGISLATION IS NEEDED:

In September 2018, Senate Bill 946 was signed into state law by Governor Brown, creating new regulations supporting the sale of food items and other merchandise by sidewalk vendors, and prohibiting a local authority from regulating sidewalk vendors, except in accordance with the provisions of the bill. On December 17, 2018, the City Council adopted Ordinance No. 7334. At that time, staff committed to bringing forward additional, less time sensitive, permitting and enforcement procedures that are directly related to objective health, safety, and/or welfare concerns.

The proposed additional revisions to the Pasadena Municipal Code are designed to codify access associated with the Americans with Disabilities Act; ensure the public's use and enjoyment of natural resources and recreational opportunities; and are recommended to increase vendor accountability and reduce conflict among vendors. In accordance with this proposed ordinance, the City Manager would have the authority to promulgate regulations as necessary to ensure compliance with state law.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

City staff and the general public will be impacted by this Ordinance.

FISCAL IMPACT:

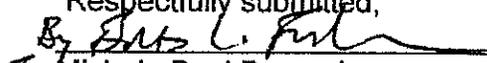
It is anticipated that business license revenues and public sidewalk vendor permitting revenues will increase. The volume of increase is not able to be determined at this time. Additional costs may be incurred by City Departments related to enforcement of licensed and unlicensed vendors in new areas of the City.

Prepared by:



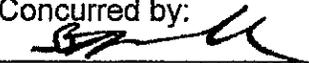
Brad L. Fuller
Assistant City Attorney

Respectfully submitted,



Michele Beal Bagneris
City Attorney

Concurred by:



Steve Mermell
City Manager

Introduced by: Vice Mayor Hampton

ORDINANCE NO. 7348

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 6, TITLE 8, TITLE 10, AND TITLE 12 OF THE PASADENA MUNICIPAL CODE RELATED TO THE REGULATION OF SIDEWALK VENDORS

The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and corresponding cost of publication, will be published by title and summary as permitted in Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

"Summary

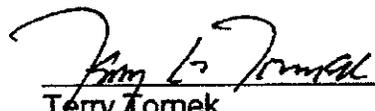
As of January 1, 2019, all cities in California are required to comply with the State law which created new requirements supporting the sale of food items and other merchandise by sidewalk vendors, and prohibiting cities from regulating sidewalk vendors, except in accordance with the provisions of the bill. This Ordinance is intended to bring the City's Municipal Code into compliance with the new law. The Ordinance provides revisions to Titles 6, 8, 10, and 12 of the Pasadena Municipal Code and expands economic opportunity for those aspiring to vend lawfully while placing limited regulations on vending to protect public health and safety in the community's most densely crowded locations and preserve the recreational enjoyment of the City's parks. The Ordinance is also designed to codify and preserve access associated with the Americans with Disabilities Act and to increase vendor accountability and reduce conflict among vendors and it authorizes the City Manager to promulgate implementing regulations.

Ordinance No. 7348 shall take effect 30 days after publication."

SECTION 2. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 3. This ordinance shall take effect 30 days after publication.

Signed and approved this 10th day of June, 2019.



Terry Tomek
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this 10th day of June 2019, by the following vote:

AYES: Councilmembers Kennedy, Madison, Masuda, Vice Mayor Hampton, Mayor Tornek

NOES: None

ABSENT: Councilmembers Gordo, McAustin, Wilson

ABSTAIN: None

Date Published: June 13, 2019



Mark Jomsky
City Clerk

Approved as to form:



Brad L. Fuller
Assistant City Attorney

City Council Meeting: April 9, 2019

Santa Monica, California

ORDINANCE NUMBER 2607 (CCS)

(City Council Series)

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE CHAPTER 6.36
TO ADOPT A COMPREHENSIVE VENDING REGULATORY PROGRAM

WHEREAS, the City of Santa Monica (the "City") consists of just over eight square miles and is home to more than 90,000 residents, the job site of 300,000 workers, and a destination for as many as 500,000 visitors on weekends and holidays; and

WHEREAS, because the City is both densely populated and visitor serving, its public spaces often become extremely crowded; and

WHEREAS, the City's park space is limited; and

WHEREAS, much of the City's limited park space is devoted to active uses such as sports fields and children's playgrounds, leaving even less open space available for all other activities, such as passive recreation; and

WHEREAS, public beaches, the Ocean Front Walk and City parks are congested public recreational facilities that are heavily used by residents, workers and visitors; and

WHEREAS, Palisades Park, situated between the Pacific Ocean, the Pier bridge, and the City's bustling downtown, is the crown jewel of the City's park system and is the most heavily utilized; and

WHEREAS, Palisades Park sits along the edge of the bluffs overlooking the Pacific Ocean providing spectacular and unparalleled views of the coastline; and

WHEREAS, based on Palisades Park's unique aesthetic qualities and unmatched scenic beauty, the City designed the Park as a local Landmark and the City's local Coastal Program Land Use Plan requires review to, from, and along the Park be protected; and

WHEREAS, circulation within Palisades Park is limited because it is extremely narrow, and is physically surrounded by downtown streets on three sides and tall bluffs on the fourth;

WHEREAS, the Pier is a long and narrow space, only 35 feet wide at some points, with ingress and egress at only one end; and

WHEREAS, the Third Street Promenade and the Transit Mall are located at the heart of the City's busy Downtown District; and

WHEREAS, all of these public spaces are heavily patronized by the public year round and congestion in these confined places is a constant norm; and

WHEREAS, the intensity and variety of park, Pier, Promenade, Transit Mall and beach uses further necessitates regulation to avoid safety hazards and conflicts; and

WHEREAS, public sidewalks and pedestrian paths are created and maintained for the primary purpose of enabling pedestrians to safely and efficiently move about from place to place; and

WHEREAS, ensuring the unobstructed flow of pedestrian traffic on sidewalks and pedestrian paths promotes public safety by minimizing the risk that pedestrians will jostle one another, collide, trip, or fall, and safeguarding the ability of the public to safely away from dangerous situations that may occur on or near public streets, pedestrian paths and sidewalks; and



WHEREAS, ensuring the free flow of pedestrian traffic is particularly important to the safety of the elderly, the very young, the disabled, vision-impaired persons, and others who are less able to navigate through crowds and around obstacles or hazards and who are particularly impacted by having to navigate off and onto curbs when sidewalks or pedestrian paths are blocked; and

WHEREAS, hindrances to the free flow of pedestrian traffic, particularly in the City's congested public places, may interfere with the work of public safety personnel seeking immediate access to emergency situations and with other work vital to the public health and safety, such as cleaning and maintenance; and

WHEREAS, because each of the above mentioned public spaces and resources is limited and heavily utilized, special efforts must be undertaken to maintain them and facilitate their shared use and availability to all; and

WHEREAS, disruptive activities, including unregulated vending activities, within the City's congested public spaces interfere with the general public's use and enjoyment of these public facilities, create serious public safety hazards, and damages the public welfare; and

WHEREAS, the City's has long regulated vending activities in order to address these and other public health, safety and welfare concerns; and

WHEREAS, on September 17, 2018, California Governor Edmund Gerald Brown signed Senate Bill ("SB") 946 into law, which regulates and decriminalizes certain sidewalk vending activities; and

WHEREAS, the City undertook an extensive review of vending activities in light of SB 946; and

WHEREAS, the results of the review show that continued regulation of vending activities, especially in the City's most congested public places, remains essential to protect public health, safety and welfare; and

WHEREAS, the City Council adopts this ordinance pursuant to the City's constitutionally authorized charter city police powers and consistent with authorities granted by SB 946; and

WHEREAS, the City Council finds that the regulations and requirements provided in this ordinance are necessary to protect the health, safety, and welfare of its residents, workers, businesses, and visitors; and

WHEREAS, the City Council further finds that the regulations and requirements provided in this ordinance are necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards; safeguard the public's use and enjoyment of natural resources and recreational opportunities; prevent undue concentration of disruptive activities that unreasonably interferes with the scenic and natural character of City parks; and prevent unsanitary conditions; and

WHEREAS, based on the findings contained in this ordinance and material presented in the accompanying Staff Report, the City Council finds and declares that taking emergency action to adopt this ordinance is necessary to protect and preserve the public peace, health, and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 6.16.030 of the Santa Monica Municipal Code is hereby amended to read as follows:

6.16.030 Appeal procedure.

(a) Hearing Examiner. The Hearing Examiner shall be the City Manager or designee. The Hearing Examiner shall not have had any prior direct involvement with the matter pending before him or her. If no City staff is capable of conducting the hearing, then the City shall contract with the California Office of Administrative Hearings ("OAH") to conduct the hearing.

(b) Standards. The Hearing Examiner may ~~grant, suspend, revoke or deny a license or permit,~~ approve, modify or reject the underlying City decision or action, whenever, in the reasonable judgment of the Hearing Examiner, the City's decision or action ~~grant, suspension, revocation or denial~~ is in accordance with any applicable law. The Appellant has the burden of proving, based on a preponderance of the evidence, that the City's decision or action is not in compliance with applicable laws.

(c) Hearing Request. Any person aggrieved by an action appealable to a Hearing Examiner shall be entitled to a hearing upon filing a written request therefor with the City Clerk. This written request must be filed within ten days not later than the tenth day following the mailing of service of a notice of the City action being appealed. from which the appeal is taken. Service is effectuated on the date that the notice is mailed to the recipient, personally served on the recipient, or emailed to the recipient if the recipient has consented in writing to electronic service.

(d) Hearing. The Hearing Examiner shall hold a hearing not later than sixty days following receipt of the request by the City Clerk, unless an extension of the time is granted by the Hearing Examiner, upon a finding of good cause. If the hearing is to be

conducted by OAH, it shall be scheduled as soon as practicable, consistent with OAH's calendar availability.

The applicant shall be given no less than five days' notice of the time and place of said hearing. The hearing shall be open to the public. Any interested party is entitled to be heard and may be represented by counsel.

Any failure to comply with the time limits set forth in this subsection (d) does not deprive the Hearing Examiner of jurisdiction to conduct the hearing or render a binding decision.

The Hearing Examiner shall have the power to issue orders to keep order and decorum during an Administrative Hearing. No person shall fail to comply with any such order.

(e) Decision of Hearing Examiner. The decision of the Hearing Examiner shall be made promptly after the conclusion of the hearing. Notice of the decision shall be mailed to the applicant at his or her last known mailing address.

(f) Stay Pending Hearing. The suspension or revocation of any permit or license for which a request for review has been timely filed under this Section, shall be stayed pending decision of the Hearing Examiner. Nothing in this subsection shall be construed to require any officer or employee of the City to issue any permit or license.

(g) Review of Hearing Examiner's Decision. The stay expires ten days after the Hearing Examiner issues the decision. The Hearing Examiner's decision in all cases is final except for judicial review. Such review must be sought by petition under Code of Civil Procedure Section 1094.5, not later than ninety days after the decision is issued.

SECTION 2. Chapter 6.36 of the Santa Monica Municipal Code is hereby amended to read as follows:

Chapter 6.36 Vending

6.36.010 Findings and purpose

The City Council of the City of Santa Monica hereby finds:

(a) Sidewalk vending fosters vibrant public spaces and promotes a diverse and inclusive local economy.

(b) In order to promote the public peace, safety, health and welfare, sidewalk vending must be regulated to promote public safety; to ensure rapid access by first responder and emergency personnel to public and private spaces throughout the City; to facilitate ingress into and egress from vehicles, rights-of-way, buildings, and public spaces; to maximize use and promote maintenance of public rights-of-way, parks, the beach, and other public spaces; and to reduce the City's exposure to civil liability.

(c) Because the City is densely populated by residents and visitors, its public spaces often become extremely crowded. The City's parks, Pier, Promenade, Transit Mall and beaches, and many of the City's sidewalks and pedestrian paths, are all heavily trafficked by the public and congestion in these places is a constant norm.

(d) Palisades Park, situated between the pacific ocean, the Pier bridge, and the City's bustling downtown, is the crown jewel of the City's park system and is the most heavily utilized. Based the Park's unique aesthetic qualities and unmatched scenic beauty, the City designed the Park as a local Landmark and the City's local Coastal Program Land Use Plan requires review to, from, and along the Park be protected.

Circulation within Palisades Park is limited because it is extremely narrow, and is physically surrounded by downtown streets on three sides and tall bluffs on the fourth.

(e) The unique and historic nature of many of the City's public spaces further require special consideration. For example, the Santa Monica Pier is a long, narrow, wooden structure 1,080 feet long, supported by concrete and timber piles extended over the beach and ocean with limited points of entry and exit. The Santa Monica Pier is also on the State of California Protected Critical Infrastructure list, experiences a high volume of pedestrian traffic and is congested throughout the year. The Third Street Promenade and the Transit Mall similarly draw significant local and tourist pedestrian traffic, with crowds as large as 10,000 or more traveling each block of the narrow, open-air public rights-of-way each day. Careful regulation of vending activities is necessary to protect public safety and ensure accessibility in these highly trafficked tourist destinations. Similarly, many of the City's parks and beaches provide opportunities for community engagement and recreation; regulation of vending activities is necessary to ensure availability of open space for public engagement, access and recreation, and to protect the natural resources within and the scenic and natural character of the parks and beaches. Additionally, many of the sidewalks and pedestrian paths in the City are under eight (8) feet wide, such that vending in these areas would unreasonably interfere with the flow of pedestrians and disrupt access for persons with disabilities or other special needs.

6.36.020 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) "Certified farmers' market" means a farmers' market certified as operating in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

(b) "Pedestrian path" means a path or walkway, other than a sidewalk, that is owned by the City or another public entity and is specifically designed for pedestrian travel. Pedestrian path shall not include any private property or areas not traditionally used or designated for pedestrian travel, such as the beach, bike-paths, streets, driveways, and public parking lots.

(c) "Pushcart" means any humanly propelled wheeled vehicle which contains items for sale.

(d) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(e) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

(f) "Santa Monica Pier" means the Santa Monica Pier, consisting of both the Newcomb Pier and the Municipal Pier, protruding from the Santa Monica State Beach at the southwesterly terminus of Colorado Avenue, extending for approximately two thousand one hundred thirty-five feet into the Santa Monica Bay, and extending 100 feet from all ingress and egress points to and from the Newcomb Pier and the Municipal Pier, including but not limited to the Ocean Avenue entrance point to the Pier bridge.

(g) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(h) "Vehicle vendor" means a person who vends from a motor vehicle or unhitched trailer upon a public street, roadway, or highway.

(i) "Vend" means to sell, offer to sell, expose for sale, solicit offers to purchase, or barter food, food products, services, goods, or merchandise from any public area, including any area open to the public on private property. Vending includes offering samples of products that are also for sale, negotiating fees for goods, and/or requesting donations in exchange for merchandise from any public area or any area open to the public on private property.

(j) "Vendor" means a person who vends. A vendor includes a person who vends as an employee or agent of another person or entity. A person engaged in the business of soliciting, canvassing, or taking orders subject to the regulations in Chapter 6.32 is not a "vendor."

(k) "Vendor permit" shall mean a sidewalk vendor permit or a vehicle vendor permit issued pursuant to this Chapter.

6.36.030 Vendor permit required.

No person shall vend in the City without first obtaining a vendor permit issued pursuant to this Chapter and a business license issued pursuant to Chapter 6.04 of this Code.

6.36.040 Restricted vending times and locations.

(a) Unless otherwise expressly authorized by or with the consent of the City, no person shall vend on or within, any private property, the Santa Monica Pier, a certified

farmers' market, a permitted community event, a permitted filming activity, a bike path, a street, a driveway, or a public parking lot.

(b) No stationary sidewalk vendor shall vend within

(1) twenty-five (25) feet of the Third Street Promenade;

(2) the Transit Mall;

(3) the Beach;

(4) any area exclusively zoned for residential uses;

(5) the 1700 block of Ocean Front Walk;

(6) any portion of Palisades Park that is within 500 feet of the Ocean Avenue entrance point to the Pier bridge; or

(7) any City park during the hours that an exclusive concessionaire is open and operating pursuant to an agreement with the City or other operator of the park.

(c) No roaming sidewalk vendor shall vend in an area exclusively zoned for residentially uses or on a sidewalk or pedestrian path directly adjacent to such an area between the hours of 9:00 PM and 8:00 AM.

(d) No vehicle vendor shall vend on Main Street between Ocean Park Boulevard and the City's southern boundary between the hours of one a.m. and three a.m. on a Saturday, a Sunday, St. Patrick's Day, Valentine's Day, Cinco De Mayo Day, Memorial Day, Independence Day, Labor Day, Halloween, or New Year's Day.

(e) The City Manager or designee may adopt administrative regulations imposing additional requirements consistent with this Chapter and all other applicable laws in order to regulate the time, place, and manner of vending.

6.36.050 Vending requirements and prohibitions.

(a) A vendor shall:

- (1) prominently display the vendor's vending permit at all times while on public property;**
- (2) maintain noise levels in compliance with Chapters 4.12 and 6.116 of this Code;**
- (3) keep the vendor's vending area litter free by removing litter caused by the vended products off of public or private property; and**
- (4) maintain a trash container in or on the vendor's person, cart, or vehicle.**

(b) A vendor shall not:

- (1) vend any shared mobility device, as defined in Section 3.21.020 of this Code, cannabis, as defined in Section 26001 of the Business and Professions Code, or cannabis product as defined in Section 11018.1 of the Health and Safety Code;**
- (2) employ harassing, threatening or unsafe vending tactics, including but not limited to:**
 - a. intentionally or recklessly making physical contact with or touching another person without the person's consent;**
 - b. intentionally or recklessly blocking or impeding the safe passage of a person traveling on a public right-of-way;**
 - c. engaging in physical conduct, verbal communication, or gestures in a manner (i) intended to or likely to cause a**

reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(3) knowingly make false statements or misrepresentations in the course of vending; or

(4) use any public or private electrical outlet or power source, including any City-owned or City-operated electrical outlets or power sources, without authorization.

(c) In addition to the prohibitions set forth in Subsection (b) above, a vehicle vendor shall not:

(1) Use public property, including a sidewalk or a parkway, adjacent to the vendor's vehicle for vending purposes including displaying merchandise or placement of trash containers; or

(2) Vend vehicles or motorized devices.

(d) In addition to the prohibitions set forth in Subsection (b) above, a sidewalk vendor shall not:

(1) Vend services or merchandise for rent to customers;

(2) Display merchandise or food that is not available for immediate sale;

(3) Use an open flame; or

- (4) Place or maintain vending equipment or materials in a manner that touches, leans against or is affixed to any building or structure including, but not limited to, a lamppost, parking meter, mailbox, traffic signal, fire hydrant, bench, bus shelter, newsstand, trashcan, or traffic barriers.

6.36.060 Exemptions.

This Chapter shall not apply to:

- (a) An approved participant in a certified farmer's market;
- (b) A vendor operating pursuant to or under the authority of an approved license agreement;
- (c) An approved participant in a community event authorized by the City;
- (d) An individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons;
- (e) An individual or organization vending the following items, which are inherently communicative, have nominal utility apart from their communication, and have been created, written, or composed by the vendor: books, recorded music, poetry, prose, sculptures, paintings, prints, or photographs.

6.36.070 Vendor permit application and fee.

(a) To receive or renew a vendor permit, a person must complete an application on the form approved by the City and file it with the City. The applicant must provide the following information:

- (1) The applicant's full name and address.
- (2) Proof of applicant's identity.

- (3) A description of the type of products to be vended.
- (4) The location where the applicant plans to vend.
- (5) If the applicant is employed by another vendor, the name and business address of the employer.
- (6) A description of any motor vehicle, pushcart, or other device to be used during vending.
- (7) If the applicant will vend food products, a valid Los Angeles County Department of Health permit and certification that the vendor will comply with all applicable laws regarding food product vending.
- (8) Whether the applicant seeks a permit to operate as a sidewalk vendor or a vehicle vendor.
- (9) Other relevant information as required by the City, including proof of insurance coverage where required.

(b) No application for a vendor permit or for renewal of such a permit shall be accepted unless accompanied by the required vendor permit fee. The amount of the fee shall be established by resolution of the City Council.

(c) A vendor permit shall be effective for the same period as the term of the applicant's business license.

(d) A vendor permit may be renewed through the same application process described above.

(e) A vendor permit may not be assigned or transferred to any other person or entity.

6.36.080 Vendor permit approval, revocation, suspension or denial.

(a) The City may condition the approval of any vendor permit on compliance with this Chapter and other applicable laws and regulations.

(b) A vendor permit may be revoked, suspended or denied by the City Manager or designee based upon any of the following grounds:

(1) The applicant has made a materially false, misleading or fraudulent statement of fact or omission of fact to the City;

(2) The applicant operates, has operated, or proposes to operate in a manner that endangers public health or safety;

(3) The applicant fails to comply or has failed to comply with any requirement imposed by the provisions of this Code (or successor provision or provisions) including any rule, regulation, condition, or standard adopted pursuant to this Chapter, or any term or condition imposed by the vendor permit, or any provision of State law;

(4) The applicant, or any of its officers, owners or principals, has been convicted of a criminal offense that is substantially related to the qualifications, functions or duties of the vending profession, including, but not limited to, any criminal conviction involving a violent or serious felony, fraud, deceit, or embezzlement; or

(5) Other grounds set forth by administrative regulations.

6.36.090 Appeals.

A decision by the City under this Chapter to deny an application, conditionally approve an application, suspend a permit, or revoke a permit may be appealed by an

aggrieved applicant or permit holder. An appeal must be taken within the time and manner set forth in Chapter 6.16 of this Code.

6.36.110 Administrative regulations.

The City Manager or designee may promulgate administrative regulations to implement the provisions of this Chapter, including but not limited to, permit application procedures and requirements, permit conditions, operating conditions, inspection frequencies, enforcement procedures, location restrictions, or concentration restrictions. No person shall fail to comply with any such regulations.

6.36.111 Penalties

(a) Any person who violates any provision of this Chapter shall be subject to administrative citation pursuant to Chapter 1.09 of this Code.

(b) Any person, other than a sidewalk vendor, who violates any provision of this Code shall be subject to an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars per violation.

(c) Any person, other than a sidewalk vendor, who violates Section 6.36.040(a), (b)(3), (d), or 6.36.050(b) of this Chapter, shall be subject to an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars per violation, or a misdemeanor, which shall be punishable by a fine not exceeding five hundred dollars per violation, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.

(d) The remedies specified in this Chapter are cumulative and their specification shall not preclude the use of any other remedy provided by law.

6.36.112 Impoundment

(a) The City may impound food, goods, and/or merchandise that are abandoned on public property or displayed, offered, or made available for rent or sale by a vendor who does not possess a valid City vending permit.

(b) The City may immediately dispose of impounded materials that are perishable or cannot be safely stored.

(c) The City may forfeit impounded materials from a vendor who has been found responsible for vending without required governmental permits three or more times within a twenty-four month period. An aggrieved vendor may appeal a City forfeiture order pursuant to the procedures set forth in Chapter 6.16.

(d) The City may dispose of abandoned impounded materials in accordance with administrative regulations.

(e) The City Council may by resolution adopt impound fees, which shall reflect the City's enforcement, investigation, storage and impound costs.

(f) No person shall retrieve impounded materials without paying applicable impound fees and demonstrating proper proof of ownership.

~~6.36.010 Findings and purpose.~~

~~—The City Council of the City of Santa Monica finds and declares as follows:~~

~~—(a) The City is extremely dense with a land area of just eight square miles and a population of approximately ninety thousand people. Moreover, the combination of an oceanside location, fine climate, and the availability of urban facilities, services and~~

~~entertainments make the City an extremely desirable place to work or visit. Consequently, a large number of nonresidents come into the City to work or recreate each day. On weekdays, approximately three hundred thousand people are present within the City. On weekends, the number swells to as high as five hundred thousand. Thus, population density and congestion both present threats to the quality of life in the City, particularly in the City's downtown business district which is the most crowded area within the City.~~

~~—(b)— To protect the public health and safety and ensure safe pedestrian and motorist traffic, the City needs equitable, uniform vending regulations.~~

~~—(c)— Unregulated vending, from pushcarts, motor vehicles, stands, or by persons contributes to traffic congestion and thereby impedes the orderly movement of pedestrian and motorist traffic. The unregulated use of congested streets and sidewalks by vendors may make the streets and walkways unsafe for motorists, pedestrians, and vendors.~~

~~—(d)— The City has adopted a series of comprehensive plans and development guides which promote the City's aesthetic interests generally and the aesthetics of its public space specifically. Included among these plans are the Bayside District Specific Plan, the Downtown Urban Design Plan, and the Santa Monica Pier Design Guidelines. Through the adoption of these plans and specific legislation, the City is affirmatively seeking to eliminate visual blight on the public rights of way, including the visual blight caused by unsightly vendor stands. Santa Monica is designed to be a city where people are encouraged and able to walk through a safe and attractive street environment.~~

~~—(e)— The City presently has a vibrant and stable merchant community. Uncontrolled street vending would constitute unfair competition and could serve to~~

~~undermine the City's commercial life by reducing sales from local merchants and eroding the City's tax revenues.~~

~~6.36.020 Definitions.~~

~~—For purposes of this Chapter, the following words or phrases shall have the following meanings:~~

~~—(a) Food or Food Products. Any type of edible substance or beverage.~~

~~—(b) Goods or Merchandise. Any items that are not a food product.~~

~~—(c) Vend or Vending. To sell, offer for sale, expose for sale, solicit offers to purchase, or to barter food, goods, merchandise, or services in any public area from a stand, pushcart, motor vehicle, or by a person with or without the use of any other device or other method of transportation. To require someone to pay a fee or to set, negotiate, or establish a fee before providing goods or services constitutes vending. Requests for donations in exchange for merchandise also constitute vending.~~

~~—(d) Vendor. A person who vends. This includes a vendor who is an employee or agent of another. A person engaged in the business of soliciting, canvassing, or taking orders subject to the regulations in Chapter 6.24 is not a "vendor."~~

~~—(e) Pushcart. Any nonmotorized mobile device used in the sale, barter, or offer for sale of food products, goods, or merchandise or services.~~

~~—(f) Vehicle. Any motorized device used in the sale, barter, or offer for sale of food products, goods, or merchandise or services.~~

~~6.36.030 Exemptions.~~

~~—The provisions of this Chapter shall not apply to:~~

~~—(a) Any approved participant in any farmer's market;~~

~~— (b) (Reserved);~~

~~— (c) Any vendor operating pursuant to or under the authority of an approved license agreement;~~

~~— (d) Any approved participant in any community event authorized by the City;~~

~~— (e) Any individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons;~~

~~— (f) Any individual or organization that vends the following items which are inherently communicative, have nominal utility apart from their communication, and have been created, written, or composed by the vendor: books; recorded music, poetry, prose, sculptures, paintings, prints, or photographs.~~

~~6.36.040 Vendor permit required.~~

~~— (a) No person may vend in the City without first obtaining and having in his or her possession a vendor permit issued by the City in accordance with this Chapter.~~

~~— (b) To receive a vendor permit, a person must complete a vendor permit application on the form approved by the City and file it with the City. The applicant must provide the following information:~~

~~— (1) Applicant's full name and address.~~

~~— (2) Proof of applicant's identity.~~

~~— (3) Proof of insurance coverage satisfactory to City.~~

~~— (4) A brief description of the type of food products or goods to be sold. This shall include the nature, character and quality of the product.~~

~~— (5) The location where the applicant plans to vend.~~

~~—(6) If applicant is employed by another to vend, the name and business address of the employer.~~

~~—(7) If applicant will use a motor vehicle during his or her vending, a description of the vehicle, its registration number, its license number, and the streets the applicant intends to use.~~

~~—(8) If applicant will use a pushcart or any other device, a description of the pushcart or device.~~

~~—(9) If applicant will vend food products, a valid Los Angeles County Department of Health permit and certification that he or she complies with all State and Federal laws regarding food product vending.~~

~~—(10) Any other relevant information required by the City.~~

~~—(e) No application for a vendor permit or the renewal thereof shall be accepted unless accompanied by the application fee. The application fee shall be in the amount established by resolution of the City Council.~~

~~6.36.050 Vendor business license fee permit issuance and denial.~~

~~—(a) A vendor permit shall be approved, conditionally approved, or denied within thirty days of the filing of an application. The vendor permit shall be approved unless one of the following findings is made:~~

~~—(1) The applicant has made a material false, misleading or fraudulent statement of fact to the City in the application process.~~

~~—(2) The application does not contain the information required by this Chapter.~~

~~—(3) The applicant has not satisfied the requirements of this Chapter.~~

~~—(b) The City may condition the approval of any vendor permit to ensure compliance with this Chapter and other applicable laws.~~

~~—(c) A vendor permit issued by the City may be revoked pursuant to the provisions of Section 6.14.110 of this Code.~~

~~—(d) The license fee shall be fifty dollars per annum and no additional license fee shall be required by virtue of vending in any assessment district.~~

~~—(e) A vendor permit issued hereunder shall be effective for the same period as the business license. Upon the expiration of the vendor permit, an application for renewal thereof shall be filed in a like manner as an application for an original vendor permit, and such renewal permit shall be approved only when the requirements for the issuance of an original vendor permit are met.~~

~~—(f) A vendor permit shall not be assignable or transferable.~~

~~6.36.060 Appeals.~~

~~—Any decision by the City under this Chapter denying an application, conditionally approving an application, or revoking a permit, may be appealed by an aggrieved applicant or permit holder. Any appeal must be taken within the time and manner set forth in Section 6.16.030 of this Code. Upon an appeal, the decision of the Hearing Examiner shall be final except for judicial review and shall not be appealable to the City Council.~~

~~6.36.090 Vendor location sites.~~

~~—No person issued a vendor permit pursuant to this Chapter shall vend in any location in the City except in connection with vending from vehicles, such as catering or ice cream trucks, on any street designated in the vendor permit or on private property.~~

~~6.36.095 Prohibition of late night vending on Main Street.~~

~~—No person shall vend from vehicles, including unhitched trailers, on Main Street, between Ocean Park Boulevard and the City's southern boundary, during the hours of one a.m. to three a.m. on Saturday, Sunday, St. Patrick's Day, Valentine's Day, Cinco De Mayo Day, Memorial Day, Independence Day, Labor Day, Halloween, and New Year's Day.~~

~~6.36.100 General requirements.~~

~~—(a) Location Restrictions. No person may vend:~~

~~—(1) Within ten feet from the outer edge of any entrance of any business, including, but not limited to: doors; vestibules; driveways; outdoor dining area entries; and emergency exits as measured in each direction parallel to the building line, during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.~~

~~—(2) Within ten feet of any bus stop.~~

~~—(3) Within ten feet of any street corner or marked pedestrian crosswalk.~~

~~—(4) Within thirty five feet of any other vendor.~~

~~—(5) In any manner that blocks or obstructs the free movement of pedestrians.~~

~~—(b) Vending or Renting on Beaches and Public Parks Prohibited. All vending activity on the beaches and in public parks is prohibited. No vendor permit shall be issued to any person for the vending of any food products, goods, or merchandise, or the renting~~

~~of any types of goods, merchandise, or services on the beaches and in public parks in the City of Santa Monica.~~

~~(c) Receipts. Upon request by a buyer, a vendor shall give a receipt to the buyer. The receipt shall list the following:~~

~~(1) The vendor's name.~~

~~(2) The vendor's City vendor permit number.~~

~~(3) The vendor's address or telephone number.~~

~~(4) The items sold.~~

~~(5) The price of each item sold.~~

~~(6) The total price of all items sold.~~

~~(d) Cleanup Responsibility. A vendor shall keep his or her vending or performing area litter free. He or she must remove litter caused by his or her products off of any public property and other private property. A vendor with a pushcart shall have a trash container in or on the cart.~~

~~(e) Noise Limit. Except as provided for in this Chapter, a vendor shall be subject to the provisions of Chapter 4.12 of Article 4 of this Code. Vendors within the Third Street Promenade shall be subject to the noise regulations in Chapter 6.116. In addition, no vendor shall be so loud as to be heard inside the premises of an adjacent building or structure while the entrance door to the premises is closed.~~

~~(f) Pushcart Standards. A vendor's pushcart (or other device) shall be kept clean and in a safe condition when used on public property. The pushcart shall display the following:~~

~~—(1) The vendor's name, business name, and City permit number on all vertical sides of the cart. The lettering shall be at least one inch high. A food vendor shall include his or her Los Angeles County Department of Health permit number.~~

~~—(2) A photocopy of the vendor's City vendor permit on at least two vertical sides of the cart.~~

~~—(g) Compliance with Conditions. No person shall vend contrary to the terms or any conditions imposed in approving a vendor permit pursuant to this Chapter.~~

~~6.36.110 Sampling on the Pier and Third Street Promenade.~~

~~—No person may engage in the activity of distributing samples of goods, wares, merchandise, products or services on the Municipal Pier, Newcombe Pier or Third Street Promenade without a permit or license from Downtown Santa Monica, Inc., or the Santa Monica Pier Corporation issued in accordance with the corporation's services agreement with the City. Any such license or permit shall be conditioned so as to ensure compliance with applicable laws and to protect the free flow of pedestrian traffic, emergency ingress and egress, the aesthetic qualities of these public spaces, and public access to all businesses and services.~~

~~6.36.140 Penalties.~~

~~—(a) Except as provided in subsection (b) of this Section, any person violating this Chapter shall be guilty of an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars per violation.~~

~~—(b) Any person violating Section 6.36.040 or 6.36.095 shall be guilty of an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars per violation, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.~~

SECTION 3. The City Council finds, based on the findings above and the reasons set forth in the Staff Report accompanying this Ordinance, that it is necessary to adopt this Ordinance as an emergency measure to preserve the public peace, health and safety.

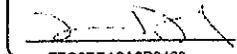
SECTION 4. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall immediately effective upon adoption.

APPROVED AS TO FORM:

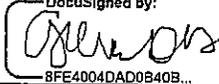
DocuSigned by:



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LANE DILG
City Attorney

Approved and adopted this 9th day of April, 2019.

DocuSigned by:

8FE4004DAD0B40B...
Glean Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2607 (CCS) had its introduction and adoption at the Santa Monica City Council meeting held on April 9, 2019, by the following vote:

AYES: Councilmembers Jara, Winterer, McKeown, Himmelrich, Mayor Pro Tem O'Day, Mayor Davis

NOES: None

ABSENT: Councilmember Morena

ATTEST:

DocuSigned by:

E2F858056A714C3..
Denise Anderson-Warren, City Clerk

4/17/2019
Date

A summary of Ordinance No. 2607 (CCS) was duly published pursuant to California Government Code Section 40806.

ORDINANCE NO. 19-1070U

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD ESTABLISHING A SIDEWALK VENDING PROGRAM IN COMPLIANCE WITH SENATE BILL 946; AMENDING THE WEST HOLLYWOOD MUNICIPAL CODE TO ADD CHAPTER 5.122 AND AMEND SECTIONS 5.08.010, 5.08.040, 5.08.050, 5.08.250, AND 5.92.010; AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council makes the following findings in support of this ordinance:

- A. Senate Bill No. 946 ("S.B. 946"), which took effect on January 1, 2019, provides that cities and counties may not regulate sidewalk vending except in accordance with California Government Code sections 51038 and 51039.
- B. Provisions of the West Hollywood Municipal Code currently regulate sidewalk vendors in a manner that is inconsistent with S.B. 946, and the City seeks to adopt an enforceable sidewalk vending program that responds to the objective needs and circumstances of the West Hollywood community.
- C. Until the effective date of S.B. 946, the City regulated sidewalk vendors by means of a general license for "peddlers and commercial solicitors." In light of the specific provisions for sidewalk vending in state law, regulating sidewalk vending through a local license specific to the activity will enable the City to more effectively comply with state mandates.
- D. Regulating sidewalk vending will benefit the City by promoting entrepreneurship and a dynamic streetscape, while ensuring protection of the public safety and welfare.
- E. Unless properly regulated, vending in the public right-of-way and in public parks creates the potential for increased safety risks including, but not limited to, interfering with the performance of police, firefighter, and paramedic services; contributing to traffic congestion; and interfering with the ability of pedestrians and persons with disabilities to follow a safe path of travel (by obstructing the right-of-way with vending equipment or by increasing congestion).
- F. The licensing requirements of this ordinance are necessary to collect adequate information about vending operations within city limits, to facilitate contact between the City and its vendors, and to ensure that vending does not adversely affect the public welfare.

- G. Requiring sidewalk vendors to maintain a minimum unobstructed pedestrian path of four (4) feet at vending locations is necessary to ensure compliance with state and federal disability access standards.
- H. Requiring sidewalk vendors to maintain a greater minimum unobstructed pedestrian path when operating on wider sidewalks is necessary to ensure the safe flow of pedestrian traffic, as required of all businesses encroaching in the public right of way. The widths of the City's public sidewalks accommodate an expected level of pedestrian traffic at the location, and ensuring the free flow of pedestrian traffic is particularly important to the safety of the elderly, the very young, persons with disabilities, and others who are less able to navigate crowds and obstacles that may require stepping off curbs when sidewalks have become obstructed.
- I. Requiring sidewalk vendors to obtain a health permit from the Los Angeles County Department of Public Health before engaging in the sale of food to the public is necessary to protect the public health and safety.
- J. Requiring sidewalk vendors to undergo background checks is necessary to ensure vendors meet the requirements of a license to operate in or near parks, schools, residences, and other places frequented by children.
- K. Restricting vending in areas of the City with a high concentration of night-life venues, during the hours when pedestrians crowd the streets, is necessary to avoid compromising public safety, as congested sidewalks encourage pedestrians to step into roadways to maintain the flow of traffic, and the presence of vendors encourage pedestrians to cross mid-block or to stand in roadways to purchase food or merchandise.
- L. Restricting sidewalk vending near school grounds when the grounds are open for student instruction is necessary to protect the safety of children traveling to and from campus and to avoid disrupting classroom instruction and school activities.
- M. Restricting sidewalk vending in residential areas and restricting vendors' use of sound amplifying equipment is necessary to protect residents and visitors from excessive noise and traffic impacts.
- N. The need for a regulatory program is at its height during the L.A. Pride Festival and the Halloween Carnival when tens of thousands of visitors arrive in the City for the two largest citywide events in West Hollywood. As the City has expanded the footprint of L.A. Pride this year, with a greater number of street closures, staff expects even more visitors to the City during the weekend of the event, and a corresponding surge in sidewalk vendors.
- O. The City Council hereby adopts this ordinance pursuant to its authority under Government Code section 51038 and finds that the regulation of sidewalk

vendors set forth herein is directly related to protecting the health, safety, and welfare of the West Hollywood community.

Section 2. Chapter 5.122 is hereby added to Title 5 of the West Hollywood Municipal Code to read as follows:

Chapter 5.122

SIDEWALK VENDORS

Sections:

- 5.122.010 Definitions.**
- 5.122.020 License Required.**
- 5.122.030 Application Procedure.**
- 5.122.040 Grounds for Denial.**
- 5.122.050 Term and Renewal.**
- 5.122.060 License Nontransferable.**
- 5.122.070 Exemptions.**
- 5.122.080 Operating Requirements.**
- 5.122.090 License Revocation.**
- 5.122.100 Appeal Procedures.**
- 5.122.110 Penalties.**
- 5.122.120 Ability-to-Pay Determinations.**

5.122.010 Definitions.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

"City" means the City of West Hollywood.

"Director" means the Director of Public Works or his or her designee.

"Park" means a public park owned or operated by the City.

"Person" means any natural person, firm, association, organization, partnership, joint venture, business trust, corporation, or company.

"Roaming sidewalk vendor" means a sidewalk vendor who operates by traveling from place to place and stops only to complete a transaction..

"Sidewalk" means a public sidewalk or paved pedestrian path specifically designed for pedestrian travel.

“Sidewalk vendor” or “vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a sidewalk within the City.

“Sidewalk vending” refers to commercial activity conducted by a sidewalk vendor.

“Special event permit” means a permit issued for the temporary use of, or encroachment on, a sidewalk or other public area, including a temporary license issued pursuant to Section 5.08.020 and a special event permit issued pursuant to Chapter 19.55 of this code.

“Stationary sidewalk vendor” means a sidewalk vendor who operates from a fixed location.

“Swap meet” means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

5.122.020 License required.

No person shall engage in sidewalk vending without first obtaining a business license pursuant to Chapter 5.08 and this Chapter.

5.122.030 Application procedure.

A. An application for a sidewalk vending license shall include the following information:

1. The applicant’s name, current mailing address, and telephone number;
2. A copy of a valid California’s driver’s license or identification number, an individual taxpayer identification number, or a social security number. Such information is not a public record and will remain confidential as required by Government Code section 51038(c)(4);
3. If the vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;
4. A description of the merchandise to be offered for sale and any vending equipment to be used (including the dimensions of carts or other conveyances);
5. A copy of a valid California Department of Tax and Fee Administration seller’s permit, as required;
6. If a vendor of food, proof of all required approvals from the Los Angeles County Department of Public Health;

7. The results of a fingerprinting background check using a form furnished by the City;
 8. A description, map, or drawing of the location(s) in which the applicant proposes to operate;
 9. A statement of the days and hours of proposed vending operations, and whether the sidewalk vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
 10. Proof of comprehensive general liability insurance with minimum policy limits of one million dollars (\$1,000,000) per occurrence, combined single limit coverage, and two million dollars (\$2,000,000) in the aggregate against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee, with an endorsement naming the City as an additional insured.
 11. An agreement by the applicant to indemnify and hold harmless the City, its officers and employees, for any damage or injury caused to the City as a result of the sidewalk vending conduct or activity.
 12. The applicant's certification that, to his or her knowledge and belief, the information contained in the application is true; and
 13. Such other information as the Director deems necessary for the administration or enforcement of this Chapter as specified on the required application form.
- B. Applications shall not be accepted unless accompanied by payment of an application fee that the City Council may establish by separate resolution in an amount not to exceed the City's reasonable cost of providing the services required by this Chapter.

5.122.040 Grounds for denial.

A. Applicants will be notified in writing of the Director's decision to approve or deny an application for a sidewalk vending license. If an application is denied, the reasons for denial will be set forth in the written notice.

B. An application may be denied on the following grounds:

1. The proposed vending location encroaches on a public sidewalk without maintaining an unobstructed pedestrian access route as specified in Section 5.122.080(D)(5).

2. The proposed vending operation, including the equipment to be used by the vendor, fails to comply with all applicable health, zoning, fire, building and safety laws of the State of California or of the City of West Hollywood.
3. The applicant has knowingly made a false, misleading, or fraudulent statement of material fact in the application.
4. The applicant does not possess all state and local permits necessary for the proposed operations.
5. The applicant has had a license issued pursuant to this Chapter revoked within the preceding twelve (12) months.
6. The application meets any grounds for denial under Section 5.08.080.
7. The applicant is indebted to the City for any unpaid fee or fine.

5.122.050 Term and renewal.

A. A sidewalk vending license shall be valid for one (1) year after the date of issuance, unless it is revoked prior to that date in accordance with the provisions of this Chapter.

B. Each sidewalk vendor who seeks to renew a license pursuant to this Chapter shall submit a renewal application on a City-approved form and tender any applicable fees to the Director no later than thirty (30) calendar days prior to the expiration of the vendor's current license. Unless timely renewed, any license issued pursuant to this Chapter shall expire and become null and void at the end of its term.

C. An application to renew a license issued pursuant to this Chapter may be denied by the Director upon the grounds set forth in Section 5.122.040.

5.122.060 License nontransferable.

A sidewalk vending license shall not be transferable to any person or be valid for vending operations in any location(s) other than that location designated on the license for the term stated.

5.122.070 Exemptions.

A sidewalk vending license shall not be required for the following activities:

1. Commercial activity conducted in accordance with a temporary license issued pursuant to Section 5.08.020 of this code;

2. Events conducted in accordance with a special event permit, including but not limited to a certified farmers' market, swap meet, street fairs, outdoor concerts, sport league opening day, and business sidewalk sales.

5.122.080 Operating requirements.

A. No sidewalk vendor shall operate in the following locations:

1. Any public property, including, without limitation, streets, alleys, and city-owned parking structures, except on a public sidewalk;
2. Within one block of a certified farmers' market or a swap meet, during the limited operating hours of these events;
3. Within one block of an area designated for a special event permit for the limited duration of the permitted event. Any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the City's special event permit will also be furnished to a sidewalk vendor permitted to operate in the area.
4. Within one block of any public or private school grounds, between the hours of 8:00 a.m. and 5:00 p.m., on days that school is open to students;
5. At the following locations between the hours of 10:00 p.m. and 2:00 a.m.:
 - i. Santa Monica Boulevard
 1. North side of street
 - a. Between Robertson Boulevard and Palm Avenue
 - b. Between Laurel Avenue and Hayworth Avenue
 2. South side of street
 - a. Between Robertson Boulevard and San Vicente Boulevard
 - b. Between Laurel Avenue and Edinburgh Avenue
 - ii. Sunset Boulevard
 1. Between San Vicente Boulevard and Doheny Drive
 - iii. Robertson Boulevard
 1. East side of street, within 400 feet south of Santa Monica Boulevard
 - iv. Melrose Avenue
 1. Within 100 feet of the corner of Huntley Drive and Melrose Avenue
6. Within 25 feet of any on-street valet loading zone, any city-designated passenger loading zone, or any taxicab stand;
7. Upon or within any roadway, median strip, or dividing section; or
8. On private property without the consent of the property owner and a city-

issued permit.

9. Within 200 feet of another vendor.

B. Stationary sidewalk vendors shall not operate in residential zones or in any park for which the City has entered an exclusive concessionaire agreement; they may only operate at the location(s) designated in a license issued pursuant to this Chapter and only during the times set forth therein.

C. Roaming sidewalk vendors shall not operate within residential zones between the hours of 8:00 p.m. and 9:00 a.m., and shall not operate on any city block for more than one (1) hour in any four (4) hour period.

D. All sidewalk vendors are subject to the following requirements:

1. Maintain and ensure compliance with all state and local permits necessary for the proposed vending operation;
2. Keep the information furnished to the City under Section 5.122.030(A) current;
3. Carry a license issued pursuant to this Chapter at all times when operating in the City, and present the license for inspection at the request of any city staff member or law enforcement officer;
4. Food vendors shall display a City-issued Food Vendor Registration Decal on their carts or other vending equipment so as to be plainly visible by code enforcement officers;
5. Maintain an unobstructed pedestrian access route at sidewalk vending locations that is clear of any vending equipment or public obstructions including, but not limited to, street trees, news racks, bus benches, and curb lines. The minimum width of unobstructed routes must be suitable for the width of the sidewalk.
 - i. Four (4) feet when the sidewalk is no greater than thirteen (13) feet wide;
 - ii. Six (6) feet when the sidewalk is greater than thirteen (13) feet but no greater than seventeen (17) feet wide; and
 - iii. Eight (8) feet when the sidewalk is greater than seventeen (17) feet wide.
 - iv. Umbrellas used in connection with vending operations may project into the minimum required pedestrian clearance as long as the bottom edge of the umbrella is at least seven (7) feet from the surface of the sidewalk.
6. Ensure that vending operations are not blocking the entrances to any buildings, driveways, or vehicle parking spaces;

7. Ensure that equipment used in connection with sidewalk vending operations are not stored or left unattended in public spaces or in any portion of the public right-of-way. (Equipment or objects left in public spaces or in the public rightof-way overnight, or outside the hours of permitted vending operations, will be considered discarded and may be seized or disposed of by the city);
8. Ensure that signs, tables, chairs, shade structure, fences, or other furnishings not approved for use in a sidewalk vending license are not used in vending operations;
9. Do not use any horns, music, lights, visual media, or any sound amplifying device unless expressly approved in the vending license;
10. Do not sell or offer for sale lottery tickets, alcohol, cannabis, adult oriented material, tobacco or electronic cigarette products, or any living animal;
11. Do operate in the City between 2 a.m. and 6 a.m.
12. Do not use or attach any water lines, electrical lines, or gas lines during vending operations;
13. Do not affix, lean, or touch any sidewalk vending equipment to, on, or against any street fixture or structure, including, but not limited to utility posts, bus shelters, public trash cans, parking meters, or street signs;
14. Ensure that sidewalk vending equipment does not physically alter or otherwise damage the underlying sidewalk;
15. Do not solicit any individual who has expressed a desire not to be solicited;
16. Do not come into physical contact with any member of the public, without first receiving express permission;
17. Do not threaten any injury or damage to any member of the public who declines to be solicited;
18. Comply with all applicable food labeling requirements established by the State of California and all requirements of the West Hollywood Health Code;
19. Maintain vending operations in sanitary condition, including ensuring proper disposal of any trash produced as a result of said operations. (Vendors must operate with their own trash containers to allow the proper disposal of trash, food, or liquids generated by their operations.); and
20. Cease vending operations in any park one (1) hour prior to park closure.

5.122.090 License revocation.

A sidewalk vendor license may be revoked after the licensee is afforded written notice and an opportunity to be heard respecting a citation for the licensee's fourth or subsequent violation of the requirements set forth in this Chapter.

5.122.100 Appeal procedures.

A. Any person aggrieved by a decision denying or revoking a license pursuant to this Chapter may appeal the Director's decision by filing a written appeal to the Business License Commission of the City of West Hollywood (the "Commission"). Appeals must be filed within fifteen (15) business days after notice of the Director's decision has been mailed to the applicant's address. Commission hearings will be held in the manner set forth in Section 5.08.070. A timely appeal will stay the enforcement of any decision to revoke a license.

B. Commission decisions may be appealed to the City Council pursuant to Section 5.08.220. Hearing procedures and actions on an appeal will be in the manner set forth in Sections 5.08.230 and 5.08.240. The decision of the City Council shall be final.

5.122.110 Penalties.

A. A violation of this Chapter is not punishable as an infraction or misdemeanor, and no person will be subject to arrest for sidewalk vending unless said person has violated a law for which a person may be arrested.

B. A violation of this Chapter is punishable only by an administrative fine according to a fee schedule adopted by resolution of the City Council.

C. Notwithstanding any other provision of this code, failure to pay an administrative fine assessed under this Section is not punishable as an infraction or misdemeanor, and additional fines, fees, assessments, or any other financial conditions beyond those authorized will not be assessed.

5.122.120 Ability-to-Pay Determination.

A. When assessing an administrative fine under this Section, the City will take into consideration a person's ability to pay the fine.

1. Any fine issued under this Section will be accompanied by notice of and instruction regarding a person's right to request an ability-to-pay determination.
2. A 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

B. If a person is receiving public benefits under Government Code section 68632,

subdivision (a), or has a monthly income which is 125 percent or less than the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services, the person's administrative fine will be limited to 20 percent of the amount assessed according to the fee schedules in Section 5.122.110(B). The City may also take the following actions:

1. Allow the person to complete community service in lieu of paying the total administrative fine; or
2. Waive the administrative fine; or
3. Offer an alternative disposition.

Section 2. Section 1.08.010, subsection (d) of Chapter 1.08 of Title 1 of the West Hollywood Municipal Code is hereby amended to replace the provision for Title 5 and Chapter 7.08 code violations subject to administrative penalty procedures with the following language:

"Title 5, Business License Regulations and Permits, excluding Sections 5.70.070, 5.70.080, 5.92.050(1)(j), 5.92.050(2)(d);

Chapter 7.08, Smoking in Public Places and Outdoor Dining Areas;"

Section 5.08.010 of Chapter 5.08 of Title 5 of the West Hollywood Municipal Code is hereby amended to add sidewalk vending to the list of business activities required to be licensed and renumbering the remainder of the list to read as follows:

- "30. Sidewalk vending
31. Tanning salon
32. Tobacco retailers
33. Tow trucks¹
34. Valet parking^{1"}

Section 5.08.040 of Chapter 5.08 of Title 5 of the West Hollywood Municipal Code is hereby amended to read as follows:

"a. *Generally.* Every application for a business license required under this chapter shall be signed by the applicant and shall contain information prescribed by the Director and any additional information required for the licensing of any particular business pursuant to Chapters 5.16 through 5.122.

The determination of whether the application is complete shall be made in the manner prescribed by the Director.

b. *Fingerprinting and Photo Identification.* The rules and regulations governing the procedure for fingerprinting and photo identification, where such fingerprinting and photo identification is required in an application for a particular business license, shall be established by resolution of the City Council from time to time."

Section 5.08.050 of Chapter 5.08 of Title 5 of the West Hollywood Municipal Code—entitled “Review and Approval”—is hereby amended to read as follows:

“a. *Responsibility.* The responsibility for approving business license applications shall be as follows:

1. Business License Applications Which Do Not Require Hearings. These business license applications shall be subject to the approval of the Director. Any person may request a hearing on the Director’s decision on the application in a manner consistent with the requirements of Section 5.08.070. Timely request for a hearing shall entitle the aggrieved party to a hearing.

2. Business License Applications Which Require Hearings. These business license applications shall be subject to the approval of the Business License Commission.

b. *Preconditions to Approval.* Before any business license is issued, pursuant to this chapter, the reviewing authority must ensure that the applicant has agreed to abide by all the conditions and restrictions contained in, or imposed pursuant to, Chapters 5.16 through 5.122 as applicable.”

Section 5.08.250 of Chapter 5.08 of Title 5 of the West Hollywood Municipal Code—entitled “Violations”—is hereby amended to read as follows:

“A violation of this title, excluding Sections 5.70.070, 5.92.050(1)(j), 5.92.050(2)(d), 5.108.040(a) and (h), and 5.108.110(a) is subject to the administrative penalty provisions of Sections 1.08.030 through 1.08.070 of this code. Where the violation is of a continuing nature, each day or portion thereof wherein the violation continues constitutes a separate and distinct violation. It is a violation of this chapter to knowingly make a false statement in any application for a license or permit or in any report required under this chapter.”

Section 5.92.010, subsection (5) of Chapter 5.08 of Title 5 of the West Hollywood Municipal Code is hereby amended to read as follows:

““Peddle” and “peddling” shall mean: (a) hawking or selling any goods, wares or merchandise, including liquids or edibles for human consumption, from a motor vehicle or other conveyance that is pushed, pulled, carried, or otherwise transported by a motor vehicle, or (b) hawking or selling any goods, wares or merchandise, including liquids or edibles for human consumption, from or on a roadway or other part of the public right-of-way designated and used primarily for vehicular travel, or on any private property without the permission of the owner or other person in possession and control of the property, or (c) delivery to peddlers or sidewalk vendors of goods, wares and merchandise, including liquids or edibles for human consumption, knowing they are to be used for the purpose of engaging in the activities described in (a) and (b) above, or for the purpose of engaging in sidewalk vending as defined in Chapter 5.122.”

Section 3. CEQA. The City Council hereby finds and determines that there is no possibility that the adoption of a sidewalk vending ordinance and the amendment to the West Hollywood Municipal Code will have a significant effect on the environment. Accordingly, under the provisions of section 15061(b)(3) and section 15378(b)(5) of Division 6 of Title 14 of the California Code of Regulations ("the CEQA Guidelines") the adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

Section 4. Urgency Finding. The City Council finds and declares that the immediate preservation of the public peace, health, and safety requires that this ordinance be enacted as an urgency measure pursuant to Government Code section 36937(b). Since the effective date of S.B. 946 city staff has received several inquiries about the licensing requirements for sidewalk vending in the City and has recently received at least one demand for a license application. Staff expects the interest in sidewalk vending to grow and will require the means to regulate the activity. The City's recent decision to expand the footprint of the L.A. Pride Festival increases the urgency for regulatory tools. Many more visitors are expected in the City between June 7 and June 9 than the tens of thousands of visitors in past years, with a corresponding surge in sidewalk vendors. For these reasons, and the reasons set forth in Section 1, the Council finds that it is necessary to adopt this ordinance as an urgency measure. Ensuring that the ordinance takes effect immediately will ensure that the City is equipped to preserve the public peace, health, and safety during one of the largest citywide events in West Hollywood.

Section 5. Severability. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any remaining provisions hereof. The City Council of the City of West Hollywood hereby declares that it would have adopted this Ordinance despite any partial invalidity of its provisions.

Section 6. Effective Date. Pursuant to Government Code section 36937(b), this ordinance shall take effect immediately upon its adoption by four-fifths of the City Council.

Section 7. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

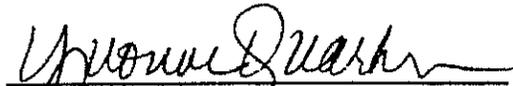
PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 3rd day of June, 2019 by the following vote:

AYES:	Councilmember:	Duran, Heilman, Meister, and Mayor D'Amico.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	Mayor Pro Tempore Horvath.
ABSTAIN:	Councilmember:	None.



JOHN D'AMICO, MAYOR

ATTEST:



YVONNE QUARKER, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 19-1070U was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 3rd day of June, 2019.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 4th DAY OF JUNE, 2019.



YVONNE QUARKER, CITY CLERK

ORDINANCE NO. 19-1415

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY
AMENDING PROVISIONS OF THE DOWNEY MUNICIPAL CODE
ESTABLISHING A SIDEWALK VENDING PROGRAM**

WHEREAS, pursuant to the police powers delegated to it by the California Constitution, the City of Downey has the authority to enact laws that promote the public health, safety, and welfare of its citizens, including sidewalk vending;

WHEREAS, the State Legislature recognized that the establishment of a sidewalk vending program will benefit local communities as a whole by facilitating entrepreneurship and providing economic opportunity for people to support themselves and their families, and by contributing to a diversity of food options and lively streets; and,

WHEREAS, Senate Bill ("SB") 946 was signed into law on September 17, 2018, and became effective January 1, 2019; and,

WHEREAS, SB 946 limits the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Sections 51038 and 51039; and,

WHEREAS, SB 946 applies to both charter and general law cities; and,

WHEREAS, the City of Downey's current regulations pertaining to "street vendors" [Article VI, Chapter 5, Part 3.1] as they pertain to "sidewalk vendors" conflict with SB 946; and,

WHEREAS, SB 946 authorizes the implementation of regulations that are directly related to objective health, safety, or welfare concerns, and that do not restrict sidewalk vending only in a designated neighborhood or area, except as specified; and,

WHEREAS, the City Council finds that the act of vending on sidewalks and other areas of the public right-of-way creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrians, school children, vehicles, and bicycle traffic; and,

WHEREAS, the City Council finds that restrictions on sidewalk vending are needed to accommodate vendors and their equipment, while also safeguarding the flow of pedestrian movement on sidewalks and in the public right-of-way, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services; and,

WHEREAS, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that sidewalk vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning; and,

WHEREAS, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant; and,

EXHIBIT D

WHEREAS, the City Council finds that restrictions on sidewalk vending in public parks is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks; and,

WHEREAS, the City Council finds that the inherent itinerant nature of sidewalk vending and the ability of such vendors to move quickly from one location to another, including near parks, schools, and other places frequented by children warrants imposing certain regulatory measures, including requiring criminal background checks, to protect the health, safety, and welfare of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference as findings in support of the regulations contained in this Ordinance.

SECTION 2. Part 3.1 ("Street Vendors") of Chapter 5 ("Regulation of Particular Business") of Article VI ("Business, Trades, and Professions") of the Downey Municipal Code is hereby renumbered as "Part 3.2 ("Street Vending").

SECTION 3. Subsection 6545(e) ("Definitions: Public Property") of Chapter 5 ("Regulation of Particular Business") of Article VI ("Business, Trades, and Professions") of the Downey Municipal Code is hereby amended to read as follows:

(e) "Street" shall mean as defined in the California Vehicle Code, and shall include any street, road, highway, or other area open to the public for purposes of vehicular travel.

SECTION 4. Subsection 6545(g) ("Definitions: Vend or Vending") of Chapter 5 ("Regulation of Particular Business") of Article VI ("Business, Trades, and Professions") of the Downey Municipal Code is hereby amended to read as follows:

(g) "Vend" or "Vending" shall mean the sale or offering for sale of any goods or merchandise on or from the street or from a vehicle parked, stopped, or standing upon a street.

SECTION 5. Subsection 6545(h) ("Definitions: Vendor") of Chapter 5 ("Regulation of Particular Business") of Article VI ("Business, Trades, and Professions") of the Downey Municipal Code is hereby amended to read as follows:

(h) "Vendor" shall mean any person who engages in the act of vending on or from the street or from a vehicle parked, stopped, or standing upon the street or who drives or otherwise operates any such vehicle for the purposes of vending therefrom.

SECTION 6. Section 6545.1 ("Regulation for Sales") of Chapter 5 ("Regulation of Particular Business") of Article VI ("Business, Trades, and Professions") of the Downey Municipal Code is hereby amended to read as follows:

SECTION 6545.1 REGULATIONS FOR SALES

It shall be unlawful for any person to vend on or from the street or operate any vehicle or conduct any business for the purposes of causing the sale or offering for sale of any goods or merchandise from any vehicle parked, stopped, or

standing upon any public street in the City of Downey except in accordance with all applicable provisions of this Code and in compliance with each of the applicable following requirements:

(a) Vending from a motor vehicle shall be only by means of motor vehicle duly licensed by the State of California for commercial purposes;

(b) Vending from a motor vehicle shall be limited to public streets only and shall not be permitted upon any alley, parkway, sidewalk, or other public property;

(c) Each operator shall possess and at all times display in conspicuous view a City of Downey Business Certificate;

(d) Each operator shall possess and at all times display in conspicuous view an unexpired and unrevoked operator's permit;

(e) It is unlawful for any vendor to sell or offer for sale any goods or merchandise pursuant to this section unless such person shall possess and at all times while conducting such vending maintain upon his or her person an unexpired and unrevoked vendor's permit;

(f) It is unlawful for any operator to permit or allow any vendor under such operator's control, direction, charge, or employ to vend any goods or merchandise pursuant to this section unless such vendor possesses an unexpired and unrevoked vendor's permit;

(g) Each vendor and operator shall comply with the provisions of Section 3161 of the Downey Municipal Code.

The provisions of this Part shall not be applicable to any Sidewalk Vendor subject to the provisions of Part 3.1 of this Chapter.

SECTION 7. Part 3.1 ("Sidewalk Vending") is hereby added to Chapter 5 ("Regulation of Particular Business") of Article VI ("Business, Trades, and Professions") of the Downey Municipal Code to read as follows:

Part 3.1 – SIDEWALK VENDING

SECTION 6544. PURPOSE

The City Council of the City of Downey hereby finds and declares that the vending of prepared or pre-packaged foods, goods, and/or wares at semi-permanent locations on public sidewalks and rights-of-way may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors. The purpose of this Part is to implement regulations on both roaming and stationary sidewalk vending that protect the public health, safety, and welfare of the community while complying with the requirements of general state law, as amended from time to time, to promote safe vending practices, prevent safety, traffic, and health hazards, and preserve the public peace, safety, and welfare of the community.

SECTION 6544.1. DEFINITIONS

For purposes of this Part, the following words and terms are defined as follows:

(a) "Certified farmers' market" shall mean a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code and any regulations adopted pursuant to that Chapter (including those contained in Section 9420.16 of this Code).

(b) "City" shall mean the City of Downey.

(c) "Director" shall mean the Director of Public Works, or designee thereof.

(d) "Food" shall mean any type of human edible substance, including any food product or beverage.

(e) "Merchandise" shall mean any goods or items that are not food. Merchandise does not include services.

(f) "Person" shall mean one or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnerships, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit or any other activity.

(g) "Roaming sidewalk vendor" shall mean a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(h) "Sidewalk" shall mean a public sidewalk, parkway, pedestrian path, or other public right-of-way provided for the exclusive use of pedestrians. A sidewalk shall not include streets, alleys, plazas, or City-owned parking lots or structures.

(i) "Sidewalk vendor" shall mean a person who vends from a vending cart or from one's person upon a sidewalk.

(j) "Stationary sidewalk vendor" shall mean a sidewalk vendor who vends from a fixed location.

(k) "Swap meet" shall mean a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the California Business & Professions Code, and any regulations adopted pursuant to that Article.

(l) "Temporary special permit" shall mean a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit or special event permit.

(m) "Vend" or "Vending" shall mean to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase food or merchandise. Vend and Vending does not include the offering of services.

(n) "Vending cart" shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending that is not a vehicle as defined in the California Vehicle Code.

SECTION 6544.2. PERMIT REQUIRED

No person shall engage in, conduct, or carry on the business of sidewalk vending, or cause, permit or suffer a person to engage in, conduct, or carry on the business of sidewalk vending, without a permit issued under the provisions of this Part.

A Sidewalk Vending Permit is not required for a certified farmers' market, swap meet, or any activity or event authorized by a temporary special permit.

SECTION 6544.3. PERMIT APPLICATION

Every person, prior to engaging in, conducting, or carrying on the business of sidewalk vending shall file an application with the Public Works Department on a City-approved form. Such application shall be accompanied by a non-refundable application fee in an amount established by Resolution of the City Council, and shall contain, at a minimum, the following:

(a) The legal name, date of birth, current mailing address and telephone number of the applicant;

(b) If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;

(c) Whether the applicant is seeking authorization to operate as a roaming sidewalk vendor or a stationary sidewalk vendor;

(d) A description of the food and/or merchandise the applicant proposes to vend;

(e) A description of any vending cart the applicant intends on using in conjunction with the vending operation – including measurements of the height, width, and depth of the vending cart;

(f) A description, map, or drawing of the areas/route in which the applicant proposes to vend;

(g) The hours per day and the days per week during which the applicant proposes to vend;

(h) If a stationary sidewalk vendor, a maintenance plan that includes litter pickup in the vicinity of the vending location;

(i) A copy of a current and valid business license issued pursuant to Article VI, Chapter 2, Part 1 of this Code;

(j) A copy of a current and valid California seller's permit issued to the applicant by the California Department of Tax and Fee Administration pursuant to California Revenue and Taxation Code Section 6067 (or any subsequently adopted amendment thereto);

(k) If the applicant proposes vending food, a certification of completion of a food handler course and proof of all required approvals from the Los Angeles County Department of Public Health – including a copy of the applicant's current and valid Los Angeles County Health Permit;

(l) A copy of the applicant's social security card, driver's license or identification card issued by the State of California, taxpayer identification number, or an identification card issued by another municipality;

(m) Proof of comprehensive liability insurance in an amount not less than two million dollars (\$2,000,000.00). Such insurance shall name as additional insured the City of Downey, its officers and employees, and shall further provide that the policy shall not terminate or be cancelled without thirty (30) days advance written notice to the City of Downey;

(n) An agreement by the applicant to indemnify and hold harmless the City, its officers and employees, from any and all damages or injury to persons or property proximately caused by the act or neglect of the applicant or by hazardous or negligent conditions maintained at the applicant's vending location;

(o) Certification by the applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and,

(p) Any other reasonable information regarding the time, place, and manner of the proposed sidewalk vending activities.

The applicant shall also submit a complete set of the applicant's fingerprints to the Chief of the Downey Police Department, or designee thereof, in a manner and form approved by the Chief of Police. The applicant shall pay for any fees for the fingerprints. Pursuant to California Penal Code Sections 11105 and 13300, the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in this Part.

SECTION 6544.4. INVESTIGATION AND ACTION UPON PERMIT APPLICATION

(a) **Determination of Completeness.** The Director of Public Works shall, within fifteen (15) calendar days, review the submission of any application for a Sidewalk Vending Permit to determine if the application contains all of the requisite information set forth in Section 6544.3. Any application that is missing information required pursuant to Section 6544.3 or that is not accompanied by the requisite fee shall be deemed incomplete and shall not be processed by the Director. In such case, the Director shall issue a Notice of Incompleteness to the applicant specifying the information that is missing resulting in the incomplete application. Failure of the applicant to submit the missing information within thirty (30) calendar days of the Notice of Incompleteness shall be deemed an administrative withdrawal of the Sidewalk Vending Permit application by the

applicant.

(b) **Investigation and Action.** Upon receipt of a complete Sidewalk Vending Permit application (and requisite fees), the Director shall conduct a thorough investigation of the application and shall make a determination upon the application within sixty (60) days of the Director's determination of completeness. The Director may request supplemental investigation, information, reports, and/or recommendations pertaining to relevant zoning, building, health, safety, fire, law enforcement, or other factors from any appropriate department of the City or other appropriate agency.

Notwithstanding the provisions of Article VI, Chapter 4 of this Code, the Director shall approve the issuance of a Sidewalk Vending Permit unless he or she determines that any of the following disqualifications exist:

(1) The applicant has failed to submit any of the information, documentation, and/or fees required pursuant to Section 6544.3 of this Part;

(2) The applicant does not possess all Federal, State, and/or local permits, licenses, certificates, and/or approvals required to engage in the activity in which the applicant seeks to engage;

(3) The applicant has made one or more material misstatements or misrepresentations in the application or supplemental information provided by the applicant;

(4) The applicant's proposed vending operation, as described in the application, is inconsistent with the standards, conditions, and requirements set forth in this Part;

(5) The applicant has failed to demonstrate an ability to conform to the standards, conditions, or requirements set forth in this Part;

(6) The applicant has been convicted of any felony or misdemeanor offense involving moral turpitude within five (5) years of the date of the application, or is otherwise still on probation or parole for a felony or misdemeanor involving moral turpitude; or,

(7) The applicant has been convicted of any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057 or 11058 within five (5) years of the date of the application, or is otherwise on probation or parole for any offenses set forth in this section; or,

(8) The applicant is required to register under the provisions of California Penal Code section 290 (or an equivalent section in any other State); or,

(9) If the application is for a renewal of a Sidewalk Vending Permit or a subsequent permit, the applicant has failed to pay all previous administrative fines in connection with a previous violation of this Part.

SECTION 6544.5. DENIAL OF SIDEWALK VENDING PERMIT

If a Sidewalk Vending Permit is denied pursuant to this Part, the applicant shall be notified in writing of the denial of the permit, along with the grounds for denial. The Notice shall also advise the applicant of the ability to appeal the denial in the manner set forth in Section 6544.14(c) of this Part. Notice shall be mailed to the applicant at the address listed in the application.

SECTION 6544.6. TERM OF PERMIT

A Sidewalk Vending Permit issued pursuant to the provisions of this Part shall automatically expire one (1) year from the date issued, unless an earlier expiration date is noted on the permit.

SECTION 6544.7. PERMIT NON-TRANSFERABLE

A Sidewalk Vending Permit issued pursuant to the provisions of this Part shall not be transferable to any other entity or person.

SECTION 6544.8. CONDITIONS IMPOSED ON PERMIT

Sidewalk vendors shall adhere to all operating requirements set forth in this Part, and all restrictions, limitations, and operating requirements set forth in this Part shall constitute conditions upon any Sidewalk Vending Permit issued pursuant to this Part.

SECTION 6544.9. GENERAL SIDEWALK VENDOR OPERATING REQUIREMENTS

All sidewalk vendors shall comply with the following operating requirements and prohibitions, and each of these operating requirements and prohibitions shall constitute conditions of any Sidewalk Vending Permit:

(a) Stationary sidewalk vendors shall only conduct vending operations at the location approved by the Department of Public Works, and shall display a City-issued Sidewalk Vending Permit and Business License on the street-side portion of the City-approved vending cart.

(b) Roaming sidewalk vendors shall only conduct vending operations along the route approved by the Department of Public Works, and shall display a City-issued Sidewalk Vending Permit and Business License on the City-approved vending cart; or, if no vending cart is utilized, a roaming sidewalk vendor shall keep the City-issued Sidewalk Vending Permit and Business License upon his or her person at all times while conducting vending operations.

(1) Roaming sidewalk vendors shall move continuously except when necessary to complete a sale.

(2) Roaming sidewalk vending within residential areas of the city is prohibited between the hours of 5 p.m. and 9 a.m. of the subsequent day.

(c) Sidewalk vendors shall not vend in the following locations:

- (1) Within twenty-five feet (25') of any street intersection;
 - (2) Within twenty-five feet (25') of any traffic control device (including traffic signals and traffic signs);
 - (3) Within twenty-five feet (25') of a fire hydrant or connection, fire call box, or other emergency facility;
 - (4) Within three feet (3') of the edge of any curb;
 - (5) Within twenty-five feet (25') of any driveway apron;
 - (6) Within twenty-five feet (25') of a marked crosswalk;
 - (7) Within twenty-five feet (25') of a curb return of an unmarked crosswalk;
 - (8) Within twenty-five feet (25') of a bus bench or bus shelter;
 - (9) Within twenty-five feet (25') of any entrance or emergency exit of any business during the hours that the business is open to the public or to persons having or conducting lawful business therein;
 - (10) Within five hundred feet (500') of any permitted certified farmers' market, permitted swap meet, or an area designated for use pursuant to a temporary special permit, during the operating hours or duration of the certified farmers' market, swap meet, or temporary special permit;
 - (11) Upon any sidewalk that is within five hundred feet (500') of the nearest property line of any property on which a school building is located between the hours of 7 a.m. and 5 p.m. of any school day;
 - (12) Within or on any median strip or dividing section of any street;
 - (13) Within any parking lot or parking structure;
 - (14) Within any landscaped area or on an unpaved surface;
 - (15) Within any public property that is not set aside for the exclusive use of pedestrians;
 - (16) Within any private property without having first obtained current and valid permits and licenses from the City of Downey for such activity.
- (d) Sidewalk vendors shall not vend in a manner that blocks or obstructs the free movement of pedestrians on sidewalks, and must maintain a minimum of forty-eight inches (48") of accessible path of travel, without obstruction, along the sidewalk upon which the vendor is vending so as to enable persons to freely pass while walking, running, or using mobility assistance devices.
- (e) Sidewalk vendors shall not block any entrances to buildings, driveways, parking spaces, or windows.

(f) Sidewalk vendors shall not vend to customers in vehicles unless said vehicles are lawfully parked, and shall not cause vehicles to stop in traffic lanes or persons to stand in traffic lanes.

(g) Sidewalk vendors shall not sell, use, or vend any live animal(s), nor shall any sidewalk vendor vend adult-oriented material depicting, describing, or relating to specified anatomical areas or specified sexual activities [as defined by Section 9402.4 of this Code], alcohol, marijuana, or tobacco products that contain nicotine or any product used to smoke (or "vape") nicotine or marijuana.

(h) Sidewalk vendors shall not use or operate, or permit to be played, used, or operated, any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound, in accordance with Section 4603 of this Code.

(i) Sidewalk vendors shall maintain the area immediately surrounding the vending area in a neat, clean, orderly, and sanitary condition. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and lawfully dispose of all byproducts (including fats, oils, and grease) and litter generated by the vending operation (whether by the vendor or customer) within twenty-five feet (25') of the vending location. Sidewalk vendors shall not cause, permit, or suffer any litter, food, or other discarded or abandoned object to be thrown, deposited, or left in or upon any street, sidewalk, gutter, storm drain, inlet, catch basin, or other drainage structure, or upon any public or private land in the City.

(j) Sidewalk vendors shall present, upon request, a valid California identification, Sidewalk Vending Permit, Business License, and other applicable license or permit, to any City Official authorized to enforce the provisions of this Part, as well as to any person to whom they are vending.

(k) Vending carts or other accessory equipment shall not touch, lean against, or be affixed or fastened at any time to a building or to any pole, sign, tree, lamppost, parking meter, mailbox, traffic signal, hydrant, bench, bus shelter, newsstand, waste receptacle, or traffic barrier located in the public right-of-way.

(l) Vending carts shall not be left unattended on the public right-of-way at any time.

SECTION 6544.10. STATIONARY SIDEWALK VENDOR OPERATING REQUIREMENTS

In addition to the general operating requirements set forth in Section 6544.9 of this Part, stationary sidewalk vendors shall comply with the following operating requirements and prohibitions, and each of these operating requirements and prohibitions shall constitute conditions of any Sidewalk Vending Permit for a stationary sidewalk vendor.

(a) Stationary sidewalk vendors are prohibited from operating or establishing in any residential zone of the City, including Single-Family Residential (R-1) Zone – and each of its sub-zones, Two-Family Residential (R-2) Zone, Multiple-Family Residential (R-3) Zone, and Multiple-Family Residential (R-3-O) Zone.

(b) Stationary sidewalk vendors shall remove any vending cart used in the vending operation from the sidewalk each day at the close of business.

(c) Stationary sidewalk vendors shall maintain a separation of at least twenty-five feet (25') from any other stationary sidewalk vendor so as to allow for queuing and to prevent sidewalk congestion.

(d) Stationary sidewalk vendors shall not cause, allow, or suffer the placement of tables, chairs, fences, shade structures, umbrellas, other furniture, rugs, towels, fabric of any kind upon the sidewalk in conjunction with the vending operation (whether for the display of goods or any other reason).

(e) Stationary sidewalk vendors shall not cause, allow, or suffer the erection or placement of any signs upon the sidewalk.

(f) Stationary sidewalk vendors shall not attach or use any water lines, electrical lines, or gas lines during the vending operation.

(g) No vending cart may exceed an overall height of five feet (5') and width/length of five feet (5') and may not include attachments such as balloons, streamers, ribbons, pinwheels, flags, and other visual marketing aids.

SECTION 6544.11. OPERATING REQUIREMENTS FOR SIDEWALK VENDORS WITHIN A PARK

In addition to the general operating requirements set forth in Section 6544.9 of this Part, sidewalk vendors shall comply with the following operating requirements and prohibitions, and each of these operating requirements and prohibitions shall constitute conditions of any Sidewalk Vending Permit for a sidewalk vendor within a park.

(a) Stationary sidewalk vendors are prohibited from operating within any portion of a City Park for which the City has signed an agreement for concessions that exclusively permits the sale of merchandise or food by the concessionaire.

(b) Stationary sidewalk vendors operating within a City Park shall comply with all operating requirements and prohibitions set forth in Section 6544.10 of this Part.

(c) Sidewalk vendors shall not vend in the following locations within a park:

(1) Within fifty feet (50') of any field, court, or pitch that is primarily designed for use in a sporting activity (including, but not limited to, baseball field, softball field, basketball court, tennis court, soccer pitch, volleyball court, and handball court), while said area is in use;

(2) Within fifty feet (50') of any playground, recreational water features, or exercise area, while said area is in use;

(3) Within fifty feet (50') of any restroom facilities.

(d) Notwithstanding Section 6544.9(c)(14), sidewalk vendors of merchandise may conduct sidewalk vending on unpaved portions of a park, so long as the vendor adheres to all other sidewalk vendor operating requirements and park regulations. However, sidewalk vendors of food may not conduct sidewalk vending on unpaved portions of a park.

SECTION 6544.12. VIOLATIONS AND PENALTIES

(a) A violation of this Part by a sidewalk vendor who has a current and valid Sidewalk Vending Permit issued by the City pursuant to this Part is punishable only by an administrative citation pursuant to Chapter 4 of Article I of this Code, in the following amount:

(1) One hundred dollars (\$100) for a first violation.

(2) Two hundred dollars (\$200) for a second violation within one year of the first violation.

(3) Five hundred dollars (\$500) for each additional violation within one year of the first violation.

(4) The City may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations, in accordance with the provisions of Section 6544.13.

(b) A person engaged in sidewalk vending without a current and valid Sidewalk Vending Permit issued pursuant to this Part is punishable only by an administrative citation pursuant to Chapter 4 of Article I of this Code, in the following amounts, in lieu of the amounts set forth in paragraph A:

(1) Two hundred fifty dollars (\$250) for a first violation.

(2) Five hundred dollars (\$500) for a second violation within one year of the first violation.

(3) One thousand dollars (\$1,000) for each additional violation within one year of the first violation.

(4) Upon proof of a valid permit issued by the City pursuant to this Part, the administrative citations set forth in this paragraph shall be reduced to the amounts set forth in paragraph A.

(c) A violation of this Part shall not be punishable as an infraction or misdemeanor and a person alleged to have violated any provision of this Part shall not be subject to arrest except when otherwise permitted under law. Further, failure to pay an administrative citation issued pursuant to this Part shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.

(d) Any administrative citation issued pursuant to this Part shall be accompanied with notice of and instruction regarding the citee's right to request an ability-to-pay determination. When assessing administrative citations pursuant to this Part, the administrative hearing officer shall take into

consideration the person's ability to pay the fine. 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.

(e) If the person meets the criteria described in subdivision (a) or (b) of California Government Code Section 68632, the City shall accept, in full satisfaction, twenty percent (20%) of an administrative citation imposed pursuant to this Part.

SECTION 6544.13. RESCISSION OF SIDEWALK VENDOR PERMIT

The Director shall summarily rescind a Sidewalk Vendor Permit issued to a sidewalk vendor for the term of the Permit upon a fourth or subsequent violation of this Part within one year of the first violation in accordance with the procedures outlined in this Section.

(a) Upon determining that a holder of a Sidewalk Vendor Permit has committed a fourth or subsequent violation of this Part within one year of the first violation, the Director shall serve a written Order of Rescission upon the permittee stating the grounds for rescission and the permittee's right to appeal the Order of Rescission. The Order shall also set forth the effective date of the rescission and the duration of the rescission. The Order of Rescission shall be served upon the permittee at the address listed on the Sidewalk Vendor Permit application via first class mail. Failure of the permittee to receive an Order of Rescission that was served in accordance with this Section shall not invalidate the Order of Rescission.

SECTION 6544.14. ABILITY TO PAY DETERMINATIONS AND APPEALS

(a) **Ability to Pay Determination.** Any person issued an administrative citation pursuant to this Part may request a determination on the person's ability to pay the administrative fine. The person may request an ability-to-pay determination at any time prior to payment of the fine, including when a fine is delinquent or has been referred to a comprehensive collection program.

(1) The Director or hearing officer shall reduce the fine to twenty percent (20%) of the total if the citee meets either of the following criteria:

a. If the citee is receiving public benefits under Government Code Section 68632(a); or,

b. If the citee has a monthly income which is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services.

(b) **Appeal of Administrative Citation.** Any person issued an administrative citation pursuant to this Part shall have the right to appeal the issuance of the administrative citation in accordance with and the time limits set forth in the provisions of Chapter 4 of Article I of this Code.

(1) Notwithstanding the provisions of Chapter 4 of Article I of this Code, upon the submission of proof of a valid permit issued by the City

pursuant to this Part, any administrative fine imposed upon a sidewalk vendor who did not have a valid permit at the time the administrative citation was issued shall be reduced in accordance with Section 6544.12(b)(4) of this Part.

(c) Appeal of Denial or Rescission of Sidewalk Vending Permit

(1) Any person who has been denied a Sidewalk Vending Permit or who has had a Sidewalk Vending Permit rescinded by the Director pursuant to the provisions of this Part may appeal such determination to the City Manager, or designee thereof, by filing a request for an appeal with the City Clerk, and tendering a filing and processing fee as set by resolution of the City Council, within ten (10) calendar days of service of the notice of such denial or Order of Rescission. The request for an appeal shall contain, at a minimum, the following:

- a. The name, current mailing address, and telephone number of the appellant;
- b. The date of denial or rescission by the Director of Public Works;
- c. A statement as to all grounds for appeal in sufficient detail to enable the City Manager, or designee thereof, to understand the nature of the controversy; and,
- d. The signature of the appellant under penalty of perjury as to the contents of the request for appeal.

(2) Appeal hearings shall be conducted before the City Manager, or designee thereof, in the same manner as set forth under the provisions of Section 6301(f)(2) and 6301(f)(3) of this Code. The determination of the City Manager, or designee thereof, is final and binding.

SECTION 8. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each article, section, subsection, paragraph, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more articles, sections, subsections, paragraph, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 9. Urgency Ordinance No. 19-1413 adopted by the City Council on July 23, 2019 is hereby repealed upon the effective date of this ordinance.

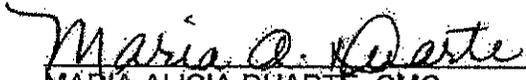
SECTION 10. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the manner prescribed by law.

APPROVED AND ADOPTED this 27th day of August, 2019.



RICK RODRIGUEZ, Mayor

ATTEST:



MARIA ALICIA DUARTE, GMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES } ss:
CITY OF DOWNEY)

I HEREBY CERTIFY that the foregoing Ordinance No. 19-1415 was introduced at a Regular Meeting of the City Council of the City of Downey held on the 13th day of August, 2019, and adopted at a Regular Meeting of the City Council of the City of Downey held on the 27th day of August, 2019, by the following vote, to wit:

AYES:	Council Members:	Ashton, Frometa, Pacheco, Saab, Mayor Rodriguez
NOES:	Council Member:	None.
ABSENT:	Council Member:	None.
ABSTAIN:	Council Member:	None.

I FURTHER CERTIFY that a Summary of the foregoing Ordinance No. 19-1415, was published in the Downey Patriot, a newspaper of general circulation in the City of Downey, on August 15, 2019 (after introduction), and on August 29, 2019 (after adoption, including the vote thereon). It was also posted in the regular posting places in the City of Downey on the same dates.



MARIA ALICIA DUARTE, CMC
City Clerk

ORDINANCE NO. 4179

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH ADDING CHAPTER 5.100 TO THE HUNTINGTON BEACH MUNICIPAL CODE ESTABLISHING A SIDEWALK VENDING PERMITTING AND REGULATORY PROGRAM, REPEALING ORDINANCE NO. 4177, WHICH ESTABLISHED AN INTERIM SIDEWALK VENDING PROGRAM, AND REPEALING SECTION 5.50.170(F) WHICH PROHIBITS VENDING FROM A HUMAN POWERED CONVEYANCE

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Findings.

A. On September 18, 2018, then Governor Brown signed into law Senate Bill (“SB”) 946, adding Government Code Sections 51036-51039, which impose limits on how local authorities, may regulate sidewalk vending.

B. Prior to the adoption of SB 946, the City of Huntington Beach prohibited Sidewalk Vending. Following adoption of SB 946, on January 22, 2019, the City Council adopted Ordinance No. 4177, adopting temporary sidewalk vending regulations for 120 days, through May 23, 2019. Ordinance No. 4177 was adopted as an urgency ordinance pursuant to Charter Section 501 for the immediate preservation of the public peace, health, and safety.

C. The City Council finds and concludes that SB 946 seeks to impermissibly strip the authority of Charter cities under Article XI, Section 5 of the California Constitution with respect to “Municipal Affairs.” The authority of a City to regulate its parks and sidewalks has long been recognized as a Municipal Affair and as such outside the reach of State law. The power of a Charter City over Municipal Affairs is all embracing, restricted and limited only by the City Charter, and free from any interference by the State through its general laws. As a Charter City, Huntington Beach has the authority to control, govern and supervise its own parks and sidewalks.

D. The City Council now adopts this Ordinance pursuant to Huntington Beach Charter Section 103, which authorizes the City Council “to make and enforce all laws and regulations in respect to Municipal Affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California.” This Ordinance is adopted as a successor to Ordinance No. 4177.

E. This Ordinance adds Chapter 5.100 to the Huntington Beach Municipal Code (“HBMC”) establishing a “Sidewalk Vending Permitting and Regulatory Program” to protect health, safety and welfare of the City of Huntington Beach.

SECTION 2. Chapter 5.100 is hereby added to the Huntington Beach Municipal Code to read as follows:

5.100.010 Purpose

The purpose of this Chapter is to establish a Sidewalk Vendor Permitting and Regulatory Program. The provisions of this Chapter allow the City to encourage small business activities by removing total prohibitions on Sidewalk Vending and providing regulation and enforcement of unpermitted Sidewalk Vending Activities to protect the public's health, safety and welfare.

A. The City Council hereby finds that, to promote the health, safety and welfare, restrictions on sidewalk vending are necessary in part to:

1. Ensure no interference with the performance of public safety officers including, police, firefighter, lifeguard, security and emergency medical personnel services.
2. Ensure no interference with pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles.
3. Ensure no interference with barriers (bollards, vehicles, cement or water) designed to stop vehicles and prevent injury to people.
4. Provide reasonable access for Sidewalk Vending Activities in portions of the City while preserving the use and maintenance of sidewalks, Pathways, poles, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, mailboxes, public benches and/or planters, as well as access to locations used for public transportation services.
5. Reduce exposure to the City for personal injury or property damage claims and litigation.
6. Ensure the safe sale of Food and Merchandise in the public right-of-way, by providing the public a simple way to ensure Sidewalk Vendors prepare Food safely and according to Orange County Department of Public Health requirements.
7. Prevent unsanitary conditions and ensure trash and debris in the areas vending is taking place are removed by Sidewalk Vendors.
8. Ensure that visibility, sight lines, and accessibility for vehicular and pedestrian traffic on sidewalks and other rights of way are protected while accommodating Sidewalk Vendor equipment.
9. Protect the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles.
10. Ensure reasonable access for the use and maintenance of sidewalks, Pathways, poles, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, mailboxes, public benches and/or planters, as well as access to locations used for public transportation services.

11. Mitigate the impacts of Sidewalk Vending Activity and protect the unique characteristics of the City including to maximize public access to and along the coast.

12. Prevent people from “camping,” thus creating unsanitary conditions.

B. The City Council hereby finds that the unique characteristics of the City require certain restrictions on Sidewalk Vending Activities as follows:

1. The City Council finds that the existence in the City of Sidewalk Vendors seek and do draw patrons to their Food and Merchandise. This can create serious safety problems by impacting the ability of pedestrians to move safely on sidewalks and through cross walks and impeding the response time of safety personnel, particularly in Downtown Huntington Beach, at the Beach, at City Parks and in residential areas. Sidewalk Vendors can also impact access to and egress from businesses. This Chapter imposes reasonable time, place, and manner restrictions on Sidewalk Vendors to the extent necessary to ensure the safety of Sidewalk Vendors, their patrons, the general public and to prevent unreasonable interference with residents’ enjoyment of peace and quiet in the City.

2. The Civic Center contains the City’s emergency operation center, the headquarters for the Fire Department, and other critical infrastructure. Restrictions on Sidewalk Vending Activity are necessary to ensure that fire equipment is easily accessible and critical infrastructure is maintained and accessible at all times.

3. City parks provide passive and active recreational opportunities, and restrictions on Sidewalk Vending Activity are necessary to protect the natural resources, recreational and sport opportunities, as well as scenic and natural character of these parks.

4. The City seeks to preserve the peace and quiet of the Residential Zones of the City, by prohibiting commercial activities such as Sidewalk Vendors.

5. Many of the Sidewalks and Pathways in the City are under eight (8) feet wide or less, and Sidewalk Vending Activity in these areas would unreasonably interfere with the flow of pedestrians and disrupt access for persons with disabilities.

5.100.020 Definitions

A. Whenever any words or phrases used herein are not defined, but are defined in the California Vehicle Code, such definitions shall apply, including for the definitions of Business District, Highway, Road, Sidewalk, and Street. If a term or phrase is not defined in this part, or elsewhere in this Code, the most common dictionary definition is presumed to be correct.

B. **“Beach”** means that strip of land owned and/or operated by the City of Huntington Beach, south of Warner Avenue, lying between Pacific Coast Highway and the mean

high tide line of the Pacific Ocean. "Beach" also includes the Adjacent Beach Area as defined at Section 13.08.005.

C. **"Beach Parking Lot"** means the roads, driveways or parking area to service the Beach, the Pier and Pier Plaza, excluding those areas located on a street or highway.

D. **"Beach Service Road"** means the paved roadway on the Beach that extends from Beach Boulevard to Seapoint Avenue running parallel to Pacific Coast Highway nearest to the shoreline of the Pacific Ocean.

E. **"Cart"** means a push cart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for Sidewalk Vendor Activity.

F. **"Certified Farmers' Market"** means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that Chapter, or any successor Chapter.

G. **"City Building"** means any building and the abutting parking lot(s) which is owned or occupied by the City of Huntington Beach or any of its Departments and which is used for public purposes.

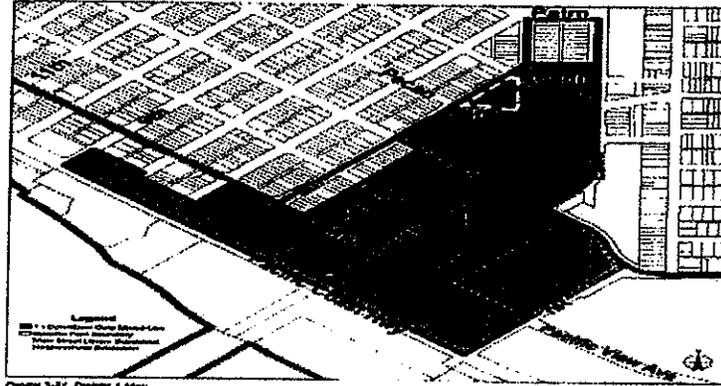
H. **"City Property"** means all property owned or controlled by the City, including, but not limited to, buildings, libraries, alleys, beaches, boardwalks, parks, pathways, streets, parking lots, sidewalks, and walking trails.

I. **"Civic Center"** means the area in the City of Huntington Beach, County of Orange bounded by Lake Street on the east, Yorktown Avenue to the north, Main Street on the west, Utica Avenue on the south, and Park Street on the east and south between Utica Avenue and Lake Street.

J. **"Downtown Huntington Beach"** means Districts 1, 2, and 3 of the Huntington Beach Downtown Specific Plan, which are depicted below:

3 - LAND USES & DEVELOPMENT STANDARDS

3-3.1 District 1 - Downtown Core Mixed Use



HUNTINGTON BEACH DOWNTOWN SPECIFIC PLAN NO. 5
DOWNTOWN SPECIFIC PLAN
OCTOBER 6, 2011

3-39

3 - LAND USES & DEVELOPMENT STANDARDS

3-3.2 District 2 - Visitor-Serving Mixed Use

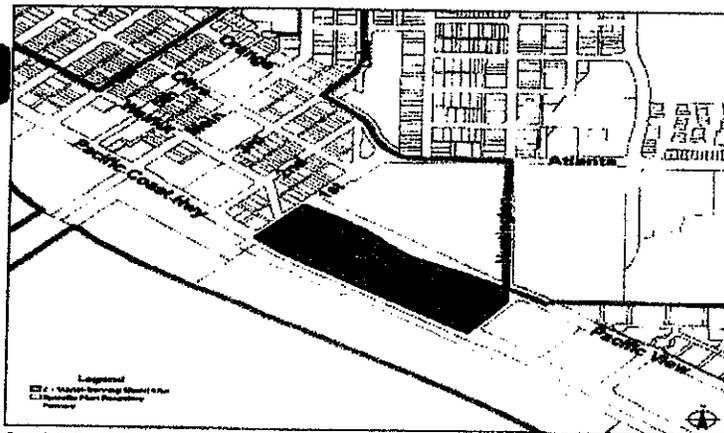


Figure 3-32 District 2 Map

HUNTINGTON BEACH DOWNTOWN SPECIFIC PLAN NO. 5
DOWNTOWN SPECIFIC PLAN
OCTOBER 6, 2011

3-60

3 - LAND USES & DEVELOPMENT STANDARDS

3.3.3 District 3 - Visitor-serving Recreation

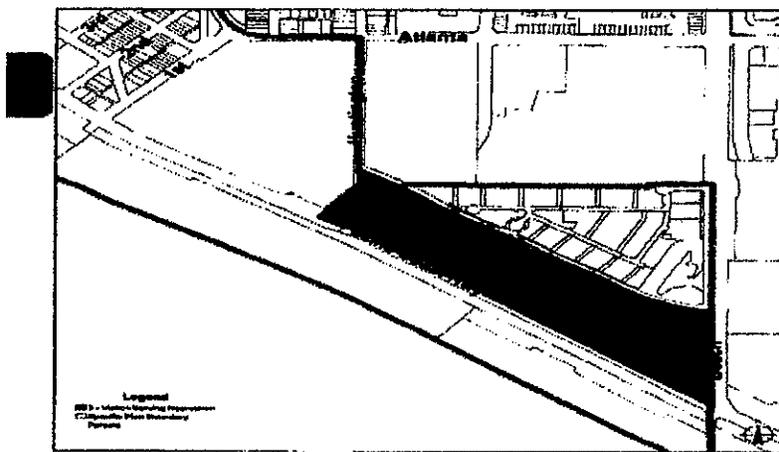


Figure 3-47 District 3 Area

HUNTINGTON BEACH DOWNTOWN SPECIFIC PLAN NO. 4
DOWNTOWN SPECIFIC PLAN
October 6, 2011

K. **"Fire station"** means any facility where fire engines and other equipment of the City Fire Department are housed.

L. **"Food"** means any item provided in Health and Safety Code Section 113781, or any successor section.

M. **"Lifeguard Facilities"** means any and all lifeguard facilities located at the Beach.

N. **"Marijuana"** means both medical marijuana and non-medical marijuana.

O. **"Merchandise"** means any tangible personal property that can be sold and immediately obtained from a Sidewalk Vendor, excluding Food. Items for rent shall not be considered Merchandise. Merchandise excludes any Service.

P. **"Off-Street City Pay Parking Lots"** means any leased parking lot, structure, facility or area located outside of the public right-of-way that the City owns or operates pursuant to Chapter 10.50 for paid parking of vehicles, regardless of the method of payment, including but not limited to parking attendants, meters, or otherwise.

Q. **"Park"** means each and every park recreation center, lake, pond or other body of water, riding and hiking trail, parking lot and every other recreation facility owned, managed and/or controlled by the City and under the jurisdiction of the Director of Community Services. There are two types of Parks:

a. **"Active Parks"** contain one (1) or more sporting fields or actively encourage physical activity.

b. **"Passive Parks"** are typically less developed than an active park, but may contain features such as walking tracks, gardens, seating, barbecues, and picnic areas. They do not usually contain sports infrastructure or encourage strenuous physical activity, although they may contain playground equipment.

R. **"Parkway(s)"** means that portion of a public street which is not improved for actual street, curb, gutter, or sidewalk use, and which is available for planting, landscaping, and maintaining street trees.

S. **"Pathway"** means a paved path or walkway owned by the City or other public entity that is specifically designed for pedestrian travel, other than a sidewalk.

T. **"Person"** means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts Trust, business or common law trusts, societies, and individuals transacting and carrying on any business in the City.

U. **"Pier"** means the appurtenance beginning at the intersection of Pacific Coast Highway and Main Street on the Beach, which is a platform extending into the Pacific Ocean and supported by piles or pillars.

V. **"Pier Plaza"** means the developed area immediately north and south to the Pier, and bounded by Pacific Coast Highway and the Beach Parking Lots.

W. **"Police Station"** means any facility where police vehicles and other equipment of the City Police Department are housed.

X. **"Residential Zone"** means any area zoned or used exclusively as residential in Huntington Beach.

Y. **"Roaming Sidewalk Vendor"** means a Sidewalk Vendor who moves from place-to-place and stops only to complete a transaction.

Z. **"Service"** is any form of labor that does not require the transfer of tangible personal property.

AA. **"Sidewalk"** means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation specifically designed for pedestrian travel and that is owned by the City or other public entity, excluding any Parkway.

BB. **"Sidewalk Vendor"** or **"Vendor"** means a person(s) who sells Food or Merchandise from a Cart or from one's person, upon a Sidewalk, Pathway or Park.

CC. **"Sidewalk Vendor Activities"** or **"Sidewalk Vending Activity"** means actions that qualify a person as a Sidewalk Vendor or actions done in anticipation of becoming a Sidewalk Vendor such as, but not limited to, placement, or maintenance of any Cart.

DD. **"Special Event"** means any event permitted pursuant to Section 13.10.050 of the Municipal Code.

EE. **"Specific Event"** means any event permitted pursuant to Chapter 13.54 of the Municipal Code.

FF. **"Swap Meet"** means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that Chapter, or any successor Chapter.

5.100.030 Sidewalk Vendor Permit Required

A. No Person, either for themselves or any other Person, shall engage in any Sidewalk Vendor Activities within the City without first applying for and receiving a Sidewalk Vendor Permit from the Chief Financial Officer.

B. A written application for a Sidewalk Vendor Permit shall be filed with the Chief Financial Officer on a form provided by the City. Such application shall be accompanied by a nonrefundable application fee in such amount as established by Resolution of the City Council. Any such permit shall be required to be renewed annually in conjunction with the Business License and a separate nonrefundable application fee paid yearly for such renewal application. Sidewalk Vendor Permit(s) are non-transferable and any change in ownership or operation of Cart requires a new permit.

C. The written application shall provide an address where the applicant consents to receive service of process. An acceptable address for this purpose shall include a post office box or private mailbox that complies with paragraph (2) of subdivision (b) of Business & Professions Code Section 17538.5.

5.100.040 Issuance of Permit

A. The Chief Financial Officer may issue the Sidewalk Vendor Permit if he or she finds based on all of the relevant information that:

1. The conduct of the Sidewalk Vendor will not unduly interfere with traffic or pedestrian movement, or interfere with or endanger the public health, safety or general welfare or encourage loitering.

2. The conduct of the Sidewalk Vendor will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the Sidewalk Vendor.

3. The conduct of such Sidewalk Vending Activity will not constitute a fire hazard.
4. The Sidewalk Vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this Chapter.
5. The Sidewalk Vendor has not had a permit revoked within the past twelve (12) months.
6. The Sidewalk Vendor application contains all required information and the Sidewalk Vendor has not made a materially false, misleading or fraudulent statement of fact to the City in the application process.
7. The Sidewalk Vendor has paid the Business License Tax.
8. The Sidewalk Vendor's Cart and proposed Activities conform to the requirements of this Chapter.
9. The Sidewalk Vendor has provided adequate insurance to protect the City from liability associated with Sidewalk Vendor Activities, as determined by the City Risk Manager, and the City has been named as an additional insured on the Vendor's insurance policy.
10. The Sidewalk Vendor has not been convicted of any felony, or conspiracy to commit, or attempt to commit, the same, as defined by Federal or State law.
11. The Sidewalk Vendor has not been convicted of any misdemeanor, or conspiracy to commit, or attempt to commit, the same, which is sexual in nature or moral turpitude, as defined by State and/or local law.
12. The Sidewalk Vendor has not had an individual or business permit or license with any agency, board, city, county, territory, or state denied, revoked, restricted, or suspended within the last five years.
13. The Sidewalk Vendor has not been subject to an injunction for nuisance, as defined by State or local laws, within the last five years.

5.100.050 Denial of Sidewalk Vendor Permit

A. If the Chief Financial Officer finds that the requirements set forth in Section 5.100.040 as applicable have not been met, he or she shall deny the application for the Sidewalk Vendor Permit. The Chief Financial Officer, shall provide written notice of such denial specifying the ground or grounds of such denial. Notice of denial of the application for the Permit shall be deemed to have been served upon the date it is personally served on the Sidewalk

Vendor or when deposited in the United States mail with postage prepaid and addressed to the Sidewalk Vendor at his or her residence address as set forth in the application for the Permit.

B. Any Sidewalk Vendor whose application for a Sidewalk Vendor Permit has been denied by the Chief Financial Officer may appeal such denial to the City Manager by filing a written notice of appeal with the Chief Financial Officer within 10 days following the date of service of the decision and payment of the appeal fee prescribed by resolution of the City Council. The date of filing of said notice of appeal shall be the date the Chief Financial Officer receives the notice and appeal fee.

C. No Person whose permit is finally denied shall be eligible to apply for a new Sidewalk Vendor Permit for a period of one year following such final denial.

5.100.060 Revocation of Permit

Any Sidewalk Vendor Permit may be revoked by the Chief Financial Officer for good cause shown including but not necessarily limited to any of the following reasons:

A. Falsification of any information supplied by the Sidewalk Vendor upon which issuance of the Permit was based.

B. Failure of the permittee, or any employees or subcontractors of the permittee, to comply with the regulations set forth in this Chapter.

C. Conviction of a violation, or plea of guilty or nolo contendere, by the Sidewalk Vendor or any employee, subcontractor or independent contractor of the permittee, of any Federal or State law, or municipal ordinance while in the course of conducting Sidewalk Vending Activity from a Cart pursuant to the Permit.

D. Conviction of a violation, or a plea of guilty or nolo contendere, by the Sidewalk Vendor of any applicable provision or requirement of this section.

E. No Sidewalk Vendor whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation.

5.100.070 Appeal Process for Revocation of a Permit

Upon receipt of a timely appeal, the City Manager or his or her designated representative, shall hear such appeal within 20 days following the date of such appeal and shall give the Sidewalk Vendor not less than five days advance notice of the date of such hearing. The decision of the City Manager shall be based upon the criteria applicable to the issuance or revocation of such permit. The Sidewalk Vendor shall be notified of the decision of the City Manager by mailed, written notice. The decision of the City Manager shall be final. No revocation of a permit pursuant to this section shall be deemed effective during the pendency of a timely filed appeal until the date of mailing of the City Manager's decision; provided, however, no permit holder

shall operate during any period of time in which the insurance coverage required by this chapter is not in full force and effect.

5.100.080 Operating Conditions

Every Sidewalk Vendor is subject to the following operating conditions when conducting Sidewalk Vending Activities:

- A. All Food and Merchandise shall be stored either inside or affixed to the Cart or carried by the Sidewalk Vendor. Food and Merchandise shall not be stored, placed, or kept on any public property. If affixed to the Cart, the overall space taken up by the Cart shall not exceed the size requirements provided in this Section.
- B. Sidewalk Vendors may only sell Food and/or Merchandise. Sidewalk Vendors shall not sell or provide Services.
- C. The Business License and Vendor Permit shall be displayed conspicuously at all times on the Cart or the Sidewalk Vendor. If multiple Sidewalk Vendors are staffing a Cart each Person shall obtain and wear his or her Vendor Permit on their Person in a conspicuous manner.
- D. Sidewalk Vendors shall not leave their Cart unattended.
- E. All signage and advertising related in any way to the Sidewalk Vendor shall comply with the City's sign laws. Sidewalk Vendors shall not use any electrical, flashing, wind powered, or animated sign.
- F. All Sidewalk Vendors shall allow a police officer, firefighter, lifeguard, code enforcement officer, health inspector, or other government official charged with enforcing laws related to Sidewalk Vendor Activities, at any time, to inspect their Carts for compliance with this Chapter.
- G. Carts and any attachments thereto shall not exceed a total height of four (4) feet, a total width of four (4) feet, and a total length of four (4) feet.
- H. No Cart shall contain or use propane, natural gas, batteries, or other explosive or hazardous materials.
- I. Sidewalk Vendors selling Food shall have in their possession at all times they are conducting Sidewalk Vending Activities, all applicable State Food vending licenses.
- J. Sidewalk Vendors that sell Food shall maintain a trash container in or on their Cart and shall not empty their trash into public trashcans. The size of the Sidewalk Vendor's trash container counts as part of the size limit of a Cart.
- K. Sidewalk Vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation. Sidewalk Vendors shall immediately

clean up any Food, grease or other fluid or item related to Sidewalk Vending Activities that falls on public property.

L. Sidewalk Vendors shall maintain a minimum four (4) foot clear accessible path for pedestrian ingress and egress free from obstructions, including Cart and customer queuing area.

M. Sidewalk Vendors shall ensure that all required insurance is in effect prior to conducting any Sidewalk Vendor Activities and maintained for the duration of the Permit

5.100.090 Prohibited Activities and Locations

A. Sidewalk Vendors shall comply with all Federal, State and City laws and regulations.

B. Cart(s) shall not touch, lean against or be affixed at any time to any building or structure including, but not limited to lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans or traffic barriers.

C. Sidewalk Vendors shall not engage in any of the following activities:

1. Renting Merchandise to customers.
2. Displaying Merchandise or Food not available for immediate sale.
3. Selling of alcohol, Marijuana, adult oriented material, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or Marijuana.
4. Selling Food or Merchandise to any person fifteen years of age or younger without one or both of their parents or legal guardians present.
5. Using an open flame on or within any Cart.
6. Using an electrical outlet or power source that is owned by the City or another person other than the Sidewalk Vendor.
7. Conducting Sidewalk Vending Activities anywhere in the City between the hours of 8:00 p.m. and 7:00 a.m. daily.
8. Providing or selling any Service to any Person.
9. Continuing to offer Food or Merchandise for sale, following, or accompanying any person who has been offered Food or Merchandise after the person has declined the offer to purchase Food or Merchandise.

10. Knowingly making false statements or misrepresentations during the course of offering Food or Merchandise for sale.

11. Blocking or impeding the path of the person(s) being offered Food or Merchandise to purchase.

12. Making any statements, gesture, or other communication which a reasonable person in the situation of the person(s) being offered Food or Merchandise to purchase would perceive to be a threat and which has a reasonable likelihood to produce in the person(s) a fear that the threat will be carried out.

13. Touching the person(s) being offered Food or Merchandise without that person(s)' consent.

14. Advertising any product or service that is not related to the Food or Merchandise being offered for immediate sale.

15. Placing their Cart outside of any Pathway or sidewalk when engaging in Sidewalk Vending Activities.

D. Sidewalk Vendors shall not engage in Sidewalk Vending Activities at the following locations:

1. Any Residential Zone in the City.

2. The Beach, Beach Parking Lot, Beach Service Road, Lifeguard Facilities, Pier, and Pier Plaza. The City Council finds that the City has permitted restaurant and Merchandise concessions on the Beach. The area adjacent to the Pier and Pier Plaza is highly commercial and crowded with pedestrians. Permitting any additional Sidewalk Vending Activity would result in an undue concentration of commercial activity at this portion of the Beach that would unreasonably interfere with existing business, public use of the Beach, and access to the Coast.

The remainder of the Beach, north-westerly from Pier Plaza to a point which is 6,100 feet north-westerly of Goldenwest Street, and which includes "Dog Beach," has virtually no commercial activity, except Specific Events and Special Events. Routine commercial activity, including Sidewalk Vendors is prohibited in order to preserve the unusual beauty and view provided on this portion of the Beach.

3. All Parks in the City, including both Active and Passive parks. The City Council finds that in some cases, it has permitted restaurant concessions, such as at Huntington Beach Central Park – West Side and East Side. Permitting any additional Sidewalk Vending Activity would result in an undue concentration of commercial activity at Central Park that unreasonably interferes with existing business and the use of the Park. City Parks have unique beauty, and provide a reserve for migratory birds and

monarch butterflies. In order to preserve the unusual beauty and view provided in these Parks, Sidewalk Vending Activity is prohibited.

Further, neighborhood, Passive and Active Parks allow for child, youth and adult sports, family gathering, picnics and walks. These Parks are a refuge from the commercial activities of ordinary life, and accordingly, Sidewalk Vending Activity is prohibited.

4. Pacific Coast Highway with the City boundaries.
5. Downtown Huntington Beach. The City Council finds that the City has permitted restaurant concessions and stationary sidewalk kiosks in Downtown Huntington Beach. Downtown Huntington Beach is a heavily pedestrian-crowded area. Permitting any additional Sidewalk Vending Activity would result in an undue concentration of commercial activity at Downtown Huntington Beach that unreasonably interferes with existing business, pedestrian ingress and egress, the use of the Beach, and access to the Coast. Accordingly, Sidewalk Vending Activity is prohibited in Downtown Huntington Beach.
6. The Civic Center, City Building, Fire Station, Police Station, Off-Street City Pay Parking Lot, or public property.
7. Any City Property that does not meet the definition of a sidewalk or Pathway including, but not limited to, any alley, beach, pier, square, street, street end, or parking lot.
8. A permitted Certified Farmers' Market or Swap Meet during the limited operating hours of that Certified Farmers' Market or Swap Meet.
9. An area designated for a Specific Event pursuant to a City issued permit, during the limited duration of the Specific Event.
10. An area designated for a Special Event pursuant to a City issued permit, during the limited duration of the Special Event.
11. An area designated for barriers for protection of the public.
12. A public or private school, a place of worship, or a large or general child day-care facility, or within two-hundred (200) feet of any of the aforementioned property.
13. Within one-hundred (100) feet of:
 - a. Another Sidewalk Vendor.
 - b. The intersection of a street and a Sidewalk.
 - c. Any marina.
 - d. The portion of any City facility that is renting Merchandise or selling Food to the public or where the rental Merchandise is stored.

- e. Any police officer, firefighter, lifeguard or emergency medical personnel who are actively performing their duties or providing services to the public.
14. Within twenty-five (25) feet of a:
- a. Fire hydrant.
 - b. Curb which has been designated as white, yellow, green, blue, or red zone, or a bus zone.
 - c. Automated teller machine.
 - d. Driveway, alley, or entrance to a parking lot or parking garage.
 - e. Entrance or exit to a building, structure or facility.
 - f. Trash receptacle, bike rack, bench, bus stop, restroom, or similar public use items.

5.100.100 Penalties

A. Violations of this Chapter shall not be prosecuted as infractions or misdemeanors and shall only be subject to Administrative Citation pursuant to Chapter 1.18, except that notwithstanding Section 1.18.070, any violation of this Chapter shall be assessed administrative fines in the following amounts:

- 1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
- 2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
- 3. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.

B. If a Sidewalk Vendor violates any portion of this Chapter and cannot present the citing officer with proof of a valid permit, the Sidewalk Vendor shall be assessed administrative fines in the following amounts:

- 1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
- 2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation.
- 3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.

C. Upon proof of a valid permit issued by the City, the administrative fines set forth in Subsection 5.100.100(B) shall be reduced to the administrative fines set forth in Subsection 5.100.100(A), or any successor sections.

D. The Chief Financial Officer, or the Chief Financial Officer's designee, may revoke a permit issued to a Sidewalk Vendor for the term of that permit upon the fourth violation or subsequent violations within one (1) year of the first violation.

5.100.110 Citation Appeals

A. Administrative citations may be appealed pursuant to Section 1.18.120, except where the hearing officer is considering an administrative fine, he or she has the power to:

1. Reduce the fine based upon the person's ability to pay the fine.

2. If the Hearing Officer finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the Hearing Officer, shall order the City to accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this Chapter.

3. The Hearing Officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

B. All appeals of administrative citations shall be conducted in accordance with Chapter 1.18 of this Code."

SECTION 3. Municipal Code Section 5.50.170(F) prohibits vending from a human powered conveyance. Municipal Code Section 5.50.170(F) is repealed.

SECTION 4. Ordinance No. 4177 is repealed as of the effective date of this Ordinance.

SECTION 5. The recitals provided in this Ordinance are true and correct and are incorporated into the substantive portion of this Ordinance.

SECTION 6. The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 7. If any section, subsection, sentence, clause, phrase, part, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section,

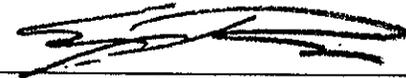
subsection, sentence, clause, phrase, part, or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts, or portions be declared invalid or unconstitutional.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 6th day of May 2019.

ATTEST:

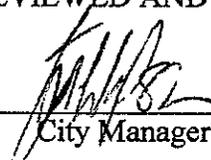


City Clerk



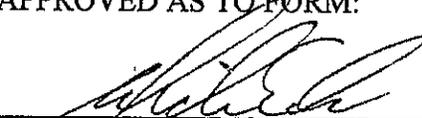
Mayor

REVIEWED AND APPROVED:



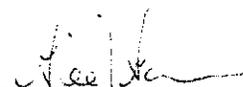
City Manager

APPROVED AS TO FORM:



City Attorney SFF
MV

INITIATED AND APPROVED:



Chief Financial Officer

*This Ordinance shall become effective thirty (30) days after its adoption.

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, ROBIN ESTANISLAU, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a **Regular** meeting thereof held on **April 15, 2019**, and was again read to said City Council at a **Regular** meeting thereof held on **May 6, 2019**, and was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council.

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, Hardy

NOES: None

ABSENT: None

ABSTAIN: None

I, Robin Estanislau, CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Huntington Beach Wave on May 16, 2019.
In accordance with the City Charter of said City.
Robin Estanislau, City Clerk
Donna Kelly, Deputy City Clerk

Robin Estanislau
City Clerk and ex-officio Clerk
of the City Council of the City
of Huntington Beach, California