

RESOLUTION NO. 2019-162

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF POMONA, ESTABLISHING REGULATIONS FOR
SIDEWALK VENDING AND FINDING THE SAME
EXEMPT FROM CEQA**

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 business licensing and regulatory program for sidewalk vending through Ordinance No. 4270, 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 and within the immediate vicinity of temporary permitted events—such as filming sets, parades, and Pomona’s 2nd Saturday Artwalk—to promote orderly commerce;

WHEREAS, SB 946 further authorizes cities to regulate sidewalk vending for objective reasons of public health and safety;

WHEREAS, crowded sidewalks endanger the public safety by encouraging pedestrians to step into roadways to keep moving forward, and the presence of vendors increases these dangers by encouraging pedestrians to cross mid-block or to congregate on sidewalks to purchase food or merchandise;

WHEREAS, children, persons with disabilities, the elderly, as well as vendors are at particularly high risk of being harmed by the dangers of congested, or overcrowded, sidewalks;

WHEREAS, restricting vending near the Fox Theater, when the venue is scheduled for an event, is necessary to protect the public safety given the theater’s proximity to a high traffic corridor, the relatively narrow width of surrounding sidewalks, and the large crowds drawn to the area immediately prior to and following an event;

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, 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, regulating the placement of vending carts 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, regulating vending is further necessary to ensure clear paths of travel on public sidewalks in compliance with disability access laws;

WHEREAS, regulating commercial activity on public property is necessary to prevent unsanitary conditions, particularly in the sale of food to the public, and to ensure that vendors take part in keeping vending locations clean;

WHEREAS, the proposed rules and regulations are consistent with SB 946 as they are grounded in objective concerns for the public health, safety, and welfare.

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. 4270, 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. 4270_.

APPROVED AND ADOPTED THIS 7TH DAY OF OCTOBER 2019.

ATTEST:

CITY OF POMONA:

Rosalia Butler, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

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 streets 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.*¹ 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

¹ **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.

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) Street furniture (e.g., benches and bike racks)
 - (E) Newsstands
- (3) Within five (5) feet of fire hydrants;
- (4) Within two (2) feet of any existing utility box, utility structure, 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 door to any building, including, but not limited to, any theater, movie house, house of worship or place of public assembly;
- (11) Within two-hundred (200) feet of a certified farmers' market or a swap meet during the limited operating hours of these events;

- (12) Within two-hundred (200) 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, filming, and the Pomona Arts Colony during the hours of the 2nd Saturday Artwalk. (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 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.
- (c) 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 two-hundred (200) feet of the following locations:
 - (1) Fox Theater one hour before and one hour after any scheduled event;
 - (2) Fairplex every day of the Los Angeles County Fair; and
 - (3) Any public or private kindergarten, elementary, or secondary (K-12) school from 6:00 a.m. to 4:00 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 only operate in non-residential zones and in accordance with all other time, place and manner restrictions set forth in Article X, Chapter 30 of the Pomona City Code and these Rules and Regulations.
- (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 display a valid vendor permit and identification card at all times during vending operations.
 - (b) All sidewalk vendors of food must obtain a mobile food facility permit from the Los Angeles County Department of Public Health.
 - (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, flashing lights, digital signs, digital advertising, any other 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 connect a cart to any water lines, electrical lines, or gas lines external to the cart 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) Carts may not exceed a total length of six (6) feet and a total depth of three (3) feet, including all wheels, axles, and other vending appurtenances.

- (n) 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. Pursuant to Article VIII.- Business License Tax of the Pomona City Code, all applicants for a sidewalk vending business license shall complete a City application and pay the tax on an annual basis. The application requirements include 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) Proof of comprehensive general liability insurance with minimum policy limits of one million dollars (\$1,000,000) per occurrence, combined single limit coverage, and two million dollars (\$2,000,000) in the aggregate against any injury, death, loss, or damage resulting from wrongful or negligent acts or omissions by the permittee, with an endorsement naming the City as an additional insured;
- (M) The applicant's certification that, to his or her knowledge and belief, the information contained in the application is true;
- (N) A signed acknowledgment that the applicant has received a copy of these Rules and Regulations and fully understands its contents; and
- (O) Any other relevant information required by the City Manager.

6. 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.

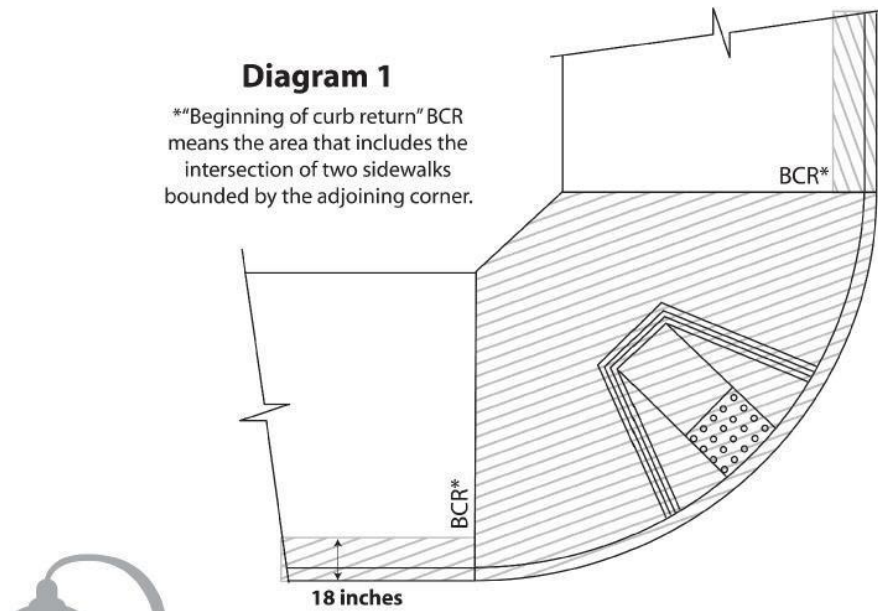


Diagram 2

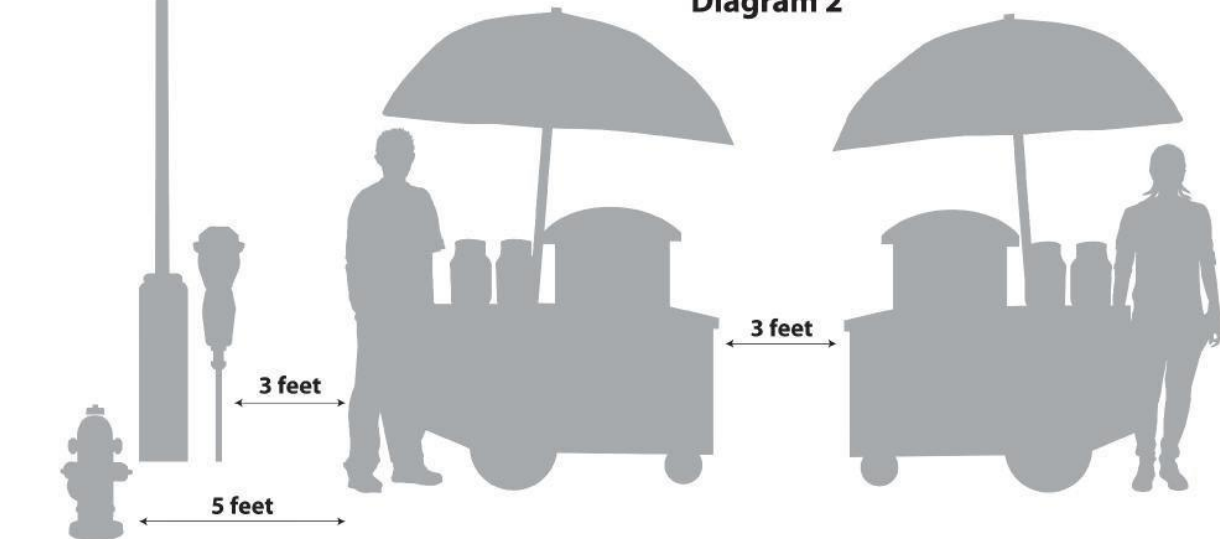
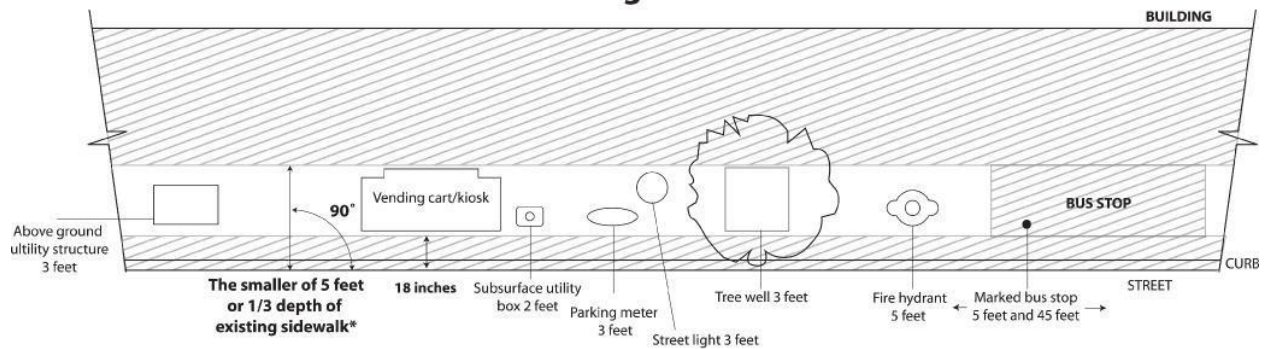


Diagram 3



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