

Attachment A
Planning Commission Record
of Proceedings

EXECUTIVE SUMMARY

PLAN23-00012

PROJECT DESCRIPTION: An Amendment to the Victorville Municipal Code with an Environmental Exemption introducing various changes to Title 16, including but not limited to: updated regulations, requirements and standards for street vending; adjusted business license processes, procedures, and requirements; and added and modified definitions.

APPLICANT: CITY OF VICTORVILLE

PLANNING COMMISSION PUBLIC HEARING DATES: December 13, 2023

SUMMARY FOR DECEMBER 13, 2023 PLANNING COMMISSION MEETING

NUMBER OF PEOPLE WHO COMMENTED: 2

NUMBER OF PEOPLE SPEAKING IN FAVOR: 0

NUMBER OF PEOPLE SPEAKING OPPOSED: 0

NUMBER OF WRITTEN COMMENTS IN FAVOR: 0

NUMBER OF WRITTEN COMMENTS OPPOSED: 0

STAFF RECOMMENDATION: Recommend City Council Approval

PLANNING COMMISSION ACTION: Recommended City Council Approval

PLANNING COMMISSION VOTE:	Marsh	No
	Mesen	Aye
	Thomas	Aye
	Cook-Askins Jr.	Absent
	Kurth	Aye

rh

Excerpt from the December 13, 2023 Regular Planning Commission Meeting

PLAN23-00012 – City of Victorville

4. An Amendment to the Victorville Municipal Code with an Environmental Exemption introducing various changes to Title 16, including but not limited to: updated regulations, requirements, and standards for street vending; adjusted business license processes, procedures, and requirements; and added and modified definitions.

Location: Citywide

Recommendation:

Staff recommends that the Planning Commission conduct a public hearing, receive testimony regarding the proposed amendments and take the following actions:

1. **Environmental Assessment** – Find the project categorically exempt per CEQA Guidelines Section 15061(b)(3); and
2. **Code Amendment** – Adopt Resolution No. P-23-029, recommending City Council approval of Municipal Code Amendment Case No. PLAN23-00012

City staff and Deputy City Attorney Kevin Spaulding gave a presentation.

Questions ensued.

Chairman Kurth opened the public hearing.

Speakers: Marcos Reyes spoke neutrally.

Chairman Kurth closed the public hearing.

Chairman Kurth reopened the public hearing.

Speakers: Miriam translated for Mauro Gorgonio Leon.

Chairman Kurth closed the public hearing.

Comments ensued.

Motion was made to approve staff recommendations as amended. Commissioner Mesen requested to include an educational component such as a brochure in English and Spanish. Additionally, the Commission asked for a follow-up item with the Commission in 6 months.

Moved: Commissioner Mesen

Seconded: Commissioner Thomas

Motion passed 3-1

Ayes: Chairman Kurth, Commissioner Mesen, Commissioner Thomas

Noes: Commissioner Marsh

Absent: Vice Chair Cook-Askins, Jr.



Item Number: 4

Planning Commission

PUBLIC HEARINGS

Meeting of: December 13, 2023

Submitted By:

Jorge Duran, Code Enforcement Official

Case:

PLAN23-00012

Subject:

An Amendment to the Victorville Municipal Code with an Environmental Exemption making various changes to Title 16, including but not limited to: providing updated regulations, requirements, and standards for sidewalk vendors, solicitors, and other mobile vendors and businesses; revising business license processes, procedures, and requirements; and adding and modifying certain definitions.

Applicant:

City of Victorville

Location:

Citywide

Recommendation:

Staff recommends that the Planning Commission conduct a public hearing, receive testimony regarding the proposed code amendments and take the following actions:

1. **Environmental Assessment** – Find the project categorically exempt per CEQA Guidelines Section 15061(b)(3); and
2. **Code Amendment** – Adopt Resolution No. P-23-029, recommending City Council approval of Municipal Code Amendment Case No. PLAN23-00012.

Summary:

Staff is proposing amendments to Development Code Chapter 1 titled “Development Department” and Chapter 7 titled “Business License”, including the addition of new Articles 12 and 13 within Chapter 7, to establish local licensing requirements and regulations with respect to sidewalk vendors and mobile vehicle vendors who seek to

operate within the City's right-of-way. The proposed amendments will establish licensing criteria and standards for the safe operation of stationary and roaming sidewalk vendors based on objective health and safety concerns focused on mitigating pedestrian, vehicular, infrastructure, and property access concerns. The amendments will establish additional regulations as allowed by Senate Bill 946 to regulate sidewalk vending hours, locations, insurance requirements, licensure prerequisites, prohibited items, and the establishment of administrative fines and enforcement mechanisms as required by Senate Bill 946. The amendments will also further revise outdated code provisions relating to peddlers and solicitors and create new definitions specific to sidewalk vendors and sidewalk vending activities.

Discussion/Analysis:

Recent Sidewalk Vending Laws

Senate Bill (SB) 946

In 2018, California passed the Safe Sidewalk Vending Act (SB 946, see Attachment B) which was intended to promote entrepreneurship and support immigrant and low-income communities through the decriminalization and legalization of street vending in California (codified in California Government Sections 51036-51039). Effective January 1, 2019, SB 946 prohibited local agencies (such as the City) from banning sidewalk vending and only permitted regulation of sidewalk vendors in accordance with the new law.

SB 936 defines a "sidewalk vendor" as 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," and further specifies that a sidewalk vendor may be "stationary" (operating from a fixed location) or "roaming" (moving from place to place and stop only to complete a transaction).

SB 946 includes the following elements which limit the extent to which sidewalk vending may be regulated by local agencies:

- Cities cannot:
 - 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.
 - Restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the City, unless the restriction is directly related to objective health, safety, or welfare concerns.
 - Restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.
 - Impose regulations on sidewalk vendors that are based upon "perceived community animus" or "economic competition".

- Prohibit a stationary sidewalk vendor from selling food or merchandise in a park owned or operated by the City, except that City may prohibit stationary sidewalk vendors from vending in a park if there is an existing agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- Cities can, however:
 - 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.
 - Adopt additional requirements for sidewalk vending in parks, if they are:
 - Directly related to objective health, safety, or welfare concerns
 - Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; and/or
 - Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park
 - Prohibit stationary sidewalk vendors in areas zoned exclusively residential where no commercial activity is permitted (but cannot prohibit roaming sidewalk vendors in such areas).
 - 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
 - Require sidewalk vendors to:
 - Obtain a license or a permit from the City prior to operating;
 - Possess a Seller's Permit from the California Department of Tax and Fee Administration and obtain additional licenses from other state and local agencies to the extent required by law;
 - Maintain sanitary conditions as established by local health departments.
 - Adopt requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

SB 946 prohibited criminal penalties for violations of sidewalk vending ordinances and regulations, and instead imposed progressive administrative fine schedules. Licensed sidewalk vendors who violate local regulations may be fined \$100 for the first violation, \$200 for a second violation within one year of the first, and \$500.00 for each additional violation within one year of the first violation. Further, the law allows a local authority to rescind a permit issued to a sidewalk vendor upon the 4th and subsequent violations. Unlicensed sidewalk vendors who violate local regulations may be fined \$250 for the first violation, \$500 for a second violation within one year of the first, and \$1000 for additional violations within one year of the first. Upon licensure of an unlicensed sidewalk vendor, the law requires the city to reduce issued administrative fines by 80%.

Senate Bill 972

In 2022, California passed Senate Bill 972 (SB 972, see Attachment C), which modified certain provisions of the California Retail Food Code (the “CRFC”), which is part of the California Health and Safety Code. The CRFC sets uniform health and sanitation standards enacted by the State Department of Public Health for retail food facilities throughout the state and requires local health agencies (for the City’s purposes, the San Bernardino County Department of Environmental Health) to enforce those provisions. According to the bill’s author, SB 972 was intended to promote economic inclusion while improving public health by modernizing the CRFC so that sidewalk food vendors can actually obtain a permit and join the regulated vending economy.

SB 972 created a new category in the CRFC for a “compact mobile food operation” (“CMFO”), which is defined as “a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal driven cart, wagon, showcase, rack or other non-motorized conveyance.” This definition covers most sidewalk vendors. As a result of SB 972, sidewalk vendors, and certain other CMFOs selling only prepackaged, nonpotentially hazardous foods, or whole uncooked produce are generally no longer required to obtain health permits from local health agencies.

The law also authorizes cottage food operations and microenterprise home kitchen operations to serve as a commissary or mobile support unit for up to two CMFOs if the permits for such operations issued by the local health agency contain certain endorsements, and provides local health agencies with oversight and permitting authority over CMFOs which engage in preparation of raw meat, raw poultry, or raw fish to ensure they meet additional specified requirements imposed by the San Bernardino County Department of Environmental Health and are regulated under a valid permit.

Finally, SB 972 aligns the CRFC enforcement mechanisms applicable to sidewalk vendors and other CMFOs with those in SB 946. Violations of the CRFC by operators or employees of CMFOs or sidewalk vendors will follow a progressive administrative fine schedule ranging from \$100 to \$500 after receiving a notice of violation for the first offense. CMFOs required by local health agencies to obtain permits are subject to fines of up to three times the cost of the permit in lieu of the administrative fines.

Motor Vehicle Vending (Street vending laws)

No cohesive set of state laws, other than certain sections of the California Vehicle Code and portions of the CRFC, regulate vending from motor vehicles on local streets. While such laws generally permit cities to enact reasonable time, place, and manner regulations for such vending vehicles for public safety purposes, and further require such businesses to obtain permits from the local health agency to vend food, case law has made it clear that local agencies cannot totally ban such activities.

City Compliance Efforts to Address Sidewalk Vendors

Over the last few years, the City of Victorville (the “City”) has continued to experience an increase in the operation of unlicensed sidewalk vendors who often prepare and sell food

such as freshly cut fruit or cook raw meat, poultry or fish for on-site consumption, or sell other tangible goods.

Although the City’s current municipal code does not specifically regulate “sidewalk vendors,” “peddlers and solicitors” are regulated in Article 9, Chapter 7 of Title 16. As currently defined, the activities engaged in by peddlers and solicitors includes those of most sidewalk vendors. However, as portions of Article 9 are not compliant with SB 946, revisions of Article 9 and additions to Chapter 7 are needed to ensure full compliance with SB 946 and to provide additional regulations for sidewalk vendors to address health, safety, and welfare issues which are specific to the City.

As observed by City Code Compliance staff, sidewalk vending activity within the City generally occurs (1) near busy residential areas; (2) within commercial intersections lacking a right shoulder for temporary or emergency vehicle parking subsequently creating vehicle collision hazards; (3) on sidewalks that are less than 60 inches in width and lack the space required to meet to ADA accessibility needs, or (4) on privately owned developed or undeveloped parcels. Vendors use canopies, umbrellas, or shade covers that are often left unsecured resulting in flying hazards to motorists or pedestrians passing by due to the common prevailing winds in the City.

Often, sidewalk vendors operate stands, wagons, push-carts or similar non-motorized carts (“Vending Carts”) that are at 24 inches wide. When such Vending Carts are positioned at angles necessary to allow sidewalk vendors room to operate Vending Carts, such carts will cover an area on the sidewalk in excess of 24 inches. Given that the majority of the sidewalks in the City are 60 inches wide, such Vending Cart operations do not leave a 36-inch accessible pathway as required by the ADA, obstructing the safe passage of patrons and pedestrians.

Sidewalk Vendors also commonly operate on privately owned developed or undeveloped parcels requiring property owner consent and regulated by a Temporary Use Permit or require a primary established use when operating on undeveloped lots.

Below are total number of unlicensed sidewalk vendors contacted and cited by Code Compliance officers over the last five years including stationary sidewalk vendors operating within residential zones:

Year	Total Vendor Cases	Located in Residential Zones
2019	78	27
2020	113	15
2021	196	134
2022	416	186
2023	386	115

Existing Licensed Sidewalk and Mobile Vending Businesses

To date, the City's Licensing Division has issued 2 sidewalk vendor licenses. All the licensed businesses obtained the respective state or county health permits as required by law.

To date, the City's Licensing Division has issued or processed 6 licenses for mobile street vendors all of which obtained additional permits from state or county regulatory and permitting entities such as the California Department of Tax and Fee Administration and the San Bernardino County Department of Environmental Health.

Assessment of Proposed Development Code Amendment

The proposed changes and additions to Chapters 1 and 7 of the Development Code, including the methodology leading to the proposed amendments, are discussed below with the full text changes (including existing, deleted and new text) located in the attached Resolution (Attachment A).

City Staff assigned to exploring and identifying regulatory needs for the proposed sidewalk vendor ordinance consisted of members from the following City departments which provided field specific insight as listed below:

- Engineering Department which has oversight to regulating right-of-way areas, traffic and city infrastructure such as sidewalk design and maintenance, traffic signs, fire hydrant locations, bus stop locations and familiarity with sight- distance requirements for motorists.
- Code Compliance Department provided direct field experiences relating to executed compliance actions, general sidewalk vending operations, common vending locations, observations related to vehicular traffic and pedestrian concerns including commonly used sidewalk vendor equipment, push carts supplies such as umbrellas, canopies and related signs.
- Business Licensing Division provided the application and licensing process and listed additional permit requirements based on the business type including establishing processes for ease of identification of licensed sidewalk vendors.

Staff referenced SB 946, SB 972, the Vehicle Code, and related laws to help identify regulatory needs based on identified concerns found to be unmitigated in the City through the adopted state laws. Through case work performed by City field staff and insight from City Engineering Staff with oversight as to City traffic design and regulations, staff identified the following City of Victorville regulatory needs with respect to sidewalk vending and mobile vehicle vendors (street vendors) and listed how the proposed Development Code amendment addresses these needs:

Regulatory Need	Addressed Health, Safety and Welfare Concerns
Vehicular traffic impacts	Regulates the location of sidewalk vending in areas where vehicular traffic does not have a right shoulder for emergency parking and therefore motorists are unable to pull over and complete a transaction without impacting the flow of traffic or preventing a vehicle to suddenly stop.
Obstruction to public safety infrastructure, public transit components.	Establishes distance requirements to street signs, traffic lights, drive approaches, public transit / bus stops and fire hydrants to ensure vital traffic and life safety related components remain accessible and unobstructed.
Distractions to Motorist	Establishes regulations regarding the use of signs (including sizes and the use of flashing or blinking) lights and audible devices to minimize distraction to motorists
Pedestrians Impacts	Establishes sanitary requirements and refuse control requirements to ensure the safe and unobstructed access to pedestrians
ADA Accessibility	Establishes required clearance area and disclosure of sidewalk vendor booth dimensions to ensure free passage of pedestrians and adherence to 36" minimum access size requirements as required by the American Disabilities Act of 1990.
Insurance Requirements	Establishes City insurance and indemnity requirements for sidewalk and street vendors operating on City right-of ways to mitigate potential claims against the City related to sidewalk and mobile vehicle vending activity.
Vulnerable Population	Requires fingerprinting for the purposes of conducting criminal background investigations prior to city licensure to protect children, the elderly, and patrons in general from the risks inherent in making purchases from vendors with no established permanent places of business Imposes distance requirements on sidewalk vending near schools to allow for unobstructed and undistracted access for students traveling to and from school
Public health	Establishes requirements for food trucks and sidewalk vendors to secure all required County Public health permits prior to City licensure to ensure safe consumption of food by residents and other patrons.
Farmers Markets, Special Events and Public Parks	Prohibits sidewalk vendors operations within specified distances of a Certified Farmers Market, special events, or at a park when there is a signed agreement with a concessionaire for the sale of food or merchandise.

The proposed Amendment contains regulations designed to meet the City's objective health, safety, and welfare concerns as required by applicable law and to further address the nine (9) listed local regulatory needs.

Licensing and Compliance Monitoring

Staff is prepared to establish licensing processes through the City's online application portal, including completing assessments for newly requested stationary sidewalk vending locations; fingerprinting processed and completed by the Victorville Police Department; verifying insurance requirements; and issuing decals to be placed on approved sidewalk vending booths, carts, or other conveyances to facilitate licensure verification by patrons and field staff.

Compliance monitoring would be completed by the Code Compliance Division through the annual business license renewal process or through received complaints. Code Compliance Officers will monitor sidewalk vending cart operations in accordance with the regulations to be established by the proposed ordinance, which include, limitations on the time and place of vending operation, the type of merchandise being sold, vendor cart sizes and attachments, such as umbrellas, litter receptacles, signs and other equipment (ensure all are securely fastened and are of proper size to prevent injury and distractions to passing motorists or pedestrians). Identified violations would be enforced through the assessment of administrative fines in accordance with the schedule contained in the ordinance and permitted by SB 946.

Staff finds that the proposed ordinance meets the goal of helping sidewalk vendors to achieve licensure within the City while also addressing the health, safety, and welfare concerns that arise from the operations of sidewalk vendors and mobile vehicle vendors. Additionally, staff has identified and provided in Attachment D a listing of several locations in the City that, although not all-inclusive, comply with the outlined regulations contained in the proposed code Amendment and are also within commercial areas that are often of interest to sidewalk vendors.

Environmental Assessment.

The Code Amendment proposal will not have an effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA guidelines, as there is no possibility that the proposed amendment will have a significant effect on the environment inasmuch as the proposed amendment will regulate street vending allowances provided by State law, which does not modify existing codes in a manner that will negatively affect the environment.

Attachments: Attachment A – Resolution No. P-23-029
Attachment B – Senate Bill 946
Attachment C – Senate Bill 972
Attachment D – Compliant Sidewalk Vendor Locations

PLANNING COMMISSION
ATTACHMENT A

Resolution No. P-23-029

RESOLUTION NO. P-23-029

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VICTORVILLE RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF MUNICIPAL CODE AMENDMENT CASE PLAN23-00012, AN AMENDMENT TO THE VICTORVILLE MUNICIPAL CODE WITH AN ENVIRONMENTAL EXEMPTION MAKING VARIOUS CHANGES TO TITLE 16, INCLUDING BUT NOT LIMITED TO: PROVIDING UPDATED REGULATIONS, REQUIREMENTS, AND STANDARDS FOR SIDEWALK VENDORS, SOLICITORS, AND OTHER MOBILE VENDORS AND BUSINESSES; REVISING BUSINESS LICENSE PROCESSES, PROCEDURES, AND REQUIREMENTS; AND ADDING AND MODIFYING CERTAIN DEFINITIONS.

WHEREAS, pursuant to Section 16-2.01.020 of the Victorville Municipal Code, the City of Victorville has initiated amendments to Title 16 of the Victorville Municipal Code; and

WHEREAS, pursuant to Section 16-2.01.030 of the Victorville Municipal Code, the City of Victorville Code Enforcement Department prepared a Staff Report detailing the proposed Victorville Municipal Code amendments as well as their conformance with applicable standards and requirements; and

WHEREAS, a public hearing was held on the 13th day of December 2023, pursuant to Title 7, Division I, Chapter 4, of the Government Code, State of California, to hear arguments for and against the issue; and

WHEREAS, Pursuant to Title 7, Division 1, Chapter 4, Article 2, Section 65850 of the Government Code of the State of California, the City may adopt by ordinance regulations affecting: the use of buildings, structures and land; and

WHEREAS, Pursuant to Title 7, Division 1, Chapter 4, Article 2, Section 65850 of the Government Code of the State of California, the City has adopted Title 16, Chapter 2, Article 1, Section 16-2.01.010 of the Victorville Municipal Code, providing the authority to amend Title 16 of the Victorville Municipal Code and the various regulations, requirements, exceptions, and guidelines located therein; and

WHEREAS, the Planning Commission finds that the State of California has passed Senate Bill 946, which prohibits local authorities from banning sidewalk vending but authorizes the adoption additional requirements directly related to objective health and safety or welfare concerns; and

WHEREAS, the Planning Commission finds that the State of California has passed Senate Bill 972, which modifies the California Retail Food Code and authorizes cottage food operations or microenterprise home kitchen operations to serve as a commissary or mobile support unit for up to two compact mobile food operations, and provides that a local enforcement agency continues to have oversight to ensure additional specified requirements imposed by the San Bernardino County Department of Environmental Health are regulated under a valid permit; and

WHEREAS, the Planning Commission finds that the City of Victorville has experienced an increase in the operation of unlicensed sidewalk vendors without required State and local permits; and

WHEREAS, the Planning Commission finds that unlicensed sidewalk vendors have generally located in areas that contribute to vehicle collision hazards, obstruct mandated ADA accessibility, and/or locate on private property without owner consent; and

WHEREAS, the Planning Commission finds that unlicensed sidewalk vendors vending food in the City are not reviewed for compliance with San Bernardino County Department of Environmental Health regulations, which has the potential to lead to adverse impacts to public health; and

WHEREAS, the Planning Commission finds that the proposed Development Code Amendments are intended to address the proliferation of unlicensed sidewalk vendors by introducing regulations and standards in accordance with State and local law in order to address

health, safety and welfare concerns related to vehicle collision hazards, obstruction of mandated ADA accessibility, private property rights, and public health; and

WHEREAS, the Planning Commission finds on their own independent judgment that this project is exempt from the California Environmental Quality Act (CEQA) based upon CEQA Guidelines Section 15061(b)(3), as there is no possibility that the proposed amendment will have a significant effect on the environment inasmuch as the proposed amendment will regulate street vending allowances provided by State law, which does not modify existing codes in a manner that will negatively affect the environment; and

THEREFORE, BE IT RESOLVED by the Planning Commission, pursuant to Section 16-2.01.050 of the Victorville Municipal Code, that it recommends to the City Council that Development Code Amendment PLAN23-00012, a Title 16 Municipal Code Amendment, be adopted as follows, including any non-substantive changes or other changes deemed necessary by the City Attorney for clarity or to comply with State law:

Legend
Existing Text
Deleted Text
<i>Revised Text</i>
<u>New Text</u>
{Editing Notes}

Chapter 1, Article 3, Title 16

Sec. 16-1.03.010: - Definitions

Change

For the purpose of the Development Code, hereinafter “the Code” or “this Code”, unless otherwise apparent from the context, certain words, terms and phrases used in this Chapter Title are defined in this Section.

Words used in the present tense include the future, words used in the singular number also include the plural, and words used in the plural number include the singular, unless the natural construction of wording indicates otherwise. The word "shall" indicates a mandatory requirement, except as when used in connection with an action or decision of the Council or any City commission, board, or official, in which case the word "shall" shall be directory only. Whenever used in this Chapter Title, the word "day" shall mean a calendar day.

<u>Certified Farmers’ Market</u>	<u>means a farmers’ market certified as operating in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that Chapter.</u>
<u>Charity</u>	<u>includes any nonprofit organization, trust or other person which solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes. Charitable purposes include but are not limited to the improvement and advancement of public safety, education, religion, the prevention of cruelty to children and animals, any environmental protection and other benevolent purposes. Any Charity described herein must be exempt from taxation pursuant to California Revenue and Taxation Code Section 23701(d) or Internal Revenue Code Section 501(c)(3).</u>
<u>City Facilities</u>	<u>means the public parks, public buildings, and public community facilities/centers owned and operated by the City, including the City Library, City Hall, and the various community, activity, and sports centers in the City.</u>

<u>Established Place of Business</u>	<u>is a fixed place, location, or building, owned or leased by the person who uses such place, location, or building as his/her permanent place of business.</u>
<u>Food</u>	<u>means any item provided in Health and Safety Code Section 113781, or any successor section, and includes any type of raw, cooked, or processed edible substance, including any food product or beverage.</u>
<u>Food Truck</u>	<u>means a Mobile Vending Vehicle or motor vehicle-towed trailer engaged in vending upon a street and going from place to place in which Food is cooked and/or prepared to order and is served to walk-up customers</u>
<u>Health Department</u>	<u>means the San Bernardino County Department of Environmental Health.</u>
<u>Ice Cream Truck</u>	<u>a Mobile Vending Vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under twelve (12) years of age as described in California Vehicle Code Section 22456.</u>
<u>Mobile Vehicle Vendor</u>	<u>means any individual or entity who sells and makes immediate delivery, or offers for sale and immediate delivery, any food, beverages, goods, wares, or merchandise from a Mobile Vending Vehicle, including employees of Mobile Vehicle Vendors.</u>
<u>Mobile Vehicle Vendor License</u>	<u>means the City business license required to be obtained by Mobile Vehicle Vendors as set forth in this Title.</u>
<u>Mobile Vending Vehicle</u>	<u>any vehicle or motor vehicle, as those terms are defined in California Vehicle Code Sections 670 and 415 respectively, upon which food, beverages, goods, wares, or merchandise are sold, offered for sale, or distributed on any public street, alley, or private property. The term includes, without limitation, catering trucks, certain mobile food facilities and temporary food facilities, as well as Ice Cream Trucks and Food Trucks as defined in this Section; however, additional specific regulations apply to Ice Cream Trucks and Food Trucks as set forth in this Title.</u>
<u>Peddler</u>	<u>every person not having fixed place of business in the City who travels from place to place or has a stand upon any public street, alley or other public place, doorway of any building, unenclosed or vacant lot or parcel</u>

	of land, who sells or offers for sale at retail any goods, wares or merchandise in his possession.
<u>Pedestrian Path</u>	<u>means a paved path or paved walkway, other than a sidewalk, that is owned by the City or another public entity and is specifically designed for pedestrian travel. The term Pedestrian Path shall not include any private property or areas not traditionally used or designated for pedestrian travel, such as bike-paths, streets, driveways, and public parking lots.</u>
<u>Police Department and Chief of Police</u>	<u>shall mean respectively, the agency which performs the appropriate law enforcement function for the City and the head of the agency or division thereof which at the time involved has responsibility for performing the police function for, or within, the City.</u>
<u>Residential</u>	<u>means any area zoned as residential in Title 16 of this Code, including without limitation the AE, A, S-R, R-1, R-2, R-3, R-4, and R-MPD zoning districts and the specific plan zoning district.</u>
<u>Roaming Sidewalk Vendor</u>	<u>means a Sidewalk Vendor who moves from place to place and stops only to complete a transaction.</u>
<u>Sidewalk</u>	<u>means that paved portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation specifically designed for pedestrian travel and that is owned by the City or other public entity.</u>
<u>Sidewalk Vendor</u>	<u>means a person who sells tangible goods such as 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 a Pedestrian Path. The term Sidewalk Vendor includes both a Roaming Sidewalk Vendor and a Stationary Sidewalk Vendor.</u>
<u>Sidewalk Vendor Activity or Sidewalk Vending Activity</u>	<u>means actions that qualify a person as a Sidewalk Vendor or actions done in anticipation of becoming a sidewalk vendor such as, but not limited to, placement or maintenance of any Sidewalk Vendor Cart.</u>
<u>Sidewalk Vendor License</u>	<u>means the City business license required to be obtained by all Sidewalk Vendors as set forth in this Title.</u>
<u>Seller's Permit</u>	<u>means a permit issued by the California Department of Tax and Fee Administration.</u>

<p><u>Stationary Sidewalk Vendor</u></p>	<p><u>means a Sidewalk Vendor who Vends from a fixed location.</u></p>
<p><u>Solicitor</u></p>	<p><u>means any person who goes from house to house, from business to business, or otherwise goes upon any private property in the City for the purpose of:</u></p> <p><u>(1) taking or attempting to take orders for the sale of goods, merchandise, wares, magazines, or other personal or intangible property of any nature for future delivery, or for services to be performed in the future; or</u></p> <p><u>(2) selling or offering to sell and making immediate delivery of any goods, merchandise, wares, magazines, or other personal property of any nature or services of any kind or description; or</u></p> <p><u>(3) requesting money, credit, funds, contributions, personal property or anything of value for a Charity for charitable purposes as defined herein.</u></p> <p><u>The term "Solicitor" does not include a licensed Sidewalk Vendor or a licensed Mobile Vehicle Vendor as defined elsewhere in this Title. Sidewalk Vendors are regulated by Chapter 7, Article 12 of this Title and Mobile Vehicle Vendors are regulated by Chapter 7, Article 13 of this Title.</u></p> <p>any person who does not have a place of business within this city, who goes from house to house or from place to place in the City, selling or taking orders for, or offering to sell or take orders for, goods, wares, or merchandise or any article for future delivery, or for service to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery.</p>
<p><u>Swap Meet</u></p>	<p><u>means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that Chapter, or any successor Chapter.</u></p> <p><u>a-Also means</u> a grouping of vendor spaces located outside or within a permanent structure. The vendor spaces within a swap meet are typically smaller than 350 square feet in size and lack permanent enclosure walls.</p>
<p><u>Temporary Special Permit</u></p>	<p><u>means a permit, other than a Sidewalk Vendor License, issued by the City for the temporary use of or encroachment on, the Sidewalk or other public area, including without limitation, an encroachment permit, a special event permit, a temporary event or similar permit, for purposes such as commercial filming, and City or privately sponsored parades, street fairs, outdoor concerts, festivals, and carnivals.</u></p>

<p><u>Vend or Vending</u></p>	<p><u>means to sell, offer to sell, expose for sale, solicit offers to purchase, or barter food, goods, or merchandise for present delivery. Vending includes offering samples of products that are also for sale, negotiating fees for goods, and/or requesting donations in exchange for merchandise for present delivery.</u> <u>Also means selling, offering for sale, or displaying or dispensing any food, beverages, goods, wares, or merchandise from any Mobile Vending Vehicle.</u></p>
<p><u>Vending Cart</u></p>	<p><u>means any pushcart, stand, booth, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used to conduct Sidewalk Vendor Activities that is not a vehicle or motor vehicle as defined in Sections 670 and 415 the California Vehicle Code.</u></p>

Chapter 7, Title 16 – Business License Ordinance

Article 1 - Administration and Enforcement

Sec. 16-7.01.160: - Violation of Chapter

Change

(a) Criminal penalties. With the exception of Sidewalk Vendors as set forth in Article 12 of this Chapter, Any person violating any of the provisions of this Title Chapter or knowingly or intentionally misrepresenting to any authorized officer of the City, any material fact in procuring the license or permit herein provided for, is guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalty provisions in Chapter 1.04 or 1.05 of the Victorville Municipal Code.

(b) Administrative citations. In addition to any remedy provided at law or equity, and with the exception of Sidewalk Vendors as set forth in Article 12 of this Chapter, violations of any of the provisions of this Chapter may be subject to administrative citations and penalties in accordance with Chapter 1.05 of the Victorville Municipal Code.

Chapter 7, Title 16 – Business License Ordinance

Article 6: - Business Classifications

Sec. 16-7.06.110: - Vehicles for Hire, Service and Sales

Change

(a) Vehicles for hire transport passengers who direct the route to be traveled over the streets, and do not operate over a fixed route, for compensation, including vehicles commonly known as taxicabs, limousines, shuttle services or sightseeing buses. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and ~~16-7.08~~ Article 7 of this Chapter.

(b) Vehicles for service are non-emergency medical transportation businesses whose vehicles are privately or publicly owned and specifically designed, constructed, modified, equipped, arranged, maintained and operated for the sole purpose of transporting those persons with special medical needs who require pre-arranged transportation for purposes prescribed by a health care provider. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and ~~16-7.09~~ Article 8 of this Chapter.

(c) Vehicles for sales are ~~mobile businesses~~ Mobile Vehicle Vendors such as an Ice Cream sales Trucks or food trucks ~~who's~~ whose primary operation is selling at retail or soliciting order of any goods, wares, or merchandise of any kind or nature. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and (c), Section 16-3.07.050, and ~~16-7.10~~ Article 13 of this Chapter.

Sec. 16-7.06.115: - Sidewalk and Mobile Vehicle Vendors

Addition

(a) Sidewalk Vendors must obtain a business license and comply with the provisions of Section 16-7.04.020(b) and Article 12 of this Chapter.

(b) Mobile Vehicle Vendors must obtain a business license and comply with the provisions of Sections 16-7.04.020(b) and (c) and Article 13 of this Chapter.

Sec. 16-7.06.120: - Solicitors / Peddlers

Change

(a) Persons meeting the definition of a Solicitor (as set forth in Section 16-1.03.010 of this Title) are businesses that are required to comply with the provisions of Section 16-7.04.020(b) and Article 9 of this Chapter. The foregoing definition of a Solicitor shall be exclusive and controlling, and the fact that a Solicitor may have had previous contacts with the customer through the media of telephone, correspondence, advertising, or by person to person conversation, shall not affect his/her status as a Solicitor.

(b) “Solicitor” shall not include a person engaging in any of the following activities so long as the person is not requesting money, credit, funds, contributions, personal property or anything of value:

- (1) communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious, or charitable nature;
- (2) seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;
- (3) a person seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter;
- (4) a person conducting a poll, survey, or petition drive in regard to any political matter; or
- (5) a person carrying, conveying, delivering or transporting newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same.

(c) Persons engaging in the activities described in Section 16-7.06.120(b)(1) – (4) shall comply with the provisions of Section 16-7.09.020.

~~Any person who does not have a regular established place of business and goes from place to place in the City, selling or taking orders for, or offering to sell or take orders for, goods, wares, or merchandise or who travels from place to place or has a stand upon any public street, alley or other public place, doorway of any building, unenclosed or vacant lot or parcel of land, who sells or offers for sale at retail any goods, wares or merchandise in his possession. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and 16-7.10.~~

Sec. 16-7.06.130: - Firearms, pawnshops, junk dealers, secondhand stores, etc. *Change*

~~(a) Retail sales~~ sellers of firearms ~~and (b) Junk dealers, secondhand dealers, automobile and truck wrecking or dismantling businesses, pawnbrokers (or similar businesses where money is loaned on personal property for compensation) are These businesses~~ that shall be required to comply with the provisions of Article 10 of this Chapter.

Sec. 16-7.06.140: - Massage

Change

Any business using state licensed message technicians that administers to another person a massage, bath or health treatment involving massage or baths as the major function. These businesses shall be required to comply with the provisions of ~~Section 16-7-11~~ Article 11 of this Chapter.

Sec. 16-7.06.150: - Exempt Businesses

Change

(a) Nothing in this Chapter shall be deemed or construed to impose a fee or tax on any person transacting and carrying on any business exempt therefrom by virtue of the Constitution or applicable statutes of the United States or of the state of California. Any person claiming exemption pursuant to this Section shall file a sworn statement with the ~~Code Enforcement Official~~ Business License Division stating the facts upon which exemption is claimed, ~~and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the~~

fees imposed by this chapter. including documentation of registration with the California Attorney General for charitable organizations/institutions. The ~~Code Enforcement Official~~ City Manager or his/her designee shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the City of the business license fee required by this Chapter. The ~~Code Enforcement Official~~ City Manager or his/her designee, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein:

- (1) Any institution or organization which is conducted, managed or carried on wholly for the benefit charitable purposes and from which profit is not derived, either directly or indirectly, by an individual; provided, that the applicant shall furnish proof to the ~~Code Enforcement Official~~ City Manager or his/her designee that such is the case;
- (2) Any enterprise or entertainment when the receipts derived therefrom are to be apportioned to any church or school or to any religious, benevolent or charitable purpose;
- (3) Any person not having a fixed place of business within the City who is called upon to come to the City to render services to a department of the City; provided, that the applicant shall furnish proof to the ~~Code Enforcement Official~~ City Manager or his/her designee that such is the case; and that the proof can be verified by the requesting department;
- (4) Every honorably discharged or honorably relieved soldier, sailor or marine of the United States who is physically unable to obtain a livelihood by manual labor, may distribute circulars, and hawk, peddle and vend any goods, wares or merchandise owned by him, except alcoholic beverages and or liquor, without payment of any license fee whatsoever, providing proof of such physical disability is furnished to the ~~Code Enforcement Official~~ City Manager or his/her designee.

(b) Nothing in ~~this~~ Section ~~16-8.07.120~~ 16-7.06.150 or any subsection hereof shall exempt any person applicant from complying with any of the regulatory measures or provisions of this Chapter ~~save and exempt the payment of license fees required hereby.~~ additional local, state, and federal regulatory requirements, approvals, provisions, and/or fees except for the payment of the business license fee.

~~(b)~~ (c) Bingo. Nothing in this Chapter shall prohibit the holding of any bingo game, provided that the game is operated in compliance with the requirements of the Victorville Municipal Code, Chapter 13.15. Upon ascertaining compliance with Chapter 13.15, the City shall issue a business license to the organization. ~~The city shall, upon compliance with Chapter 13.15 of the Victorville Municipal Code, issue a business license.~~

(d) Interstate commerce. None of the license fees provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee to place an undue burden upon such commerce, the licensee he may apply to the ~~Code Enforcement Official~~ City Manager or his/her designee for an adjustment of the fee upon completion of conducting business in the City or within six months thereafter. ~~The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume of business transacted within the City. The Code Enforcement Official or his/her designee, after obtaining approval of the City Attorney with regard to the qualification of the business as interstate commerce, shall compute the actual fee due based on that portion of the applicant's gross receipts resulting from business within the City and shall initiate a refund of~~

~~any portion of the original license fee paid after subtracting the actual fee due based upon gross receipts. The computation shall be based upon five-tenths percent of the total gross receipts resulting from business within the City. A minimum fee of five dollars shall be required and said fee shall not exceed the fee for similar businesses not engaged in interstate commerce.~~

Chapter 7, Title 16 – Business License Ordinance

Article 9: - Specially Regulated Business—Solicitors/Peddlers

Change

Sec. 16-7.09.010: - Requirement of registration

Change

(a) Except as may be set forth otherwise in this Article, every Solicitor must register with the Police Department of the City, apply for and obtain a business license, and pay the required business license fee pursuant to Section 16-7.06.020 prior to doing business in the City.

(b) Each applicant for registration hereunder shall be fingerprinted by City's the Police Department or submit fingerprints through a live scan vendor for purposes of conducting a background check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in Section 16-7.02.030(c). The Chief of Police, or his/her designee, shall furnish each applicant with a live scan request form for use at any live scan vendor location. Each applicant shall also furnish two photographs of himself/herself of a size and format satisfactory to the Police Department and the City's Business License Division. One such photograph shall be attached at all times to the applicant's identification and registration card and the other shall be retained by the Business License Division. The identification and registration card shall bear the name of the applicant, the company or companies which he/she represents, and his/her photograph. It shall be carried on the person of the Solicitor and shall be displayed to all residents or businesses at the beginning of the period of solicitation.

(c) An Established Place of Business operating in the City may seek business using Solicitors who continuously comply with each of the following requirements:

- (1) The Established Place of Business must be open to the public at least eight hours a day, five days a week;
- (2) A floor salesperson or manager of said business of the company shall be present at all times when the place of business is open;
- (3) Said business or company shall have and maintain at said place a sign of not less than three square feet bearing the name of the business or company either on the front of the building or the side of building facing the street;
- (4) Each new Solicitor employed by the business shall be fingerprinted and furnish photographs to the City as set forth in subdivision (b) of this Section. Applicants or their Solicitor employees renewing a business license may be required to be fingerprinted prior to the renewal of their licenses.

~~Each solicitor and peddler who goes from house to house or from place to place, selling or taking orders for, or offering to sell or take orders for, goods, wares, merchandise or magazines, periodicals or publications or subscriptions for the same, or any article, right or privilege of value, for future delivery, or for service to be performed in the future, or for the making, manufacturing, or repairing of any article or thing whatsoever for future delivery (religious material and regularly~~

~~published newspapers excepted) or donations of any nature within the City is required to register with the police department of the City and to obtain a permit.~~

~~Each applicant for registration hereunder shall be fingerprinted by an employee of the police department. One photograph shall be attached at all times to the applicant's identification and registration card and another photograph shall be retained by the police department. The identification and registration card shall bear the name of the applicant, the company or companies which he represents, and his photograph and right thumbprint. It shall be carried on the person of the applicant and shall be displayed to all residents at the beginning of the period of solicitation.~~

Sec. 16-7.09.020 – Solicitors and peddlers Other Restrictions on Solicitors *Change*

(a) No Solicitor shall ring the bell or knock on the door of any residence, dwelling, apartment, or business establishment or attempt to gain admittance thereto, whereon a sign is posted bearing the words "No Solicitors", or words of similar import indicating that Solicitors are not desired.

(b) Solicitation in residential areas shall be prohibited between the hours of seven p.m. and eight a.m. Solicitation in non-residential areas shall be during business hours of solicited establishments.

(c) All orders taken by Solicitors shall be in writing in duplicate, stating the terms thereof, and the amount paid in advance, and one copy shall be given to the purchaser.

~~(a) — Peddlers. Every person engaging in the business of peddling any goods, wares, merchandise, fruits or vegetables shall procure a license and pay the business license tax in accordance with Section 7.06.020. Each such person shall furthermore register in accordance with Section 7.9.010 and comply with all of the regulations of said section. Peddling shall be prohibited between the hours of seven p.m. and eight a.m.~~

~~For the purpose of this section, "peddling" means and includes traveling or going from place to place, or from house to house, within the City, and peddling, hawking, vending or selling any goods, wares or merchandise, carried or caused to be carried or conveyed by or with the person peddling, hawking, vending or selling the same.~~

~~(b) — Solicitors Not Having Regular Place of Business. Every person engaging in the business of soliciting shall procure a license and pay the business license tax in accordance with Section 7.06.020.~~

~~A "solicitor" within the meaning of this section means any person who does not have a regular established place of business within this city as hereinafter defined, who goes from house to house, or from place to place, in the City, selling or taking orders for, or offering to sell or take orders for, goods, wares or merchandise or any article for future delivery, or for service to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery. The foregoing definition of a solicitor shall be exclusive and controlling, and the fact that a solicitor may have had previous contacts with the customer through the media of telephone, correspondence, advertising or by person to person~~

~~conversation, or that he may have been invited to the house or place, shall not be a defense to, or excuse for, a violation of any provision of this code, nor affect his status as a solicitor.~~

~~Application for the license provided for in this section shall be accompanied by a bond in the penal sum of five hundred dollars, executed by a surety company, or in lieu thereof, a cash bond of equal value, conditioned upon the making of final delivery of the goods, wares or service to be performed in accordance with the terms of such order. Any person aggrieved by the action of any such solicitor shall have a right of action on the bond for the recovery of money or damages or both. Such bond shall remain in full force and effect, and in case of a cash deposit, such deposit shall be retained by the City for a period of ninety days after the expiration of any such license. All orders taken by licensed solicitors shall be in writing in duplicate, stating the terms thereof, and the amount paid in advance, and one copy shall be given to the purchaser. Each solicitor shall be fingerprinted by the police department and furnish photos satisfactory to the department. Solicitation shall be prohibited between the hours of seven p.m. and eight a.m.~~

~~(c) Ice Cream Trucks. Mobile Ice Cream businesses do not have an established place of business and go from place to place selling packaged ice cream and other consumable packed goods via a vehicle or a push cart.~~

~~1. It is unlawful for any person to conduct mobile Ice cream sales from a vehicle or a mobile cart in the City without having first obtained a solicitors permit issued by the Police department. The police department may refuse to issue a driver's permit for any of the following reasons:~~

~~a. If the applicant is under twenty-one years of age;~~

~~b. If the applicant does not possess a valid drivers license~~

~~c. If the applicant is convicted or has been convicted of reckless driving or a crime involving moral turpitude, or of driving under the influence of intoxicating liquors or narcotics;~~

~~d. If the applicant violated any of the provisions of this chapter;~~

~~e. If the applicant has been convicted of three or more moving violations constituting unsafe driving within a period of twelve months immediately preceding such action of the police department;~~

~~f. If the applicant does not test negative for each of the controlled substances specified in Title 49 of the Code of Federal Regulations, before employment or upon permit renewal, or at such other times as the City shall designate. All costs for testing shall be borne by the applicant or the employer.~~

~~g. The applicant has been convicted of or is under investigation of crimes that in the option of Chief of Police or his/ her designee poses a threat or create a substantial concern to the residents of the City.~~

~~2. Mobile Ice cream businesses shall not display, sale, transfer or offer any imitation firearms such as BB or pellet guns as stated in penal code section 12550-12556.~~

~~3. Mobile Ice Cream businesses shall remain mobile and moving from place to place until the business has been solicited by a patron seeking to purchase merchandise from the mobile ice cream business. It is unlawful for a mobile ice cream business to park or stop for an extended~~

~~amount of time for any reason other than to complete a transaction with a patron who has solicited such a service.~~

Sec. 16-7.09.030: - Solicitor Exemptions

Change

With the exception of the restrictions set out in Section 16-7.09.020, the provisions of this section Article shall not apply to:

(a) A Solicitor who represents a bona fide Charity, fraternal, or religious organization which is exempt under the following provisions of this section: Section 16-7.06.150(a)(1) of this Chapter.

(b) A disabled veteran who is exempt under the provisions of Section 16-7.06.150(a)(4) of this Chapter.

~~(c) Any bona fide nonprofit charitable, fraternal or religious institution or organization where the proceeds of the activity covered by the exemption are to be used for the lawful purposes of said organization; provided, however, that no exemption hereunder shall be valid unless application therefor has been made in writing to the City Clerk which certificate shall cover a period of not more than one year from date thereof, and shall be displayed or available for presentment to any enforcement officer of the City on request, on the premises covered by the certificate; provided further, that no exemption shall be granted hereunder to any person, firm, concern or organization who receives any financial share or interest in the activity proposed to be covered by the exemption, or the proceeds or income therefrom.~~

~~(d) A bona fide resident, as defined by the California Elections Code, shall be exempt from the fingerprinting requirement providing that all solicitors shall be required to wear and display an identification badge which is uniform in size, color and content and which has been approved by the City Clerk at the time of issuance of the certificate of exemption.~~

~~(e) "Charity" includes any nonprofit organization, trust or other person which solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes. Charitable purposes include but are not limited to the improvement and advancement of public safety, education, religion, the prevention of cruelty to children and animals, any environmental protection and other benevolent purposes. Any charity described herein must be exempt from taxation pursuant to California Revenue and Taxation Code Section 23701(d) or Internal Revenue Code Section 501(c)(3).~~

Chapter 7, Title 16 – Business License Ordinance

{Entire Article 12 is a new addition to Chapter 7 of Title 16}

Article 12: Specially Regulated Business – Sidewalk Vendors

Addition

Sec. 16-7.12.010: - Purpose and Findings

(a) Purpose. The purpose of this Article is to establish Sidewalk Vendor business licensing and regulatory standards that comply with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this Article allow the City to encourage small business activities by removing certain prohibitions on portable food stands and certain forms of vending while still permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety, and welfare.

(b) Findings. The City Council finds that:

- (1) Prohibiting Sidewalk Vending in streets/roadways and on medians is necessary to protect the health and safety of Sidewalk Vendors, because they are at risk of being struck by vehicles and/or causing vehicular accidents if they vend in streets/roadways or on medians.
- (2) Preventing Sidewalk Vendors from vending to persons in cars and other motorized vehicles, or from vending from the street or alley facing sides of their Vending Carts is necessary to protect the health and safety of Sidewalk Vendors, because they are at risk of being struck by vehicles and/or causing vehicular accidents when Sidewalk Vending Activities cause vehicles to suddenly stop or park illegally on City streets and disrupt the normal flow of traffic.
- (3) Preventing sidewalk vendors from using sound amplifying devices is necessary to protect the welfare of residents and visitors to the City by preventing excessive noise from disturbing the peace and quiet of residential areas or from an accumulation of excessive noise in commercial and other areas. Amplified sound devices may also cause traffic hazards by distracting drivers resulting in automobile accidents and harm to pedestrians, so prohibiting their use is necessary for the health and safety of motorists and pedestrians.
- (4) The regulations specified in this Article, including, but not limited to those governing sidewalk Vending Cart sizes, distance requirements, and food and merchandise storage, are intended and necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.
- (5) To protect the safety of children traveling to and from and in and around schools from potentially adverse safety impacts of traffic and sidewalk congestion, it is necessary to restrict sidewalk vendor activities during certain hours in such areas.
- (6) Restricting Sidewalk Vending Activities on Sidewalks or Pedestrian Paths that are immediately adjacent to portions of streets or highways that are designated by signs or red curb markings as "no stopping" or "no parking" zones and near certain public facilities is needed to prevent interference with the flow of pedestrian or vehicular traffic, including

ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles.

- (7) Regulating Sidewalk Vending Activities is necessary to preserve reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, and mailboxes, as well as access to locations used for public transportation services.
- (8) The City further finds that the circumstances of Sidewalk Vending, where Sidewalk Vendors set up stands or move from place to place as Roaming Sidewalk Vendors, has the potential for Sidewalk Vendors to engage in illegal activities, including but not limited to the sale of illegal substances or merchandise or the sale of counterfeit products. To ensure the safety of residents and the merchantability of products sold by vendors without a fixed place of business, all Sidewalk Vendor License applicants, including all employees or Vending Cart operators, are required to undergo a fingerprinting background check to be conducted by the Police Department prior to being licensed.

Sec. 16-7.12.020 - Business License Required

No Sidewalk Vendor may Vend or operate anywhere within the City without first obtaining a Sidewalk Vendor License from the City. Each Sidewalk Vendor must comply with the terms and conditions set forth in his/her Sidewalk Vendor License issued by the City and those specified in this Article. Stationary Sidewalk Vendors may operate within the approved areas as stated in their City-issued Sidewalk Vendor Licenses.

Sec. 16-7.12.030: - Sidewalk Vendor License Application

(a) All business license applications must be completed online through the City's designated business license application system ("License System"). To receive a Sidewalk Vendor License, applicants must provide the following to the City through the License System:

- (1) A declaration that the information provided to the City in connection with the business license application is true and correct, to the best of the applicant's knowledge and belief;
- (2) The applicant's agreement to indemnify, hold harmless, and defend the City, its officials, employees, and agents from and against all liability, damage, loss or injury arising from the Sidewalk Vendor's conduct of Sidewalk Vending Activity;
- (3) An acknowledgement that use of public property is at the Sidewalk Vendor's own risk, and that the City does not take any steps to ensure public property is safe or conducive to Sidewalk Vending Activity;
- (4) The applicant's agreement to comply with the provisions of this Article and all applicable provisions of the City's Municipal Code;
- (5) All applicable documents described in Chapter 7, Article 3 of this Title (provided that a Sidewalk Vendor may submit a California driver's license or identification number, an individual taxpayer identification number, a Seller's Permit number, or a municipal identification number in lieu of a social security number, and any number so collected

shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the licensure program or comply with a state law or state or federal court order);

- (6) A list of all applicable employees or Vending Cart operators;
- (7) A detailed description of the Food and/or merchandise to be sold;
- (8) The hours per day and the days per week during which the Sidewalk Vendor proposes to operate, and whether the Sidewalk Vendor intends to operate as a Stationary or a Roaming Sidewalk Vendor;
- (9) Roaming Sidewalk Vendors shall specify the roaming route and proposed areas within which Sidewalk Vendor Activity will be conducted;
- (10) A description (including dimensions) of all Vending Carts to be used when vending, to include photos of the sides, front and rear of each Vending Cart;
- (11) If the applicant will Vend food, copies of applicable permits issued by the Health Department (unless applicant is exempt from a Health Permit pursuant to California Health & Safety Code Section 114368. 1(a)) and certification that the Sidewalk Vendor will comply with all applicable laws regarding food vending;
- (12) Proof of general liability and other insurance coverages as deemed reasonably necessary to adequately protect the City in the types and amounts specified by the City's Risk Manager;
- (13) A copy of the Sidewalk Vendor's current and valid Seller's Permit;
- (14) Full payment of the applicable business license fees, as established by resolution of the City Council.

(b) In addition, prior to the issuance of a Sidewalk Vendor License, the applicant and each of applicant's employees and/or Vending Cart operators shall cause to be filed with the Chief of Police, or his/her designee, a live scan background check conducted by the California Department of Justice within the previous six months of the application date. The Chief of Police, or his/her designee, shall furnish each applicant with a live scan request form for use at any live scan vendor location. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in Section 16-7.12.040.

(c) The items listed in subdivisions (a) and (b) of this Section, together with the Sidewalk Vendor License renewal fee (as established by resolution of the City Council) must thereafter be provided annually to the City prior to the date the Sidewalk Vendor's current Sidewalk Vendor License expires.

Sec. 16-7.12.040 - Criteria for Approval or Denial of License

(a) The City Manager, or his or her designee, shall approve the application for issuance of a Sidewalk Vendor License unless he or she determines that:

- (1) Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
 - (2) The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;
 - (3) The applicant has failed to demonstrate an ability to conform to the operating conditions and standards set forth in Sections 16-7.12.070 through 16-7.12.100 of this Article;
 - (4) The applicant has failed to pay any previous administrative fines levied in accordance with Government Code Section 51039(a) ;
 - (5) The Chief of Police, after conducting a preliminary investigation to determine compliance with this Chapter, has found any of the following as a result of the live scan background check performed on the applicant and its employees:
 - (A) A conviction in a court of competent jurisdiction or a plea of nolo contendere to any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058 within three (3) years of the date of application; or
 - (B) Active probation or parole status for any offenses set forth in this Section that was committed within three (3) years of the date of application; or
 - (C) A conviction of a felony or misdemeanor involving a crime of moral turpitude within three (3) years of the date of the application; or
 - (D) Registration under the provisions of California Penal Code section 290 (or an equivalent section in any other state) is required.
- (b) If an application is denied, the basis for the denial shall be mailed to or delivered in writing to the applicant setting forth the reasons for the denial. If the denial is not appealed within ten (10) days as provided in Section 16-02.02.050 of this Title, the determination of denial shall become final and conclusive.

Sec. 16-7.12.050 License Rescission

The City Manager may rescind a Sidewalk Vendor License issued to a Sidewalk Vendor for the term of said license for a fourth violation or subsequent violation of this Article. A Sidewalk Vendor whose license is rescinded may apply for a new Sidewalk Vendor License upon the expiration of the term of the rescinded license.

Sec. 16-7.12.060 - Appeals

Any person aggrieved by the decision of the City Manager to issue, deny issuance, or rescind a Sidewalk Vendor License may appeal the decision to the Planning Commission in accordance with Sections 16-2.02.010 and 16-2.02.050 of this Title.

Sec. 16-7.12.070 - General Sidewalk Vendor Activity Operating Conditions; Prohibitions**(a) General Operating Conditions.**

- (1) Sidewalk Vending Activities are permitted in the City between the hours of 8:00 a.m. and 10:00 p.m. daily, except as follows:

 - (A) In exclusively residential areas, only Roaming Sidewalk Vendors shall be permitted to operate. In such areas, Roaming Sidewalk Vendors may engage in Sidewalk Vending Activities only between the hours of 8:00 a.m. and 7:00 p.m. Roaming Sidewalk Vendors must move continuously except when necessary to complete a sale.
 - (B) In non-residential areas, the limit on hours of vending shall not be more restrictive than the hours of operation of other businesses or uses on the same street.
 - (C) Hours may be expanded when events subject to the terms of a Temporary Special Permit and/or certain City-sponsored events are occurring.
 - (D) During the execution of a Public Works maintenance or public benefit project that requires the sidewalk vendor vacate the area to allow the completion of a public works project.
- (2) Stationary Sidewalk Vendors are prohibited from operating in areas that are zoned exclusively residential.
- (3) Stationary Sidewalk Vendors must operate within the approved areas as stated in the issued Sidewalk Vendor License.
- (4) All Sidewalk Vendors Vending food or any other item requiring a Health Department permit, must possess and display on his/her Vending Cart or on his/her person a valid permit issued by the Health Department.
- (5) At all times, Sidewalk Vendors must possess and display in a conspicuous manner on his/her Vending Cart or on his/her person a valid Sidewalk Vendor License. If multiple Sidewalk Vendors are staffing a Vending Cart or working as Roaming Sidewalk Vendors, each person shall wear his/her license on his/her person in a conspicuous manner.
- (6) No Advertising signs. No signs other than those approved in the Sidewalk Vendor License application (such as signs identifying the name of the products sold, the name of the vendor and/or the prices of products) are allowed. All signs must be attached to the approved Vending Cart with a sign area not to exceed three square feet for every linear foot of Vending Cart length. Signs with intermittent, flashing, moving, blinking lights, or varying intensity of light or color, are not permitted.
- (7) No Vending Cart, including any attachments thereto such as a litter receptacle or an umbrella, shall exceed four (4) feet in width, eight (8) feet in height, or eight (8) feet in length.
- (8) No Vending Cart shall be chained or fastened to any utility pole, sign, tree, or other object in the public right-of-way or left unattended.
- (9) No Vending Cart shall be stored, parked, or left overnight on or in any public street, Sidewalk, or City Facilities.
- (10) All equipment installed in any part of the Vending Cart shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision

- or overturn. All utensils shall be securely stored in order to prevent their being thrown from the Vending Cart in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
- (11) Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall not create nuisance odors or noise above the allowable decibel level as provided in section 13.01.040 of the Victorville Municipal Code.
- (12) Umbrellas used in connection with vending operations must be securely fastened and not exceed a height of eight (8) feet.
- (b) Prohibitions. No Sidewalk Vendor shall:
- (1) Operate within the portion of any public parking lot through which motor vehicles are expected to travel given the frequency of vehicle traffic and the prevention of vehicle on pedestrian traffic collision;
- (2) Operate on or along any street or roadway that does not have a Sidewalk or Pedestrian path;
- (3) Operate within 25 feet of a Sidewalk or Pedestrian Path that is adjacent to a portion of a street or highway and is designated by signs or red curb markings as a "no stopping" or "no parking" zone to prevent vehicle traffic from unlawfully stopping or parking and increasing the risk of traffic collisions;
- (4) Sell food for immediate consumption unless there is a litter receptacle available for patrons' use;
- (5) Operate within 150 feet of the intersection of a street and a sidewalk or in any location that obstructs traffic signals or regulatory signs;
- (6) Leave any location without first disposing of all trash or refuse remaining from sales conducted. Trash and refuse generated by vending activities shall not be disposed of in public trash receptacles;
- (7) Discharge solids or liquids to the street or a storm drain;
- (8) Allow any items or equipment relating to the Sidewalk Vending Activity, including any required litter receptacle, to be placed anywhere other than in, on, or under the Vending Cart;
- (9) Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her Vending Cart where such items have not been described in the Sidewalk Vendor License application;
- (10) Operate upon or within any street or roadway, any street or roadway median strip (whether or not said median strip is landscaped), or any street/roadway dividing strip;
- (11) Operate within five hundred feet of any freeway on-ramp or off-ramp;
- (12) Engage in the vending of alcohol, cannabis, cannabis products, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or cannabis, or adult-oriented material depicting, describing, or relating to sexual activities;
- (13) Sound or permit the sounding of any device that produces a loud and raucous noise or any noise in violation of the City's noise ordinance, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract

- the attention of the public, or use any lighting effect that is intermittent, flashing, moving, blinking or emits a varying intensity of light or color;
- (14) Operate without the insurance coverage specified in this Article;
- (15) Operate within 50 feet of a fire hydrant or 25 feet of a transit stop;
- (16) Solicit or conduct business with persons in motor vehicles or Vend from the exposed street or alley and/or traffic side of the Vending Cart;
- (17) Operate in a manner that does not maintain four (4) feet of clear space on a Sidewalk or Pedestrian Path, including any customer queuing area, or in a manner that impedes access to or restricts the free use of abutting property, including, but not limited to, residences and places of business in accordance with the American with Disabilities Act (ADA);
- (18) Operate within 50 feet of the outer edge of a driveway or vehicular entrance to public or private property;
- (19) Operate within 500 feet of a Certified Farmers' Market or Swap Meet during the operating hours of that Certified Farmers' Market or Swap Meet;
- (20) Operate in any manner or location that blocks any citizen or service entry or exit from any business or residence;
- (21) Operate in or within 500 feet of an area designated for use by a Temporary Special Permit or an event conducted or sponsored by the City, including but not limited to the annual Fall Festival, Spring Festival, Holiday Parade, Tree Lighting and Veterans' Day Parade; provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the City's Temporary Special Permit or regarding City conducted/sponsored events, shall also be provided to any Sidewalk Vendors specifically permitted to operate in the area. A prohibition of Sidewalk Vendors pursuant to this subsection shall only be effective for the limited duration of the Temporary Special Permit, or the City conducted/sponsored event;
- (22) Operate on private property without the written consent of the property owner and approval of a Temporary Use Permit;
- (23) Operate within 500 feet of any public or private school grounds between the hours of 8:00 a.m. and 5:00 p.m. on days that the school is open to students;
- (24) Operate in violation of any other generally applicable law;
- (25) Use an electrical outlet or power source that is owned by the City or another person other than the Sidewalk Vendor.
- (26) Engage in the renting of merchandise to customers;
- (27) Vend services;
- (28) Use an open flame on or within any Vending Cart;

Sec. 16-7.12.080: - Sidewalk Vending in City Facilities

In addition to the operating conditions and prohibitions set forth in Section 16-7.12.070 and in the interest of ensuring adequate access or use is available to individuals seeking services from City departments, Sidewalk Vendors operating in City Facilities must also comply with the following:

- (a) Sidewalk Vendors shall be permitted to operate only on Sidewalks and Pedestrian Paths in City facilities;
- (b) Sidewalk Vendors shall be permitted to operate only during the hours such City facilities are open to the public;
- (c) Stationary Sidewalk Vendors shall not Vend in any City facilities where the City or facility operator has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- (d) In City facilities, no Sidewalk Vendor may engage in Sidewalk Vending Activities:
 - (1) within 50 feet of any other Sidewalk Vendor;
 - (2) on, or within 25 feet of, any sports field, building, recreation center, bathroom structure or playground equipment area;
 - (3) that utilize any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the City facility any way as part of Sidewalk Vending Activities;
 - (4) within 25 feet of any bench, table, barbeque pit, covered gathering area, statue, monument, art installation, or other publicly-owned structure or amenity in the City facility;
 - (5) in a manner that blocks sidewalks or pedestrian paths or restricts pedestrian and wheelchair/ADA clearance;
 - (6) in a manner where a Vending Cart touches or leans against any lamp post, tree, plant, planter box, rock formation, building, or trash receptacle;
 - (7) in any parking lots, on grass areas, or on bicycling paths;

Sec. 16-7.12.090 - Additional Operating Conditions for Stationary Sidewalk Vendors Vending Food

In addition to the operating conditions and prohibitions specified in Sections 16-7.12.070 and 16-7.12.080, Stationary Sidewalk Vendors vending food must operate within 200 feet of an approved and readily-available toilet and handwashing facility for employees and customers. If the facility is located on private property, the Sidewalk Vendor must possess a copy of an enforceable contract between the private property owner and the Sidewalk Vendor allowing the Vendor to utilize such facilities, including the days and hours of operation. Proof of authorized access to facilities must be provided prior to license issuance.

Section 16-7.12.100 - Adoption of Additional Regulations

The City Council may by resolution or ordinance adopt additional operational conditions or requirements regulating the time, place, and manner of Sidewalk Vending in the City which are consistent with Government Code Section 51038.

Section 16-7.12.110 - Exemptions

The provisions of this Article 7 shall not apply to, nor shall a Sidewalk Vendor License be required for any of the following activities:

Any vending pushcart or other device owned or operated by any public agency:

- (a) Persons delivering goods, wares, merchandise, fruits, vegetables, or foodstuffs upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution;
- (b) An approved participant in a Certified Farmers' Market;
- (c) Catering for private parties held exclusively on private property and not open to the general public;
- (d) An approved participant in a community event authorized by the City;
- (e) An event at a school facility or an assembly use facility, if the vendor is operating in partnership with the organization conducting the event and is located on the site of the event (i.e., not in the public right-of-way);
- (f) An individual or organization vending items that are inherently communicative and have nominal utility apart from its communication (e.g., newspapers, leaflets, pamphlets, buttons, etc.).

Sec. 16-7.12.120 - Violations and Penalties

(a) Violations of this Article that occur within the public right-of-way shall not be prosecuted as infractions or misdemeanors and shall only be subject to the issuance of Notices of Violation and Administrative Citations pursuant to Chapter 1.05 of the Victorville Municipal Code, except that notwithstanding Section 1.05.110 of said Code, the administrative fines and other penalties for violations of this Article (other than failure to obtain/maintain a valid Sidewalk Vendor License as set forth in subdivision (b) below) shall be as follows:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation.
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.
- (4) Rescission of a Sidewalk Vendor License for the term of said license upon a fourth violation or subsequent violations.

(b) If a Sidewalk Vendor violates any portion of this Article and cannot present the citing officer with a proof of a valid Sidewalk Vendor License, the Sidewalk Vendor shall instead be assessed administrative fines in the following amounts:

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

- (c) Upon proof of a valid Sidewalk Vendor License issued by the City, the administrative fines set forth in Subsection 16-7.12.120(b) shall be reduced to the administrative fines set forth in Subsection 16-7.12.120(a).
- (d) All fines imposed on a Sidewalk Vendor pursuant to this Section 16-7.12.120 shall be subject to an ability-to-pay determination as described in California Government Code section 51039(f). Concurrently with issuing an administrative citation for such fines to a Sidewalk Vendor, the City shall provide the Sidewalk Vendor with notice of his/her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination.
- (e) Administrative citations may be appealed pursuant to the procedures set forth in Section 1.05.090 of the Victorville Municipal Code, except that the following additional provisions shall apply with respect to the assessment of an administrative fine upon a Sidewalk Vendor:
- (1) The Hearing Officer has the power to reduce the fine based upon the person's ability to pay the fine.
 - (2) If the Hearing Officer finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the Hearing Officer, shall order the City to accept, in full satisfaction, twenty percent (20%) of the administrative fine imposed pursuant to this Section.
 - (3) The Hearing Officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

Chapter 7, Title 16 – Business License Ordinance

{Entire Article 13 is a new addition to Chapter 7 of Title 16}

Article 13: Specially Regulated Business – Mobile Vehicle Vendors *Addition*

Sec. 16-7.13.010: - Purposes and Intent

The City finds that the vending of produce, prepared or prepackaged foods, goods, and/or wares from motor vehicles temporarily parked on public streets or alleys and on private property may pose unsafe conditions and special dangers to the public health, safety and welfare of the residents of the City. It is the purpose of this Article to provide clear and concise regulations governing these types of motor vehicular mobile vending operations to prevent safety, traffic, and health hazards, and to preserve the peace, safety and welfare of the City and its residents.

Sec. 16-7.13.020 – Mobile Vehicle Vendor License Required

No Mobile Vehicle Vendor may vend or operate anywhere within the City without first obtaining a Mobile Vehicle Vendor License from the City. Mobile Vehicle Vendors must comply with the terms and conditions set forth in the Mobile Vehicle Vendor License and within this Article.

Sec. 16-7.13.030 - Mobile Vehicle Vendor Business License Application

(a) All business license applications must be completed online through the City’s designated business license application system (“License System”). To receive a Mobile Vehicle Vendor License, each prospective Mobile Vehicle Vendor must provide the following items to the City through the License System:

- (1) All applicable documents described in Chapter 7, Article 3 of this Title;
- (2) A list of all applicable employees and/or Mobile Vending Vehicle licensed drivers;
- (3) A description of the food and/or merchandise to be sold;
- (4) Intended locations, days, and hours of operation;
- (5) A description of all Mobile Vending Vehicles to be used when vending, to include color photos of the sides, front and rear of the vehicles, and license plate numbers;
- (6) If the applicant will Vend Food, copies of applicable permits issued by the Health Department and certification that the Mobile Vehicle Vendor will comply with all applicable laws regarding Food Vending;
- (7) Proof of general liability, automobile liability, and such other insurance coverages in the amounts and types specified by the City’s Risk Manager;
- (8) Proof that each Mobile Vending Vehicle is properly registered with California Department of Motor Vehicles;
- (9) A copy of the Mobile Vehicle Vendor’s current and valid Seller’s Permit;
- (10) A declaration that the information provided to the City in connection with the Mobile Vehicle Vendor License application is true and correct;
- (11) Full payment of the applicable Mobile Vehicle Vendor License fees, as set by Resolution of the City Council.

- (b) Mobile Vehicle Vendors intending to operate on private property must also provide the following:
- (1) a copy of the property owner's written authorization to vend in the specified location and approval of land use entitlements as prescribed in Chapter 3 of this Title;
 - (2) A site plan, drawn to scale and with dimensions, indicating the location of all existing buildings, structures, driveways, parking spaces, traffic controls, and improvements and the location where the proposed vending activity will be located on site, and demonstrating that there will be adequate ingress and egress to the site and that the mobile vending activity will have adequate parking and not utilize parking otherwise required for any business located at the site;
- (c) In addition, prior to the issuance of a Mobile Vehicle Vendor License, the applicant and each of applicant's employees and/or operators of Mobile Vending Vehicles shall cause to be filed with the Chief of Police, or his/her designee, a live scan background check conducted by the California Department of Justice within the previous six months of the application date. The Chief of Police, or his/her designee, shall furnish each applicant with a live scan request form for use at any live scan vendor location. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in Section 16-7.13.040.
- (d) The above information and the Mobile Vehicle Vendor License renewal fee (as established by resolution of the City Council) must thereafter be provided annually to the City prior to the date the Mobile Vehicle Vendor's current Mobile Vehicle Vendor License expires.

Sec. 16-7.13.040 - Criteria for Approval or Denial of License

- (a) The City Manager, or his or her designee, may deny the application for issuance of a Sidewalk Vendor License if he or she determines that:
- (1) Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
 - (2) The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;
 - (3) The applicant has failed to demonstrate an ability to conform to the operating conditions and standards applicable to the particular type of Mobile Vehicle Vendor License for which vendor has applied, as set forth in Sections 16-7.13.050 through 16-7.13.080 of this Article;
 - (4) The applicant has previously violated any provisions of this Article or this Chapter;
 - (5) The Chief of Police, after conducting a preliminary investigation to determine compliance with this Chapter, has found any of the following as a result of the live scan background check performed on the applicant or its employees:

- (A) A conviction in a court of competent jurisdiction or a plea of nolo contendere to any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058 within three (3) years of the date of application; or
- (B) Active probation or parole status for any offenses set forth in this Section that was committed within three (3) years of the date of application; or
- (C) A conviction of a felony or misdemeanor involving crime of moral turpitude within three (3) years of the date of the application; or
- (D) If the application is for a driver/operator of a Mobile Vending Vehicle, conviction of alcohol or drug related traffic offenses;
- (E) Registration under the provisions of California Penal Code section 290 (or an equivalent section in any other State) is required.

(b) If an application is denied, the basis for the denial shall be mailed to or delivered in writing to the applicant setting forth the reasons for the denial. If the denial is not appealed within ten (10) days as provided in Section 16-02.02.050 of this Title, the determination of denial shall become final and conclusive.

Sec 16-7.13.050 - Mobile Vehicle Vendor Operational Regulations and Requirements

(a) No Mobile Vehicle Vendor shall:

- (1) Vend when the Mobile Vending Vehicle is in motion. Vending can only take place when the vehicle is lawfully parked or stopped.
- (2) Vend from the side of the Mobile Vending Vehicle towards moving traffic. Vending can only take place from the side of the vehicle away from moving traffic and as near as possible to the curb or edge of the right-of-way.
- (3) Vend to a person standing in the street or roadway.
- (4) Vend on a street or roadway unless there is a clear view from the Mobile Vending Vehicle for a distance of at least 200 feet in each direction.
- (5) Stop on the left side of a one-way street to vend.
- (6) Back up the Mobile Vending Vehicle on a public street or roadway to make or attempt a sale.
- (7) Vend from any street parking space other than a space parallel to the curb.
- (8) Operate from any vehicle not licensed by the Department of Motor Vehicles.

(b) Unauthorized riders on Mobile Vending Vehicles prohibited:

- (1) The Mobile Vehicle Vendor must not permit any unauthorized person to ride in or on the Mobile Vending Vehicle.
- (2) No person shall ride in or on a Mobile Vending Vehicle unless such person:
 - (A) is employed by the owner of the Mobile Vending Vehicle business,
 - (B) is authorized in writing to do so by the owner of the Mobile Vending Vehicle business; or
 - (C) has received permission through the application process in this Article.

(D) All persons licensed by the City to operate a Mobile Vending Vehicle must be at least 18 years of age and possess a valid, unexpired California Driver's License.

Sec 16-7.13.060 – Mobile Vehicle Vendor Standards, Conditions and Requirements

All Mobile Vehicle Vendors shall comply with the following standards, conditions and requirements:

(a) Location:

- (1) No Vending shall occur within ten (10) feet of a fire hydrant, fire escape, building entrance, bus stop, loading zone, handicapped parking space or access ramp, or driveway. A greater distance or separation from other uses may be required under the conditions imposed on a Mobile Vehicle Vendor License, in order to preserve line-of-sight, or for other safety reasons;
- (2) No vending shall occur within three hundred (300) feet of the grounds of any elementary or junior high school;
- (3) No vending shall occur within five hundred (500) feet of a freeway entrance or exit;
- (4) Vendors shall not stop in any single location for more than one and one-half hours in any twenty-four-hour period;
- (5) Vending at any City park, recreational facility, or sports complex is permitted only upon the prior written authorization from the City's Director of Community Services or pursuant to a Temporary Special Permit in accordance with Victorville Municipal Code Section 14.04.040(n).

(b) Design and Operating Standards, condition/appearance of site and Mobile Vending Vehicle:

- (1) The Mobile Vehicle Vendor shall maintain the area within which vending activities occur in a clean, safe and sanitary condition;
- (2) No tables, chairs, fences, shade structures, other site furniture, or any freestanding signs shall be permitted in conjunction with the vending operation;
- (3) Should any site improvements be needed for ongoing vending operations, the Mobile Vehicle Vendor shall be required to apply for appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations;
- (4) The Mobile Vehicle Vendor shall not attach or use any water lines, electrical lines or gas lines during vending operations; and
- (5) Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the Mobile Vending Vehicle is prohibited;
- (6) Mobile Vehicle Vendors shall display, in plain view and at all times, current permits and licenses in or on their Mobile Vending Vehicles;
- (7) All Mobile Vending Vehicles shall be clean and in good repair;
- (8) Mobile Vehicle Vendors shall not discharge items from any Mobile Vending Vehicle onto the sidewalk, gutter, storm inlets or drains, or streets; and

- (9) The width, length, and height of all Mobile Vending Vehicles and devices shall be subject to review as part of consideration of the Mobile Vehicle Vendor License.
- (c) Hours of operation: Mobile Vehicle Vending shall be conducted between the hours of 8:00 a.m. and 7:00 p.m. All Vending operations shall comply with the City's noise ordinance.
- (d) Lighting: The Mobile Vehicle Vendor shall provide adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.
- (e) Obstructions, hazards: No Mobile Vehicle Vendor shall obstruct vehicular traffic, bicycle traffic, sidewalk pedestrian traffic, or accessibility to vehicles parked adjacent to a curb, and shall not create public health or safety hazards.
- (f) Parking: Prior to issuance of the Mobile Vehicle Vendor License, the City shall confirm that an acceptable area for customer parking exists or shall specifically exempt the Mobile Vehicle Vendor from this requirement due to the nature and/or location of the use. If the Vending will occur on private property, the City shall determine that there will be adequate ingress and egress to the site, and that the vending operation will have adequate parking and not utilize parking otherwise required for any business located on the site. Parking for the Mobile Vehicle Vendor shall be specified in compliance with the Mobile Vehicle Vendor License. The vendor shall not indicate exclusive roadway parking or reserve any public parking area for the vendor's customer parking.
- (g) Exceptions: Exceptions to increase length of time for Vending in a single location or daytime hours for special events are to be filed with the Zoning Administrator as part of the business's Temporary Use Permit and considered on an individual basis.
- (h) Other applicable regulations: Each Mobile Vehicle Vendor shall comply at all times with all applicable federal, state, county, City, and other local laws and regulations.

Sec. 16-7.13.070 – Special Regulations for Ice Cream Trucks

- (a) All Ice Cream Trucks must be equipped at all times with signs mounted on both the front and the rear and clearly legible from a distance of 100 feet under daylight conditions, incorporating the words "WARNING" and "CHILDREN CROSSING." Each sign shall be at least 12 inches high by 48 inches wide, with letters of a dark color and at least four inches in height, a one-inch solid border and a sharply contrasting background.
- (b) No person shall vend any item other than prepackaged food from an Ice Cream Truck unless applicable health permits have been obtained.

(c) Ice Cream Trucks shall stop and vend only at the request of a customer. Absent an actual customer, Ice Cream Trucks shall not stop and vend.

Sec 16-7.13.080 – Food Truck Operations

Provided a Mobile Vehicle Vendor License has been obtained in accordance with the provisions of this Article, Food Trucks may operate within the City with an approved Temporary Use Permit, issued pursuant to Article 4 of Chapter 3 of this Title and subject to the restrictions on such temporary uses in Section 16-3.07.050.

Sec 16-7.13.090 - Exemptions

A Mobile Vehicle Vendor License is not required for the following activities:

- (1) The sale of agricultural products on the site where the product is grown;
- (2) Catering for private parties held exclusively on private property and not open to the general public;
- (3) Permitted community events such as, but not limited to, Certified Farmers' Markets, crafts fairs, street fairs, and other special events approved and designated by the City (provided Temporary Special Use Permit is obtained); and
- (4) Delivery activities of any establishment with a fixed place of business, which has a valid City business license for such fixed place of business, and only delivers its products, services, or goods to a specified address in response to a customer request, order, or invoice previously placed through that fixed place of business.

Sec. 16-7.13.100 - Indemnity

As a condition of issuance of a Mobile Vehicle Vendor License, the applicant shall agree to indemnify, hold harmless, and defend the city and its officials, employees, and agents from and against all liability, damage and/or loss arising from the conduct of Mobile Vehicle vending activities by the vendor, its employees, and agents.

Sec. 16-7.13.140 – Violations; Penalties

Any person violating any of the provisions of this Article or knowingly or intentionally misrepresenting to any authorized officer of the City any material fact in procuring the License herein provided for shall be subject to the penalties set forth in Section 16-7.01.160 of Chapter 7.

PLANNING COMMISSION
ATTACHMENT B

Senate Bill 946

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.

(c) “Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location.

(d) “Local authority” means a chartered or general law city, county, or city and county.

51037. (a) A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039.

(b) Nothing in this chapter shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

(c) Nothing in this chapter shall be construed to require a local authority to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the requirements in this chapter.

51038. (a) A local authority may adopt a program to regulate sidewalk vendors in compliance with this section.

(b) A local authority’s sidewalk vending program shall comply with all of the following standards:

(1) A local authority shall 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.

(2) (A) A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

(B) Notwithstanding subparagraph (A), a local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:

(i) Directly related to objective health, safety, or welfare concerns.

(ii) Necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities.

(iii) Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

(3) A local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.

(4) (A) A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.

(B) Notwithstanding subparagraph (A), a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.

(5) A local authority shall not restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the local authority,

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.

(d) 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

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 I 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.

PLANNING COMMISSION ATTACHMENT C

Senate Bill 972

Senate Bill No. 972

CHAPTER 489

An act to amend Sections 113818, 113831, and 113868 of, and to add Chapter 11.7 (commencing with Section 114368) to Part 7 of Division 104 of, the Health and Safety Code, relating to retail food.

[Approved by Governor September 23, 2022. Filed with
Secretary of State September 23, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 972, Gonzalez. California Retail Food Code.

(1) Existing law, the California Retail Food Code (the code), establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities and requires local health agencies to enforce these provisions. Existing law, for purposes of the code, defines a “cottage food operation” as an enterprise that has no more than a specified amount in gross annual sales, is operated by a cottage food operator, and has no more than 1 full-time employee within the registered or permitted area of a private home where the food products are prepared and packaged. Existing law provides for the regulation of microenterprise home kitchen operations and limits those operations to not serving more than 30 individual meals per day and not more than 60 individual meals per week and to no more than \$50,000 in verifiable gross annual sales, as adjusted for inflation. Existing law authorizes the local enforcement agency to decrease the limit on the number of individual meals prepared based on the food preparation capacity of the operation.

This bill would authorize a cottage food operation or microenterprise home kitchen operation to serve as a commissary or mobile support unit for up to 2 compact mobile food operations if the cottage food operation or microenterprise home kitchen operation permit includes an endorsement from the local enforcement agency that the cottage food operation or microenterprise home kitchen operation is capable of supporting the preparation and storage of the food being sold from the compact mobile food operation and the storage and cleaning of the compact mobile food operation. The bill would authorize nonpotentially hazardous foods prepared in a cottage food operation to be served from a compact mobile food operation. The bill would define “compact mobile food operation” as a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance. The bill would require compact food operations to conduct only limited food preparation.

(2) The code defines “limited food preparation” as food preparation that is restricted to specified activities, including dispensing or portioning of

nonpotentially hazardous food, slicing and chopping of food on a heated cooking surface during the cooking process, and holding, portioning, and dispensing foods that are prepared at a satellite food service or catering operation.

This bill would include in the definition of “limited food preparation” dispensing and portioning for immediate service to a customer of food that has been temperature controlled until immediately prior to portioning or dispensing, slicing and chopping of nonpotentially hazardous food or produce that has been washed at an approved facility, hot and cold holding of food previously prepared at an approved permanent food facility, and reheating of food that has been previously prepared at an approved permanent food facility and held at the approved temperatures.

(3) The code defines “mobile food facility” and regulates what types of food may be provided at a mobile food facility. The code requires mobile food facilities to meet specified health and safety standards, including access to warewashing sinks, restrooms, and handwashing facilities and required quantities of potable water.

This bill would require a compact mobile food operation to meet the applicable requirements of mobile food facilities, except as specified. The bill would exempt a compact mobile food operation that has 25 square feet or less of display area and sells only prepackaged, nonpotentially hazardous foods or whole uncooked produce from the code, except as specified. The bill would authorize a compact mobile food operation to display or sell food outdoors, if certain conditions are met, including, among other things, overhead protection provided above all food display areas. The bill would require a compact mobile food operation that engages in the preparation of raw meat, raw poultry, or raw fish to meet additional specified requirements. The bill would authorize the enforcement agency to preapprove a standard plan for a standardized or mass-produced facility intended to serve as a compact mobile food operation and would authorize a compact mobile food operation to use that standardized or mass-produced facility after a final inspection, but without submitting plans for the individual unit. The bill would authorize the enforcement agency to collect a fee for the final inspection.

(4) Existing law requires commissaries and other approved facilities servicing mobile support units, mobile food facilities, and vending machines to meet specified standards.

This bill would authorize an enforcement agency to approve a facility with nonconforming structural conditions if those conditions do not pose a public health hazard. The bill would also require an enforcement agency to approve the storage of a compact mobile food facility in a permitted permanent food facility if, after initial inspection, the agency determines that the compact mobile food facility is protected from contamination. The bill would authorize the enforcement agency to charge a fee to administer these provisions.

(5) The code requires a food facility to have a valid permit to be open for business and authorizes the local enforcement agency to charge a fee for the permit or registration or related services.

This bill would authorize the local enforcement agency to reduce the fee for the permit, registration, or related service for an applicant seeking approval of a compact mobile food operation or related operations.

(6) Under existing law, violation of the code is a misdemeanor, unless otherwise specified.

This bill would make violations of the code by an operator or employee of a compact mobile food facility or a sidewalk vendor punishable only by an administrative fine. Additionally, by making changes to the definition of various crimes and by adding new crimes under the code, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 113818 of the Health and Safety Code is amended to read:

113818. (a) "Limited food preparation" means food preparation that is restricted to one or more of the following:

(1) Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.

(2) Dispensing and portioning of nonpotentially hazardous food or dispensing and portioning for immediate service to a customer of food that has been temperature controlled until immediately prior to portioning or dispensing.

(3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4) Holding, portioning, and dispensing of any foods that are prepared by a catering operation.

(5) Slicing and chopping of nonpotentially hazardous food or produce that has been washed at an approved facility or slicing and chopping of food on a heated cooking surface during the cooking process.

(6) Cooking and seasoning to order.

(7) Juicing or preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(8) Hot and cold holding of food that has been prepared at an approved permanent food facility.

(9) Reheating of food that has been previously prepared at an approved permanent food facility and held at temperatures required by this chapter.

(b) “Limited food preparation” does not include any of the following:

(1) Slicing and chopping potentially hazardous food, other than produce, unless it is on the heated cooking surface.

(2) Thawing.

(3) Cooling of cooked, potentially hazardous food.

(4) Grinding raw ingredients or potentially hazardous food.

(5) Washing of foods.

(6) Cooking of potentially hazardous foods for later use.

(7) Handling, manufacturing, freezing, processing, or packaging of milk, milk products, or products resembling milk products subject to licensing under Division 15 (commencing with Section 32501) of the Food and Agricultural Code.

SEC. 2. Section 113831 of the Health and Safety Code is amended to read:

113831. (a) “Mobile food facility” means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. “Mobile food facility” does not include a “transporter” used to transport packaged food from a food facility, or other approved source to the consumer.

(b) “Single operating site mobile food facilities” means at least one, but not more than four, unenclosed mobile food facilities, and their auxiliary units, that operate adjacent to each other at a single location.

(c) “Compact mobile food operation” means a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

SEC. 3. Section 113868 of the Health and Safety Code is amended to read:

113868. “Portable” means equipment that is capable of being lifted and moved or has utility connections that are designed to be disconnected or of sufficient length to permit the unit to be moved for cleaning, and does not exceed 100 pounds (46 kg) in weight or is otherwise designed to be mobile.

SEC. 4. Chapter 11.7 (commencing with Section 114368) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.7. COMPACT MOBILE FOOD OPERATION

114368. A compact mobile food operation, as defined in subdivision (c) of Section 113831, shall meet the applicable requirements of Chapter 10 (commencing with Section 114294), except as provided in this chapter.

114368.1. (a) Any compact mobile food operation with 25 square feet or less of display area from which only prepackaged nonpotentially hazardous food and whole uncooked produce is sold is exempt from the requirements of this part, except that the facility shall comply with all of the following:

(1) Sections 113980, 114047, 114049, 114390, 114393, 114397, and 114399.

(2) Chapter 1 (commencing with Section 113700).

(3) Chapter 2 (commencing with Section 113728).

(b) (1) A local enforcement agency may inspect a compact mobile food operation that is exempt, as specified in subdivision (a), during the facility's hours of operation and other reasonable times on the basis of a consumer complaint or just cause.

(2) For the purposes of determining compliance with this chapter, a compact mobile food operation that is not exempt as specified in subdivision (a) is subject to permitting and routine inspections or inspections on the basis of a consumer complaint or just cause.

(c) The local enforcement agency may recover the costs of investigation and enforcement of this section, subject to any limitations in this part on fines issuable to compact mobile food operations.

114368.2. (a) Compact mobile food operations shall conduct only limited food preparation, as defined in Section 113818. Notwithstanding any other provision of this part, a compact mobile food operation, as defined in subdivision (c) of Section 113831, may display or sell food outdoors, if all of the following conditions are satisfied:

(1) Overhead protection are provided above all food display areas.

(2) Food items from the outdoor display are stored consistent with this chapter at all times other than during business hours.

(3) Outdoor displays comply with Section 113980 and have been approved by the enforcement agency if the compact mobile food operation is required to obtain a permit.

(b) A compact mobile food operation shall not sell food other than nonpotentially hazardous prepackaged food or whole produce, or conduct any food preparation, unless it meets the applicable operational requirements of this chapter, including applicable requirements for integral equipment, handwashing, and restroom access.

(c) Equipment that is required to be integral to a compact mobile food operation shall either be permanently attached to the primary unit or securely fastened to the primary unit by means that would prevent unintentional removal. Equipment may be considered integral despite being portable or otherwise removable for cleaning, maintenance, or as part of its regular function.

(d) A compact mobile food operation operating from an individual shall not conduct any food preparation or sell foods other than nonpotentially hazardous prepackaged food or whole produce.

114368.3 (a) (1) A permitted cottage food operation or microenterprise home kitchen operation may serve as a commissary or mobile support unit for up to two compact mobile food operations if the cottage food operation or microenterprise home kitchen operation permit includes an endorsement from the local enforcement agency that the cottage food operation or microenterprise home kitchen operation is capable of supporting the preparation and storage of the food being sold from the compact mobile

food operation and the storage and cleaning of the compact mobile food operation.

(2) Transactions at a compact mobile food operation operated by a cottage food operator shall constitute “direct sales” for the purposes of paragraph (4) of subdivision (b) of Section 113758.

(3) Transactions at up to two compact mobile food operations operated by a cottage food operator shall not count toward the annual gross sales restrictions in Section 113758 applicable to cottage food operations if the governing body has authorized this action.

(4) Nonpotentially hazardous foods prepared in a cottage food operation may be served from a compact mobile food operation.

(5) Food prepared in a microenterprise home kitchen operation may be served from a compact mobile food operation operated by the microenterprise home kitchen operation permitholder.

(6) The meal and gross annual sales limitations in paragraphs (7) and (8) of subdivision (a) of Section 113825 do not apply to the sale of nonpotentially hazardous food or produce for up to two compact mobile food operations operated by the microenterprise home kitchen operation if the governing body has authorized this action.

(7) With the authorization of the governing body and if the enforcement agency determines that the operation does not pose a public health hazard, a permitted microenterprise home kitchen operation may serve as a commissary for up to two compact mobile food operations. The meal and gross annual sales limitations in paragraphs (7) and (8) of subdivision (a) of Section 113825 apply unless the governing body sets a higher meal and income limitation.

(8) The governing body of a local jurisdiction that permits microenterprise home kitchen operations pursuant to Section 114367, may set the meal and income limitations in paragraphs (7) and (8) of subdivision (a) of Section 113825 at a higher level than provided in those paragraphs for microenterprise home kitchen operations that operate in conjunction with a compact mobile food operation. Notwithstanding this subdivision, the levels in effect, by statute or ordinance, as of January 1, 2023, shall remain in effect until changed by the local jurisdiction.

(b) (1) Existing permanent food facilities may be permitted to support the operations and storage of compact mobile food operations pursuant to the requirements of this section.

(2) Notwithstanding any other provision of this part, upon an evaluation verifying that a permanent food facility satisfies subdivisions (a) to (f), inclusive, of Section 114326, an enforcement agency shall approve the use of a permitted permanent food facility to satisfy the requirements of Section 114295 for a compact mobile food operation.

(3) Notwithstanding any other provision of this part, upon an evaluation verifying that the compact mobile food operation will be stored in a manner that protects the compact mobile food operation from contamination, an enforcement agency shall approve the storage of a compact mobile food operation in a permitted permanent food facility.

(4) Except when a determination is made by the enforcement agency that any nonconforming structural conditions pose a public health hazard, the enforcement agency may approve a facility to support operations of a compact mobile food operation.

(5) Plan submission shall not be required for an existing permanent food facility to support the operations of a compact mobile food operation when a determination is made by the local enforcement agency that the current operation and structural facilities of the permanent food facility can successfully provide the necessary functions of a commissary for a compact mobile food operation.

(6) An approved permanent food facility that will be used for cooling of food for a compact mobile food operation shall be approved by the enforcement agency for cooling.

(c) (1) Unless prohibited by local ordinance, an enforcement agency may allow the use of a private home for the storage of a compact mobile food operation if it determines, after an evaluation, that storage in the private home would not pose a public health hazard and that the compact mobile food operation will be stored in a manner that protects the compact mobile food operation from contamination.

(2) No more than two compact mobile food operations may be stored in a private home unless the enforcement agency finds that storage of more than two compact mobile food operations in a private home would not pose a public health hazard.

(3) The storage area within the home shall be designated and clearly identified upon approval and shall not be relocated without the review and approval of the local enforcement agency.

(4) Prepackaged nonpotentially hazardous food, whole fruits, and whole vegetables may be stored in the home prior to sale or preparation of that food in a compact mobile food operation.

(5) Food prepared in a private home shall not be used or offered for sale on a compact mobile food operation, unless it is a permitted cottage food operation or microenterprise home kitchen operation pursuant to subdivision

(a). Violation of this paragraph may result in suspension or revocation of the permit to operate the compact mobile food operation.

(6) For purposes of determining compliance with this subdivision, a local enforcement agency may access, for inspection purposes, a private home where a compact mobile food operation is stored only if the representative has, on the basis of a consumer complaint, reason to suspect that the home is being used for food preparation, food storage, or unauthorized storage of utensils or other food facility equipment in violation of this subdivision.

(d) At the end of the operating day, potentially hazardous food that is prepared on or served from a compact mobile food operation shall be destroyed in a manner approved by the enforcement agency.

(e) For the purposes of this chapter, an endorsement by the local enforcement agency shall be a documented and recorded approval of compliance with applicable sections. An endorsement may include an inspection or evaluation, but shall not require a registration or permit.

(f) The enforcement agency may collect a fee for any permit, endorsement, inspection, or evaluation issued or conducted pursuant to this chapter in an amount that does not exceed the reasonable administrative costs of the enforcement agency.

114368.4. (a) Except as provided in subdivision (b), a compact mobile food operation that is approved for limited food preparation that prepares raw meat, raw poultry, or raw fish is subject to warewashing and handwashing facility requirements as outlined in Chapter 10 (commencing with Section 114294).

(b) (1) A compact mobile food operation may satisfy the requirements of Sections 114313 and 114314 by demonstrating access to a permitted auxiliary conveyance containing the necessary handwashing and warewashing sinks when operating at a site-specific location. The auxiliary conveyance may be operated by the same or a different permitholder. An enforcement agency may permit an auxiliary conveyance to serve multiple compact mobile food operations operating in close proximity to the auxiliary conveyance, as determined by the enforcement agency.

(2) If an auxiliary conveyance is not operated by the permitholder of the compact mobile food operation, the operator of the auxiliary conveyance shall obtain a permit from the enforcement agency to operate the auxiliary conveyance and service compact mobile food operations.

(3) The permit application for an auxiliary conveyance not operated by a compact mobile food operation shall include a site plan and shall be submitted to the enforcement agency at least two weeks prior to the operation of any food facility in conjunction with the auxiliary conveyance.

(4) The site plan for an auxiliary conveyance not operated by a compact mobile food operator shall show the proposed location and storage of the auxiliary conveyance, the proposed locations of any food facilities that will utilize the auxiliary conveyance, restrooms, refuse containers, potable water supply faucets, waste water disposal facilities, and all shared warewashing and handwashing facilities.

(c) A compact mobile food operation that is approved for limited food preparation that does not prepare raw meat, raw poultry, or raw fish shall do one of the following:

(1) Provide a three-compartment sink as described in subdivision (a) of Section 114313.

(2) Provide at least one two-compartment sink that complies with subdivision (e) of Section 114099.3.

(3) Provide a one-compartment sink with at least one integral metal drainboard, an adequate supply of spare preparation and serving utensils to replace those that become soiled or contaminated, and warewashing facilities that comply with subdivision (a) of Section 114313 in reasonable proximity to, and readily accessible for use by, food employees at all times.

(4) Maintain an adequate supply of spare preparation and serving utensils on the compact mobile food operation to ensure that utensils used for potentially hazardous foods are replaced with clean and sanitized utensils every four hours or as needed to replace those that become soiled or

contaminated. A compact mobile food operation that complies with this paragraph is not required to provide a warewashing sink.

(d) A compact mobile food operation that is approved for limited food preparation that does not prepare raw meat, raw poultry, or raw fish shall provide an integral handwashing sink with at least five gallons of potable water to operate with a potable water tank with a capacity of at least five gallons for handwashing.

(e) An enforcement agency may permit a compact mobile food operation to operate with an integral water tank smaller than specified under subdivision (c) or (d) of Section 114217 if the enforcement agency finds that the compact mobile food operation is operating in an area and manner that would allow for replenishment of the water supply as needed during operations.

(f) A compact mobile food operation shall submit, to the enforcement agency, written operating procedures that include the process of filling potable water tanks if it will operate with a water tank with a capacity of less than five gallons specified in subdivisions (c) and (d) of Section 114217.

(g) A compact mobile food operation that does not prepare raw meat, raw poultry, or raw fish is exempt from any provision of this part requiring it be equipped with a water heater or otherwise be supplied with warm water.

114368.5. (a) Upon receipt of complete, easily readable plans drawn to scale, and specifications satisfactory to the enforcement agency, an enforcement agency may preapprove a standard plan for a standardized or mass-produced individual unit intended to serve as a compact mobile food operation.

(b) A person proposing to operate a compact mobile food operation who has acquired an individual unit for which the construction of the compact mobile food operation has been built to approved plans shall not be required to submit plans for the individual unit, but instead shall be subject to a final inspection of the compact mobile food operation to ensure that the individual unit and proposed method of operation conform to the standard plans preapproved pursuant to subdivision (a). The permit application for a compact mobile food operation utilizing a preapproved individual unit shall include a certification that the applicant has not substantially altered the individual units from the plans preapproved pursuant to subdivision (a). The enforcement agency may collect a fee in the final inspection in an amount that does not exceed the reasonable administrative costs to the enforcement agency.

(c) The repair of equipment or integral fixtures on a compact mobile food operation or the replacement of equipment and fixtures on a compact mobile food operation with substantially similar equipment or fixtures is not a remodel, and the repair or replacement of equipment or fixtures does not require the submission of plans to an enforcement agency.

(d) A local governing body may waive or reduce a fee for the permit, registration, or related services for an applicant seeking approval of a compact mobile food operation or related operations.

(e) All new and replacement food-related and utensil-related equipment for a compact mobile food operation shall be certified or classified for sanitation by an American National Standards Institute accredited certification program, or a certification program accredited by another accreditation body recognized by the enforcement agency as providing substantially similar food safety and operational standards. In the absence of an applicable certified sanitation standard, food-related and utensil-related equipment shall be evaluated for approval by the enforcement agency.

(f) All new and replacement electrical appliances for a compact mobile food operation shall meet applicable Underwriters Laboratories standards for electrical equipment as determined by an American National Standards Institute accredited certification program or a certification program accredited by another accreditation body recognized by the enforcement agency as providing substantially similar food safety and operational standards.

114368.6. A compact mobile food operation is exempt from Section 113947.1 if the operator and any individual who is involved in the preparation, storage, or service of food for the compact mobile food operation has obtained a food handler card that meets the requirements of Section 113948.

114368.7. A compact mobile food operation is exempt from the requirements of Section 114315 if the compact mobile food operation operates with multiple employees or operators and the compact mobile food operation may remain operable by a single individual so that employees or operators may alternate use of a restroom.

114368.8. (a) Notwithstanding subdivision (a) of Section 114395, a violation of this part by an operator or employee of a compact mobile food operation is punishable only by an administrative fine.

(b) A violation of any provision of this part or regulation adopted pursuant to this part by an operator or employee of a compact mobile food operation or a sidewalk vendor shall not be punishable as an infraction or misdemeanor, and an operator or employee of a compact mobile food operation or a sidewalk vendor alleged to have violated any of those provisions is not subject to arrest except when independent grounds for that arrest exist under law.

(c) Except as provided in paragraph (d), each offense by an operator or employee of a compact mobile food operation or a sidewalk vendor may only be punished by a fine consistent with the following:

(1) A notice of violation detailing the violation, including the applicable provision of this part or regulation adopted pursuant to this part.

(2) An administrative fine not exceeding one hundred dollars (\$100) for a second violation within one year of the first violation.

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

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

(d) If a compact mobile food operation is required to obtain a permit from the enforcement agency, operating without a permit may be punishable by a fine not to exceed three times the cost of the permit in lieu of the administrative fines referenced in subdivision (c). An enforcement agency shall not issue any fines in excess of the amounts allowable pursuant to subdivision (c) prior to January 1, 2024.

(e) (1) When assessing an administrative fine for a first-time offense, pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The enforcement agency shall provide the person with notice of their 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 of the Government Code, the enforcement agency shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to this section.

(3) The enforcement agency may waive the administrative fine or may offer an alternative disposition.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

PLANNING COMMISSION

ATTACHMENT D

Compliant Sidewalk Vendor Locations

Acceptable Stationary Vendor Locations

- Located near commercial locations
- Located near areas of interest
- Available vehicle parking mitigates traffic congestion
- Larger sidewalk mitigates ADA and pedestrian access issues
- Applicants may request assessment of other locations not listed in the provided list

PERMIT	STREET	FROM	TO	COMMENTS
Y	Outer Seventh Street	La Paz Drive	Valley Center Drive	Northwest side
Y	Cantina Drive	Palmdale Road	Approx. 1,000 feet north of Palmdale Road	West side of Cantina Drive
Y	Topaz Road		Eucalyptus Street	Approx. 600 feet north of Eucalyptus Street
Y	Eucalyptus Street	Topaz Road	Approx. 500 feet west of Topaz Road	Some "R" zones but adjacent to park
Y	Monarch Blvd	Cottonwood Avenue	Mariposa Road	West side
Y	Forrest Avenue	Seventh Street	8 th Street	NE side where there is 10 feet wide sidewalk
Y	Plaza Drive	Seventh Street	La Paz Drive	South side
Y	St Andrews Drive	Green Tree Blvd.	Lorene Drive	Only where there is 10 feet wide sidewalk
Y	Fifth Avenue	Bear Valley Road	Approx. 550 feet north of Bear Valley Road	West side of Fifth Avenue
Y	Yates Road	Green Tree Blvd	Approx. 450 feet west of Green Tree Blvd	North side of Yates Road
Y	Lorene Drive	Seventh Street	Valley Center Drive	Both sides

Item# 4 Presentation

SIDEWALK VENDORS

*Laws, Licensing,
and Regulation*

Presented By:
Kevin Spaulding – Deputy City Attorney
Jorge Duran – Code Enforcement Official
Fredy Bonilla – City Engineer





California

Sidewalk Vending Laws

Under the Safe Sidewalk Vending Act, local governments in California may only restrict the location of street vending for public health & safety reasons or temporary events like filmmaking or farmers' markets.

SB 946

California's first step to decriminalize sidewalk vending within the State. Among other things, SB 946 prohibits local agencies from:

- ▶ Prohibiting sidewalk vendors from operating within specific designated areas;
- ▶ Requiring sidewalk vendors to seek permission from businesses to vend in the *public right-of-way*;
- ▶ Prohibiting sidewalk vending in public parks, with exceptions for those with concession agreements;
- ▶ Restricting the number of sidewalk vendors; and
- ▶ The local agency may regulate sidewalk vending only when necessary to protect "objective health, safety, and welfare concerns."





California

Sidewalk Vending Laws

SB 972

Modifies the California Retail Food Code (“CRFC”) to allow for limited food preparation to compact mobile food operations.

- ▶ Further decriminalizes sidewalk vending throughout the State.
- ▶ Numerous agencies began to seek criminal enforcement against sidewalk vendors using the (“CRFC”) following enactment of SB 946.
- ▶ Added a Chapter to the CRFC for Compact Mobile Food Operations and exempted them from numerous provisions of the CRFC.
- ▶ Specifically, SB 972 made clear that criminal enforcement against these vendors is prohibited and set maximum penalties for administrative citations only.



Acceptable Stationary Vendor Locations

- Located near commercial locations
- Located near areas of interest
- Available vehicle parking mitigates traffic congestion
- Larger sidewalk mitigates ADA and pedestrian access issues
- Applicants may request assessment of other locations not listed in the provided list

PERMIT	STREET	FROM	TO	COMMENTS
Y	Outer Seventh Street	Lorene Dr	Valley Center Drive	West side
Y	Cantina Drive	Palmdale Road	Approx. 1,000 feet north of Palmdale Road	West side of Cantina Drive
Y	Topaz Road		Eucalyptus Street	Approx. 600 feet north of Eucalyptus Street
Y	Eucalyptus Street	Topaz Road	Approx. 500 feet west of Topaz Road	Some "R" zones but adjacent to park
Y	Monarch Blvd	Cottonwood Avenue	Mariposa Road	Both North and South Sides
Y	Forrest Avenue	Seventh Street	8 th Street	NE side where there is 10 feet wide sidewalk
Y	Plaza Drive	Seventh Street	La Paz Drive	South side
Y	St Andrews Drive	Green Tree Blvd.	Lorene Drive	Only where there is 10 feet wide sidewalk
Y	Fifth Avenue	Bear Valley Road	Approx. 550 feet north of Bear Valley Road	West side of Fifth Avenue
Y	Yates Road	Green Tree Blvd	Approx. 450 feet west of Green Tree Blvd	North side of Yates Road
Y	Lorene Drive	Seventh Street	Valley Center Drive	Both sides

Licensing Process: Stationary Sidewalk Vendors

Site Selection, Assessment,
and Guidelines

Stationary Vendor Guidelines

Engineering Department will look at the objective safety of the site such as:

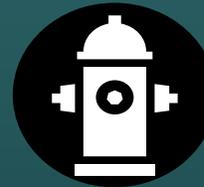


- Roadway must have sidewalk (ADA).
- Vendor clearance of 50 feet from a driveway for motorist safety.
- Not within 500 ft of schools, between 8:00am and 10:00pm, for motorist and student safety.



Sight Distance is a major factor with site selection considering safety to motorists:

- No operation within 150 ft of intersection due to sight distance.



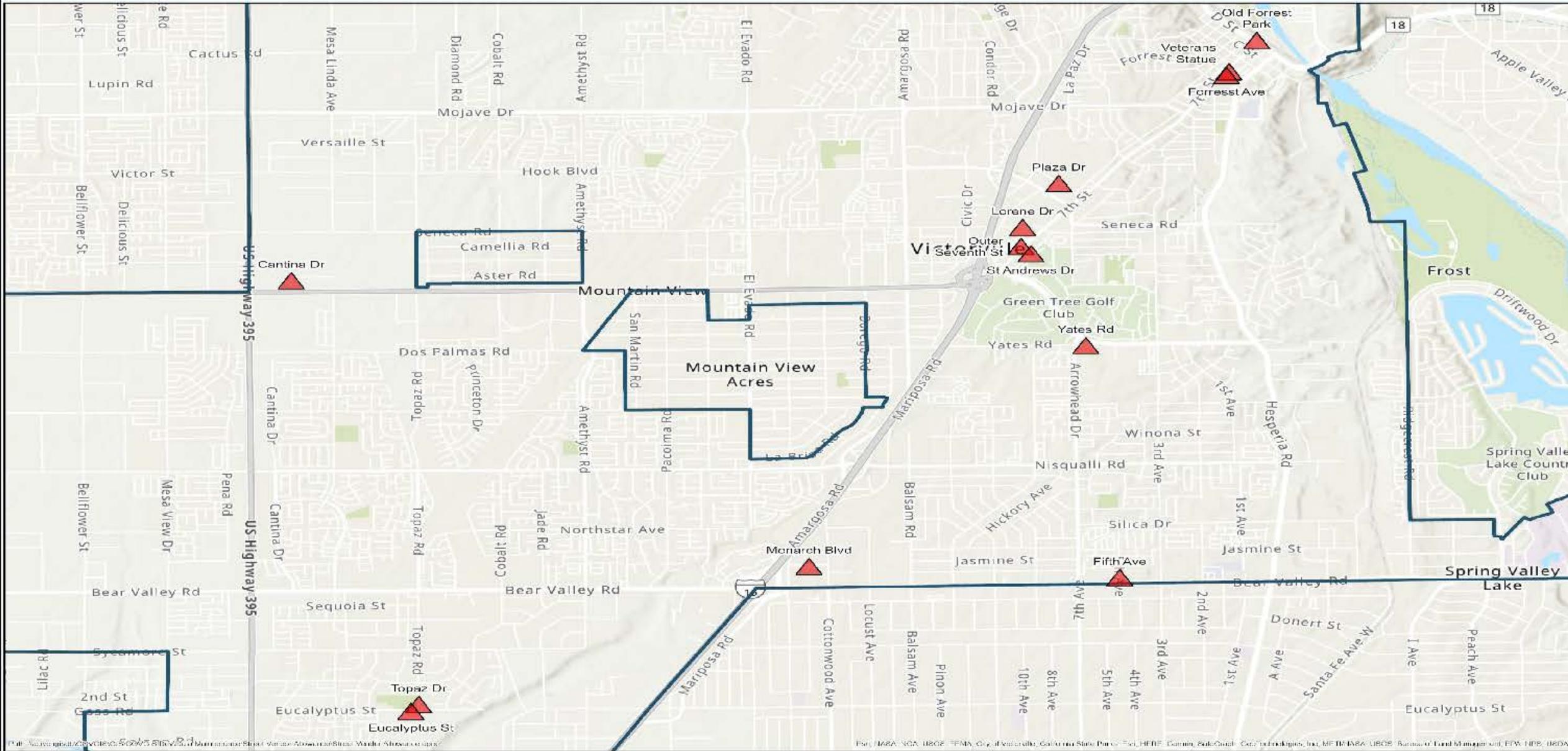
Fire hydrant access and ADA accessibility is another factor:

- Maintaining 4' clear space on sidewalk.



Availability of street parking is required to not obstruct through traffic lanes by patrons seeking service from street vendors.

VENDING ALLOWED



Unacceptable Stationary Vendor Locations

- Lack sufficient access for pedestrians
- Create traffic gridlock, congestion and road hazards
- Driveways, street signs or other features create patron/vendor access issues
- Located on street corners

PERMIT	STREET	FROM	TO	COMMENTS
N	Outer Bear Valley	Seventh Avenue	West of Cypress Avenue	Not feasible. There is insufficient paved width to park and accommodate 2-way traffic.
N	Cantina Drive	Bear Valley Road	Luna Road	Not feasible. Sidewalk is 5.5 feet wide and has insufficient width. Area behind sidewalk is LMAD and not available.
N	Center Street	Seventh Street	Zenda Street	Not feasible. Sidewalk is 5 feet wide and has insufficient width.
N	Cottonwood Avenue	Bear Valley Road	Mariposa Road	Not feasible. Insufficient width to park adjacent to curb.
N	Jasmine Street	Industrial Blvd	Second Avenue	Not feasible. Insufficient width to park adjacent to curb.
N	Second Avenue	Bear Valley Road	Jasmine Street	Not feasible. Insufficient width to park adjacent to curb.
N	Mall Blvd	Bear Valley Road	Mall Entrance	Not feasible. Insufficient width to park adjacent to curb.
N	Yates Road	Mariposa Road	Arrowhead Drive	Not feasible. Insufficient width to park adjacent to curb. Only a short segment east of Mariposa Road has sufficient width but there are 3 driveways to a storage facility.

Licensing: Sidewalk Vendor Requirements



BUSINESS LICENSE ONLINE APPLICATION: Apply through the City's Citizen's Self Service Portal selecting the *"Solicitors/Peddlers/Vendors/Ice Cream Truck Business License (In-City)"* application.

STATIONARY VENDOR LOCATION: Business Licenses will be issued to the street pre-evaluated locations. A new location will require evaluation and approval by the City Engineering Department/Business License Division.

VENDOR LIST (CITY FORM): List the name(s) of all vendors employed by the business.

LIVE SCAN: Required for all vendors (Completed by the Victorville Police Department).

VENDOR DISPLAY SITE PLAN: Dimensions of the vendor setup (carts, tables, etc.).

BUSINESS INSURANCE: Insurance naming the City of Victorville as additionally insured.

Licensing: Additional Sidewalk Vendor Requirements (if applicable)



FICTITIOUS BUSINESS NAME STATEMENT (FBN) / CORPORATE STATUS: If the business name does not include the business owners' surname, a FBN is required.

SELLER'S PERMIT: If selling tangible property, a copy of the Seller's Permit is required.

HEALTH PERMIT: If handling of food, a copy of the Health Permit is required.

VEHICLE LIST (CITY FORM): If a vehicle is used to conduct business, a list of the vehicles being use is required and will be linked to the business license.

VEHICLE REGISTRATION / INSURANCE: If a vehicle is required to conduct business, a copy of the vehicle registration and insurance for each listed vehicle is required.



Regulation of Stationary Sidewalk Vendors



- Operating at approved licensed location; no residential areas.
- Vending coverage area.
- Presentation - Limits to signs, noise, trash containment.
- Pedestrian access.
- Operate adjacent to a Certified Farmers Market.



- Street vending times.
- Park vending; prohibited where permitted park concession operates.
- Operate during a special event sponsored by the City.



- Sales of prohibited/restricted items such as cannabis, adult-oriented material, alcohol, and/or tobacco products.
- Unpermitted sales of merchandise requiring additional approval by a County, State, or Federal agencies.



- \$100 for the 1st violation.
- \$200 for the 2nd violation.
- \$500 for each addition violation.
- Rescission of a Sidewalk Vendor License after the 4th violation.

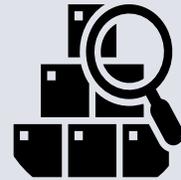
Regulation of Roaming Sidewalk Vendors



- **Must remain in motion.**
- **Vending only when solicited by patrons.**
- **Limitations to vending near schools.**
- **May not vend within vehicular traffic.**



- **Vending allowed only by authorized persons.**
- **No unauthorized riders in mobile vehicle vendors businesses.**
- **Operate during a special event sponsored by the City**
- **General liability insurance required.**



- **Sales of prohibited/restricted items such as cannabis, adult-oriented material, alcohol, and/or tobacco products.**
- **Unpermitted sales of merchandise requiring additional approval by a County, State, or Federal agencies.**



- **\$100 for the first violation.**
- **\$200 for the second violation.**
- **\$500 for each addition violation.**
- **Rescission of a Sidewalk Vendor License after the fourth violation.**

SIDEWALK VENDORS



Questions?

