



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2024

ITEM NO: 11

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**DATE:** November 5, 2024

**TO:** Mayor and Town Council

**FROM:** Gabrielle Whelan, Town Attorney

**SUBJECT:** Introduce an Ordinance Amending the Town Code Chapter 14 Related to “Peddlers and Solicitors” and Replacing Article VII “Pushcarts” with “Sidewalk Vending.”

Ordinance Title: An Ordinance of The Town Council of The Town of Los Gatos Amending Sections 14.40.010, “Definitions,” and 14.40.015, “Nonapplicability,” of Article IV, “Peddlers And Solicitors,” of Chapter 14, “Licenses and Miscellaneous Business Regulations,” of The Town Code and Replacing Article VII, “Pushcarts,” of Chapter 14, “Licenses and Miscellaneous Business Regulations,” with a New Article VII, “Sidewalk Vending” in the Town Code.

**RECOMMENDATION:**

Introduce an Ordinance Amending the Town Code Chapter 14 Related to “Peddlers and Solicitors” and Replacing Article VII “Pushcarts” with “Sidewalk Vending.”

**BACKGROUND:**

A proposed ordinance has been prepared following a Town Council study session on the topic of sidewalk vending and the requirements of state Senate Bill 946, which amended Government Code Sections 51036 and following.

Senate Bill 946, which became effective in 2019, prohibits local agencies from regulating sidewalk vendors except in accordance with Government Code Sections 51038 and 51039 (Attachment 1). Senate Bill 946 defines a “sidewalk vendor” as “a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person upon a public sidewalk or other pedestrian path.”

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Reviewed by: Town Manager, Assistant Town Manager, Community Development Director, Chief of Police, Finance Director, and Parks and Public Works Director

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Local agencies do retain the ability to impose time, place, and manner regulations on sidewalk vendors. Specifically, Senate Bill 946 authorizes local agencies to do the following:

- 1) Adopt requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, and welfare standards.
- 2) Prohibit stationary sidewalk vendors from operating in areas that are zoned as exclusively residential.
- 3) Adopt reasonable time, place, and manner restrictions inside public parks if the restrictions are directly related to objective health, safety, or welfare concerns, when necessary to ensure the public’s use and enjoyment of the park, or as necessary to prevent an undue concentration of commercial activity that unduly interferes with the character of the park.
- 4) Limit the hours of operation for sidewalk vendors so long as those hours are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation cannot be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street. (At the Town Council’s study session, the Council asked whether this meant the length of the full street even when the full street runs for several blocks. While there is no legislative history addressing the intent of the statutory language, it is reasonable to interpret this to mean that, in nonresidential areas, the sidewalk vendor is limited to the hours of businesses on the same street within the same block.)
- 5) Impose requirements to maintain sanitary conditions.
- 6) Impose requirements necessary to comply with the Americans with Disabilities Act and other disability access standards.
- 7) Require the sidewalk vendor to obtain a sidewalk vending permit.
- 8) Require the sidewalk vendor to possess a valid California Department of Tax and Fee Administration Seller’s Permit.
- 9) Require additional licenses from other state or local agencies to the extent required by law.
- 10) Require sidewalk vendors to submit information regarding their operations, including a mailing address, a description of merchandise, a California seller’s permit number, and other information.
- 11) Prohibit sidewalk vendors from operating near certified farmers’ markets, swap meets, and other events subject to a temporary special permit.

Senate Bill 946 prohibits local jurisdictions from imposing the following regulations:

- 1) Requiring a sidewalk vendor to operate only within specific parts of the public right of way, unless the restriction is directly related to objective health, safety, and welfare concerns.

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- 2) Prohibiting sidewalk vendors from operating in a public park, unless the Town has an agreement with a third party for exclusive concessions in the park.
- 3) Restricting sidewalk vendors to specific neighborhoods, unless the restriction is directly related to objective health, safety, or welfare concerns.

At its August 15<sup>th</sup> study session, the Town Council expressed interest in:

- 1) Prohibiting sidewalk vending in areas that are zoned exclusively residential;
- 2) Requiring that all sidewalk vendors obtain a sidewalk vending permit;
- 3) Limiting the size of sidewalk vending areas to 15 square feet;
- 4) Prohibiting pop-up tents;
- 5) Prohibiting sidewalk vendors from blocking the entrances to businesses;
- 6) Prohibiting sidewalk vendors from limiting the line of sight at intersections;
- 7) Regulating sidewalk vendors in Town parks so that the character and use of parks are not affected;
- 8) Limiting the hours of operation for sidewalk vendors to be from 9 a.m. to sunset (unless SB 946 mandates that the vending be permitted to match the business hours of nearby businesses in commercial districts). For ease of administration, the proposed resolution limits the hours of operation to be from 9 a.m. to 5 p.m.; and
- 9) In Town parks, limiting the number of sidewalk vendors and ensuring that the vendors are in highly visible locations and operating during daylight hours.

The Town Code currently regulates peddlers and solicitors in Town Code Sections 14.40.010 and following (Attachment 2). The Town currently regulates pushcart vendors in Town Code Sections 14.70.010 and following (Attachment 3). These provisions were enacted in 1968 and staff recommends that they be updated in light of Senate Bill 946. The proposed ordinance would amend the peddlers and solicitors ordinance to exclude sidewalk vendors from its provisions. A redline showing the proposed changes to the peddlers and solicitors ordinance is attached as Attachment 4. A proposed ordinance to replace the Town’s existing pushcart ordinance with a new sidewalk vending ordinance is attached as Attachment 5.

DISCUSSION:

The proposed ordinance includes each of the elements identified at the Town Council’s August 15<sup>th</sup> study session. In addition, after the study session, Town staff met specifically to discuss sidewalk vending in Town parks. In order to make sure that parks remain available for the public to enjoy, staff is recommending that sidewalk vending in public parks be limited to the paved area near playgrounds and to two days per 30-day period per vendor. In order to prevent an undue concentration of commercial activity that unduly interferes with the character of Town parks, staff is recommending that there be no more than two vendors in the same park at any one time. Staff is proposing that the Police Department issue sidewalk vending permits for

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sidewalk locations and that the Parks and Public Works Department issue sidewalk vending permits to park locations. The proposed ordinance includes those provisions.

Procedurally, in order to align the Town Code with the requirements of Senate Bill 946, the proposed ordinance would:

- 1) Rescind the existing pushcart ordinance since pushcarts are included within the state definition of sidewalk vendors and would be covered by the proposed sidewalk vending ordinance.
- 2) Amend the existing peddler and solicitor ordinance to exclude sidewalk vendors from its provisions.
- 3) Regulate sidewalk vendors.

The Town will need to adopt a new sidewalk vending permit fee and develop an application form, prior to the effective date of the Ordinance.

#### CONCLUSION:

Staff has developed a proposed ordinance to require that sidewalk vendors obtain sidewalk vending permits and to include these time, place, and manner regulations. The ordinance also rescinds the Town’s existing pushcart ordinance and amends the Town’s existing peddlers and solicitors ordinance. If introduced, the ordinance would return to the Town Council for adoption on December 3<sup>rd</sup> and would take effect 30 days after adoption.

#### FISCAL IMPACT:

This ordinance update is not anticipated to have a financial impact because sidewalk vendors are already required to pay business license taxes.

There is currently no permit program for vending in parks, so this ordinance represents a new program that will impact Parks and Public Works operations. Park reservations and permitting are currently managed by one 0.75 FTE who issued 563, 861, and 755 permits in 2021, 2022, and 2023 respectively. A total of 652 Reservations and permits have been issued through November 13, 2024. Each reservation includes processing payments, and many include coordinating with vendors such as for business, licenses, catering, face painting, etc. This staff person also coordinates with the Office of Economic Vitality on special events that are held in parks and answers phones and monitors the PPW general email box on a bi-weekly basis. It is unclear how the new permit program for vending in parks will impact the performance of this 0.75 FTE, but there is no capacity in existing staff to manage this new program.

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CEQA:

Because this ordinance will not cause a change in the physical environment, introduction of this ordinance is not a project subject to the California Environmental Quality Act (Public Resources Code Section 21065).

COORDINATION:

This report was coordinated with the Town Manager’s Office, the Parks and Public Works Department, the Police Department, and the Community Development Department. A copy of the proposed sidewalk vending ordinance was provided to the Chamber of Commerce.

Attachments:

1. Senate Bill 946
2. Existing Peddlers and Solicitors Code Section
3. Existing Pushcarts Code Section
4. Redline Showing Proposed Edits to Peddlers and Solicitors Code Section
5. Proposed Ordinance Amending Chapter 14 of the Town Code Related to “Peddlers and Solicitors” and Replacing Article VII, “Pushcarts” with “Sidewalk Vending”