

URGENCY ORDINANCE NO. 4351

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, PURSUANT TO SECTION 510 OF THE CITY CHARTER, AMENDING POMONA CITY CODE CHAPTER 30 (LICENSES, PERMITS AND MISCELLANEOUS REGULATIONS), ARTICLE X (SIDEWALK VENDING) AND CREATING NEW REGULATIONS FOR SIDEWALK VENDING OPERATIONS**

**WHEREAS**, sidewalk vending, because it has a relatively low barrier to entry, encourages entrepreneurship, providing economic opportunity for people to support themselves and their families, reflecting the values of the City;

**WHEREAS**, sidewalk vending has the potential to foster active and social communities; however, vending from sidewalks can also create dangers to public health, safety, and welfare if not adequately regulated;

**WHEREAS**, regulation of sidewalk vending is necessary to provide some consumer protection, especially with respect to compliance with public health standards, and coordinate the multiple uses of the public right-of-way;

**WHEREAS**, the standards imposed on stationary sidewalk vendors requiring a minimum unobstructed path of accessible travel are necessary to assure wheelchair access to the sidewalks and to comply with the Americans with Disabilities Act as well as maintain minimum safe access along public sidewalks for all;

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

**WHEREAS**, ensuring the free flow of pedestrian traffic is particularly important to the safety of the elderly, the very young, individuals with disabilities, and others who are less able to navigate through crowds and around obstacles or hazards and who are particularly endangered by having to navigate off and onto curbs when sidewalks or pedestrian paths are blocked;

**WHEREAS**, standards for maintaining access to building entrances, and not blocking driveways, bus stops, fire hydrants, parking areas and building storefront access and windows are necessary to guard the health and safety of patrons, drivers, vendors and existing business owners and promote fire suppression and law enforcement practices that allow the City's safety personnel to observe activities within buildings and maintain access;

**WHEREAS**, vending on public sidewalks and roadways creates the potential for safety hazards, such as inhibiting the ability of individuals with disabilities and other pedestrians to follow a safe path of travel; public exposure to fire hazards such as open outdoor flames; interfering

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with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food and merchandise; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

**WHEREAS**, restricting vending in the Mixed Use-Central Business District (MU-CBD) of the Downtown Specific Plan, is necessary to protect the public safety given the high pedestrian traffic district, the relatively narrow width of the sidewalks, and large crowds drawn to the nightclubs and events;

**WHEREAS**, restricting vending near the Fairplex during the Los Angeles County Fair is necessary because the County Fair annually attracts over a million visitors to the City, and, given its scale, results in increased motor traffic and adverse impact to the residential communities surrounding the Fairplex, which would be aggravated by sidewalk vending;

**WHEREAS**, restricting vending near school grounds when school is open for student instruction is necessary to protect the safety of children traveling to and from campus and to avoid disrupting classroom instruction and school activities;

**WHEREAS**, restricting sidewalk vending in areas zoned exclusively residential and restricting vendors' use of sound amplifying equipment is necessary to protect residents and visitors from excessive noise and traffic impacts;

**WHEREAS**, restricting sidewalk vending in public parks is necessary to ensure the public's use and enjoyment of recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of the parks;

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

**WHEREAS**, regulations of sidewalk vendors are needed to prevent hazardous or unsanitary conditions and to ensure compliance with NPDES/FOG that trash and debris are appropriately removed by sidewalk vendors so that such trash and debris do not become a pollutant by being left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, storm drains, or upon public or private lots;

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

**WHEREAS**, the City has an important and substantial public interest in providing regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community;

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**WHEREAS**, in accordance with SB 946, enforcement of violations under this Ordinance will be conducted through the issuance of administrative fines with escalating fines for repeated violations and permit revocation, as opposed to criminal remedies;

**WHEREAS**, on October 14, 2022 at 7:42 p.m. a driver making an unsafe turn collided with the curb line and proceeded to drive on the sidewalk injuring approximately 12 people, including one fatality, each person was waiting to purchase food or pick up their order from a sidewalk food vendor;

**WHEREAS**, Section 510 of the City Charter of the City of Pomona, provides for the immediate effect of an urgency ordinance when the Council, by a five-sevenths ( 5/7 ) vote of those present, deems the ordinance to be necessary for the immediate preservation of the public peace, health or safety based upon a declaration of facts constituting the urgency; and

**WHEREAS**, in light of the foregoing recitals, the City Council finds that the immediate regulation of sidewalk vending benefits the City as a whole as it leads to orderly commerce; and it is also necessary to protect public health, safety, and welfare, while accommodating legitimate commercial uses that generally promote an active and social pedestrian environment within appropriate areas with compatible land uses of the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Pomona as follows:

**SECTION 1.** The recitals above are true and correct and are hereby incorporated herein by this reference.

**SECTION 2. Urgency Findings.** In accordance with Section 510 of the City Charter of the City of Pomona, and in order to protect the public health, safety and welfare, the City Council of the City of Pomona find as follows:

A. The Council adopts this Urgency Ordinance to become effective immediately upon adoption pursuant to Pomona City Charter Section 510 and to remain in effect until rescinded to provide City enforcement officials with a means to protect the public health, safety and welfare by adopting regulations by creating a regulatory mechanism to assure that sidewalk vending does not pose a risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation and disposal, risks to children, and consumer protection.

B. In addition, the City wishes to have these new regulations in place immediately to ensure the health, safety and welfare of the public during the upcoming holiday season which causes increased amounts of traffic, affecting the safety of pedestrians and motorists, due to a high concentration of visitors during the holiday season.

C. Finally, the City Council finds that this this Urgency Ordinance is reasonable in order to preserve the public peace, health and safety of its residents.

**SECTION 3.** That the Pomona City Code, Article X, Sidewalk Vending, of Chapter 30, Licenses, Permits and Miscellaneous Regulations is hereby amended in its entirety to read as follows:

ARTICLE X. – SIDEWALK VENDING

**SEC. 30-671. - Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Citation* means an Administrative Citation issued pursuant to Section 2.1184 of Article X, Code Enforcement of this Code, unless otherwise specified.

*City* means the City of Pomona.

*City Manager* means the City Manager or designee.

*Conveyance* means any non-motorized device, wheeled or non-wheeled, used to carry persons or property and includes pushcarts, pedal-driven carts, stands, displays, showcases, racks, and wagons.

*County* means the County of Los Angeles.

*Department* means the Business Department of the City of Pomona.

*Food* means any type of edible substance or beverage.

*Goods or Merchandise* (Merchandise) means any item that is not food or is subject to a permit pursuant to the Pomona Zoning and Development Code.

*High-traffic Sidewalk* means sidewalks within the Mixed Use-Central Business District (MU-CBD) of the Downtown Specific Plan (bounded by W. First Street to the north, S. Gibbs Street to the east, W. Fourth Street to the south, and S. Parcels Street to the west).

*Pedestrian path or Walkway* means any paved path or walkway owned or controlled by the City and intended specifically for pedestrian travel.

*Public Park* means any property designated, dedicated or developed by or on behalf of the City of Pomona for park or open space use, including sidewalks and paths within the park or immediately adjacent to the park perimeter.

*Roaming Sidewalk Vendor or Vending* means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

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*Rules and Regulations* means detailed requirements concerning the Sidewalk Vending Program meant to clarify and aid in the administration and enforcement of this section.

*Sidewalk* means that portion of the street between the curb line and the adjacent property line, a public sidewalk or paved pedestrian path specifically designed for pedestrian travel or any surface in the public right-of-way provided for the exclusive use of pedestrians.

*Sidewalk Vendor or Vending* means a person who sells or offers for sale food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

*Sidewalk Vending Program* means the Sidewalk Vending Program that regulates the City's allocation of Licenses and Permits for the sale of Food or Merchandise.

*Stationary Vendor or Vending* means a sidewalk vendor who vends from a fixed location as specified in the Rules and Regulations and is not mobile, except when being pushed, carried, or transported to and from a space on the Sidewalk.

*Temporary event permit* means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public or private area, including, but not limited to, an encroachment permit, special event permit, or a permit for gatherings in public parks issued for purposes including, but not limited to, filming, parades, or outdoor concerts.

*Vending equipment* means any conveyance, table, stand, display, showcase, rack, or any other free-standing equipment used for vending on the sidewalk.

### **Sec. 30-672. – City Administration**

(a) The Department is authorized to issue Licenses and Permits for Vending Food or Merchandise through the Sidewalk Vending Program.

(b) Rules and Regulations to implement the Sidewalk Vending Program will be developed and recommended by the Department. The Rules and Regulations shall be approved by the City Manager. The Rules and Regulations may be amended administratively by the City Manager as necessary to protect the health, safety, and welfare of the community. The Department shall post the Rules and Regulations on its website. The Department shall enforce this section and the Rules and Regulations, as adopted by City Council.

(c) The Department shall designate a Sidewalk Vending Program Coordinator.

### **Sec. 30-673. – Duties and Responsibilities of the Vending Program Coordinator.**

(a) The Sidewalk Vending Program Coordinator may effectuate the duties and responsibilities listed in this subsection and the Rules and Regulations, including, but not limited to, the following:

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(1) Develop a notification system to inform Councilmembers and the Department of all Permits issued.

(2) Manage and operate the Sidewalk Vending Program, with the assistance of and oversight by the Department.

(3) Evaluate applicants for Licenses and Permits to ensure that all requirements under this section and the Rules and Regulations are satisfied.

(4) Establish a complaint process, with the assistance of the Department, to allow the public to report problems. This process shall be described in the Rules and Regulations.

(5) Create, prepare and periodically update a fact sheet indicating the Vending requirements pursuant to this section and the Rules and Regulations.

(6) Conduct community outreach, with the assistance of the Department that provides education about Sidewalk Vending opportunities and responsibilities, which include the following features:

(A) Coordinating workshops to educate potential Sidewalk Vendors about the requirements of the Sidewalk Vending Program;

(B) Provide education to interested Sidewalk Vendors about business development services;

(C) Providing outreach and education in Spanish and any other language, as necessary, to provide access to other City and County resources.

### **Sec. 30-674. – Sidewalk Vending Districts**

(a) The City Manager may establish certain areas where Sidewalk Vending may be expanded, restricted, or prohibited. Such areas shall be called “Sidewalk Vending Districts.”

(b) Sidewalk Vending Districts, as well as all conditions applicable in each Sidewalk Vending District, shall be detailed in the Rules and Regulations.

(c) The City Planning Division shall develop interactive maps that display all sidewalks with restrictions for Sidewalk Vending Districts approved by the City Manager.

### **Sec. 30-675. – Sidewalk Vending Permits.**

(a) Every Sidewalk Vendor who engages in the selling of food or merchandise must first obtain, and at all times maintain and display, a valid Sidewalk Vending Permit for each pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one’s person. A Sidewalk Vending Permit is non-transferable.

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(b) A Person or Legal Entity shall have not more than two (2) Sidewalk Vending Permits.

(c) Every Sidewalk Vendor must operate in compliance with the terms and conditions of the License and all applicable Federal, State laws and the Municipal Code.

(d) To apply for a Sidewalk Vending Permit, the Sidewalk Vendor must present a valid identification or any other government-issued identification card such as a State of California Driver's License or Identification or Consular Identification Card and provide the following:

- (1) The name, address and telephone number of the Sidewalk Vendor;
- (2) A valid City of Pomona Business License;
- (3) Proof of liability insurance, as specified by the Rules and Regulations;
- (4) Any other information required by the Rules and Regulations;
- (5) A Sidewalk Vendor who sells food shall also provide the following:

(A) Certify completion of a food handler course, in accordance with the Los Angeles County Department of Public Health, and provide a copy of the course completion certificate and L.A. County Health Permit.

(B) Provide evidence of approval of the pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance by the Los Angeles County Public Health Department and display a current Public Health Permit.

(6) The applicable fees in accordance with the City's Master Fee Schedule;

(7) Stationary Vendors shall provide an exhibit of the proposed location, marked by major cross streets, and either the north, south, east or west side of the street and a photo or sketch of that location

(e) A Sidewalk Vending Permit must be renewed every year, prior to the expiration date noted on the Permit, and in accordance with this Article.

(f) Violations are subject to suspension or revocation of Sidewalk Vending Permit.

(g) The applicant must pay an application or renewal fee, as established by City's Master Fee Schedule.

### **Sec. 30-676. – Operational Requirements for Sidewalk Vending Program.**

(a) At all times, a Sidewalk Vendor must operate in compliance with the Rules and Regulations.

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(b) Every Sidewalk Vendor must be in possession of a valid License and the vending equipment must display a valid permit decal.

(c) A Stationary Vendor may not operate in areas that are zoned exclusively residential. Only a roaming Sidewalk Vendor may operate in a residential area.

(d) A Stationary Vendor may operate only in an authorized commercial or industrial zone.

(e) Stationary Vendors may only operate between the hours of 7:00 a.m. and 12:00 a.m. daily.

(f) A Stationary Vendor shall maintain a 20-foot distance from another Stationary vendor.

(g) A Roaming Sidewalk Vendor who operates in an area exclusively zoned residential shall move continuously, except when conducting a sale, which must last no more than seven (7) minutes per sale, except as may be approved or alternatively regulated in a Sidewalk Vending District.

(h) A decal issued by the City and certifying the issuance of a permit for the vending equipment, as well as the Los Angeles County Public Health Department permit, shall be attached to and prominently displayed on each vending equipment in use by a Sidewalk Vendor to sell food.

(i) Every Stationary Vendor must not exceed a length of 72 inches, a width of 54 inches, or a height, including roof or awning, of 78 inches. A permit application may request, and the City may approve, a small table for condiments to be used in conjunction with a stationary conveyance selling food. No other signs, tables, chairs, umbrellas or other furnishings not approved for use in a sidewalk vending permit may be used in vending operations.

(j) A Food Vendor must provide a trash receptacle for customers and must ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resort to existing trash receptacles located on any block for use by the general public. A Sidewalk Vendor may not dispose of customer trash in existing trash receptacles on sidewalks.

(k) A Sidewalk Vendor must maintain a clean and trash-free 20-foot radius from the Vendor's Cart during hours of operation and must leave the area clean by the approved closing time.

(l) The Sidewalk Vendor location shall not block entrances to buildings, driveways, parking spaces or building windows.

(m) The Sidewalk Vendor shall not attach or use any water lines, electrical lines, or gas lines during vending operations.

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(n) The sidewalk vendor shall not discharge any liquid (e.g. water, grease, oil, etc.) onto or into the city streets, storm drains, tree well, catch basins, or sewer facilities. All liquid shall be contained in vendor's trash can and properly disposed of by the vendor.

(o) Sidewalk Vending within 500 feet of any K-12 school is prohibited from 6:00 a.m. through 6:00 p.m. on days that school is open to students.

(p) Sidewalk Vending of illegal or counterfeit Merchandise is prohibited.

(q) Sidewalk Vending of fireworks is prohibited.

(r) Vending of services, including rental services, is prohibited.

### **Sec. 30-677. – Sidewalk Vending Locations and Standards.**

(a) Sidewalk vendor shall not operate on any sidewalk that is less than nine (9) feet wide.

(b) Sidewalk vendor shall not operate on any sidewalk or space that does not provide for at least forty-eight (48) inches of a clear path of travel.

(c) No vending equipment may occupy more than one-third (1/3) the depth of an existing sidewalk or project more than five (5) feet from the edge of the curb into the sidewalk, whichever distance is smaller. (See Diagram 3.)

(d) Roaming sidewalk vendors may not operate in exclusively zoned residential areas between the hours of 8:00 p.m. and 8:00 a.m. daily.

(e) Roaming vendors must keep their operations moving except when completing a transaction for a maximum of seven (7) minutes for each sale, and may not operate on any city block for more than one (1) hour in any four (4) hour period.

(f) Stationary Vendors shall be prohibited from operating or establishing in any exclusively zoned residential area of the City. Stationary sidewalk vendors may operate in non-residential zones of the City, including mixed use zones, provided they meet all the requirements set forth in the Article. Stationary sidewalk vendors shall not operate in any exclusively zoned residential area of the City or in any park for which the City has entered an exclusive concessionaire agreement. Stationary sidewalk vendors may only operate at the location(s) designated in a permit issued pursuant to this Article and only during the times set forth therein.

(g) Stationary sidewalk vendors shall be prohibited from operating or making sales or vending in any alley or off-street parking facility as defined by the California Vehicle Code.

(h) Stationary sidewalk vendors shall be prohibited from operating on any roadway, street or public or private location that blocks the safe flow of pedestrians or vehicles sales in the following locations in the public right-of-way.

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- (i) Sidewalk vendors are prohibited from vending directly to a vehicle or persons therein.
- (j) No stationary Vendor shall operate in the following locations:
  - (1) Ballfields, grass turf, playground areas, public parks including paved or unpaved trails or paths, or in any other public space that is not a sidewalk as that term is defined in Section 30-671. Vendors are only allowed adjacent to public parks on a public sidewalk more than nine (9) feet wide.
  - (2) Within 15 feet of a marked crosswalk.
  - (3) Within 15 feet of the curb return of an unmarked crosswalk.
  - (4) Within 15 feet of any fire hydrant, fire call box or other emergency facility, as defined in the Rules and Regulations.
  - (5) Within 15 feet ahead and 45 feet to the rear of a sign designating a bus stop.
  - (6) Within 15 feet of a marked bus zone, bus stop, bus bench or transit shelter.
  - (7) Within five (5) feet of an area improved with lawn, flowers shrubs, trees or street tree well.
  - (8) Within 15 feet of a driveway or driveway apron.
  - (9) Within 10 feet of an outdoor dining or patio dining area.
  - (10) Within 50 feet of a traffic signal or stop sign.
  - (11) Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than four (4) feet, or impedes access to or the use of abutting property, including, but not limited to, residences and places of business.
  - (12) On any parking lot or City-owned property without prior City approval, subject to zoning requirements and special permits.
  - (13) Within 500 feet of any K-12 school (public or private) from 6:00 a.m. through 6:00 p.m. on days that school is open to students.
  - (14) Within 200 feet of a farmers' market or a swap meet, during the limited operating hours of these events.
  - (15) Within 200 feet of a site designated by a temporary event permit or special event permit, for the limited duration of the permitted event, including, but not limited to, construction related street or lane closures, street fairs, filming, and the Pomona Arts Colony during the hours of the 2nd Saturday Artwalk. (Any notice, business interruption mitigation, or other rights

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afforded to affected businesses or property owners under the City's temporary event permit or special event permit shall also be afforded to a sidewalk vendor specifically permitted to operate in the area.)

(16) In the Mixed Use-Central Business District (MU-CBD) of the Downtown Specific Plan.

(17) Within 200 feet of the Fairplex every day of the Los Angeles County Fair.

(18) On any private property without first having obtained permission in writing and carrying with them evidence of such permission as well as the contact information for the property owner, lessee or property manager that granted such permission, subject to zoning requirements.

(k) Notwithstanding any specific prohibitions in this subsection, no Vendor shall install, use, or maintain vending equipment where placement endangers the safety of persons or property.

(l) No Vendor shall connect to an external source of power, water, or any other utilities located on public property.

(m) No Vendor shall use amplified sound-making devices in conjunction with vending, such as speakers, microphones and public address systems.

(n) No Vendor shall use the walkway, sidewalk or public right-of-way to provide seating or tables for customers.

(o) No Vendor shall use portable generators, outdoor wood burning ovens, charcoal barbecues, gasoline, kerosene or propane or open flame.

(p) To prevent dangerous distractions and to maintain accessibility standards for the disabled, sidewalk vendors are prohibited from using flashing lights of any kind, or any form of signage that is not attached to the vending equipment.

(q) Vendors who vend any food, beverage, or liquid product must implement the following best management practices: (1) possess spill kits that are comprised of paper towels, cloth towels, cat litter, or sand at all times while vending; (2) remove all spill materials from the public right-of-way and sidewalks once the spilled material is absorbed off the ground; (3) capture and prevent spills leaving the area and moving into the surrounding streets from entering the storm water system, including curbs, gutters, and storm drains; (4) properly dispose of grease, either by hiring and utilizing an on-site grease collector or collection system, or at an acceptable facility; and (5) ensure that any water or rinse residue used for vending activities (e.g., cooler water, ice, food preparation water) is not disposed in the curbs, gutters, streets, drains, tree wells or on any public property.

### **Sec. 30-678. Vending that Constitutes an Imminent and Substantial Safety or Environmental Hazard.**

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The City may require any licensed or unlicensed Vendor to leave the premises or to remove any vending equipment or goods if the Vendor is creating an imminent and substantial safety or environmental hazard by the location of the vending equipment or the nature of the goods being offered for sale. If the Vendor refuses to leave the premises or to remove any vending equipment or goods constituting an imminent and substantial safety or environmental hazard, the City may immediately impound the vending equipment or the goods being offered for sale.

### **Sec. 30-679. – Suspension; Rescission**

(a) A sidewalk vendor permit issued under this Article may be suspended or rescinded by the Department after four (4) or more violations of this Article, for any of the following causes:

- (1) Fraud or misrepresentation in the course of vending;
- (2) Fraud or misrepresentation in the application for the permit;
- (3) Operating in a manner that creates a public nuisance or constitutes a danger to the public.

(b) Notice of the suspension or rescission of a sidewalk vendor permit issued under this Chapter shall be mailed, postage prepaid, to the holder of the sidewalk vendor permit at his or her last known address.

(c) No person whose street vending permit has been revoked pursuant to this chapter shall be issued a street vending permit for a period of two (2) years from the date revocation becomes final.

### **Sec. 30-680. – Appeals of Suspension or Revocation of Sidewalk Vending Permit**

(a) Generally. After suspension or revocation of any Sidewalk Vending permit required by this Article, the applicant or permittee may seek review by way of an administrative hearing in accordance with this section.

(b) Petition for appeal of suspension or revocation. If the Sidewalk Vendor wishes to challenge the action of the Department, a written appeal petition and a nonrefundable appeal fee, in an amount set by resolution of the City Council, must be filed with the City Manager within ten (10) calendar days after the action of the Department. However, if the ten (10) calendar days expire on a date that city hall is not open for business, the appeal period shall be extended to the next city business day. Failure to file a timely petition with the City Manager, together with the nonrefundable appeal fee, constitutes a complete waiver of the right to appeal and renders the action of the Department final for all purposes. The appeal petition must indicate, in writing, the appellant's objections to the Department's action on the suspension or revocation.

(c) Setting the hearing. The City Manager shall appoint a hearing officer to hear the appeal. The hearing officer shall set the matter for hearing within 30 calendar days of receipt of the petition, unless the licensee or permittee consents in writing to an extension. At least ten (10)

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calendar days prior to such hearing, written notice thereof shall be mailed to the Sidewalk Vendor by first class mail with a proof of service attached.

- (d) Format of hearing. All parties involved shall have the right to:
  - (1) Offer testimonial, documentary and tangible evidence bearing on the issues;
  - (2) Be represented by counsel; and
  - (3) Confront and cross examine witnesses.

Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing scheduled under this section may be continued for a reasonable time for the convenience of a party or witness, provided the Sidewalk Vendor consents in writing.

(e) Hearing determination. The hearing officer shall make a final determination as to whether the applicant has met all conditions, restrictions and requirements set forth in this article, supported by written findings, within five working days after the hearing pursuant to this section. No later than three (3) business days of the hearing officer's decision, notice of the decision and a copy thereof shall be mailed by first class mail to the appellant.

(f) Judicial review. The decision of the hearing officer shall be final, and the applicant or permittee may seek judicial review of the hearing officer's decision in accordance with Code of Civil Procedure § 1094.8 or as otherwise permitted by law. The applicant or permittee shall be so notified in the hearing officer's notice of decision. If the applicant or permittee provides written notification to the city of his intent to seek judicial review under Code of Civil Procedure § 1094.8, the city attorney shall, in accordance with Code of Civil Procedure § 1094.8(d)(1), prepare, certify and make available the administrative record to the applicant or permittee within five working days of receipt of such written notification or as such term may be modified from time to time by the state.

### **Sec. 30-681. – Penalties.**

(a) It is unlawful for any person to violate any provision or fail to comply with any requirements of this Article. A violation of this Article shall be punished by:

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

(b) A violation of vending without a sidewalk vending permit, may, in lieu of the penalties set forth in subsection (A), set forth above, be punished by:

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- (1) An administrative fine not exceeding \$250 for a first violation.
  - (2) An administrative fine not exceeding \$500 for a second violation within one (1) year of the first violation.
  - (3) An administrative fine not exceeding \$1,000 for each additional violation within one (1) year of the first violation.
- (c) If an individual is subject to subsection (b), set forth above, for vending without a sidewalk vending permit, upon the individual providing proof of a valid permit issued by the City, the administrative fines set forth in this Chapter shall be reduced to the administrative fines set forth in subsection (a), respectively.
- (d) The proceeds of any administrative fines assessed pursuant to this Chapter shall be deposited in the treasury of the City.
- (e) Failure to pay an administrative fine assessed under this Chapter shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in this Chapter shall not be assessed.
- (f) Any violation of this Chapter shall not be punishable as an infraction or misdemeanor, and any person alleged to have violated any provisions of this Chapter shall not be subject to arrest except when otherwise permitted under law.
- (g) When assessing an administrative fine pursuant to this Chapter, the adjudicator shall take into consideration the person's ability to pay the fine. The City 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.
- (1) If the person meets the criteria described in subdivision (a) or (b) of Government Code section 68632, the City shall accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this Chapter.
  - (2) 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 SB 946 had SB 946 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.

### **Sec. 30-682. - Non-Applicability**

- (a) The following persons, entities or activities are exempt from the requirements of this Article:

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- (1) Any Vendor or individual engaged solely in artistic performances, free speech, political or petitioning activities, or engaged solely in vending of items constituting expressive activity protected by the First Amendment, such as newspapers, leaflets, pamphlets, bumper stickers, or buttons;
- (2) Agencies of any federal, state or local governments;
- (3) Any vendor of services that are otherwise permitted or authorized by the City; and
- (4) Any lessee or permittee of the City vending on City-owned property where vending is authorized under a City lease or permit.

### **Sec. 30-683. Reporting.**

The City Manager shall annually report to the City Council or the appropriate City Council Committee on the results of implementing and enforcing this Article, including:

- (a) The total number of vending permits issued by the City;
- (b) The total number of vending permits denied and revoked during the prior year;
- (c) The total cost to the City to administratively implement and enforce the regulations in this Article during the prior year;
- (d) The total amount of vending permit fees and administrative fines collected pursuant to this Article during the prior year;
- (e) The total amount of written warnings and referrals to community-based organizations issued pursuant to this Article during the prior year;
- (f) The total number of claims and lawsuits brought against the City related to sidewalk vending operations.

**SECTION 4. CEQA.** The City Council, on the basis of the whole record and exercising independent judgment, finds that this Ordinance is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementations of the California Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The underlying land use activities authorized by this Ordinance may be subject to future discretionary approval(s) by the Planning Commission and/or City Council, and accordingly environmental review of any resulting impact is premature.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection,

**ATTACHMENT NO. I**

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

**SECTION 6. Effective Date.** This Urgency Ordinance was adopted by the necessary five-sevenths ( 5/7 ) vote of those present at the City Council meeting pursuant to Pomona City Charter section 510 and shall take effect immediately upon its adoption for the preservation of the public health, safety and welfare.

**SECTION 7. Publication.** The City Clerk shall certify as to the adoption of this ordinance and shall cause a copy thereof to be published within fifteen (15) days of the adoption, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

**PASSED, APPROVED AND ADOPTED** this 21<sup>st</sup> day of October, 2024.

**CITY OF POMONA:**

\_\_\_\_\_  
Tim Sandoval  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

\_\_\_\_\_  
Sonia Carvalho  
City Attorney

\_\_\_\_\_  
Rosalia A. Butler, MMC  
City Clerk

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF POMONA

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Urgency Ordinance was adopted at a regular meeting of the City Council of the City of Pomona held on October 21, 2024, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Rosalia A. Butler, MMC  
City Clerk