

CORCORAN PLANNING COMMISSION MEETING AGENDA

City Council Chambers
1015 Chittenden Avenue
Corcoran, CA 92312

Monday, August 19, 2019
5:30 P.M.

Public Inspection: A detailed Planning Commission packet is available for review at Corcoran City Hall, located at 832 Whitley Avenue

Notice of ADA Compliance: In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerks office at (559) 992-2151 ext. 235.

Public Comment: Members of the audience may address the Planning Commission on non-agenda items; however, in accordance with Government Code Section 54954.2, the Planning Commission may not (except in very specific instances) take action on an item not appearing on the posted agenda.

This is just the time for members of the public to comment on any matter within the jurisdiction of the Corcoran Planning Commission. Planning Commission will ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome.

After receiving recognition from the chair, speaker will walk to the podium and state name and address and proceed with comments. Each speaker will be limited to five (5) minutes.

ROLL CALL

Chairman:	Shea DeVaney
Vice-Chairman:	Karl Kassner
Commissioner:	David Bega
Commissioner:	David Jarvis
Commissioner:	Dennis Tristao
Commissioner:	Troy Van Velson
Commissioner:	Janet Watkins

FLAG SALUTE

1. PUBLIC DISCUSSION

2. APPROVAL OF MINUTES

2.1 Approval of minutes of the regular Planning Commission meeting on June 17, 2019.

3. RE-ORGANIZATION - None

4. **PUBLIC HEARING - None**

5. **STAFF REPORTS**

- 5.1 Review and decision regarding applications/requests received for zone exception pertaining to fence height.
- 5.2 Consider approval of request of Rite Aid for time extension re temporary use of sea train as storage in commercial space.
- 5.3 Consider proposed amendment of Ordinance 630 section 4-1-1 of the Corcoran Municipal Code, nuisance, maintenance of the property regarding violations and adopting fines – Parking on the lawn/Washing vehicles on the lawn.
- 5.4 Review of draft ordinance pertaining to Mobile Food and Merchandise Vendors

6. **MATTERS FOR PLANNING COMMISSION**

- 6.1 Information Items:
 - Revisions of Ordinances 636 and 637 regarding removing references to “industrial hemp” and/or “hemp” from the text of the ordinances
- 6.2 Staff Referrals - *Items of Interest (Non-action items the Commission may wish to discuss)*
- 6.3 Committee Reports - None

7. **ADJOURNMENT**

I certify that I caused this Agenda of the Corcoran Planning Commission meeting to be posted at the City Council Chambers, 1015 Chittenden Avenue on August 15, 2019.



Kevin J. Tromborg
Community Development Director

**MINUTES
CORCORAN PLANNING COMMISSION
REGULAR MEETING
MONDAY, June 17, 2019**

The regular session of the Corcoran Planning Commission was called to order by Chairperson, DeVaney, in the City Council Chambers, 1015 Chittenden Avenue, Corcoran, CA at 5:29 P.M.

ROLL CALL

Commissioners present: Bega, DeVaney, Kassner, Tristao and Watkins

Commissioners absent: Jarvis and Van Velson

Staff present: Kevin J. Tromborg and Ma. Josephine Lindsey

Also present: Joseph Beery, City Attorney

FLAG SALUTE The flag salute was led by DeVaney.

A quorum was declared in the presence of five (5) out of seven (7) Commissioners.

1. PUBLIC DISCUSSION

2. APPROVAL OF MINUTES

Following Commission discussion, a **motion** was made by Kassner and seconded by Tristao to approve the minutes of the regular meeting on April 15, 2019. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

3. RE-ORGANIZATION - None

Tristao made a motion and seconded by Bega to modify the agenda and move the fence and seatrain zone exception requests before the public hearing. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

STAFF REPORTS

5.2 The Commission reviewed the applications/requests received for zone exception pertaining to fence height. Tromborg presented the request application one by one.

Following Commission discussion, a **motion** was made by Tristao and seconded by Bega to approve zone exception request for property address 826 James Avenue as presented. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

On property address 2102 Kern River Avenue, Tromborg mentioned that the zone exception request was not for the fence height but for the setbacks. The property was located in the Sequoia Subdivision. The fence was built close to the sidewalk and against the required setbacks, which is 10 feet for Public Utility Easement.

Mr. Marco Villareal, resident of 2102 Kern River, explained that his property has a very small backyard. He did not realize the size of the backyard until the house was built. He added, that before he build the fence in 2015 he asked one of the employees from City of Corcoran that gave him an approval to build the fence close to the sidewalk. A city business card with signature of former Building Inspector was presented. Mr. Villareal spent about \$ 1500 for the fence.

Following Commission discussion, a **motion** was made by Tristao and seconded by Watkins to hold the decision on zone exception request for property address 2102 Kern River Avenue pending notification of other property owners that are in the same violation regarding setbacks and review of City Lighting District of the subdivision. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

Following Commission discussion, a **motion** was made by Kassner and seconded by Tristao to approve zone exception request for property address 1800 James Avenue as presented. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

Following Commission discussion, a **motion** was made by Tristao and seconded by Bega to approve zone exception request for property address 1016 Wigdal Avenue as presented. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

5.3 The Commission reviewed five applications/requests received for zone exception pertaining to seatrains. Tromborg presented the request application one by one.

Mr. Jorge and Judy Mendez, property owner of 25041 7th Avenue approached the commission. They mentioned that the seven (7) seatrains are being used as storage of tools and equipment for their plumbing business. Some of the seatrains were installed close to the fence with surface that was compacted and with gravel. Commissioner Kassner explained that the setbacks was not followed according to the criteria that were previously approved by the commission.

Following Commission discussion, a **motion** was made by Tristao and seconded by Watkins to approve zone exception requests for seatrains on property address 25041 7th Avenue with no requirements. Motion carried by the following vote:

AYES: Bega, DeVaney, Tristao and Watkins

NOES: Kassner

ABSTAIN:

ABSENT: Jarvis and Van Velson

Following Commission discussion, a **motion** was made by Bega and seconded by Tristao to approve zone exception requests for seatrains on property address 2520 Sherman Avenue as presented. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

Following Commission discussion, a **motion** was made by Kassner and seconded by Watkins to approve zone exception requests for seatrains on property address 1008 Ottawa Avenue with a condition to paint the seatrain with an earth-tone color within one year period from the date of the decision. Motion carried by the following vote:

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

Tromborg emphasized that the zone exception approval goes with the property owner. If the property is sold, the seatrain(s) must be removed out of the property.

4. PUBLIC HEARING

4.1 Public Hearing to consider Tentative Parcel Map (TPM 19-01) submitted by Antonio & Josephine Andrade for property address 2731 Olympic Avenue, Corcoran, CA 93212, APN 034-143-081) was declared open at 6: 29 p.m. Tromborg presented the staff report. Having no oral and written testimony received, the hearing was closed at 6:33 p.m.

Ms. Josephine Andrade, owner of the property briefly clarified that the seatrain that was approved by the Planning Commission was located on the west side of the property and not on 2731 Olympic Avenue.

Following Commission discussion, a **motion** was made by Tristao and seconded by Kassner to approve Resolution No. 19-04, Tentative Parcel Map (TPM 19-01) for property address 2731 Olympic Avenue, Corcoran, CA 93212, APN 034-143-081). Motion carried by the following vote

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

4.2 Public Hearing to consider Conditional Use Permit (CUP 19-01) submitted by Raj Singh & Sunita Kaur to allow to sell alcohol/liquor on proposed Superway Market to be located at 1727 Dairy (NE of Dairy and Bainum Avenues), APN 032-191-028 was declared open at 6:34 p.m. Tromborg presented the staff report. Having no oral and written testimony received, the hearing was closed at 6:39 p.m.

Following Commission discussion, a **motion** was made by Kassner and seconded by Watkins to approve the CUP 19-01, Resolution No. 19-03 to allow to sell alcohol/liquor on proposed Superway Market to be located at 1727 Dairy (NE of Dairy and Bainum Avenues), APN 032-191-028 and move to City Council for approval. Motion carried by the following vote

AYES: Bega, DeVaney, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: Jarvis and Van Velson

5. STAFF REPORTS

5.1 Tromborg presented and read the staff report regarding Large Truck Parking (LTP) Ordinance 612.

Following discussion, the Planning Commission gave no direction to the staff on recommending to the City Council any amendment to the current Ordinance.

6. MATTERS FOR COMMISSION

6.1. The Commission received information on mobile vending. Mr. Tromborg mentioned that he will present mobile vending for future discussion of the commission to consider the issues on sales tax, permitting, business licenses, etc. The commission also received information item regarding 2020 Census.

6.2 Staff Referrals - *Items of Interest (Non-action items the Commission may wish to discuss)*

6.3 Committee Reports – None

7. ADJOURNMENT

At 7:07 p.m., the meeting was adjourned to the next regular meeting on Monday, July 15, 2019 in the Corcoran City Council Chambers 1015 Chittenden Avenue, Corcoran, CA 93212.

APPROVED ON: _____

Shea DeVaney
Planning Commission Chairperson

ATTEST:

Kevin J. Tromborg, Community Development Director

Chairperson
Shea DeVaney

Vice-Chairperson
Karl Kassner

Commissioners
David Bega
David Jarvis
Dennis Tristao
Troy Van Velson
Janet Watkins

Planning Commission



Community
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Department

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832 Whitley Avenue, Corcoran
CALIFORNIA 93212

STAFF REPORT		Item # 5.1
To:	Planning Commission	
From:	Kevin J. Tromborg, Community Development Director, Planner, Building Official.	
Date:	August 19, 2019	
Subject:	Fence zone exception requests	

A. **General Information:**

City of Corcoran Zoning Code 11-12-1, Measurement of Fence and Wall Height, states “the height of a fence or wall is measured from the adjacent finished grade at the base of the fence or wall to the top edge of the fence or wall.”

Zoning Code Section 11-12-2 Height Limits:

A fence or wall shall not exceed the maximum permitted height for Residential Zoning Districts (RA, R-1, RM) and Professional Office (PO):

- Within front setbacks area - 3 ft.

(A 4 ft. height is permitted provided that the top one foot is at least 50% open.)

- Within street side setback area - 7 ft.
- Within side and rear setback areas - 7 ft.
- Traffic safety visibility area - 3 ft.

Note: Fence height in all residential zones in excess of seven feet require a variance and a building permit.

Public Input: No public input is required.

Discussion:

The citizens of Corcoran were notified through a mass mailer in February 2019, of the zone exception request application pertaining to fences. The City started a six (6) month period (or until August 1, 2019) to allow anyone in violation regarding fence heights to apply for a zoning exception request for approval by the Planning Commission.

The Community Development Department has received the following zone exception requests in the past month:

- 25241 7th Avenue
- 514 Dairy Avenue
- 1720 Estes Avenue
- 2920 Whitley Avenue

Attachment:

Summary of zone exception applications

**Summary of application/requests received re fence zone exception (July 2019)
Presented to the Planning Commission on August 19, 2019**

	Property Address	Est. date fence built	Fence height/ material	Reason for exception
1.	25241 7 th Avenue	20 years ago.	Over 4' chain link fence	Fence was built 20 years ago to secure three dogs. For protection.
2.	514 Dairy Avenue	1990	5' 7" wood fence	Fence was built since 1990 to protect the yard
3.	1720 Estes Avenue	2016	4' wood fence	Fence was built since 2016 to protect the yard
4.	2920 Whitley Ave	2014	5' chain link fence	For safety and security

Chairperson
Shea DeVaney

Vice-Chairperson
Karl Kassner

Commissioners
David Bega
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832 Whitley Avenue, Corcoran
CALIFORNIA 93212

STAFF REPORT		Item # 5.2
To:	Corcoran Planning Commission	
From:	Kevin J. Tromborg, Community Development Director, Planner, Building Official.	
Date:	August 19, 2019	
Subject:	Request for Temporary Use Permit time extension. Commercial Sea Train storage located at 1500 Whitley Avenue (APN 030-221-008, 009, 010, 011, 012)	

General Information:

City of Corcoran Zoning Code requires a Conditional Use Permit or a Temporary Use Permit for the use of sea-trains in a commercial zone.

Discussion:

In 2014, Rite Aid took out a permit to remodel the interior of their building. At that time they asked if they could place sea-trains in their parking lot for storage of construction materials and stock that was being displaced during construction. They were given verbal permission until the project was complete. The project was finalized on May 29, 2014. The City notified Rite Aid several times that the sea train must be removed. In January of 2019, an administrative citation was issued. Rite Aid then applied for Administrative Approval for the Temporary use of Sea trains. The Community Development director approved the use permit for a period of six months. (See attached Approval letter and conditions) Rite Aid has now applied for another extension.

Recommendation:

Staff recommends that one additional extension of six months be approved with all conditions of the original approval with one addition.

- That no other extension be approved and that Rite aid find alternative methods to storage.

City of

CORCORAN

A MUNICIPAL CORPORATION

FOUNDED 1914

January 25, 2019

Robert Cavallero
Century Stores, Inc.
25 East Pier,
Sausalito, CA 94965

Re: Administrative Review 19-01 to allow temporary use of sea train as storage

Dear Robert Cavallero:

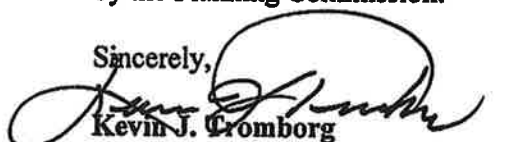
On the basis of the application and information submitted, Administrative Review 19-01, use of sea train as a storage unit on property located at 1500 Whitley Avenue, Corcoran, CA 93212, has been approved for temporary use for a period of six (6) months from the date of this notice or until July 24, 2019.

The administrative approval is subject to the following conditions:

1. Units are not allowed to be parked on the City streets or right-of-way;
2. Applicant in consideration of the approval of said administrative review, hereby agrees to hold harmless the City of Corcoran and all its departments, officers, agents or employees free and harmless of, and from any claims or any kind or nature arising out of or by reason of said project and the development of said land by any person, firm, or corporation, public or private, and from the cost and expense of defending the same including attorney fees;
3. The property be kept in good condition;
4. The property is kept clean at all times;
5. Storage shall be kept five feet (5') from property lines;
6. No storage of hazardous materials such as fuel, lubricants, antifreeze, motor vehicle batteries, welding gases, paints, solvents, glues, agricultural chemicals, etc.

Request for extension shall be made in writing together with completed temporary use permit application and administrative review fee of \$ 264.00. Application for an extension will be reviewed by the Planning Commission.

Sincerely,


Kevin J. Tromborg
Community Development Director

Cc: Jim Akers – Rite Aid, 30 Hunter Lane, Camp Hill, PA 17011
Manager – Rite Aid, 1500 Whitley Avenue, Corcoran, CA 93212

Chairperson

Shea DeVaney

Vice-Chairperson

Karl Kassner

Commissioners

David Bega

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	STAFF REPORT	Item # 5.3
To:	Corcoran Planning Commission	
From:	Kevin J. Tromborg, Community Development Director, Planner, Building Official.	
Date:	August 19, 2019	
Subject:	Ordinance 630: An Ordinance amending section 4-1-1 of the Corcoran Municipal Code, nuisance maintenance of property regarding violations and adopting fines. (Parking on the lawn /Washing vehicles on the lawn)	

General Information:

City of Corcoran Ordinance 630 as amended states that for violations of Public nuisance maintenance of property, Public nuisance personal conduct, and Building regulations *shall not be given a warning and fines are automatic*. Parking a vehicle on the lawn is a violation of Corcoran Municipal Code, Public Nuisance; Maintenance of property section 4-1-1 (T). "Storage or parking of vehicles: including, but not limited to, automobiles, trucks, boats, recreational vehicles, on any unimproved surface of a front or side yard **except for the purpose of washing such vehicle(s)**. Unimproved surface includes any surface which is not paved or asphalted. Properties having driveways composed of dirt, gravel or sand are exempt from surfacing requirements. For this purpose, a driveway is not what would be normally a landscaped area of the property.

Discussion:

Community Development through its Building and Code Enforcement Divisions is tasked with enforcing the Corcoran Municipal code which includes the Corcoran zoning code, the California Building codes of regulations and the California Health and Safety regulations that may apply to the City of Corcoran. Water, which is the life blood of California became a paramount issue during the past several years when California experienced one of the worst droughts in the history of the state. The drought affected everyone and every type of business including California's largest business, agriculture. Although we have had a couple of years of plentiful water and snow, drought conditions are always on the horizon and water must be conserved to preserve our ability to serve the residents and businesses far into the future. Section 4-1-1 (T) of the Corcoran Municipal Code allows for citizens to temporarily park their vehicles on the lawn or landscaped areas in order to clean them. As Code Enforcement performs its daily field work, one of the most prolific violations it encounters is water violations and parking vehicles on the lawn. Parking vehicles on the lawn is a violation of almost all City municipal codes in California. It is considered a nuisance, blight and if unchecked can be an indicator of the broken windows theory and be instrumental in lowering property values. In May of 2018, the Corcoran City Council amended Ordinance 630 adjusting the fines for code violations and removing warnings for maintenance of property, personal conduct and building code violations. When Code Enforcement issues a citation for parking vehicles on the lawn or what is typically a landscaped area, the accused, through the appeals process often claims they were washing their vehicles. The hearing officer, without clear language in the code regarding the washing of vehicles on the lawn has no other recourse but to waive the citation.

Staff has done some research and has found that several Cities in California have been wrestling with the same situation. Below are a couple of the amendments made to solve this problem.

1. Add language to the section stating that the vehicle shall be attended while being washed.
2. Remove language allowing vehicles to be washed on the lawn.

Recommendation: Staff asks that the Planning Commission review this issue and gives recommendations and direction to staff.

Attachment.

1. Ordinance 630

ORDINANCE NO. 630

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORCORAN
AMENDING SECTION 4-1-1 OF THE CORCORAN MUNICIPAL CODE, NUISANCE;
MAINTENANCE OF PROPERTY REGARDING VIOLATIONS AND ADOPTING
FINES**

THE CITY COUNCIL OF THE CITY OF CORCORAN DOES ORDAIN AS FOLLOWS:

Title 4, Chapter 1, Section 1 of the City of Corcoran California Municipal Code is hereby amended to add as follow:

SECTION 4-1-1: PUBLIC NUISANCE; MAINTENANCE OF PROPERTY

“No warnings will be given for violations of this subsection”

Title 4, chapter 3, Section 1 of the City of Corcoran California Municipal Code is hereby amended to add as follows:

SECTION 4-3-15: WEED ABATEMENT, PENALTY

Title 4, Chapter 4 section 5A of the City of Corcoran California Municipal Code is hereby amended to add as follows:

SECTION 4-4-5 A: PUBLIC NUISANCE; PERSONAL CONDUCT

“No warnings will be given for violations of this subsection”

Title 9, Chapter 1, Building Regulations, 9-1-3 of the City of Corcoran California Municipal Code is hereby amended to add as follows:

SECTION 9-1-3 A: BUILDING REGULATIONS; BUILDING CODE

“No warnings will be given for violations of this subsection”

Title 11 of the City of Corcoran California Municipal Code is hereby amended to add as follows:

SECTION 27: ZONING REGULATIONS; VIOLATION FINES

Title 12, Chapter 1, Sub-division Regulations, of the City of Corcoran California Municipal Code is hereby amended to add as follows:

SECTION 12-1-32: SUB-DIVISION REGULATIONS, VIOLATION FINES

VIOLATIONS OF THIS ORDINANCE WILL RESULT IN THE INSSUANCE OF ADMINISTRATIVE CITATIONS. THE FINE'S IMPOSED ARE AS FOLLOWS:

1ST CITATION - \$100.00 IN A TWELVE MONTH PERIOD

2ND CITATION - \$200.00 IN A TWELVE MONTH PERIOD

3RD CITATION - \$500.00 IN A TWELVE MONTH PERIOD

ADDITIONAL CITATIONS IN A TWELVE MOTH PERIOD WILL RESULT IN A \$500.00 CITATION EVERYDAY UNTIL THE VIOLATION HAS BEEN CORRECTED, REMOVED, OR ABATED.

All other portions of Section 4-1-1 of Chapter 4 of Title 1 of the Corcoran Municipal Code shall remain unchanged.

The City of Council of Corcoran, California, ordains that this ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

If any section, subsection, sentence, clause, word or phrase of this Ordinance is held to be unconstitutional or otherwise invalid for any reasons, such decision shall not affect the validity of the remainder of this Ordinance. The City Council of the City of Corcoran hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, words, or phrases be declared invalid or unconstitutional.

PASSED AND ADOPTED by the City of Council of the City of Corcoran at a regular meeting thereof held on the 22nd of May, 2018 by the following vote:

AYES: Lerma, Nolen, Robertson and Zamora-Bragg

NOES:

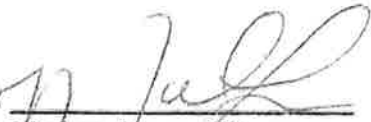
ABSENT: Palmerin

ABSTAIN:

APPROVED:


Raymond Lerma, Mayor

ATTEST:


Marlene Lopez, City Clerk

Chairperson
Shea DeVaney

Vice-Chairperson
Karl Kassner

Commissioners
David Bega
Dennis Tristao
David Jarvis
Troy Van Velson
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STAFF REPORT		Item # 5.4
To:	Planning Commission	
From:	Kevin J. Tromborg, Community Development Director, Planner, Building Official.	
Date:	August 19, 2019	
Subject:	Draft ordinance pertaining to Mobile Food and Merchandise Vendors	

General Information:

In September of 2018, Governor Brown signed into law, State Senate Bill 946, regarding Mobile Vending and how City and County authorities regulate this type of business. Starting in January of 2019, local authority or code can no longer deny Mobile Vending from doing business within City or County limits. Community Development staff and the City Attorney have been evaluating the new state law and have developed a draft ordinance that is ready for review and recommendations by the Corcoran Planning Commission.

Discussion

Currently, the City of Corcoran does not have a stand-alone ordinance regarding mobile food vendors. In 2014, the City Council at the recommendation of the Planning Commission, adopted a new zoning code that has limited regulations regarding mobile vendors (see attached Section 11-15-7 of the zoning code). New State law that went into effect on January 1, 2019, has changed the City's ability to regulate mobile vending. Attached is a draft ordinance that encompasses the new state regulations and the City's new requirements pertaining to mobile vending and sidewalk vending.

Recommendation:

Staff recommends that the Planning Commission consider the draft ordinance and makes recommendations, if needed, and presents their recommendations to the City Council.

Public Input: No public hearing is required at this time.

Attachment:

1. SB 946 Safe Sidewalk Vending Act
2. Mobile Food Vendors section 11-15-7 Corcoran Zoning Code.
3. Draft Ordinance Attachment "A"



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CLIENT NEWS

SB 946 Safe Sidewalk Vending Act

September 21, 2018 -- *Client Alert*

Governor Jerry Brown recently signed Senate Bill 946, also known as the Safe Sidewalk Vending Act. Under the law, which goes into effect January 1, sidewalk vendors may not be prohibited, although local authorities will be able to establish regulations on sidewalk vendors to protect valid health, safety and welfare concerns. The statute defines "sidewalk vendors" as "persons who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path." A sidewalk vendor can be roaming or stationary. "Local authority" is expressly defined as both chartered and general law cities and counties.

The statute addresses sidewalk vending in four contexts: (1) generally, (2) in parks, (3) within the vicinity of farmers' markets and swap meets, and (4) within temporary special permit areas. This summary will outline what a local authority may and may not regulate within each of these contexts.

Sidewalk Vendors Generally

Specifically, a local authority may not:

- Require a sidewalk vendor to operate within specific parts of the public right-of-way, except when directly related to "objective health, safety, or welfare concerns".
- Require a sidewalk vendor to first obtain the consent or approval of any non-governmental entity or individual before he or she can sell food or merchandise.
- Restrict sidewalk vendors to operate only in a designated neighborhood or area, except when the restriction is directly related to objective health, safety, or welfare concerns; however, stationary sidewalk vendors (as opposed to roaming sidewalk vendors) may be prohibited in exclusively residential zones.
- Restrict the overall number of sidewalk vendors permitted to operate within the local authority's jurisdiction, unless the restriction is directly related to objective health, safety, or welfare concerns.

On the other hand, a local authority may adopt 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:

- Limitations on hours of operation (so long as they are not unduly restrictive)
- Requirements to maintain sanitary conditions
- Requirements necessary to ensure compliance with the federal Americans with Disabilities Act and other disability access standards
- Requiring the sidewalk vendor to obtain a permit for sidewalk vending and a valid business license
- Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit
- Prohibiting stationary sidewalk vendors in areas zoned for only residential uses
- Requiring compliance with other generally applicable laws

Client News

[Governor Signs SB 83 Extending Paid Family Leave Benefits State And Regional Board MS4 Permits, Which Require Numeric Water Quality Based Effluent Limits, Must Take Into Account Economic Considerations](#)
[FCC Proposes New Rules Limiting Local Control Over Cable Franchises](#)
Firm News
[Joe Pannone to Present an AB 1234 Ethics Program at MVCAC Conference](#)
[G. Ross Trindle, III to Present on Cannabis Regulation and Enforcement](#)
[June S. Ailin to Speak at Eminent Domain Seminar](#)
Attorneys
[Tiffany J. Israel](#)

Requiring compliance with other generally applicable laws
Requiring a sidewalk vendor to submit certain information on his or her operations

Sidewalk Vending and Parks

The statute separately addresses regulation of sidewalk vending in parks owned or operated by the local authority. Specifically, a local authority may not:

Prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority; however, stationary sidewalk vendors (as opposed to roaming sidewalk vendors) may be prohibited from vending in the park if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

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:

Directly related to the objective health, safety, or welfare concerns
Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, or
Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

Sidewalk Vending and Farmers' Markets and Swap Meets

With respect to farmers' markets and swap meets, the local authority may:

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.

The statute additionally provides definitions of "certified farmers' market" in accordance with the Food and Agricultural Code and "swap meet" in accordance with the Business and Professions Code.

Sidewalk Vending and Temporary Special Permit Areas

The statute provides that, for the purposes of this section of the statute, 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. This includes, but is not limited to: (1) an encroachment permit, (2) a special event permit, or (3) a temporary event permit for purposes including, but not limited to, filming, parades, or outdoor concerts."

A local authority may restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit for the duration of the temporary special permit.

Violation of the Safe Sidewalk Vending Act

Criminal penalties for sidewalk vending are prohibited. Instead, a violation may only be punishable only by an administrative fine, pursuant to an ability-to-pay determination. The local authority must provide notice to the violator that he or she has the right to request an ability-to-pay determination and make instructions available for doing so, and accept payment of 20% of the fine in full satisfaction if the violator earns less than 125% of the federal poverty line or receives certain means-tested government benefits.

Failure to pay the administrative fine is not punishable as an infraction or misdemeanor and additional fines, fees, assessments, or any other financial conditions may not be imposed. However, 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.

Alternatively, the local authority may allow the person to complete community service in lieu of paying the total administrative fine, may waive the fine, or may offer an alternative disposition.

Additionally, pending vendor citations and previous convictions will be vacated.

Things to Consider

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. However, if a local authority does not adopt a program to regulate sidewalk vending that complies with the statute, the local authority may not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the statute.

The statute does not specifically define "objective health, safety, or welfare concerns" but states that "perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern."

This statute does not affect the applicability of the California Retail Food Code to a sidewalk vendor who sells food, which lays out the requirements that food retailers must meet, including operational practices, equipment standards, and standards for facilities.

The statute bill includes not only vendors of food, but also vendors of merchandise. The statute does not clearly define "merchandise."

For further information, please contact Tiffany Israel or Nicole Lucas from Aleshire & Wynder, LLP at (949) 223-117

Disclaimer: Aleshire & Wynder, LLP legal alerts are not intended as legal advice. Additional facts or future developments may affect subjects contained herein. Please seek legal advice before acting or relying upon any information in this communication.

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Date Published: 09/17/2018 09:00 PM

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.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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.

- C. Appeals.** The recommendations of the Community Development Department may be appealed to the City Council within 15 days of the completion of the review and findings. The appeal shall be placed on the agenda of the next regular meeting of the City Council. The Council shall review the findings and recommendations and shall act to uphold, modify or disapprove the recommendations of the Community Development Department.

11-15-7 Mobile Food Vendors

- A. Permitted Location.** Limited to construction sites and the Agricultural and Industrial zoning districts. Administrative Approval is required for any permanent or temporary mobile food vendors within commercial zoning districts.
- B. Standards.** Mobile food vendors shall comply with the following standards:
1. Less than twenty minutes per location.
 2. Shall not be located in congested areas where the operation impedes vehicular or pedestrian traffic or in a designated bike lane.
 3. Shall not be located within three blocks of public schools during school hours.
 4. Shall not be open between the hours of 7:00 p.m. and 7:00 a.m., except for special events.
- C. Mobile Food Vendor Requirements.** The following regulations apply to mobile food vendors within any zoning district.
1. Each vendor shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and waste water.
 2. All disturbed areas must be cleaned following each stop at a minimum of 20 feet of the sales location.
 3. Continuous music or repetitive sounds shall not project from the vendor.
 4. A 5-foot clear space shall be maintained around the vendor.
 5. No sales are allowed within public park facilities except for special events, such as the Corcoran Cotton Festival.
 6. A "no smoking" sign must be posted next to the order window or area.
 7. A tagged fire extinguisher shall be kept accessible.

11-15-8 Photovoltaic Panel Systems

- A.** Photovoltaic panel systems are permitted by right in all zoning districts.
- B.** Photovoltaic panel systems shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and the Public Utilities Commission regarding safety and reliability.
- C.** Ground-mounted photovoltaic solar panel systems located in a side or rear setback area shall not exceed a maximum height of 9 feet.
- D.** Photovoltaic panel systems attached to the roof of a structure may project up to 6 feet above the maximum permitted height in the applicable zoning district.

ATTACHMENT "A"

CHAPTER 11-15

Mobile Food and Merchandise Vendors

- A. Purpose.** The purpose of this chapter is to establish a permitting and regulatory program for mobile food vendors, including sidewalk vending designed to comply with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this chapter allow the City to encourage small business activities while permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety, and welfare.
1. The City Council hereby finds that to promote the public's health, safety, and welfare, restrictions on mobile vending are necessary to:
 - a. Ensure no reasonable 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; and
 - b. Provide reasonable access for the use and maintenance of streets, sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, water valves, manholes, storm drains, catch basins, firefighting apparatus, mailboxes, or other utilities or appurtenances, as well as access to locations used for public transportation services; and
 - c. Reduce exposure to the City for personal injury or property damage claims and litigation; and
 - d. Ensure mobile vending activities occur only in locations where such activities would not restrict street, sidewalk, and pathway access and enjoyment to all users, particularly those with disabilities.
 2. This chapter shall not apply to the following:
 - a. Vendors under contract for City-sponsored and City-approved special events including, but not limited to, a farmers' market, swap meet, street fair, parades, festivals, and outdoor concerts; or

City of Corcoran
Ordinance ### (Mobile Food and Merchandise Vendors)

- b. Vendors participating in City-approved temporary uses in accordance with Chapter 11-16 of this code.

B. Definitions.

1. **Cart.** A Stationary Cart or a Mobile Cart used for Sidewalk Vending.
2. **Catering Food Truck.** A business selling food or drink from a catering truck, large trailer, or vehicle, but excluding any Mobile or Stationary Cart used for Sidewalk Vending.
3. **Catering Food Truck Vendor.** A Person who Vends Food with a Catering Food Truck.
4. **Food.** Any type of edible substance or beverage and any item provided in Health and Safety Code Section 113781, or any successor section.
5. **Goods or Merchandise.** Any item that can be sold and immediately obtained from a Vendor which is not Food.
6. **Mobile Cart.** A piece of equipment used for Vending on Sidewalks which is mobile but has no motor and is capable of being propelled by a single Person.
7. **Person or Persons.** means one or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.
8. **Pocket Park.** Any park located in residential neighborhoods. These parks are situated near individual private residences.
9. **Sidewalk.** means any surface in the public right-of-way provided for the exclusive use of pedestrians.
10. **Sidewalk Vending Permit.** means a written City approval required for each Cart used for Vending in the City.
11. **Sidewalk Vendor.** A Person who Vends with Mobile Cart or Stationary Cart on the Sidewalks of the City.

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12. **Stationary Cart.** A piece of equipment used for Vending, which has no motor and is not mobile, except when being pushed, carried or transported to and from a space on the Sidewalk on a daily basis.
13. **Vend, Vends, or Vending.** To sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter Food or Merchandise, or to require someone to negotiate, establish, or pay a fee before providing Food or Merchandise, even if characterized as a donation.

C. Catering Food Truck Vendor Requirements. The following regulations apply specifically to Catering Truck Vendors:

1. Catering Food Truck Vendors are limited to Vending Food at construction sites and Agricultural and Industrial zoning districts.
2. Administrative Approval is required for any permanent or temporary Catering Food Truck Vending within commercial zoning districts.
3. Each Catering Food Truck shall be able to upon request while Vending show proof of approval to Vend Food by the Kings County Health Department. A Catering Food Cart approved by the Health Department to Vend one type of Food may not be used to Vend a different type of Food.
4. Each Catering Food Truck Vendor shall comply with the following standards:
 - a. Shall stay less than 20 minutes per location without Administrative Approval to stay longer.
 - b. Shall not be located in congested areas where the operation impedes vehicular or pedestrian traffic or in a designated bike lane.
 - c. Shall not be located within three blocks of K-12 schools during school hours.
 - d. Shall not be open between the hours of 10 p.m. and 7:00 a.m., except for City-permitted special events.
5. All disturbed areas must be cleaned following each stop.
6. Continuous music or repetitive sounds shall not project from the Catering Food Truck.
7. A five-foot clear space shall be maintained around the Catering Truck Vendor.

Commented [K1]: The statute now provides until 7 pm, which seems restrictive. Let me know if you want me to change it back.

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8. No sales are allowed within public park facilities except for special events, such as the Corcoran Cotton Festival.
 9. A tagged fire extinguisher shall be kept accessible.
 10. At least one employee who sells Food shall be able to provide proof of completion of a food handler training course at all times while Vending.
- D. **Sidewalk Vending Permit required.** Every Sidewalk Vendor must first obtain, and at all times maintain, a valid Sidewalk Vending Permit from the Community Development Department in accordance with this chapter. *form*
1. Every Sidewalk Vendor must Vend in compliance with the terms and conditions of the Sidewalk Vending Permit.
- E. **Sidewalk Vending Permit Application process.** To apply for a Sidewalk Vending Permit, a Sidewalk Vendor must present valid identification, such as a State of California identification or any other government-issued identification card and provide the following information:
1. The name, address, and telephone number of the Sidewalk Vendor and of all persons that will be employed to Vend for the Sidewalk Vendor.
 2. Proof of liability insurance of such types and such amounts required by the Community Development Department.
 3. An agreement by the Sidewalk Vendor to defend, indemnify, release and hold harmless the City, its City Council, boards, commissions, officers, and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relating (directly or indirectly) to the Sidewalk Vending Permit or the Sidewalk Vendor's Vending activities. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the Sidewalk Vendor, Sidewalk Vendor's agent, the City, or the parties initiating or bringing such proceeding.
 4. An acknowledgment that the Sidewalk Vendor's use of public property is at their own risk, that the City does not take any steps to ensure public property

Not on residential area

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is safe or conducive to the Sidewalk Vending activities, and the Sidewalk Vendor's use of public property is at his or her own risk.

5. A Sidewalk Vendor who sells Food shall provide proof of completion of a food handler training course.
 6. The number of Carts the Sidewalk Vendor will operate within the City under the Sidewalk Vending Permit, but not to exceed three.
 7. The type of Cart (Mobile or Stationary) the Sidewalk Vendor intends to operate.
 - a. If a Stationary Cart, the location in the City where the Sidewalk Vendor will operate, a description or site plan map of the proposed location, showing that the Stationary Cart maintains a minimum of 36 inches of accessible route area, in compliance with the American Disabilities Act.
 8. Proof that every Cart used to Vend Food within the City is approved by the Kings County Health Department. A Cart approved by the Health Department to Vend one type of Food may not be used to Vend a different type of Food.
 9. Proof of the Sidewalk Vendor's possession of a valid California Department of Tax and Fee Administration seller's permit, which shall be maintained during the pendency of the Vendor's Permit.
 10. An acknowledgment that the Sidewalk Vendor will comply with all other generally applicable local, state, and federal laws.
 11. A Sidewalk Vending Permit must be renewed every year, prior to expiration. A Sidewalk Vending Permit expires one year from the date it is issued.
 12. No Sidewalk Vendor Permit is transferable. Any change in ownership or operation of a Cart requires a new Sidewalk Vendor Permit.
 13. The applicant must pay an application or renewal fee as established by resolution of the City Council. If the application is approved, it shall not be necessary for the permittee to obtain a City business license to carry on activities authorized by the Vending Permit, unless the applicant maintains a permanent place of business within the City.
- F. **Issuance of a Sidewalk Vending Permit.** Within 30 days of receiving a complete application determined at the sole discretion of the Community Development Department, the Community Development Department may issue a Sidewalk

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Vending Permit, with appropriate conditions, if it finds based on all the relevant information that:

1. The conduct of the Sidewalk Vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety, or general welfare; and
2. The conduct of the Sidewalk Vendor will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the Sidewalk Vendor; and
3. The Vending will not constitute a fire hazard, and all proper safety precautions will be taken; and
4. The Vending will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the City; and
5. The Sidewalk Vendor has not had a permit revoked within the same calendar year; and
6. The Sidewalk Vendor has satisfied the requirements of this chapter; and
7. The Sidewalk Vendor has paid all applicable fees as set by City Council Resolution; and
8. The Cart and proposed activities conform to the requirements of this chapter; and
9. The Sidewalk Vendor has adequate insurance to protect the City from liability associated with the Vendor's activities, including naming the City as an additional insured, as determined by the Community Development Department or City's risk manager; and
10. The Sidewalk Vendor has satisfactorily and truthfully provided all information requested by the Community Development Department to consider the application.

G. Sidewalk Vending Operating conditions.

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1. Every Cart used for Sidewalk Vending must obtain and prominently display a Sidewalk Vending Permit.
2. Every Cart must be placed and used at all times in compliance with the terms and conditions of the Sidewalk Vending Permit and abide by all applicable laws and regulations.
3. All Sidewalk Vendors are prohibited from Vending between the hours of 10:00 p.m. and 7:00 a.m. daily. In residential areas, all Sidewalk Vending is prohibited between the hours of 8:00 p.m. or sunset, whichever is earlier, and 7:00 a.m. daily.
4. A Sidewalk Vending Permit must be renewed every year, prior to expiration.
5. A Sidewalk Vendor may not use a Stationary Cart to Vend in a residential area. Only a Mobile Cart may be used to Vend in a residential area.
6. A Sidewalk Vendor may operate a Stationary Cart only in commercial or industrial zones.
7. No more than two Stationary Carts with approved Sidewalk Vending Permits may be used to Vend on the Sidewalk of a single block face.
8. A Sidewalk Vendor who Vends in a residential area with a Mobile Cart shall move continuously, except when conducting a sale, which must last no more than seven minutes per sale.
9. A decal issued by the City certifying the issuance of a Sidewalk Vending Permit for the Cart shall be attached to and prominently displayed on each Cart in use by a Sidewalk Vendor.
10. A Cart approved to Vend Food by the Kings County Health Department shall prominently display the county-issued permit on the approved Cart.
11. Every Stationary Cart must not exceed a length of eight feet, a width of five feet, or a height, including roof, awning, or umbrella of nine feet. A Sidewalk Vending Permit application may request, and the City may approve, a small table for condiments to be used in conjunction with a Cart selling Food.
12. Every Mobile Cart must not exceed a length of seven feet, a width of three feet, or a height of four feet. A Sidewalk Vending Permit application may request, with a picture, and the City may approve, a shade structure such as an umbrella attached to a Mobile Cart. The shade structure may not impede the flow of pedestrian traffic.

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13. A Sidewalk Vendor selling Food must provide a trash receptacle for customers large enough to accommodate the proper disposal of customer trash. A Sidewalk Vendor may not dispose of customer trash in existing trash receptacles.
14. A Sidewalk Vendor must immediately clean up any food, grease, or other fluid or item related to Vending and maintain a clean and trash-free 10-foot radius from the Cart during hours of operation and must leave the area clean by the approved closing time.
15. A Sidewalk Vendor shall not approach persons to sell food or merchandise and shall not interfere in any way with anyone engaged in an activity to sell food or merchandise.
16. A Sidewalk Vendor shall not create unreasonable amounts of noise.
17. No Cart, condiment table, or Sidewalk Vendor's trash receptacle may be left on the Sidewalk after the Vendor's approved closing time.
18. No Cart, condiment table, or Sidewalk Vendor's trash receptacle shall be chained or fastened to any pole, sign, tree, or another object in the public right-of-way or left unattended.
19. Sidewalk Vending shall not occur within three blocks of K-12 schools during school hours.
20. Sidewalk Vending of illegal or counterfeit Merchandise is prohibited.
21. Sidewalk Vending of services is prohibited.
22. Renting merchandise to customers is prohibited.
23. Using an open flame on or within any Cart is prohibited.
24. A Sidewalk Vendor shall not conduct transactions with persons in moving vehicles or illegally parked or stopped vehicles.

Commented [KJ2]: I could not find a noise standard and choose a standard to be interpreted by code enforcement and police.

H. Placement of Sidewalk Carts.

1. Carts, Food, and Merchandise shall be prohibited:
 - a. Within 5 feet of a marked crosswalk.
 - b. Within 5 feet of the curb return of an unmarked crosswalk.

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- c. Within 25 feet of any fire hydrant, fire call box, or other public utility.
- d. Within 25 feet of a marked bus zone, a curb designated as yellow or red zone, and handicapped parking spaces or access ramps.
- e. Within 5 feet of a bus bench.
- f. Within 10 feet of a transit shelter.
- g. On an area improved with lawn, flowers, shrubs, trees, street tree well, or other landscaping.
- h. Within 5 feet of a driveway or driveway apron.
- i. Within 15 feet of an outdoor dining or patio dining area.
- j. Within 18 inches from the edge of the curb.
- k. Within 200 feet of an area designated for a temporary special permit issued by the City, during the limited duration of the temporary special permit. If the City provides any notice, business interruption mitigation, or other rights to affected businesses or property owners under the City's temporary special permit, such notice will also be provided to the Vendors specifically permitted to operate in the area, if applicable.
- l. Within 50 feet of another Vendor.
- m. Within 200 feet of a permitted farmer's market or swap meet.
- n. On any Sidewalk where a Cart and queuing patrons would restrict the accessibility requirements under the Americans with Disabilities Act.
- o. Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than three feet or impedes access to or the use of abutting property, including, but not limited to, residences, and places of business.
- p. On City-owned property without prior City approval or from connecting to any public utilities.
- q. Stationary Carts are prohibited in any Pocket Park. These parks are small by design and adjacent to individual private residences. The prohibition will prevent an undue concentration of commercial activity

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that unreasonably interferes with the scenic and natural character of the park and quiet enjoyment of residential neighborhoods. Stationary Carts will result in increased traffic, noise, and crowding, resulting in health, welfare, and safety issues.

- r. At any park where the City has signed an agreement for concessions that exclusively permits the sale of Food or Merchandise by the concessionaire.
2. Notwithstanding any specific prohibitions in this subsection, no Sidewalk Vendor shall install, use, or maintain a Cart in a manner that endangers the safety of persons or property.

I. Penalties.

- 1. Violations of this chapter shall not be prosecuted as infractions or misdemeanors and shall be only punished by the following administrative fine and rescission provisions:
 - a. An administrative fine not exceeding \$100 for a first violation; and
 - b. An administrative fine not exceeding \$200 for a second violation within one year of the first violation; and
 - c. An administrative fine not exceeding \$500 for each additional violation within one year of the first violation.
- 2. The Community Development Department may rescind an Administrative Approval issued to a Catering Truck Vendor and may rescind Sidewalk Vending Permit issued to a Sidewalk Vendor for the term of that Permit upon the fourth violation or subsequent violations, or for fraud or misrepresentation in the application for the Administrative Approval or Sidewalk Vending Permit.

J. Appeals.

- 1. Decisions to deny an Administrative Approval or an application for a Sidewalk Vending Permit or to impose administrative fines on any Vendor may be appealed by any interested person in accordance with the provisions outlined in Chapter 11-27 of this code (Appeals), except as modified by this chapter.
- 2. Appeals made by a Sidewalk Vendor shall be modified from the provisions outlined in Chapter 11-27 as follows:

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- a. No hearing shall be held unless and until the fine or penalty has been deposited with the City, or an advance deposit hardship waiver has been issued by the hearing officer.
- b. If an administrative fine is the subject of an appeal, the hearing body shall take into consideration the person's ability to pay the fine. The Community Development Department shall provide the Sidewalk Vendor with a notice of his or her right to request an ability-to-pay determination. The person may request an ability-to-pay determination at or before the hearing or while the administrative fine remains unpaid.
- c. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the appellate hearing body shall accept, in full satisfaction, 20% of the administrative fine imposed pursuant to this chapter.
- d. The appellate hearing body may allow the person to complete community service instead of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.