



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/20/2024

ITEM NO: 1

DATE: August 15, 2024
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Study Session Regarding Potential Update to Sidewalk Vending Ordinance

RECOMMENDATION:

Discuss Senate Bill 946, which imposes state requirements on local regulation of sidewalk vendors, and provide direction regarding a sidewalk vending ordinance update.

BACKGROUND:

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. 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."

The Town currently regulates peddlers and solicitors in Town Code Sections 14.40.010 and following (Attachment 1). The Town currently regulates pushcart vendors in Town Code Sections 14.70.010 and following (Attachment 2). These provisions were enacted in 1968 and staff recommends that they be updated.

DISCUSSION:

In order to align the Town Code with the requirements of Senate Bill 946, staff recommends:

- 1) Revising the existing peddler and solicitor ordinance to provide that it only applies to roving vendors and not stationary vendors.
- 2) Replacing the pushcart ordinance with a new sidewalk vending ordinance that is specific to stationary vendors; and
- 3) Repealing the existing pushcart vending ordinance since the new sidewalk vending ordinance would cover pushcarts.

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

DISCUSSION (continued):

Senate Bill 946 authorizes local ordinances 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.
- 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) Require 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.
- 2) Prohibit 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) Restrict sidewalk vendors to specific neighborhoods, unless the restriction is directly related to objective health, safety, or welfare concerns.

CONCLUSION:

In order to draft a proposed ordinance for future consideration, staff seeks input from the Town Council on the following questions:

- 1) Does the Town Council recommend prohibiting sidewalk vending in areas that are zoned exclusively residential?
- 2) Would the Town like to require that all vendors obtain a sidewalk vending permit?
- 3) Aside from making sure that sidewalks remain reasonably passable and making sure food vendors have County health permits, are there other health, safety, or welfare-related concerns? (Aesthetic concerns such as the amount of signage count as a welfare-related concern.)
- 4) Are there specific hours of operation that the Town would like vendors to abide by?

FISCAL IMPACT:

Neither this study session or a future ordinance update are anticipated to have a financial impact, because sidewalk vendors are already required to pay business license taxes.

CEQA:

This study session is to provide direction to staff and is not a project subject to the California Environmental Quality Act.

COORDINATION:

This report was coordinated with the Town Manager's Office and the Community Development Department.

Attachments:

1. Existing peddler's code section
2. Existing pushcart code section