

## **RESOLUTION NO. 2019-XX**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, ESTABLISHING REGULATIONS FOR SIDEWALK VENDING**

**WHEREAS**, Government Code section 51038, as enacted through Senate Bill 946 (“SB 946”), authorizes the City Council to adopt, by ordinance or resolution, rules and regulations governing the time, place, and manner of sidewalk vending in the City;

**WHEREAS**, the City Council adopted a licensing and regulatory program for sidewalk vending through Ordinance No. \_\_\_\_, which anticipated the need for supplemental rules and regulations in the interests of the public health, safety, and welfare;

**WHEREAS**, SB 946 authorizes cities to prohibit sidewalk vendors within the immediate vicinity of a certified farmers’ market and a swap meet, during permitted hours of operation, and to restrict or prohibit sidewalk vending within the immediate vicinity temporary permitted events, such as Pomona’s 2nd Saturday Artwalk, to promote orderly commerce;

**WHEREAS**, restricting vending within 500 feet of popular concert and sport venues on event days, when pedestrians are likely to crowd the streets, is necessary to protect the public safety, as congested sidewalks encourage pedestrians to step into roadways to keep moving forward and vendors further impeded the safe flow of traffic by encouraging pedestrians to cross mid-block or to congregate to purchase food or merchandise;

**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 impacts to the residential communities surrounding the Fairplex, which would be aggravated by sidewalk vending;

**WHEREAS**, regulations are necessary to prevent unsanitary conditions, particularly as respects food handling, and to ensure that vendors take part in keeping vending locations clean;

**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 residential areas and restricting vendors’ use of sound amplifying equipment is necessary to protect residents and visitors from excessive noise and traffic impacts;

**WHEREAS**, restricting vending is necessary to ensure the safe flow of pedestrian and motor traffic, including ingress and egress from buildings, and to ensure that vendors are not blocking access to driveways, fire hydrants, street furniture, parking areas, or interfering with access for police, fire, and emergency services;

**WHEREAS**, restricting vending is further necessary to ensure clear paths of travel as required by federal disability access laws, to ensure against congested sidewalks that not only

impede the flow of traffic but expose individuals—particularly children, persons with disabilities, and the elderly—to the dangers of overcrowding;

**WHEREAS**, the proposed rules and regulations are consistent with SB 946, as they are reasonable and relate to objective health, safety, and welfare concerns, and in addition to promoting the community's health and safety, they ensure the public's use and enjoyment of the City's natural resources and recreational opportunities, including maintaining the integrity of street fairs and other events permitted and encouraged by the City.

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

**SECTION 1.** Based on the preceding recitals, which are incorporated herein by reference, the City Council finds that the proposed Rules and Regulations operate in accordance with Ordinance No. \_\_\_\_, to create a regulatory scheme necessary to protect the health, safety, and welfare of the people of Pomona while enabling sidewalk vendors to participate in the City's dynamic economy, consistent with state law.

**SECTION 2.** The City Council hereby approves and adopts the Rules and Regulations for Sidewalk Vending as presented in "Attachment No. 1."

**SECTION 3. CEQA.** The City Council has determined this resolution is not a "project" as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378.

**SECTION 4. Severability.** If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this resolution that can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable. The City Council hereby declares that it would have adopted this resolution irrespective of the invalidity of any particular portion thereof.

**SECTION 5.** The City Clerk shall attest and certify to the passage and adoption of this Resolution, and it shall take effect concurrently with the effective date of Ordinance No. \_\_\_\_.

APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF AUGUST 2019.

ATTEST:

CITY OF POMONA:

Rosalia Butler, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Interim City Attorney

Attachment No. 1: Rules and Regulations for Sidewalk Vending

## CITY OF POMONA

### RULES AND REGULATIONS FOR SIDEWALK VENDING

1. *Trash and Sanitation.* Vendors are responsible for maintaining clean vending sites. To this end, vending carts shall be equipped with trash receptacles large enough to ensure proper disposal of trash generated by vending operations, including food wrappers, containers, and utensils. Vendors may not dispose of such trash in City street or park trash cans intended for use by the general public.
  - (a) A vendor shall pick up all refuse generated by his or her sidewalk vending operations within a 10-foot radius of the vendor's cart before such cart is moved.
  - (b) A sidewalk vendor shall not discharge any liquid (e.g. water, grease, oil, etc.) onto or into city streets, storm drains, catch basins, or sewer facilities.
2. *Placement and Clearances.*<sup>1</sup> No person shall install, use, or maintain any vending cart which projects onto, into, or over any sidewalk or parkway when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such cart unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, the ingress into or the egress from any residence or place of business, or the use of poles, posts, driveways, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said locations. No sidewalk vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where goods, wares, food, or merchandise of any kind is being sold or offered for sale.
  - (a) No cart may be placed or sidewalk vending occur at the following sites:
    - (1) On any public property other than a public sidewalk or pedestrian path as those terms are defined in Pomona City Code section 30-671;
    - (2) Within three (3) feet of the following structures:
      - (A) Street lights
      - (B) Edges of tree wells
      - (C) Parking meters
      - (D) Above ground utility structure
      - (E) Street furniture (e.g., benches and bike racks)

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<sup>1</sup> Hat Tip: Section 2 and the diagrams referenced therein are drawn from the General Rules and Regulations for Sidewalk Vending established by the City of Los Angeles Bureau of Street Services.

(F) Newsstands

- (3) Within five (5) feet of fire hydrants;
  - (4) Within two (2) feet of any existing subsurface utility box, valve, or vault;
  - (5) Within 18 inches of the curb or the edge of an existing driveway;
  - (6) At the intersection of two sidewalks bounded by the curb return (see Diagram 1).
  - (7) Within three (3) feet of another vendor (see Diagram 2);
  - (8) At bus stop locations or red curbs (see Diagram 3);
  - (9) Upon or within any roadway, median strips, pedestrian islands, or bikeways;
  - (10) Within twenty (20) feet of an entrance or exit to any building, including, but not limited to, any theater, movie house, house of worship or place of public assembly;
  - (11) Within five-hundred (500) feet of a certified farmers' market or a swap meet during the limited operating hours of these events;
  - (12) Within five-hundred (500) feet of a site designated by a temporary event permit, for the limited duration of the permitted event, including, but not limited to, construction related street or lane closures, street fairs, and filming. (Any notice, business interruption mitigation, or other rights afforded to affected businesses or property owners under the City's temporary event permit shall also be afforded to a sidewalk vendor specifically permitted to operate in the area.)
- (b) No vending carts may be placed directly in front of any building.
  - (c) No vending cart may operate at a location if the cart would reduce the pedestrian access route clearance on the path or sidewalk to a width of less than five (5) feet.
  - (d) No vending cart 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.)

3. Restricted Vending Locations.

- (a) No vendor may operate within five-hundred (500) feet of the following locations:

- (1) The Pomona Arts Colony during the hours of the 2nd Saturday Artwalk;
  - (2) Fox Theater from 6:00 p.m. to 6:00 a.m. on event days;
  - (3) Fairplex every day of the Los Angeles County Fair; and
  - (4) Any public or private kindergarten, elementary, or secondary (K-12) school from 6:00 a.m. to 6:00 p.m. on days that school is open to students.
- (b) Vending in parks is restricted to a park's paved pedestrian paths.
- (1) No sidewalk vending is permitted on ballfields, grass turf, playground areas, or other unpaved trails or paths.
  - (2) A cart may not be located on a path if the cart would reduce the pedestrian access route clearance thereon to a width of less than five (5) feet.
  - (3) Stationary sidewalk vendors may not operate in a park if the park operator has entered an exclusive concessions agreement with a third party.
  - (4) All vendors must cease operating 20 minutes prior to park closure.
- (c) Stationary sidewalk vendors may not operate in any residential zone. Stationary sidewalk vendors may only operate at the location(s) designated in their vending permit and only during the times set forth therein.
- (d) Roaming sidewalk vendors may not operate in residential zones between the hours of 8:00 p.m. and 8:00 a.m. daily.

4. *Operating Requirements.* A sidewalk vendor must operate in compliance with Article X, Chapter 30 of the Pomona City Code and these Rules and Regulations at all times.

- (a) All vendors must be in possession of a valid vendor permit at all times during vending operations.
- (b) All vending carts must display a valid business license number at all times during vending operations.
- (c) Vending activity may not block the entrances to any buildings, driveways, or vehicle parking spaces.
- (d) Carts and other equipment used in connection with sidewalk vending may not be stored or left unattended in public spaces or in any portion of the public right-of-way. (Equipment or objects left in public spaces or in the public right of-way overnight, or outside the hours of permitted vending operations, will be considered discarded and may be seized or disposed of by the city.)
- (e) Signs, tables, chairs, shade structure, fences, or other furnishings not approved for

use in a sidewalk vending license may not be used in vending operations.

- (f) Vendors may not use any horns, music, lights, visual media, or any sound amplifying device unless expressly approved in the vending license.
- (g) Sidewalk vendors are not permitted to sell or offer for sale lottery tickets, alcohol, cannabis, adult oriented material, or tobacco or electronic cigarette products.
- (h) Sidewalk vending of services, including rental services, is prohibited.
- (i) Vendors may not attach or use any water lines, electrical lines, or gas lines during vending operations.
- (j) Vendors may not affix, lean, or touch any sidewalk vending equipment to, on, or against any street fixture or structure, including, but not limited to, utility posts, bus shelters, public trash cans, parking meters, or street signs.
- (k) Carts and vending activity may not physically alter or otherwise damage the underlying sidewalk.
- (l) Vendors must maintain adequate insurance to protect the City from any liability associated with sidewalk vending as determined by the City's Risk Manager, or the Risk Manager's designee, and specified in the license and permit application.
- (m) Roaming vendors must keep their operations moving except when completing a transaction and may not operate on any city block for more than one (1) hour in any four (4) hour period.

5. License Requirements. Applicants for a sidewalk vending license shall complete a City application that includes the following:

- (A) The name, current mailing address, and telephone number of the applicant cart owner;
- (B) If the applicant is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;
- (C) Proof of the applicant's personal identification. Proof is satisfied if the applicant presents a valid California driver's license or identification number, an individual taxpayer identification number, or any other government-issued identification card. Such information is not a public record and will remain confidential as required by Government Code section 51038(c)(4);
- (D) The number of carts an applicant will operate within the City under the license;
- (E) A description of the food or merchandise to be offered for sale;

- (F) Affirmation that any food carts will be operated by a vendor who has been issued a food handler's card;
- (G) Whether carts will be operated by a stationary sidewalk vendor or a roaming sidewalk vendor;
- (H) A general description of the location(s) in which the applicant proposes to operate, including vending routes along or in proximity to any major cross streets;
- (I) The day(s) and hours of operation at such location(s);
- (J) An agreement by the applicant to defend, indemnify, and hold harmless the City, its officers, and employees from and against any and all claims, demands, damages, actions, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to applicant's sidewalk vending activities;
- (K) An acknowledgement that the use of public property is at a sidewalk vendor's own risk as the City does not ensure public property is safe for or conducive to sidewalk vending;
- (L) An acknowledgement that the applicant will obtain and maintain for the duration of any license issued by the City, any insurance of such types and in such amounts as required by the City's Risk Manager or his or her designee;
- (M) The applicant's certification that, to his or her knowledge and belief, the information contained in the application is true; and
- (N) Any other relevant information required by the City Manager.

6. Permit Requirements. Applicants for a vendor permit shall complete a City application that includes the following:

- (A) The name, current mailing address, and telephone number of the applicant vendor;
- (B) If the applicant is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;
- (C) Proof of the applicant's personal identification. Proof is satisfied if the applicant presents a valid California driver's license or identification number, an individual taxpayer identification number, or any other government-issued identification card. Such information is not a public record and will remain confidential as required by Government Code section 51038(c)(4);
- (D) A description of the food or merchandise to be offered for sale;



- (E) A copy of the food handler's card issued to any sidewalk vendor of food;
- (F) Whether the vendor will be stationary or roaming;
- (G) A general description of the location(s) in which the applicant proposes to operate, including vending routes along or in proximity to any major cross streets;
- (H) The day(s) and hours of operation at such location(s);
- (I) An agreement by the applicant to defend, indemnify, and hold harmless the City, its officers, and employees from and against any and all claims, demands, damages, actions, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to applicant's sidewalk vending activities;
- (J) An acknowledgement that the use of public property is at the sidewalk vendor's own risk as the City does not ensure public property is safe for or conducive to sidewalk vending;
- (K) An acknowledgement that the sidewalk vendor will obtain and maintain for the duration of any permit issued by the City, any insurance of such types and in such amounts as required by the City's Risk Manager or his or her designee;
- (L) The applicant's certification that, to his or her knowledge and belief, the information contained in the application is true; and
- (M) Any other relevant information required by the City Manager.

7. **Definitions.** The following definitions shall apply to these rules and regulations:

*Cart* means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for sidewalk vending.

*Cart owner* means a person who owns or controls the operations of one or more carts and includes a self-employed, independent sidewalk vendor.

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

*Citation* means an Administrative Citation issued pursuant to section 2.1184 of Article X, Chapter 2 of this code.

*City* means the City of Pomona.

*City Manager* means the City Manager or his or her designee.

*County* means the County of Los Angeles.

*Curb return* means the curved section of a curb located at a corner of an intersection, connecting a curb on one street to another curb on the intersecting street. A curb return starts at the point where the curb begins to turn toward the direction of the intersecting street and ends at the point where it meets the curb on the intersecting street.

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

*Merchandise* means any good that is not food or an item for rent.

*Park* means any public park or recreational facility, including the Pomona City Civic Plaza, under the jurisdiction of the City Parks and Recreation Commission.

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

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

*Rules and Regulations* means detailed requirements respecting sidewalk vending designed to supplement this Article.

*Sidewalk* means a public sidewalk as defined in Sec. 1-2 of this code.

*Sidewalk vendor* or *vendor* means a person who sells or offers for sale food or merchandise from a cart or from one's person, upon a public sidewalk or other pedestrian path.

*Sidewalk vending* means commercial activity that qualifies a person as a sidewalk vendor.

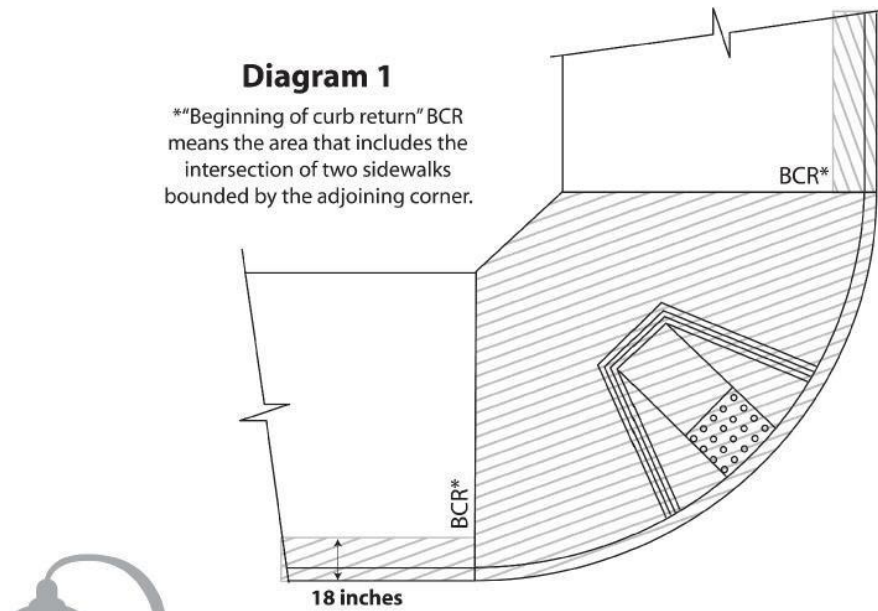
*Stationary sidewalk vendor* means a sidewalk vendor who operates from a fixed location.

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

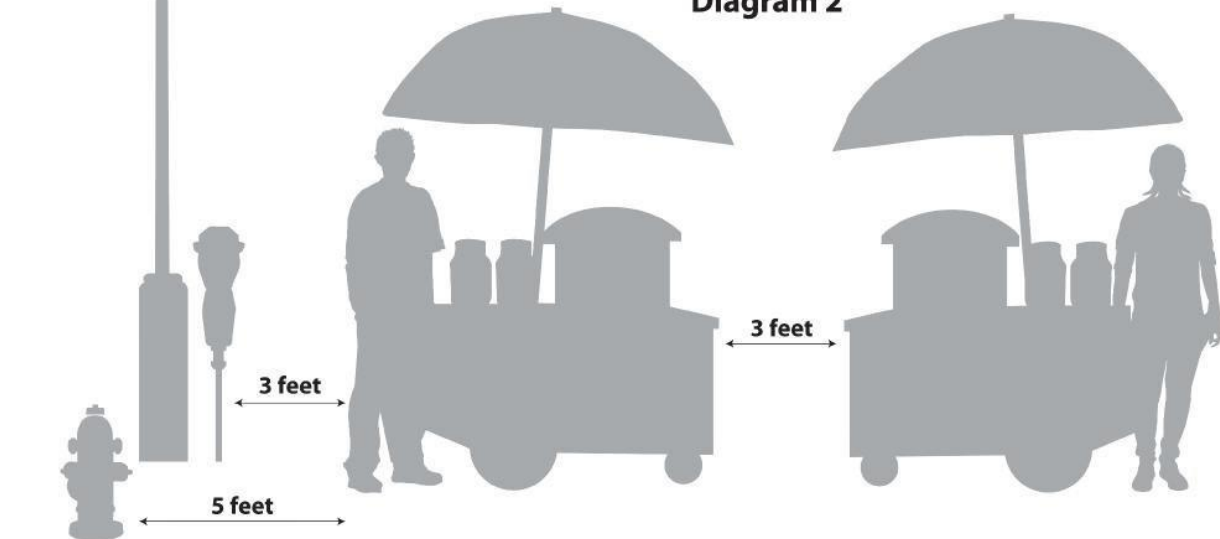
*Temporary event permit* means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or a permit for gatherings in public parks issued under Sec. 38-76, for purposes including, but not limited to, filming, parades, or outdoor concerts.

**Diagram 1**

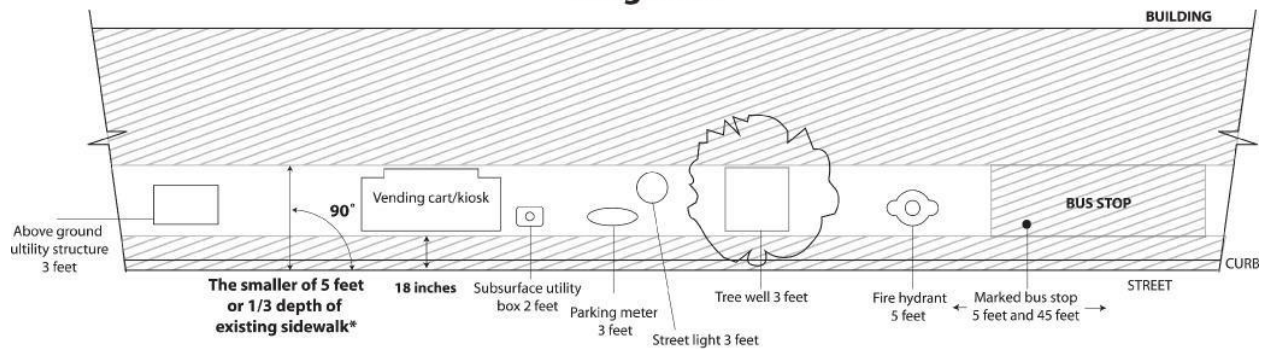
\*\*Beginning of curb return" BCR means the area that includes the intersection of two sidewalks bounded by the adjoining corner.



**Diagram 2**



**Diagram 3**



\* Examples: 1/3 of depth of 9' wide sidewalk vendor space would be 3', 6' wide sidewalk vendor space would be 2'.