City of South Gate
CITY COUNCIL

AGENDA BILL

For the Regular Meeting of: December 11, 2018

Originating Department: Community Development

Department Director: Joe Perez
City Manager: Michael Flad

SUBJECT: ORDINANCE NO. 2357 AMENDING CERTAIN SECTIONS AND CHAPTERS OF THE SOUTH GATE MUNICIPAL CODE PERTAINING TO A SIDEWALK VENDING PROGRAM IN COMPLIANCE WITH SENATE BILL 946 (LARA)

PURPOSE: To adopt Ordinance No. 2357, which will establish a Sidewalk Vending Program and require sidewalk vendors to obtain a license and permit from the City before selling food or merchandise. This Ordinance is in compliance with SB 946 (Lara), which will become effective January 1, 2019.

RECOMMENDED ACTION: Waive further reading and adopt Ordinance No. 2357 amending certain Sections and Chapters of the South Gate Municipal Code pertaining to a Sidewalk Vending Program in compliance with Senate Bill 946 (Lara).

FISCAL IMPACT: Adoption of Ordinance No. 2357 will result in the City receiving additional revenue from sidewalk vending business license and permit fees. Although unknown at this time, the revenue received by the City each year will be dependent upon the fees established for sidewalk vending business licenses and permits as well as the volume of applications. A resolution establishing the sidewalk vending business license and permit fees will be considered by the City Council during tonight’s meeting.

ALIGNMENT WITH COUNCIL GOALS: The adoption of a Sidewalk Vending Program supports the goal of protecting strong and sustainable neighborhoods, by providing regulations for the sale of food and merchandise on public sidewalks and parks.

ANALYSIS: At the November 27, 2018 regular City Council meeting, the City Council conducted a public hearing and unanimously introduced Ordinance No. 2357 to adopt a Sidewalk Vending Program, which will require sidewalk vendors to obtain a business license and sidewalk vending permit from the City before selling food or merchandise. Ordinance No. 2357 is on the agenda this evening for adoption.

Senate Bill 946 – Sidewalk Vendors (Lara)
SB 946 which goes into effect January 1, 2019, prohibits local jurisdictions from regulating or, under certain circumstances, banning sidewalk vendors unless a Sidewalk Vending Program is
adopted. A Sidewalk Vending Program requires vendors to obtain a business license and sidewalk vendor permit from the local authority before selling food or merchandise. According to State Senator Ricardo Lara, who introduced the bill, SB 946 is intended to allow sidewalk vendors to be viewed and treated as small-business owners who contribute to local economies.

Also known as the Safe Sidewalk Vending Act, SB 946 applies to “sidewalk vendors” who sell food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance in the a public right-of-way or other pedestrian path, including public parks. Such vendors include stationary and roaming vendors, each of which has a different set of regulations pursuant to SB 946.

- **Stationary sidewalk vendors** must remain in one location except when being pushed, carried, or transported to and from a space on the sidewalk on a daily basis and is prohibited from conducting business in exclusive residential zones.

- **Roaming vendors** are mobile (non-motorized) and are allowed to conduct business in residential areas, considering that they move continuously and only stop for a limited time to complete a transaction.

Provided below is a table summarizing the City’s capabilities per SB 946:

<table>
<thead>
<tr>
<th>CITY IS ALLOWED TO:</th>
<th>CITY IS PROHIBITED FROM:</th>
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<tr>
<td>Limit hours of operation considering the same are imposed on other businesses on the same street</td>
<td>Require sidewalk vendors from operating in specific parts of the public right-of-way</td>
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<tr>
<td>Require sidewalk vendors to obtain a permit for sidewalk vending and a valid business license</td>
<td>Requiring sidewalk vendors to obtain consent/approval of any nearby business to sell food or merchandise</td>
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<td>Require sidewalk vendors to possess a valid state seller’s permit</td>
<td>Determining where sidewalk vendors can operate unless there is a health, safety, or welfare concern</td>
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<td>Require additional licenses from other agencies (e.g., LA County Dept. of Public Health) boundaries</td>
<td>Restricting the overall number of sidewalk vendors permitted to operate within City boundaries</td>
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<td>Prohibit sidewalk vendors in areas located around a permitted farmers’ market or swap meet</td>
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<tr>
<td>Restrict or prohibit sidewalk vendors in area(s) designated for a temporary special permit</td>
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<td>Prohibit stationary vendors in areas zoned exclusively residential. (Roaming vendors are permitted)</td>
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<tr>
<td>Regulate sidewalk vending in a park if certain requirements are met</td>
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SB 946 allows the assessment of penalties for violations of the Sidewalk Vending Program follows:

• 1st violation - Administrative fine not exceeding $100
• 2nd violation - Administrative fine not exceeding $200 within one year of the first violation
• 3rd or more violations - Administrative fine not exceeding $500 within one year of the first violation
• The City may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation.

Fines for vending without sidewalk vending permit, per SB 946, is provided below:

• 1st violation - Administrative fine not exceeding $250
• 2nd violation - Administrative fine not exceeding $500 within one year of the first violation
• 3rd or more violations - Administrative fine not exceeding $1,000 within one year of the first violation.
• Upon proof of a valid permit issued by the City, the administrative fines shall be reduced to 20%.

Failure to pay an administrative fine is not punishable as an infraction or misdemeanor and fines, fees, assessments, or any other financial conditions cannot not be assessed.

Proposed Sidewalk Vending Program

In order for the City to regulate and, in some cases prohibit sidewalk vending in the interest of the public’s health, safety and welfare, the proposed ordinance (attached) establishes a Sidewalk Vending Program. A survey was conducted of surrounding cities and, of those, only the City of Los Angeles was in the process of developing a Sidewalk Vending Program. The proposed Sidewalk Vending Program was developed with input from all City Departments and the City Attorney’s Office. Provided below are key provisions in the proposed Sidewalk Vending Program:

• Vendors are required to obtain both a business license and vending permit
• Vendors must, as part of their application, provide:
  o Name, address and telephone number
  o Valid identification
  o List of food or merchandise to be sold
  o Proof of liability insurance in an amount no less than $1,000,000 per occurrence
  o If vending food, proof of completion of a food handler course
• Vendors must obtain all permits required by the LA County Department of Public Health.
• Every cart used to vend food must be approved by the LA County Department of Public Health.
• A person may apply for only one permit and permits must be displayed on every cart
• Each permit is to be renewed annually
• Only two vendors are allowed per street block
• Limitations on cart sizes have been established at 72"L x 54"W x 78"H.
• Vendors must provide and utilize their own trash receptacles and are prohibited from using those from the City in the public right-of-way.
• Vendors must maintain clean and trash-free 10-foot radius from the vendor's cart.
• Stationary vendors are prohibited from areas zoned exclusively residential and from parks that have exclusive concessions agreements (i.e. South Gate and Hollydale Parks).
• Vending is prohibited within 500 feet of any K-12 school from 6:00 a.m. through 6:00 p.m., unless the Vendor is selling exclusively Healthy Food.
• Due to public safety concerns, vending is prohibited in the following areas:
  o "Tweedy Boulevard Corridor,"
  o "Garfield Avenue Corridor,"
  o "Paramount Boulevard Corridor,"
  o "Azalea Shopping Center,"
  o "Crossroads Retail Center,"
  o Imperial Highway Corridor,"
  o "Long Beach Boulevard Corridor,"
  o "Otis Street Corridor,"
  o "Atlantic Avenue Corridor,"
  o "California Avenue Corridor,"
  o "Firestone Boulevard Corridor,"
  o "El Paseo Shopping Center,"
  o State Street
  o Independence Avenue
  o Ardmore Avenue
  o San Juan Avenue
  o Santa Ana Street
  o Southern Avenue
• Vending of illegal or counterfeit merchandise is prohibited.
• Unattended carts will be confiscated as a "bulky item."
• Mobile support for carts is prohibited.
• For safety reasons, carts will not be placed in locations that impede pedestrian access or within specified distances of crosswalks, bus benches, street signs and driveways.

**Enforcement**
In the event that a sidewalk vendor is conducting business in the public right-of-way and parks without a permit, Police Officers, Code Enforcement Officers and Park Rangers have the authority to enforce the regulations contained within the Sidewalk Vending Program.

**Sidewalk Sales**
It should be noted that the Municipal Code allows an individual or group of businesses — specifically, residents and business owners with addresses in South Gate—to apply for a Sale/Special Event Permit (Sidewalk Sale Permit) 12 times per year, for no more than three consecutive days. This only applies to the area as authorized by the Business License Division. Historically, the Tweedy Mile Association (TMA) has been the only entity to apply for said sale permits. For example, in Fiscal Year 2017-18, the City issued 12 Sidewalk Sale Permits, all for the TMA. The proposed ordinance does not alter this policy.
Next Steps
In addition to adopting Ordinance No. 2357, the City Council will also discuss two related items during tonight's meeting. The first is to consider adopting an interim urgency ordinance, which mirrors the provisions in this proposed ordinance. Because the urgency ordinance will be effective immediately after adoption, it will ensure that the City's Sidewalk Vending Program will be in place by the time SB 946 goes into effect on January 1, 2019. The second is a resolution establishing licensing and permitting fees which will help implement the Sidewalk Vending Program.

BACKGROUND: On September 17, 2018, Governor Brown signed SB 946 to decriminalize selling food and other goods on sidewalks and in parks in California. SB 946, which will go into effect January 1, 2019, prohibits criminal penalties for sidewalk vending. Vendors will also be able to clear pending citations and be retroactively relieved of previous convictions by petitioning the court for dismissal of the sentence.

At its November 27, 2018 regular meeting, the City Council conducted a public hearing and introduced Ordinance No. 2357.

ATTACHMENTS: A. Ordinance No. 2357
B. Senate Bill 946
ORDINANCE NO. 2357

CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE, CALIFORNIA, AMENDING CERTAIN SECTIONS AND CHAPTERS OF THE SOUTH GATE MUNICIPAL CODE PERTAINING TO A SIDEWALK VENDING PROGRAM IN COMPLIANCE WITH SENATE BILL 946 (LARA)

WHEREAS, a well-regulated sidewalk vending program would enliven the City of South Gate ("City") streetscape by creating a vibrant marketplace; and

WHEREAS, sidewalk vending, because it has a relatively low barrier to entry, encourages entrepreneurship; and

WHEREAS, providing economic opportunity for people to support themselves and their families is one of the most important goals for the City; and

WHEREAS, the South Gate City Council ("City Council") finds that there is a need to regulate the sale of food and merchandise in the public right-of-way; and

WHEREAS, regulations are needed to ensure that the public has a simple way to ensure vendors prepare food safely and according to the Los Angeles County Department of Public Health's requirements; and

WHEREAS, regulations are needed to prevent unsanitary conditions and ensure trash and debris are removed by vendors; and

WHEREAS, regulations are needed to accommodate a vendor's equipment while safeguarding pedestrian movement on the sidewalk; and

WHEREAS, the City Council finds that regulation of sidewalk vending benefits the City as a whole as it leads to orderly commerce; and

WHEREAS, the City Council seeks to create a Sidewalk Vending Program which will provide licensing and regulation of street vendors in the City; and

WHEREAS, the City Council seeks to create a Sidewalk Vending Program that will maximize the safety and welfare of the general public; and

WHEREAS, within the City there are several manufacturing and retail type businesses that are primarily open during the daytime, and retail, restaurant and entertainment establishments that are open both daytime and evening; and
WHEREAS, the City is boarded by two highly traveled freeways, Interstate 710 and Interstate 105, each of which has freeway ramps and off ramps in or near the City; and

WHEREAS, between January 1, 2014, and December 31, 2016, there have been 3199 motor vehicle collisions within the City, including 10 fatalities, 25 severe injuries, and 2069 incidents of property damage; and

WHEREAS, between January 1, 2014, and December 31, 2016, of the 3199 collisions with the City, 135 have involved pedestrians, and 116 have involved bicycles; and

WHEREAS, the City has identified 14 City streets throughout the City where collisions are more likely to occur, including State Street (62 collisions), Independence Avenue (33 collisions), Long Beach Boulevard (124 collisions), Ardmore Avenue (40 collisions), San Juan Avenue (24 collisions), California Avenue (160 collisions), Otis Street (110 collisions), Santa Ana Street (44 collisions), Tweedy Boulevard (240 collisions), Firestone Boulevard (655 collisions), Atlantic Boulevard (164 collisions), Southern Avenue (132 collisions), and Imperial Highway (85 collisions); and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, most pedestrian collisions have occurred on Tweedy Boulevard, and that most bicycle and motorcycle collisions have occurred on Firestone Boulevard; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the majority of the fatal and severe collisions in the City have occurred due to broadside collisions, head on collisions, or pedestrian/bicycle collisions; and

WHEREAS, the City has identified, among other factors, that pedestrian right of way violations are a major cause of collisions in the City for fatal and severe collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 16.14% of all injury collisions have occurred on "Segment 1" of Firestone Boulevard, between the west City boundary limit, and Atlantic Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions in "Segment 1" of Firestone Boulevard were vehicles traveling at an unsafe seed, vehicle right of way, and improper vehicle turning, leading to 481 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 6.95 % of all injury collisions have occurred on "Segment 2" of Firestone Boulevard, between the east City boundary limit, and Atlantic Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions in "Segment 2" of Firestone Boulevard were
vehicles traveling at an unsafe speed, vehicle right of way, and improper vehicle turning, leading to 316 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 9.52% of all injury collisions have occurred on "Segment 1" of Tweedy Boulevard, between the west City boundary limit, and Atlantic Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions in "Segment 1" of Tweedy Boulevard were vehicles traveling at an unsafe speed, vehicle right of way, and improper vehicle turning, leading to 240 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 0.33% of all injury collisions have occurred on "Segment 2" of Tweedy Boulevard, between Atlantic Avenue and Burtis Street; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions in "Segment 2" of Tweedy Boulevard were vehicle right of way, and failure to stop at a stop sign, leading to 15 collisions; and

WHEREAS, Tweedy Boulevard has the highest number of pedestrian collisions in the City; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 6.21% of all injury collisions have occurred on Garfield Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Garfield Avenue were due to automobiles traveling at an unsafe speed, vehicle right of way, and improper turning, leading to 206 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 5.46% of all injury collisions have occurred on Long Beach Boulevard; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Long Beach Boulevard were due to automobiles traveling at an unsafe speed, vehicle right of way, and improper turning, leading to 124 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 5.05% of all injury collisions have occurred on Southern Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Southern Avenue were due to automobiles
traveling at an unsafe speed, vehicle right of way, and improper turning, leading to 132 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 4.97% of all injury collisions have occurred on California Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on California Avenue were due to automobiles traveling at an unsafe speed, vehicle right of way, and improper turning, leading to 160 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 4.88% of all injury collisions have occurred on Atlantic Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Atlantic Avenue were due to automobiles traveling at an unsafe speed, vehicle right of way, and improper turning, leading to 164 collisions; and

WHEREAS, the between January 1, 2014, and December 31, 2016, there have been 2 fatal and severe collisions involving motorcycles, and 6 pedestrian and/or bicycle collisions on Atlantic Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 4.06% of all injury collisions have occurred on Imperial Highway; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Imperial Highway were due to automobiles traveling at an unsafe speed and vehicle right of way leading to 85 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 3.56% of all injury collisions have occurred on State Street; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on State Street were due to automobiles traveling at an unsafe speed, improper turning and vehicle right of way leading to 62 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 3.06% of all injury collisions have occurred on Otis Street; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Otis Street were due to automobiles traveling at an unsafe speed leading to 110 collisions; and
WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 1.32% of all injury collisions have occurred on Santa Ana Street; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Santa Ana Street were due to automobiles traveling at an unsafe speed and improper turning leading to 44 collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 0.99% of all injury collisions have occurred on Ardmore Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Ardmore Avenue were due to vehicle right of way and other hazardous violations leading to 40 collisions, including 1 fatality, and 2 pedestrian or bicycle collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 0.99% of all injury collisions have occurred on Independence Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on Independence Avenue were due to automobiles traveling at an unsafe speed, pedestrian right of way, and vehicles traveling on the wrong side of the road leading to 33 collisions, including one fatality, 5 pedestrian, and 1 bicycle or motorcycle collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, 0.83% of all injury collisions have occurred on San Juan Avenue; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the most common causes of collisions on San Juan Avenue were due to vehicle right of way and improper turning leading to 24 collisions, including 1 fatality, 4 pedestrian, and 1 bicycle collisions; and

WHEREAS, the City has identified that between January 1, 2014, and December 31, 2016, the following intersections have the majority of the collisions in the City: Atlantic Avenue and McCallum Avenue, Firestone Boulevard and Long Beach Boulevard, Firestone Boulevard and Santa Fe Avenue, San Miguel Avenue and Tweedy Boulevard, Long Beach Boulevard and Tweedy Boulevard, Garfield Avenue and Imperial Highway, Tweedy Boulevard and Dearborn Avenue, and Tweedy Boulevard and San Juan Avenue; and

WHEREAS, the City seeks to reduce the number of people killed or injured in traffic collisions, alcohol involved collisions, drug involved collision, reduce the number of motorcyclists killed and injured in traffic collisions, and reduce hit and run fatal collisions and injuries; and
WHEREAS, the City seeks to reduce the number of people killed or injured in traffic due to distractions, crowding of busy thoroughfares, street congestion, slowing of traffic, or creation of traffic hazards; and

WHEREAS, the City seeks to support and property regulate sidewalk vending, while providing for the health, safety and welfare of the general public, including street vendors, pedestrians, and motorists;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 2.10.970 (Severability), of Chapter 2.10 (Business Regulation), of Title 2 (Licenses – Business Regulations), of the South Gate Municipal Code is hereby amended in its entirety to read as follows:

Section 2.10.970 Sidewalk Vending Program.
A. Definitions.
B. City Administration.
C. Special Sidewalk Vending Districts.
D. Business Licenses and Vending Permits.
E. Additional Operational Requirements for Vending.
F. Placement of Stationary or Push Carts.
G. Monitoring and Compliance.
H. Vending in City Parks.
I. Vending Within the Immediate Vicinity of a Permitted Certified Farmer’s Market or Permitted Swap Meet.
J. Severability.

A. Definitions. For purposes of this section, the following words or phrases shall have the following meanings:

1. Cart. Collectively, a Stationary Cart or a Push Cart.

2. Citation. An Administrative Citation issued pursuant to Chapter 1.59 of this Code, unless otherwise specified.

3. City. The City of South Gate, a municipal corporation.

4. Department. The Department of Administrative Services of the City of South Gate.

5. Food. Any type of edible substance or beverage.
6. Goods or Merchandise (Merchandise). Any item that is not Food.

7. Healthy Food. Food which provides vital nutrients with limited fats, cholesterol, sodium and added sugar, as defined in the Rules and Regulations.

8. Operator. A natural person or persons who pushes or moves a Cart, whether or not the natural person or persons is a Licensee.

9. Push Cart or Mobile Cart. A piece of equipment used for Vending, as specified in the Rules and Regulations, which is mobile, has no motor and is capable of being propelled by an individual.

10. Person or Persons. 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.

11. Public Place. Any street, sidewalk, alley or other public way, any public park, square, space or grounds, any publicly owned or leased land or buildings.

12. Roaming Sidewalk Vendor. A sidewalk vendor who moves from place to place and stops only to complete a transaction.


14. Sidewalk Vending Program. The Sidewalk Vending Program regulates the City's allocation of Licenses and Permits for the sale of Food or Merchandise.

15. Sidewalk Vendor or Street Vendor. 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 pedestrian path. For purposes of this chapter, the words "peddler" and "sidewalk vendor" or "street vendor" shall be interchangeable.

16. Stationary Cart. A piece of equipment used for Vending, as specified in the Rules and Regulations, which has no motor and is not mobile, except when being pushed, carried, or transported to and from a space on the Sidewalk on a daily basis.

17. Stationary Sidewalk Vendor. A sidewalk vendor who vends from a fixed location.
18. Vend, Vends or Vending. To peddle, hawk, sell, barter or lease; to offer to sell, barter or lease; or to display for sale, barter or lease any goods, wares, merchandise or services; to 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.

19. Vending License (License). A written City approval required for each person who Vends in the City.

20. Vending Permit (Permit). A written City approval required for each Cart, or operator of a Cart, used for Vending in the City.


B. City Administration.

1. The City is authorized to issue Licenses and Permits for Vending Food or Merchandise and the use of Carts through the Sidewalk Vending Program.

2. Rules and Regulations to implement the Sidewalk Vending Program may be developed by the City.

3. The City shall establish a complaint process to allow the public to report problems. The City shall also notify Licensees and Permittees of all filming and special events locations.

C. Special Sidewalk Vending Districts.

1. The City Council may establish certain areas where Vending may be expanded, restricted or prohibited. Such areas shall be called "Special Sidewalk Vending Districts."

D. Business Licenses and Vending Permits.

1. License.

   (a) Every Person who engages in Vending is a Vendor and must first obtain, and at all times maintain, a valid License.

   (b) Every Vendor must Vend in compliance with the terms and conditions of the License, which may be amended from time to time, and shall agree to abide by any amendments and/or changes to this ordinance as amended from time to time.
To apply for a License, the Vendor must present a valid identification, such as a State of California identification, Matricula Consular or any other government-issued identification card and provide the following information:

(1) The name, address and telephone number of the Vendor.

(2) Proof of liability insurance in an amount of not less than one million dollars ($1,000,000.00) per occurrence.

(3) Any other information required by the Rules and Regulations as may be established by the City.

(4) A statement as to whether the applicant has been convicted of any criminal offense.

(5) A Vendor who sells Food, in addition to the requirements of this subdivision, shall certify completion of a food handler course and present a copy of the course completion certificate.

(d) A License must be renewed every year, prior to expiration.

(e) No License is transferable.

(f) The applicant must pay an application or renewal fee, as established by the City.

(g) A Person may only apply for a maximum of one License per year.

2. Permit.

(a) Every Cart used for Vending must obtain and display a valid Permit.

(b) Every Operator of a Cart must obtain and display a valid Permit.

(c) Every Cart must be placed and used at all times in compliance with the terms and conditions of the Permit and all other applicable laws and regulations.

(d) An applicant for a Permit shall present a valid identification, such as a State of California identification, Matricula Consular or any other government-issued identification and provide the following information:
(1) The name, address and telephone number of the Vendor.

(2) A complete list of the types of Food or Merchandise that will be sold.

(3) The hours per day and days per week during which Sidewalk Vending will be conducted.

(4) An application for placement of a Stationary Cart in a commercial or industrial area of the City shall contain the proposed location, marked by major cross streets, and either the north, south, east or west side of the street and a photo or sketch of that location. An application for a Push Cart in a residential area of the City shall contain a sketch showing the route the Vendor will travel. Commercial, industrial and residential areas will be specified by the City.

(5) Proof of liability insurance in the amount of one million dollars ($1,000,000.00) per occurrence.

(6) A statement as to whether the applicant has been convicted of any criminal offense.

(7) Any other information required by the City.

(e) A Person may apply for a maximum of one Permit.

(f) A Permit must be renewed every year, prior to expiration.

(g) The Vendor shall pay an application and renewal fee, as established by the City.

(h) No Person may Vend on the Sidewalk unless it has a Permit. The Permit must be attached onto the Cart and be posted where visible.

(i) Every Cart used to Vend Food must be approved by the Los Angeles County Health Department. A Cart approved by the Los Angeles County Health Department to Vend one type or types of Food, may not be used to Vend a different type or types of Food.

(j) A Permit is not transferrable to another person, vendor, entity, Cart, location or route.
E. Additional Operational Requirements for Vending.

1. At all times, a Vendor must Vend in compliance with the South Gate Municipal Code, and City department regulations.

2. Every Vendor who Vends with a Cart must be in possession of a valid License and the Cart must display a valid Permit.

3. A Vendor may not use a Stationary Cart to Vend in a residential area. Only a Push Cart may be used to Vend in a residential area.

4. A Vendor may operate a Stationary Cart only in a commercial or industrial zone.

5. In order to ensure the health, safety, and welfare of the public, no more than two Stationary Carts with approved Permits may be used to Vend on the Sidewalk of a single block face within commercial and industrial area Sidewalks of the City, except as may be approved or alternatively regulated in a Special Sidewalk Vending District.

6. In order to ensure the health, safety, and welfare of the public, and to avoid collisions involving pedestrians and vehicles, Sidewalk and Mobile Vending is permitted between the hours of 9:00 a.m. and 6:00 p.m., and Vending in City parks is only permitted during Park operating hours.

7. A Vendor who Vends in a residential area with a Push Cart shall move continuously, except when conducting a sale, which must last no more than seven minutes per sale, except as may be approved or alternatively regulated in a Special Sidewalk Vending District.

8. A decal issued by the City and certifying the issuance of a Permit for the Cart, as well as the Health Department permit, shall be attached to and prominently displayed on each Cart in use by a Vendor to sell Food.

9. Every Cart must not exceed a length of 72 inches, a width of 54 inches, or a height, including roof or awning, of 78 inches. A Permit application may request, and the City may approve, a small table for condiments to be used in conjunction with a Cart selling Food.

10. A Food Vendor must provide a trash receptacle for customers and must ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resort to existing trash receptacles located on any block for use by the general public. A Vendor may not dispose of customer trash in existing trash receptacles on Sidewalks.
11. In order to prevent any slip and fall injuries or contaminants from entering into storm drains, Vendors must maintain a clean and trash-free 10-foot radius from the Vendor's Cart during hours of operation and must leave the area clean by the approved closing time, including cleaning all areas of the Sidewalk used by the Vendor.

12. Vendors are prohibited from receiving mobile support throughout the day, be it for food or merchandise, including, but not limited to, from mobile commissaries.

13. No Cart, condiment table or Vendor's trash receptacle may be left on the Sidewalk after the Vendor's approved closing time.

14. No Cart shall be chained or fastened to any pole, sign, tree or other object in the public right-of-way or left unattended.

15. Vending within 500 feet of any K-12 school or playground is prohibited from 6:00 a.m. through 6:00 p.m., unless the Vendor is selling exclusively Healthy Food.

16. In order to provide for the health, safety, welfare of the public, to minimize collision incidents, including pedestrian and vendor safety, to minimize stop and go or added sudden movements on City streets, Vending is not allowed within the areas designated as the "Tweedy Boulevard Corridor," "Garfield Avenue Corridor," "Paramount Boulevard Corridor," the "Azalea Shopping Center," the "Crossroads Retail Center," the Imperial Highway Corridor," the "Long Beach Boulevard Corridor," the "Otis Street Corridor," the "Atlantic Avenue Corridor," the "California Avenue Corridor," the "Firestone Boulevard Corridor," the "El Paseo Shopping Center," State Street, Independence Avenue, Ardmore Avenue, San Juan Avenue, Santa Ana Street, Southern Avenue, or any other venue or zone as determined by the City Council.

17. No Vending is allowed one hour before, during and one hour after special events that are permitted by the City, including filming.

18. City permitted filming and special events shall have priority over Vending Permits.

19. Vending of illegal or counterfeit Merchandise is prohibited.

20. Vending of services is prohibited.
21. All goods, wares or merchandise vended by a street vendor shall be contained upon or within the Cart used by the street vendor or contained upon the person of said vendor. In no case shall any goods, wares or merchandise be placed directly upon a street, sidewalk or public place. No Person who Vends shall place any blanket, tarp, or other covering on the Sidewalk to Vend, and all Vending must be done on a Cart.

22. All Vendors must offer a receipt to a patron for the sale of any Food or Merchandise.

F. Placement of Stationary or Push Carts.

1. For safety reasons, vending Food or Merchandise on City Sidewalks shall be prohibited:

   (a) Within 10 feet of a marked crosswalk.

   (b) Within 10 feet of the curb return of an unmarked crosswalk.

   (c) Within 10 feet of any fire hydrant, fire call box or other emergency facility.

   (d) Within 10 feet ahead and 45 feet to the rear of a sign designating a bus stop.

   (e) Within a marked bus zone.

   (f) Within 10 feet of a bus bench.

   (g) Within 10 feet of a transit shelter.

   (h) Within 5 feet of an area improved with lawn, flowers shrubs, trees or street tree wells.

   (i) Within 10 feet of a driveway or driveway apron.

   (j) Within 4 feet of an outdoor dining or patio dining area.

   (k) Within 36 inches from the edge of the curb.

   (l) In order to comply with the Americans with Disability Act, the Vendor must leave free-flow space of 36" from the curb, structure, or fixed object to the edge of the Cart.
(m) Where blocks traffic signs.

(n) Within 40 feet of a construction or maintenance zone.

(o) Where placement of a Cart would impede stopping sight distance and/or site distance for any driveway or intersection.

(p) On City-owned property without prior City approval.

2. Notwithstanding any specific prohibitions in this subsection, no Vendor shall install, use or maintain a Cart where placement endangers the safety of persons or property.

3. Notwithstanding the requirements of this section, a Bulky Item, as defined in South Gate Municipal Code Section 5.08.005, may include a Cart, as described in Sections 2.10.970.A.1, 2.10.970.A.8, 2.10.970.A.14, and 2.10.970.F.8 of the South Gate Municipal Code, and is subject to disposal pursuant to 5.08 of the South Gate Municipal Code, if the Cart has been abandoned or discarded, as described in Sections 5.08.010 or 5.08.020 of the South Gate Municipal Code.

4. In order to protect the safety, health and welfare of the public, and in order to avoid any collisions in the ingress and egress into any public park, no person shall sell, expose for sale or offer to sell any goods, wares or merchandise of any kind in or along any public street, lane, or thoroughfare adjoining or approaching any public park within the City within two hundred feet of said park,

G. Monitoring and Compliance.

1. A Vendor, Licensee, or Operator issued a Citation shall be subject to the following fines:

(a) Vending without a valid Permit or License:

(1) An administrative fine of $250 for a first violation;

(2) An administrative fine of $500 for a second violation;

(3) An administrative fine of $1,000 for a third violation; and

(4) An administrative fine of $1,000 for a fourth and each subsequent violation and confiscation of the Cart, Food and Merchandise.
The administrative fines listed in this paragraph may be reduced from $250 to $100, $500 to $150 and $1000 to $200 upon submission of proof of Permit or License to the City Attorney.

(b) Vending which violates a requirement in this section, other than failure to possess a valid Permit or License:

(1) An administrative fine of $100 for a first violation;

(2) An administrative fine of $200 for a second violation;

(3) An administrative fine of $500 for a third violation; and

(4) An administration fine of $500 for a fourth and each subsequent violation and revocation or suspension of Permit or License and/or confiscation of Cart, Food and Merchandise.

(c) Unless otherwise specified herein, all Citations issued for violations of this section shall be subject to the provisions set forth in Chapter 1.59 of the South Gate Municipal Code, including, but not limited to, the administrative hearing and appeal process and the City's authority to use any civil remedy available to collect any unpaid administrative fine, except that Section 1.59.100 shall not apply.

2. The City may revoke or suspend a Permit or License or order the confiscation of a Cart, Food and Merchandise.

3. Revocation of License or Permit:

(a) Revocation or suspension proceedings shall be conducted pursuant to the requirements in the Rules and Regulations.

(b) Prior to revocation or suspension, the City shall afford the Vendor or Cart owner a due process hearing.

(c) A Vendor whose License or Permit is revoked may not renew their License or Permit for one year.

4. Confiscation of Cart and/or Food and Merchandise:

(a) Confiscation proceedings shall be conducted pursuant to the requirements in the Rules and Regulations.
(b) Prior to confiscation, the City shall afford the Vendor or Cart owner a due process hearing, except where the health and safety of the general population are at risk or the Vendor is arrested.

(c) A Vendor whose License or Permit is revoked may not renew their License or Permit for one year.

H. Vending in City Parks.

Subject to the licensing requirements of this Section 2.1O.970.E, vending of food or merchandise in a City Park is permitted, except that no vending of food or merchandise by either Mobile or Stationary Vendors shall be allowed in any City Park owned and operated by the City where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire. The City may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the City if it finds that vending in City parks negatively affects to health, safety, or welfare concerns; is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; or finds it necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park. In any event, vending in City Parks shall not be permitted during any time in which the City Park is closed to the public.

1. For safety reasons to prevent fires, burns or other injuries, vending Food within City parks shall be prohibited as follows:
   a. Within 100 feet of any concession area; and
   b. Vending of Food shall be restricted to areas within the park that are designated for cooking or barbequing;

2. In order to ensure the public's use and enjoyment of natural resources and recreational opportunities, vending within City parks shall be prohibited as follows:
   a. Within 100 feet of any concession area;
   b. Within 100 feet of a playground; and
   c. Within 100 feet of any spectator seating or viewing area of any sports or recreational activity.
I. **Vending Within the Immediate Vicinity of a Permitted Certified Farmer's Market or Permitted Swap Meet.**

No vending of food or merchandise is permitted within 500 feet of a permitted certified farmer's market or a permitted swap meet during the limited operating hours of that certified farmer's market or swap meet. A "certified farmer's 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. 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, and any regulations adopted pursuant to that article.

J. **Severability.**

If any subsection, subdivision, clause, sentence, phrase or portion of this section is held unconstitutional or invalid or unenforceable by any court or tribunal of competent jurisdiction, the remaining subsections, subdivisions, clauses, sentences, phrases or portions of this section shall remain in full force and effect, and to this end the provisions of this section are severable.

**SECTION 2.** Section 2.08.460 (Not Applicable to First Amendment Activities), is hereby added to Chapter 2.08 (Business License Tax), of Title 2 (Licenses – Business Regulations), of the South Gate Municipal Code to read as follows:

Section 2.08.460 Not Applicable to First Amendment Activities.

No license or permit as specified in Title 2 of this Code is required for any Vendor engaged in traditional expressive speech, performing or petitioning activities.

**SECTION 3.** Section 2.10.980 (Severability), is hereby added to Chapter 2.10 (Business Regulation), of Title 2 (Licenses – Business Regulations), of the South Gate Municipal Code to read as follows:

Section 2.10.980 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter 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 remainder of this chapter. The city council declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions be declared invalid or unconstitutional.

**SECTION 4.** Subsection A. of Section 2.44.040 (Vending Restrictions), of Chapter 2.44 (Sales From Motorized Vehicles Restricted), of Title 2 (Licenses – Business Regulations), of the South Gate Municipal Code is hereby amended in its entirety to read as follows:
A. No person shall engage in vending from a motorized vehicle at any one location for a period of time exceeding thirty minutes and, regardless of the length of time that vending occurred at such location, shall not vend again for a period of four hours within five hundred feet of such location. The restrictions on vending contained herein shall apply to vending on private property, as well as vending on the public streets, but shall not apply to mobile or stationary vending as described in Section 2.10.970 of the South Gate Municipal Code.

SECTION 5. Subsection A. of Section 2.44.040 (Vending Restrictions), of Chapter 2.44 (Sales From Motorized Vehicles Restricted), of Title 2 (Licenses – Business Regulations), of Title 2 (Licenses – Business Regulations), of the South Gate Municipal Code is hereby amended to read as follows:

Z. Mobile and Stationary Vending as described in Section 2.10.970.

SECTION 6. Subsection AA. of Section 2.08.410 (Payment of Business License Taxes and Gross Receipts Tax – Fiscal Year), of Chapter 2.08 (Business License Tax), of Title 2 (Licenses – Business Regulations), of the South Gate Municipal Code is hereby added to read as follows:

AA. Other business (not elsewhere classified).

SECTION 7. Section 7.49.110 (Sale of Merchandise), of Chapter 7.49 (Park), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code is hereby amended in its entirety to read as follows:

Subject to the licensing requirements of this Section 2.10.970.E and restrictions in 2.10.970.I, vending of food or merchandise in a City Park is permitted, except that no vending of food or merchandise by Stationary Vendors shall be allowed in any City Park owned and operated by the City where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire. Within the limits of any municipal park, it is unlawful for any person to raffle any merchandise, article, or thing whatsoever, without special written permit from the parks and recreation department.

SECTION 8. Section 7.49.130 (Conducting Business or Circulating Petition), of Chapter 7.49 (Park), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code is hereby amended in its entirety to read as follows:

Unless expressly permitted pursuant to Section 2.10.970 of the South Gate Municipal Code, permitted under contract with the City of South Gate, or approved by the City Council, it is unlawful for any person to practice, carry on, conduct, or solicit for any trade, occupation, business or profession within the limits of any municipal park.
SECTION 9. Section 7.49.132 (Peddling Near Parks), of Chapter 7.49 (Parks), of Title 7 (Public Safety and Morals), of the South Gate Municipal Code is hereby amended in its entirety to read as follows:

In order to provide for the health, safety and welfare of park visitors and subject to the provisions of Sections 2.10.970.F and 2.10.970.G of the South Gate Municipal Code, no person shall sell, expose for sale or offer to sell any goods, wares or merchandise of any kind in or along any public street, lane, or thoroughfare adjoining or approaching any public park within the City within two hundred feet of said park.

SECTION 10. The project is exempt from CEQA as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Section 15061 (b) (3) of the CEQA Regulations (14 CCR § 15061).

SECTION 11. This Ordinance shall take effect and be enforced on the thirty-first (31st) day after its adoption.

SECTION 12. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED and ADOPTED this 11th day of December 2018.

CITY OF SOUTH GATE:

María Belén Bernal, Mayor

ATTEST:

Carmen Avalos, City Clerk
(SEAL)

APPROVED AS TO FORM:

Raul F. Salinas, City Attorney
Senate Bill No. 946

CHAPTER 459

An act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, relating to sidewalk vendors.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL’S DIGEST

SB 946, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending and the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority, as defined, from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill would provide that a local authority is not required to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the provisions of the bill. The bill would apply these provisions to a chartered or general law city, county, or city and county.

The bill would require a local authority that elects to adopt a sidewalk vending program to, among other things, not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. The bill would authorize a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The bill would also authorize a local authority to prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers’ market and a permitted swap meet, as specified, and to restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, as specified. A violation would be punishable only by an administrative fine, as specified, pursuant to an ability-to-pay determination, and proceeds would be deposited in the treasury of the local authority.

The bill would require the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors that have not reached final judgment. The bill would also authorize a person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk
vending, as specified, to petition for dismissal of the sentence, fine, or conviction.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:
(1) Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities.
(2) Sidewalk vending increases access to desired goods, such as culturally significant food and merchandise.
(3) Sidewalk vending contributes to a safe and dynamic public space.
(4) The safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending.
(5) The safety and welfare of the general public is promoted by prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations.
(6) This act applies to any city, county, or city and county, including a charter city. The criminalization of small business entrepreneurs, and the challenges that those entrepreneurs face as a result of a criminal record, are matters of statewide concern. Further, unnecessary barriers have been erected blocking aspiring entrepreneurs from accessing the formal economy, harming California’s economy in the process, and disrupting the regulation of business, which is a matter of statewide concern. Moreover, California has an interest in the regulation of traffic, a matter of statewide concern, whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk.
(b) It is the intent of the Legislature to promote entrepreneurship and support immigrant and low-income communities.

SEC. 2. Chapter 6.2 (commencing with Section 51036) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

Chapter 6.2. Sidewalk Vendors

51036. For purposes of this chapter, the following definitions apply:
(a) "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.
(b) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
unless the restriction is directly related to objective health, safety, or welfare concerns.

(c) A local authority may, by ordinance or resolution, adopt additional 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:

1. Limitations on hours of operation that are not unduly restrictive. 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.

2. Requirements to maintain sanitary conditions.

3. Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

4. Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license, provided that the local authority issuing the permit or business license accepts a California driver’s license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the local authority otherwise requires a social security number for the issuance of a permit or business license, and that the number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

5. Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller’s permit.

6. Requiring additional licenses from other state or local agencies to the extent required by law.

7. Requiring compliance with other generally applicable laws.

8. Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:

   A. The name and current mailing address of the sidewalk vendor.

   B. A description of the merchandise offered for sale or exchange.

   C. A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

   D. The California seller’s permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.

   E. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

   F. Notwithstanding subdivision (b), a local authority may do both of the following:

   1. 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. A “certified farmers’ market” means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the
Ch. 459: Food and Agricultural Code and any regulations adopted pursuant to that chapter. 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, and any regulations adopted pursuant to that article.

(2) Restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority’s temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority 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, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(e) For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

51039. (a) (1) A violation of a local authority’s sidewalk vending program that complies with Section 51038 is punishable only by the following:

(A) An administrative fine not exceeding one hundred dollars ($100) for a first violation.

(B) An administrative fine not exceeding two hundred dollars ($200) for a second violation within one year of the first violation.

(C) An administrative fine not exceeding five hundred dollars ($500) for each additional violation within one year of the first violation.

(2) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

(3) (A) If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):

(i) An administrative fine not exceeding two hundred fifty dollars ($250) for a first violation.

(ii) An administrative fine not exceeding five hundred dollars ($500) for a second violation within one year of the first violation.

(iii) An administrative fine not exceeding one thousand dollars ($1,000) for each additional violation within one year of the first violation.

(B) Upon proof of a valid permit issued by the local authority, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.

(b) The proceeds of an administrative fine assessed pursuant to subdivision (a) shall be deposited in the treasury of the local authority.
(c) Failure to pay an administrative fine pursuant to subdivision (a) shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision (a) shall not be assessed.

(d) (1) A violation of a local authority’s sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law.

(2) Notwithstanding any other law, paragraph (1) shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

(e) A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

(f) (1) When assessing an administrative fine pursuant to subdivision (a), the adjudicator shall take into consideration the person’s ability to pay the fine. The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to subdivision (a).

(3) The local authority 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.

(g) (1) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under the act that added this section had that act been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to dismiss the sentence or fine, if applicable, and dismiss and seal the conviction, because the sentence, fine, and conviction are legally invalid.
(3) Unless requested by the petitioner, no hearing is necessary to grant or deny a petition filed under paragraph (1).

(4) If the court that originally sentenced or imposed a fine on the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

(5) Nothing in this subdivision is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner.

(6) Nothing in this subdivision or related provisions is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this chapter.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 51038 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article 1 of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The Legislature finds and declares that in order to protect the privacy of a sidewalk vendor with regard to his or her California driver's license or identification number, individual taxpayer identification number, or municipal identification number, when that number is collected in lieu of a social security number for purposes of the issuance of a permit or business license, it is necessary that the sidewalk vendor's number be confidential, except as provided in this act.