



# City Council Agenda Report

ITEM NO. 23

**DATE:** December 5, 2018

**FROM:** Stephanie DeWolfe, City Manager *SD*

**PREPARED BY:** David Bergman, Interim Planning Director *DB*  
Kahono Oei, Interim Public Works Director *for DB*  
Craig Koehler, Finance Director

**SUBJECT:** **Adoption of an Urgency Ordinance Creating a Sidewalk Vending Permitting Program to Comply with Senate Bill No. 946**

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## **Recommendation Action**

It is recommended that the City Council introduce and adopt an Urgency Ordinance entitled “An Ordinance of the City Council of the City of South Pasadena Amending Section 19.49-1 (“Mobile Food Vending”) of Article 1 (“In General”) of Chapter 19 (“Motor Vehicles and Traffic”) of the South Pasadena Municipal Code to Exclude Self-Propelled Vehicles from the Definition of Vending Vehicle, Amending Section 21.16 (“Sales”) of Chapter 21 (“Parks”) to Require Sidewalk Vending Permits for Sales in Parks, and Adding Article VII (“Sidewalk Vending Permit”) of Chapter 18 (“Business, Professions and Trades”) Creating a Permitting Program to Regulate Sidewalk Vendors”

## **Commission Review and Recommendation**

Due to the fact that the sidewalk vending regulations and permit requirements must be in place prior to January 1, 2019, the Urgency Ordinance was not reviewed by a Commission.

## **Executive Summary**

Senate Bill (SB) No. 946, effective January 1, 2019, establishes a new framework for regulating sidewalk vending on public property. Some of the bill’s provisions conflict with various provisions of South Pasadena’s municipal code. The Ordinance under consideration would allow the City to create a permitting process to impose its own regulations, not in conflict with State law, to promote the health, safety, and welfare of its residents. Because it must go into effect prior to January 1, 2019, the Ordinance is proposed as an Urgency Ordinance authorized by Government Code Section 36937(b), and requiring a four-fifths (4/5) City Council vote.

## **Discussion/Analysis**

A “sidewalk vendor” is someone who sells food, beverages, or merchandise from non-motorized conveyances or from his or her person on the public sidewalk or other pedestrian path. A non-motorized conveyance includes a pushcart, stand, display, pedal-driven cart, wagon, showcase, and rack. A sidewalk vendor may be stationary, operating from a fixed location, or roaming.

## Ordinance Adopting Sidewalk Vending Permitting Program

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SB 946 lists a number of impermissible regulations. First, the City is prevented from requiring a sidewalk vendor to operate within specific parts of the sidewalk of public pedestrian path. However, the City may prohibit sidewalk vendors near certified farmers' markets, swap meets, or areas subject to a temporary special permit. Second, the City may not prohibit a sidewalk vendor from selling food or merchandise from the sidewalks or public pedestrian paths in a City park, except where the City has contracted with a concessionaire for the exclusive sale of food or merchandise. Third, the City may not require a sidewalk vendor to obtain the consent or approval of any nongovernmental entity or person before selling food or merchandise. Fourth, the City may not restrict sidewalk vending to a designated neighborhood or other area, although the City may prohibit a stationary sidewalk vendor from operating in an exclusively residential zone. Lastly, the City may not restrict the number of sidewalk vendors permitted in the City.

Notwithstanding these five prohibitions, the City may impose additional regulations if they directly relate to objective health, safety, or welfare concerns. The City may also regulate the time, place, and manner of sidewalk vending, including, but not limited to, any of the following:

- Restricting the hours of operation;
- Requiring maintenance of sanitary conditions;
- Complying disability access standards;
- Obtaining a use permit and/or business license;
- Possessing a valid California seller's permit for sales tax compliance;
- Requiring additional licenses from other state or local agencies as required by law;
- Requiring compliance with other generally applicable laws; and
- Providing information on vendor operations.

### Sidewalk Vending Ordinance Amendment

The proposed City Council Urgency Ordinance incorporates the permissible regulations listed above, including the following:

- (1) prohibiting stationary sidewalk vending in residential areas,
- (2) limiting roaming sidewalk vendors within residential areas to the hours of 9:00 a.m. through 5:00 pm.,
- (3) prohibiting sidewalk vending within 500 feet of a permitted certified farmers' market, permitted swap meet, or any area subject to a temporary use permit for the duration of the permit, among others, and
- (4) requiring sidewalk vendors to maintain a distance of at least 50 feet from other sidewalk vendors.

The Ordinance also creates a detailed permitting process requiring applicants to:

- (1) provide personal identification,
- (2) list the items they intend to sell,
- (3) undergo criminal background checks,
- (4) submit evidence of health permits and seller's permits, as required, and
- (5) obtain a city business license.

## Ordinance Adopting Sidewalk Vending Permitting Program

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In addition, the Ordinance imposes a number of regulations on health, safety, and welfare grounds, including:

- (1) requiring sidewalk vendors of food or beverages to wear a hairnet and food service gloves,
- (2) preventing sidewalk vendors from emitting loud, unnecessary or unusual noises,
- (3) prohibiting sidewalk vendors from leaving their equipment within the public right-of-way from 10:00 p.m. to 8:00 p.m.,
- (4) requiring sidewalk vendors to display their vending permits, and
- (5) preventing sidewalk vending on public sidewalks/pedestrian paths with a slope greater than five percent.

The Ordinance charges the Department of Public Works with administering and enforcing the City's sidewalk vending permitting program. Operating without a permit or in violation of a permit is punishable by an administrative citation set by a graduated schedule of fines set at the maximum levels allowed by state law. A sidewalk vendor unable to pay a fine may request an ability-to-pay determination under SB 946, which may result in a reduction of the fine amount to up to 20 percent of the total.

This Urgency Ordinance amends the definition of "Vending Vehicle" to exclude the term "self-propelled." The amendment clarifies that the regulations governing "vending vehicles" under Section 19.49.1 are limited to motorized vehicles, like food trucks, and do not apply to self-propelled vehicles subject to the sidewalk vending permit program.

The Urgency Ordinance also amends Section 21.16 "Sales" of Chapter 21 "Parks" to clarify vending on sidewalks or paths within parks would require written consent of the city manager or a sidewalk vending permit.

The City intends to adopt this Ordinance before SB 946 takes effect on January 1, 2019. An Urgency Ordinance, adopted by a 4/5<sup>th</sup> vote under Government Code Section 36937(b) takes effect upon adoption.

### **Alternatives Considered**

The City Council may choose not to adopt an ordinance regulating sidewalk vending and be subject to state law on the matter, without local control.

### **Next Steps**

1. If adopted, the Ordinance will be implemented in cooperation with the Finance Department, which normally processes business licenses, and the Public Works Department, as the Public Works Director will issue the permit as it impacts the use of the public right of way (sidewalks).
2. If the Ordinance is approved, staff will bring back a resolution at the December 19, 2018 City Council meeting to establish a permit fee.

### **Background**

On September 17, 2018, Governor Brown signed Senate Bill No. 946 to decriminalize sidewalk vending, prohibit local bans, and provide a guideline regarding permissible regulations. The Legislature concluded this bill was necessary for two reasons concerning immigration. First, immigrant rights activists oppose local laws banning sidewalk vending, claiming such laws unfairly target the poor and immigrants. SB 946's author, Senator Ricardo Lara, cited these concerns as a motivation for his bill. Second, Proponents of SB 946 argued the criminalization of sidewalk vending makes undocumented immigrants vulnerable to deportation, citing an undocumented immigrant and mother of four detained by ICE after she was cited for multiple violations of Rancho Cucamonga's sidewalk vending ban. In response to these concerns, and in particular to the experiences of sidewalk vendors in the City of Los Angeles, which has an estimated 50,000 persons working in this field, the Legislature adopted SB 946. The bill prohibits cities from criminalizing sidewalk vending and allows cities to adopt reasonable regulations, within defined limits, on sidewalk vending. Staff prepared the attached ordinance to enact a permitting system for the City to regulate sidewalk vending.

### **Legal Review**

The City Attorney has reviewed this item.

### **Fiscal Impact**

The Department of Public Works' current budget is sufficient to absorb the anticipated cost of administering and enforcing the Ordinance's proposed sidewalk vending program. Permit fees, to be set by the City Council by resolution, which can be set at a level sufficient to recover the City's costs from processing and providing permits, will help offset the cost of this program. Staff will bring back a proposed resolution to establish a permit fee if the Ordinance is approved by the City Council.

### **Environmental Analysis**

This item is exempt from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5). Staff recommends that the City Council finds that there is no possibility the adoption of this sidewalk vending ordinance and the amendments to its peddling ordinance will have a significant effect on the environment.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

### **Attachments:**

1. Urgency Ordinance (redlined)
2. Urgency Ordinance (final for adoption)

**ATTACHMENT 1**  
Urgency Ordinance (redlined)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA AMENDING SECTION 19.49-1 (“MOBILE FOOD VENDING”) OF ARTICLE 1 (“IN GENERAL”) OF CHAPTER 19 (“MOTOR VEHICLES AND TRAFFIC”) TO EXCLUDE SELF-PROPELLED VEHICLES FROM THE DEFINITION OF VENDING VEHICLE, AMENDING SECTION 21.16 (“SALES”) OF CHAPTER 21 (“PARKS”) TO REQUIRE SIDEWALK VENDING PERMITS FOR SALES IN PARKS, AND ADDING ARTICLE VII (“SIDEWALK VENDING PERMIT”) OF CHAPTER 18 (“BUSINESS, PROFESSIONS AND TRADES”) CREATING A PERMITTING PROGRAM TO REGULATE SIDEWALK VENDORS**

**WHEREAS**, on September 17, 2018, Governor Brown signed Senate Bill No. 946 (“SB 946”), adding sections 51036–51039 to the Government Code; and

**WHEREAS**, SB 946 decriminalizes sidewalk vending and limits local regulations to those expressly provided for in the bill or are otherwise “directly related to objective health, safety, or welfare concerns”; and

**WHEREAS**, SB 946 only applies to sidewalk vending in public rights-of-way, and private rights-of-way are still subject to private and local control; and

**WHEREAS**, although South Pasadena Municipal Code does not regulate “sidewalk vendors”, as that term is defined in SB 946, it does regulate “mobile food vendors” (SPMC 19.49-1), which may include sidewalk vendors; and

**WHEREAS**, the City desires to adopt a sidewalk vending ordinance and make other necessary amendments to the South Pasadena Municipal Code to ensure compliance with state law, before SB 946 takes effect on January 1, 2019; and

**WHEREAS**, it is in the interest of the public peace, health, and safety of the City’s residents to regulate sidewalk vending to ensure compliance with the City’s permitting process; and

**WHEREAS**, Government Code Section 36937(b) authorizes the adoption of ordinances that take effect immediately for the purpose of preserving the public peace, health or safety, provided such ordinances are approved by four-fifths (4/5) vote of the City Council.

**THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council hereby determines that the foregoing findings are true and correct, and it incorporates them herein by reference.

**SECTION 2.** Sub-section (b) (“Definitions”) of Section 19.49-1 (“Mobile Food Vending”) of Article 1 (“In General”) of Chapter 19 (“Motor Vehicles and Traffic”) is amended to read as follows:

“(b) Definitions. For purposes of this chapter, the following words or phrases shall have the following meanings:

- (1) Food or Food Products. Any type of edible substance or beverage.
- (2) Mobile Food Vendor. A person who operates or assists in the operation of a vending vehicle.
- (3) Vend or Vending. To sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a vending vehicle.
- (4) Vendor. A person who vends, including an employee or agent of a vendor.
- (5) Vending Vehicle. Any ~~self-propelled~~, motorized device or vehicle by which any person or property may be propelled or moved upon a highway from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given, excepting a device moved exclusively by human power, or which may be drawn or towed by a self-propelled, motorized vehicle.”

**SECTION 3.** Section 21.16 (“Sales”) of Chapter 21 (“Parks”) is amended to read as follows:

“No person shall sell or offer for sale any food, merchandise, article, or thing whatsoever in any park without the written consent of the city manager or a sidewalk vending permit issued under Article VII of Chapter 18 of this Code.”

**SECTION 3.** Article VII (“Sidewalk Vending Permit”) of Chapter 18 (“Business, Professions and Trades”) is added to read as follows:

“ARTICLE VII. SIDEWALK VENDING PERMIT”

18.120 Definitions.

As used in this chapter the following meanings shall apply:

(a) “Food” means any type of edible substance or beverage.

(b) “Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(c) "Sidewalk vendor" means a person who sells 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 paved public pedestrian path.

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

#### 18.121. Sidewalk Vending Permits

(a) Only sidewalk vendors with valid sidewalk vending permits issued by the public works director may vend upon the city's public sidewalk or other paved public pedestrian path.

(b) A sidewalk vending permit shall be valid for a period of one year from the date of issuance, unless sooner revoked or abandoned as set forth in this article.

(c) To apply for a sidewalk vending permit or a renewal of a sidewalk vending permit, the applicant must provide:

(1) A completed application form containing:

(A) Their name and mailing address;

(B) Description of the food or merchandise offered for sale or exchange;

(C) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal and any owners of the company, partnership, or corporation; and

(D) Certification that the information is true to his or her knowledge and belief.

(2) A copy of a 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) A copy of a valid California Department of Tax and Fee Administration seller's permit, as required.

(4) A copy of a valid Mobile Food Permit issued by the Los Angeles County Department of Public Health, as required.

(d) To ensure the safety of residents and the merchantability of products sold by vendors without a fixed place of business, the city requires all sidewalk vending applicants to undergo a fingerprinting background check and to submit the results to the city as an attachment to their application.

(e) The sidewalk vending permit application shall require the applicant to agree, in writing, to comply with all the provisions of this chapter and all applicable provisions of the South Pasadena Municipal Code.

#### 18.122. General Regulations

(a) To maintain accessibility standards for the city's disabled residents, every sidewalk vendor operating on any sidewalk or public paved pedestrian path must ensure that no obstruction is placed in the sidewalk or public paved pedestrian path that would reduce the width of the sidewalk to less than forty-eight (48) inches, exclusive of the top of the curb.

(b) To prevent food-borne illness and protect the health and safety of the city's residents, every sidewalk vendor selling any food or beverage is required to wear a hairnet and food service gloves.

(c) To prevent dangerous distractions and promote the general welfare of the city's residents, sidewalk vendors emitting any loud, unnecessary and unusual noises must comply with Chapter 19A.25.010 of this Code.

(d) A sidewalk vending permit does not provide an exclusive right to operate within any specific portion of the public sidewalk of paved pedestrian path.

(e) No equipment or objects used for sidewalk vending purposes may be left or maintained in public spaces or in any portion of the public right-of-way from 10:00 p.m. to 8:00 a.m. Any equipment or objects left overnight in public spaces or in any portion of the public right-of-way will be considered discarded and may be seized or disposed of by the city.

(f) To facilitate the enforcement of this chapter, every sidewalk vendor must display their city-issued sidewalk vending permit on the street-side portion of their pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance when operating in the public sidewalk or paved pedestrian path.

(g) To prevent unintended rolling or slipping, a sidewalk vendor is prohibited from operating a pushcart, pedal-driven cart, wagon, or other non-motorized conveyance on a public sidewalk or paved pedestrian path with a slope greater than five percent.

(h) No sidewalk vender shall obstruct access to or from any business, entrance, public water fountain or other public facility, adjacent to the public sidewalk or paved pedestrian path.

#### 18.123. Specific Regulations

(a) Sidewalk vending hours' limitations in areas zoned for nonresidential use will be as restrictive as any limitations on hours of operation imposed on other businesses or uses on the same street, excluding those permitted to operate 24 hours.

(b) Sidewalk vending is limited to the hours of 9:00 a.m. through 5:00 p.m. for areas that are exclusively residential.

(c) Stationary sidewalk vendors are prohibited from operating in areas that are exclusively residential.

(d) A stationary sidewalk vendor is prohibited from operating in a city park if the city has entered into exclusive agreements for the sale of food or merchandise by one or more concessionaires for that city park.

(e) A sidewalk vendor is prohibited from operating within five-hundred (500) feet of a permitted certified farmers' market, a permitted swap meet, or any area subject to a temporary use permit for the duration of the permit.

(f) A sidewalk vendor shall maintain a distance of 50 feet from any other sidewalk vendor.

#### 18.124. Violation— Administrative Citation

(a) Every person vending without a sidewalk vending permit is guilty of a violation punishable by an administrative citation pursuant to the procedures set forth in Chapter 1A in an amount not to exceed:

(1) Two hundred fifty dollars (\$250.00) for a first violation; and

(2) Five hundred dollars (\$500.00) for a second violation within one year of the first violation; and

(3) One thousand dollars (\$1,000.00) for each additional violation within one year of the first violation.

(b) Every person violating any other provision of this chapter is guilty of a code violation punishable by an administrative citation not to exceed:

(1) One hundred dollars (\$100.00) for a first violation; or

(2) Two hundred dollars (\$200.00) for a second violation within one year of the first violation; or

(3) Five hundred dollars (\$500.00) for each additional violation within one year of the first violation.

(4) The public works director may rescind a sidewalk vendor permit for the remaining term of the permit upon a fourth or subsequent violation of this chapter.

(c) Failure to pay an administrative fine is not punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized

will not be assessed. However, the city may levy a lien on the violator's real or personal property, including the vehicle used for vending purposes.

(d) A violation of this article constitutes a separate and distinct violation for each day that it exists and each such violation may be subject to the maximum fine permitted under this chapter.

#### 18.125. Ability-to-Pay Determination

(a) In addition to the applicable procedures set forth in Chapter 1A, any fine issued under Section 18.124 will be accompanied with a notice of and instruction regarding the right to request an ability-to-pay determination.

(b) If the requestor is receiving public benefits under Government Code Section 68632(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 public works director will limit the total amount of the requestor's administrative fine to 20 percent of the total."

**SECTION 4. CEQA Finding.** The City Council hereby finds and determines that there is no possibility the adoption of a sidewalk vending ordinance and the amendment to its peddling ordinance will have a significant effect on the environment. Accordingly, under the provisions of § 15061(b)(3) and § 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 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of South Pasadena hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions were to be declared invalid or unconstitutional.

**SECTION 6. Effective Date.** Upon adoption of this Urgency Ordinance by no less than four-fifths (4/5) vote of the Council, 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 newspaper of general circulation within fifteen (15) days after its adoption. This Urgency Ordinance shall become effective immediately upon its adoption.

**SECTION 7. Certification by Clerk.** The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of December, 2018.

\_\_\_\_\_  
Richard D. Schneider, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Evelyn Zneimer, City Clerk  
(Seal)

\_\_\_\_\_  
Teresa L. Highsmith, City Attorney

Date: \_\_\_\_\_

**I HEREBY CERTIFY** the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the \_\_\_ day of December, 2018, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

\_\_\_\_\_  
Evelyn Zneimer, City Clerk  
(seal)

**ATTACHMENT 2**  
Urgency Ordinance (final for adoption)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA AMENDING SECTION 19.49-1 (“MOBILE FOOD VENDING”) OF ARTICLE 1 (“IN GENERAL”) OF CHAPTER 19 (“MOTOR VEHICLES AND TRAFFIC”) TO EXCLUDE SELF-PROPELLED VEHICLES FROM THE DEFINITION OF VENDING VEHICLE, AMENDING SECTION 21.16 (“SALES”) OF CHAPTER 21 (“PARKS”) TO REQUIRE SIDEWALK VENDING PERMITS FOR SALES IN PARKS, AND ADDING ARTICLE VII (“SIDEWALK VENDING PERMIT”) OF CHAPTER 18 (“BUSINESS, PROFESSIONS AND TRADES”) CREATING A PERMITTING PROGRAM TO REGULATE SIDEWALK VENDORS**

**WHEREAS**, on September 17, 2018, Governor Brown signed Senate Bill No. 946 (“SB 946”), adding sections 51036–51039 to the Government Code; and

**WHEREAS**, SB 946 decriminalizes sidewalk vending and limits local regulations to those expressly provided for in the bill or are otherwise “directly related to objective health, safety, or welfare concerns”; and

**WHEREAS**, SB 946 only applies to sidewalk vending in public rights-of-way, and private rights-of-way are still subject to private and local control; and

**WHEREAS**, although South Pasadena Municipal Code does not regulate “sidewalk vendors”, as that term is defined in SB 946, it does regulate “mobile food vendors” (SPMC 19.49-1), which may include sidewalk vendors; and

**WHEREAS**, the City desires to adopt a sidewalk vending ordinance and make other necessary amendments to the South Pasadena Municipal Code to ensure compliance with state law, before SB 946 takes effect on January 1, 2019; and

**WHEREAS**, it is in the interest of the public peace, health, and safety of the City’s residents to regulate sidewalk vending to ensure compliance with the City’s permitting process; and

**WHEREAS**, Government Code Section 36937(b) authorizes the adoption of ordinances that take effect immediately for the purpose of preserving the public peace, health or safety, provided such ordinances are approved by four-fifths (4/5) vote of the City Council.

**THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council hereby determines that the foregoing findings are true and correct, and it incorporates them herein by reference.

**SECTION 2.** Sub-section (b) (“Definitions”) of Section 19.49-1 (“Mobile Food Vending”) of Article 1 (“In General”) of Chapter 19 (“Motor Vehicles and Traffic”) is amended to read as follows:

“(b) Definitions. For purposes of this chapter, the following words or phrases shall have the following meanings:

- (1) Food or Food Products. Any type of edible substance or beverage.
- (2) Mobile Food Vendor. A person who operates or assists in the operation of a vending vehicle.
- (3) Vend or Vending. To sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a vending vehicle.
- (4) Vendor. A person who vends, including an employee or agent of a vendor.
- (5) Vending Vehicle. Any motorized device or vehicle by which any person or property may be propelled or moved upon a highway from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given, excepting a device moved exclusively by human power, or which may be drawn or towed by a self-propelled, motorized vehicle.”

**SECTION 3.** Section 21.16 (“Sales”) of Chapter 21 (“Parks”) is amended to read as follows:

“No person shall sell or offer for sale any food, merchandise, article, or thing whatsoever in any park without the written consent of the city manager or a sidewalk vending permit issued under Article VII of Chapter 18 of this Code.”

**SECTION 3.** Article VII (“Sidewalk Vending Permit”) of Chapter 18 (“Business, Professions and Trades”) is added to read as follows:

**“ARTICLE VII. SIDEWALK VENDING PERMIT”**

18.120 Definitions.

As used in this chapter the following meanings shall apply:

- (a) “Food” means any type of edible substance or beverage.
- (b) “Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(c) "Sidewalk vendor" means a person who sells 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 paved public pedestrian path.

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

#### 18.121. Sidewalk Vending Permits

(a) Only sidewalk vendors with valid sidewalk vending permits issued by the public works director may vend upon the city's public sidewalk or other paved public pedestrian path.

(b) A sidewalk vending permit shall be valid for a period of one year from the date of issuance, unless sooner revoked or abandoned as set forth in this article.

(c) To apply for a sidewalk vending permit or a renewal of a sidewalk vending permit, the applicant must provide:

(1) A completed application form containing:

(A) Their name and mailing address;

(B) Description of the food or merchandise offered for sale or exchange;

(C) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal and any owners of the company, partnership, or corporation; and

(D) Certification that the information is true to his or her knowledge and belief.

(2) A copy of a 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) A copy of a valid California Department of Tax and Fee Administration seller's permit, as required.

(4) A copy of a valid Mobile Food Permit issued by the Los Angeles County Department of Public Health, as required.

(d) To ensure the safety of residents and the merchantability of products sold by vendors without a fixed place of business, the city requires all sidewalk vending applicants to undergo a fingerprinting background check and to submit the results to the city as an attachment to their application.

(e) The sidewalk vending permit application shall require the applicant to agree, in writing, to comply with all the provisions of this chapter and all applicable provisions of the South Pasadena Municipal Code.

#### 18.122. General Regulations

(a) To maintain accessibility standards for the city's disabled residents, every sidewalk vendor operating on any sidewalk or public paved pedestrian path must ensure that no obstruction is placed in the sidewalk or public paved pedestrian path that would reduce the width of the sidewalk to less than forty-eight (48) inches, exclusive of the top of the curb.

(b) To prevent food-borne illness and protect the health and safety of the city's residents, every sidewalk vendor selling any food or beverage is required to wear a hairnet and food service gloves.

(c) To prevent dangerous distractions and promote the general welfare of the city's residents, sidewalk vendors emitting any loud, unnecessary and unusual noises must comply with Chapter 19A.25.010 of this Code.

(d) A sidewalk vending permit does not provide an exclusive right to operate within any specific portion of the public sidewalk or paved pedestrian path.

(e) No equipment or objects used for sidewalk vending purposes may be left or maintained in public spaces or in any portion of the public right-of-way from 10:00 p.m. to 8:00 a.m. Any equipment or objects left overnight in public spaces or in any portion of the public right-of-way will be considered discarded and may be seized or disposed of by the city.

(f) To facilitate the enforcement of this chapter, every sidewalk vendor must display their city-issued sidewalk vending permit on the street-side portion of their pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance when operating in the public sidewalk or paved pedestrian path.

(g) To prevent unintended rolling or slipping, a sidewalk vendor is prohibited from operating a pushcart, pedal-driven cart, wagon, or other non-motorized conveyance on a public sidewalk or paved pedestrian path with a slope greater than five percent.

(h) No sidewalk vendor shall obstruct access to or from any business, entrance, public water fountain or other public facility, adjacent to the public sidewalk or paved pedestrian path.

#### 18.123. Specific Regulations

(a) Sidewalk vending hours' limitations in areas zoned for nonresidential use will be as restrictive as any limitations on hours of operation imposed on other businesses or uses on the same street, excluding those permitted to operate 24 hours.

(b) Sidewalk vending is limited to the hours of 9:00 a.m. through 5:00 p.m. for areas that are exclusively residential.

(c) Stationary sidewalk vendors are prohibited from operating in areas that are exclusively residential.

(d) A stationary sidewalk vendor is prohibited from operating in a city park if the city has entered into exclusive agreements for the sale of food or merchandise by one or more concessionaires for that city park.

(e) A sidewalk vendor is prohibited from operating within five-hundred (500) feet of a permitted certified farmers' market, a permitted swap meet, or any area subject to a temporary use permit for the duration of the permit.

(f) A sidewalk vendor shall maintain a distance of 50 feet from any other sidewalk vendor.

#### 18.124. Violation— Administrative Citation

(a) Every person vending without a sidewalk vending permit is guilty of a violation punishable by an administrative citation pursuant to the procedures set forth in Chapter 1A in an amount not to exceed:

(1) Two hundred fifty dollars (\$250.00) for a first violation; and

(2) Five hundred dollars (\$500.00) for a second violation within one year of the first violation; and

(3) One thousand dollars (\$1,000.00) for each additional violation within one year of the first violation.

(b) Every person violating any other provision of this chapter is guilty of a code violation punishable by an administrative citation not to exceed:

(1) One hundred dollars (\$100.00) for a first violation; or

(2) Two hundred dollars (\$200.00) for a second violation within one year of the first violation; or

(3) Five hundred dollars (\$500.00) for each additional violation within one year of the first violation.

(4) The public works director may rescind a sidewalk vendor permit for the remaining term of the permit upon a fourth or subsequent violation of this chapter.

(c) Failure to pay an administrative fine is not punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized

will not be assessed. However, the city may levy a lien on the violator's real or personal property, including the vehicle used for vending purposes.

(d) A violation of this article constitutes a separate and distinct violation for each day that it exists and each such violation may be subject to the maximum fine permitted under this chapter.

#### 18.125. Ability-to-Pay Determination

(a) In addition to the applicable procedures set forth in Chapter 1A, any fine issued under Section 18.124 will be accompanied with a notice of and instruction regarding the right to request an ability-to-pay determination.

(b) If the requestor is receiving public benefits under Government Code Section 68632(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 public works director will limit the total amount of the requestor's administrative fine to 20 percent of the total."

**SECTION 4. CEQA Finding.** The City Council hereby finds and determines that there is no possibility the adoption of a sidewalk vending ordinance and the amendment to its peddling ordinance will have a significant effect on the environment. Accordingly, under the provisions of § 15061(b)(3) and § 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 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of South Pasadena hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions were to be declared invalid or unconstitutional.

**SECTION 6. Effective Date.** Upon adoption of this Urgency Ordinance by no less than four-fifths (4/5) vote of the Council, 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 newspaper of general circulation within fifteen (15) days after its adoption. This Urgency Ordinance shall become effective immediately upon its adoption.

**SECTION 7. Certification by Clerk.** The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of December, 2018.

\_\_\_\_\_  
Richard D. Schneider, Mayor

ATTEST:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Evelyn Zneimer, City Clerk  
(Seal)

\_\_\_\_\_  
Teresa L. Highsmith, City Attorney

Date: \_\_\_\_\_

**I HEREBY CERTIFY** the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the \_\_\_ day of December, 2018, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

\_\_\_\_\_  
Evelyn Zneimer, City Clerk  
(seal)