ORDINANCE NO. 5936

AN URGENCY ORDINANCE OF THE CITY OF GLENDALE, CALIFORNIA ESTABLISHING A SIDEWALK VENDING PROGRAM IN COMPLIANCE WITH SENATE BILL 946; AMENDING THE GLENDALE MUNICIPAL CODE TO ADD CHAPTER 5.35 AND AMENDING SECTIONS 1.20.010 AND 9.14.140; AND DECLARING THE URGENCY THEREOF

WHEREAS, Senate Bill No. 946 ("SB 946") became effective on January 1, 2019, and provides that cities may not regulate sidewalk vending except in accordance with its provisions which are codified in Government Code sections 51036 through 51039;

WHEREAS, the City seeks to adopt an enforceable sidewalk vending program that responds to the objective needs and circumstances of the City, and protects the public health, safety and welfare;

WHEREAS, in light of the specific provisions for sidewalk vending in state law, regulating sidewalk vending through a local permit license specific to the activity will enable the City to more effectively comply with mandates;

WHEREAS, regulating sidewalk vending will benefit the City by promoting entrepreneurship and a dynamic streetscape, while ensuring the protection of the public health, safety, and welfare;

WHEREAS, unless properly regulated, vending in the public right-of-way and in public parks creates the potential for increased safety risks including, but not limited to interfering with the performance of police, firefighter and paramedic services; contributing to traffic congestion; and interfering with the ability of pedestrians and persons with disabilities to follow a safe path of travel by obstructing the right-of-way with vending equipment or by increasing congestion;

WHEREAS, the licensing requirements of this ordinance are necessary to collect adequate information about vending operations within the City's limits, to facilitate contact between the City and vendors, and to ensure that vending does not adversely affect public welfare;

WHEREAS, requiring sidewalk vendors to maintain a minimum unobstructed pedestrian path of five (5) feet in commercial zones and four (4) feet in exclusively residential zones is necessary to ensure compliance with state and federal disability access standards;

WHEREAS, the widths of the City's public sidewalks accommodate an expected level of pedestrian traffic at the location, and ensuring the free flow of pedestrian traffic is particularly important to the safety of the elderly, the young, persons with disabilities, and others who are less able to navigate crowds and obstacles that may require stepping off curbs when sidewalks are obstructed;

WHEREAS, requiring sidewalk vendors to obtain a health permit from the Los Angeles County Department of Public Health before engaging in the sale of food to the public is necessary to protect the public health, safety, and welfare;

WHEREAS, requiring sidewalk vendors engaged in the sale of food to comply with applicable sanitation requirements will protect the public health and safety against the accumulation litter and food products or food by products being left on the City's sidewalks and surrounding areas;

WHEREAS, regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant;

WHEREAS, requiring sidewalk vendors to undergo background checks is necessary to ensure vendors meet the requirements of a license to operate in or near parks, schools, residences, and other places frequented by children;

WHEREAS, restricting vending in commercial areas with historical and unique characteristics and in areas of the City where there is a high concentration of art and entertainment venues is necessary to avoid compromising public safety, as congested sidewalks encourage pedestrians to step into roadways to maintain the flow of traffic, and the presence of vendors encourage pedestrians to cross mid-block or to stand in roadways to purchase food or merchandise;

WHEREAS, restricting sidewalk vending near school grounds when the grounds are open for student instruction is necessary to protect the safety of children traveling to and from campus and to avoid disrupting classroom instruction and school activities;

WHEREAS, restrictions on sidewalk vending in public parks is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;

WHEREAS, the need for a regulatory program is at its height during the holiday season when thousands of visitors arrive in the City for shopping and entertainment activities creating extremely high pedestrian and vehicular traffic volumes; and

WHEREAS, the City Council hereby adopts this ordinance pursuant to its authority under Government Code section 51038 and finds that the regulation of sidewalk vendors set forth herein is directly related to protecting the health, safety and welfare of the Glendale community.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF GLENDALE AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. Chapter 5.35 is hereby added to Title 5 of the Glendale Municipal Code to read as follows:

Chapter 5.35

SIDEWALK VENDORS

Sections:

5.35.010 Definitions.
5.35.020 License Required.
5.35.030 Application Procedure.
5.35.040 Grounds for Denial.
5.35.050 Term and Renewal.
5.35.060 License Nontransferable.
5.35.070 Exemptions.
5.35.080 Operating Requirements.
5.35.090 Revocation.
5.35.100 Appeal.
5.35.110 Penalties.
5.35.120 Ability-to-Pay Determinations.

5.35.010 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them unless otherwise noted:

"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.

"City" means the City of Glendale.

"Director" means the Director of Community Development or his or her designee.

"Exclusively residential" means the following zones: all single family and multi-family zones, as described in Chapter 30.11 - Residential Districts of this Code.

For purposes of this Chapter, any area not within an exclusively residential zone shall be deemed commercial.

"Immediate vicinity" means within five hundred (500) feet.

"Park" means a public park owned or operated by the City.

"Person" means any natural person, firm, association, organization, partnership, joint venture, business trust, corporation, or company.

"Receptacle" means equipment used by a sidewalk vendor for vending activities including but not limited to a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

"Sidewalk" means a public sidewalk or paved pedestrian path specifically designed for pedestrian travel. A sidewalk shall not include streets, alleys, plazas, or City-owned parking lots or structures.

"Sidewalk vendor" or "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. A sidewalk vendor may be either a:

1. "Roaming sidewalk vendor," which means a sidewalk vendor who moves from place to place and stops only to complete a transaction; or

2. "Stationary sidewalk vendor," which means a sidewalk vendor who vends from a fixed location.

"Vend" or "vending" means 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. Vend or vending does not include the offering of services.

"Special event permit" means a permit issued for the temporary use of, or encroachment on, a sidewalk or other public area, including, but not limited to, a special event permit issued pursuant to Chapter 5.96 of this Code and a special event permit issued by the City's Community Services and Parks Department for events at any city park.

Section 5.35.020 License Required.

No person shall engage in sidewalk vending without first obtaining a business license pursuant to this Chapter. A separate license is required for each receptacle used by a sidewalk vendor.

Section 5.35.030 Application Procedure.

A. An application for a sidewalk vending license shall include the following information:

1. The applicant's name, current mailing address, and telephone number;

2. A copy of a valid California driver's license or identification number, an individual taxpayer identification number, or an identification card issued by another municipality. Such information is not a public record and will remain confidential as required by Government Code section 51038(c)(4);

3. If the vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;

4. A description of the merchandise to be offered for sale and any vending equipment to be used (including the dimensions of the receptacle and a photograph thereof);

5. A copy of a valid California Department of Tax and Fee Administration sales tax number, as required;

6. If a vendor of food, proof of all required approvals from the Los Angeles County Department of Public Health;

7. The results of a fingerprinting background check using a form furnished by the City;

8. For stationary sidewalk vendors, a description, map, or drawing of the location(s) in which the applicant proposes to operate;

9. A statement of the days and hours of proposed vending operations, and whether the sidewalk vendor intends to operate as a stationary vendor or a roaming vendor;

10. An agreement by the applicant to indemnify and hold harmless the City, its officers and employees, for any damage or injury caused to the City as a result of the sidewalk vending conduct or activity;

11. The applicant's certification, that to his or her knowledge and belief, the information contained in the application is true;

12. Such other information as the Director deems necessary for the administration or enforcement of this Chapter as specified on the required application form; and

13. Applications shall not be accepted unless accompanied by payment of a non-refundable annual fee set by resolution of the City Council.

5.35.040 Grounds for Denial.

A. Applicants will be notified in writing of the Director's decision to approve or deny an application for a sidewalk vending license. If an application is denied, the reasons for denial will be set forth in the written notice.

B. Applicants may be denied on the following grounds:

1. The proposed vending location encroaches on a public sidewalk without maintaining an unobstructed pedestrian access route as specified in Section 5.35.080(D).

2. The proposed vending operation, including the equipment to be used by the vendor, fails to comply with all applicable health, zoning, fire, building and safety laws of the State of California or of the City of Glendale.

3. The applicant has knowingly made a false, misleading, or fraudulent statement of material fact in the application.

4. The applicant does not possess all state and local permits necessary for the proposed operations.

5. The applicant has had a license issued pursuant to this Chapter revoked within the preceding twelve (12) months.

6. The applicant has received three (3) or more administrative citations for violations of this Chapter within the preceding twelve months.

7. The applicant, his or her agent or employee, or any person connected or associated with the applicant as partner, director, officer, stockholder, associate or manager, has committed, assisted in, or incited the commission of any act, or act of omission, which would be grounds for disciplinary action under this Chapter if committed by a licensee;

8. The applicant is required to register under the provisions of California Penal Code section 290 (or an equivalent section in any other State);

9. The applicant has been convicted of any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058 within five (5) years of the date of the application, or is otherwise on probation or parole for any offenses set forth in this section; or

10. The applicant is indebted to the City for any unpaid fee, fine, or community service.

5.35.050 Term and Renewal.

A. A sidewalk vending license shall be valid from the date of issuance through December 31st of that year, unless revoked prior to that date in accordance with the provisions of this Chapter.

B. Each sidewalk vendor who seeks to renew a license pursuant to this Chapter shall submit a renewal application on a City approved form and tender any applicable fees to the Director no later than thirty (30) calendar days prior to the expiration of the vendor's current license. Unless timely renewed, any license issued pursuant to this Chapter shall expire and become null and void at the end of its term.

C. An application to renew a license issued pursuant to this Chapter may be denied by the Director upon the grounds set forth in Section 5.35.040.

5.35.060 License Nontransferable.

A sidewalk vending license shall not be transferable to any person or be valid for vending operations in any locations(s) other than that location designated on the license for the stated term.

5.35.070 Exemptions.

A sidewalk vending license shall not be required for events conducted in accordance with a special event permit, including but not limited to a certified farmers' market, swap meet, street fairs, and outdoor concerts.

5.35.080 Operating Requirements.

A. Sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:

1. Conducting sidewalk vending activities shall be limited as follows:

a. On sidewalks or pathways within or directly adjacent to exclusively residential areas, between dawn and dusk daily;

b. In non-residential areas, vending activities are prohibited between 2:00 a.m. and 6:00 a.m.; and

c. In parks, during the times the parks are open to the public until one hour before closing.

2. All food and merchandise shall be stored either inside or affixed to the sidewalk vendor receptacle or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the sidewalk vendor receptacle, the overall space of the sidewalk vendor receptacle shall not exceed the size requirements provided in this section;

3. The sidewalk license shall be displayed conspicuously at all times on the sidewalk vending receptacle or the sidewalk vendor's person. If multiple sidewalk vendors are staffing a sidewalk vendor receptacle or working as roaming sidewalk vendors, each person shall wear their license on their person in a conspicuous manner;

4. Sidewalk vendors shall not leave their sidewalk vending receptacle unattended;

5. All signage and advertising related in any way to the sidewalk vendor shall be attached to the sidewalk vending receptacle, if any, or the sidewalk vendor's person;

6. Sidewalk vendors shall not use any electrical, flashing, wind powered, or animated sign;

7. Sidewalk vending receptacles shall not be stored on public property and shall be removed when not in active use by a sidewalk vendor;

8. No sidewalk vending receptacle shall contain or use explosive or hazardous materials with the exception of propane;

9. Sidewalk vendors that sell food shall display at all times they are conducting sidewalk vending activities the health permit issued by the Los Angeles County Department of Public Health;

10. Sidewalk vendors that sell food shall maintain a trash container in or on their sidewalk vending receptacle and shall not empty their trash into the public trash cans. Sidewalk vendors shall not leave any

location without picking up, removing, and properly disposing of all trash or refuse from their operation. (Vendors must maintain their own trash containers for the proper disposal of trash, food, or liquids generated by their vending activities.);

11. Sidewalk vendors shall immediately clean any food, grease or other fluid or item related to sidewalk vending activities that falls on public property;

12. Sidewalk vendors shall not block an exit to a building, structure or facility;

13. Stationary sidewalk vendors shall not cause, allow, or maintain the placement of tables, chairs, shade structures, tents, umbrellas, other furniture, rugs, towels, fabric of any kind upon the sidewalk in conjunction with the vending operation;

14. Sidewalk vendors shall not store or leave unattended vending equipment or receptacles in public spaces or in any portion of the public right-of-way. (Equipment or objects left in public spaces or in the public fight-of-way overnight, or outside the hours of permitted vending operations will be considered discarded and may be seized or disposed of by the City);

15. Sidewalk vending receptacles must not exceed the maximum dimensions of six (6) feet in length by four (4) feet in width;

16. Roaming vendors must maintain an unobstructed view over four (4) feet in height from the ground to the table top structure of the receptacle; and

17. Sidewalk vendors shall comply with the noise standards provided in Chapter 8.36 of this Code.

B. Sidewalk vendors shall not:

1. Rent merchandise to customers;

2. Display or advertise merchandise or food that is not available for immediate sale;

3. Sell live animals, alcohol, cannabis, adult oriented material, tobacco products, products that contain nicotine or any product used to smoke or vape nicotine or cannabis;

4. Use an electrical outlet or power source that is owned by the City or another person other than the sidewalk vendor;

5. Continue to offer food or merchandise for sale, following, or accompanying any person who has been offered food or merchandise after the person has asked the sidewalk vendor to leave or after the person has declined the offer to purchase food or merchandise;

6. Knowingly make any false statements or misrepresentations during the course of offering food or merchandise for sale;

7. Block or impede the path of the person(s) being offered food or merchandise to purchase;

8. Make any statement, gesture, or other communication which a reasonable person in the situation of the persons(s) being offered food or merchandise to purchase would perceive to be a threat and which has a reasonable likelihood to produce in the person(s) a fear that the threat will be carried out;

9. Touch the person(s) being offered food or merchandise without that person(s)' consent; or

10. Place their sidewalk vending receptacles outside of any pathway or sidewalk when engaging in sidewalk vending activities;

11. Use any horns, music, lights, visual media, or sound amplifying device unless expressly approved in the license;

12. Physically alter or otherwise damage the sidewalk;

13. Fasten or affix any item, including but not limited to, tape, strap, chain, tie, band, or rope, to any public property;

14. Provide or sell any service to any person; or

15. Place of any type of fencing or other divider around the vending area.

C. All sidewalk vending activities shall comply with the current Americans with Disabilities Act, as well as with the Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way.

D. The minimum width of the public sidewalk to be occupied shall not be less than ten (10) feet in commercial or other non-residential zones, and the vending occupancies or activities within these zones must permit at least five (5) feet of unobstructed area of public walkway. Roaming vendors operating in exclusively

residential zones must permit at least four (4) feet of unobstructed public walkway while engaged in vending activities.

E. No vending activities shall occur in the following locations:

1. Any public property, including without limitation, streets, alleys, median strip, or dividing section, and city owned parking structures, except on a public sidewalk or a City park;

2. Glendale City Hall, unless pursuant to an agreement with the City;

3. Glendale Civic Auditorium;

4. Any Glendale City Library, unless pursuant to an agreement with the City;

5. Within or in the immediate vicinity of:

   a. A certified farmers' market or during the hours of its operation; or

   b. An area designated for a special event permit for the limited duration of the permitted event;

      i) Any notice, business interruption mitigation, or other rights provided to affected businesses or property owners will also be provided to any sidewalk vendors specifically permitted to operate in the area, if applicable.

6. Within two hundred (200) feet of a police station; a fire station; or a hospital;

7. Within one hundred (100) feet of another vendor;

8. Within twenty-five (25) feet of any on-street valet parking zone or loading/unloading zone, or any taxicab zone or stand;

9. Within twenty (20) feet of a:

   a. Fire hydrant;

   b. Curb which has been painted white, yellow, green, blue or red;

   c. Automated teller machine; or

   d. Trash receptacle, bike rack, public restroom, or similar public use items.

10. Within fifteen (15) feet of:

a. any bus stop, bus bench or bus shelter;

b. any street corner or marked pedestrian crosswalk;

c. the outer edge of any entrance to any business, including, but not limited to, doors, vestibules, and driveways, during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises;

d. the outer edge of any area permitted for sidewalk or outdoor dining including, but not limited to, sidewalk or outdoor dining entries and exits during the hours the business is open to the public; or

e. any driveway or alley approach.

11. Within five (5) feet of any traffic signal controller, traffic signal pole, or other emergency facility; power pole, street light pole, general utility pole, above ground cabinet, general utility facility, manhole, parking meter, regulatory and directional signs, street furniture, or street art sculptures;

12. Within three (3) feet of:

a. any area improved with lawn, flowers, shrubs or trees; or

b. any display window of any building abutting the sidewalk or parkway or in such manner as to impede or interfere with the reasonable use of such window for display purposes;

13. Within three hundred and fifty (350) feet of any public or private school grounds between the hours of 8:00 a.m. and 5:00 p.m., on days that school is open to students.

F. Stationary sidewalk vendors are prohibited on sidewalks within areas that are zoned exclusively residential. This prohibition does not extend to roaming sidewalk vendors.

G. The City's Art and Entertainment District, Alex Theatre District, and portions of the Downtown area have been created to encourage the concentration of arts, cultural and entertainment venues, as well residential, commercial, shopping, dining, and retail uses. Due to the high volume of the pedestrian and vehicular traffic in these areas, sidewalk vending is prohibited on:

1. The east and west sidewalks of Artsakh Avenue between Wilson Avenue and Harvard Street;

2. The alley west of the Downtown Central Library from Harvard Street to Colorado Street;

3. The north side of Colorado Street from the alley west of the Downtown Central Library to Brand Boulevard;

4. The east and west side of Brand Boulevard from Colorado Street to Lexington Drive;

5. The north and south sides of Wilson Avenue from Brand Boulevard to Artsakh Avenue on the south and Maryland Avenue on the north; and

6. The east and west sides of Central Avenue from Colorado Street to underneath the location of the pedestrian bridge that crosses above Central Avenue.

H. The following areas have unique and historic characteristics, and offer the community retail and dining opportunities. Due to the high volume of the pedestrian and vehicular traffic in these areas, sidewalk vending is prohibited in the following locations:

1. The Montrose Shopping Park area on Honolulu Avenue between Sunset Avenue on the north side of the street and the western edge of 2462 Honolulu Avenue on the south side of the street to Verdugo Road/Montrose Avenue;

2. The Kenneth Village area on Kenneth Road between Sonora and Grandview Avenues, including all commercial properties surrounding the intersections.

3. The commercial Adams Square area along East Chevy Chase Drive between 1015/1020 East Chevy Chase Drive (west of South Adams Street) and East Acacia Avenue, and along South Adams between East Chevy Chase Drive and East Palmer Avenue, including all commercial corner properties at said intersections.

I. Use, occupation and obstruction of the public sidewalk which is permitted under this Chapter may be temporarily suspended or revoked, without prior notice, when, in the discretion of the Director, the Police Chief, or the Fire Chief, any such use, occupation or obstruction may interfere with public safety efforts or programs, street improvement activities, construction activities, cleaning efforts or other similar activities or with the health, welfare or safety of the public.

J. Vending in Parks:

1. Vendors shall cease vending operations in any park one hour prior to park closure.

2. Stationary sidewalk vendors are prohibited from vending in any City park that is subject to an exclusive concessionaire agreement to provide food or merchandise.

3. Vendors shall remain on sidewalks or pedestrian pathways while vending in parks.

4. Sidewalk vendors shall not vend in the following locations within a park:

   a. Within fifty (50) feet of any field or court that is primarily designed for use in a sporting activity (including, but not limited to, baseball field, softball field, basketball court, tennis court, soccer field, volleyball court, and handball court), while said area is in use;

   b. Within fifty (50) feet of any playground, pool, or exercise area while said area is in use.

K. The City Manager or designee may adopt administrative regulations imposing additional requirements consistent with this Chapter and all other applicable laws in order to regulate the time, place, and manner of vending.

5.35.090 Revocation.

A sidewalk vendor may license may be revoked after the licensee is afforded written notice and an opportunity to be heard regarding a citation for the licensee's fourth or subsequent violation of the requirements set forth in this Chapter.

5.35.100 Appeals.

A. Any person aggrieved by a decision denying or revoking a license pursuant to this Chapter may appeal the Director's decision by filing a written appeal to the Community Development Department. Appeals must be filed within fifteen (15) business days after notice of the Director's decision has been mailed to the applicant's address. A timely appeal will stay the enforcement of any decision to revoke a license.

B. The appeal shall be conducted within a reasonable time, but not less than thirty (30) days, at a hearing before a neutral hearing officer designated by the City Manager. Not less than five (5) business days prior to the hearing, the Director or a designee shall give notice of the time and place of the hearing. The decision of the hearing officer shall be based upon the criteria applicable to the issuance or revocation of such permit. The hearing officer may affirm, modify or reverse the decision of Director

and shall state the reasons therefor. The decision of the hearing officer shall be final when rendered. Within thirty (30) calendar days of the hearing, the hearing officer shall notify the appellant of the decision, in writing, which shall be final. An aggrieved person may obtain judicial review within the time and in the manner provided for in California Code of Civil Procedure Section 1094.6, or any successor legislation.

C. Appeal of Administrative Citation.

Sections 1.24.260 through 1.24.290 of this Code apply to the appeal of an administrative citation.

5.35.110 Penalties.

A. A violation of this Chapter is not punishable as an infraction or misdemeanor, and no person will be subject to arrest for sidewalk vending unless the person has violated a law for which a person may be arrested.

B. A violation of this Chapter is punishable only by an administrative fine according to a fee schedule adopted by resolution of the City Council.

C. Notwithstanding any other provision of this Code, failure to pay an administrative fine assessed under this section is not punishable as an infraction or misdemeanor, and additional fines, fees, assessments, or any other financial conditions beyond those authorized will not be assessed.

5.35.120 Ability-to-Pay Determinations.

A. When assessing an administrative fine under this Chapter, the City will take into consideration a person's ability to pay the fine.

1. Any fine issued under this Section will be accompanied by a notice of and instruction regarding a person's right to request an ability-to-pay determination.

2. A 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 collection program.

B. If a person is receiving public benefits under Government Code section 68632 (a), or has a monthly income which is 125 percent or less than the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services, the person's administrative fine is limited to twenty (20) percent of the amount assessed. The City may also take the following actions:

1. Allow the person to complete community service in lieu of paying the total administrative fine; or

2. Waive the administrative fine; or

3. Offer an alternative disposition.

SECTION 3. Section 9.14.140 of Chapter 9.14 of the Glendale Municipal Code is hereby amended to read as follows:

9.14.140 Peddling.

Whenever the holder of any license provided for by, or issued under, this code uses any wagon, cart, tray, basket or other vehicle or receptacle in vending any such goods, wares or merchandise, such license shall be inserted, held and carried in a manner such that it is at all times in plain view in such vehicle or receptacle.

SECTION 4. Section 1.20.010 of Chapter 1.20 of the Glendale Municipal Code is hereby amended to read as follows:

1.20.010 Penalties and punishment for code violations.

A. Except as provided in subsection B, C, or D, of this section, whenever in this code any act is prohibited or declared unlawful, or the doing of any act is required, or the failure to do any act is declared to be unlawful, it shall be a misdemeanor. Unless a specific penalty is provided, and person convicted of such misdemeanor shall be punished by a fine not to exceed one thousand dollars ($1,000.00), or imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment.

B. With the exception of Title 10 of this code, any other provision of this code where the specific penalty of infraction is provided shall be deemed an infraction punishable as follows:

1. A fine not exceeding one hundred dollars ($100.00) for a first violation;

2. A fine not exceeding two hundred dollars ($200.00) for a second violation within one (1) year;

3. A fine not exceeding five hundred dollars ($500.00) for each additional violation within one (1) year.

C. A violation of any provision of Title 10, with the exception of Chapter 10.56, unless otherwise specifically provided, shall be deemed an infraction. An infraction under Title 10, except Chapter 10.56, is punishable by a fine which shall be established by resolution of the city council, either for a specific section under Title 10 or pursuant to

a bail or fine schedule applicable to numerous sections thereunder. Any such bail or fine shall not exceed the sum of five hundred dollars ($500.00) for each violation.

D. A violation of the following Glendale Municipal Code sections shall be deemed an infraction punishable as provided in subsection B of this section, except that all violations after three (3) convictions or nolo contendere pleas, or any combination totaling three (3), within one (1) year shall be misdemeanors punishable pursuant to subsection A of this section:

Sections 8.32.030, 8.32.050, 8.44.050(D), 8.44.170, 8.52.040(A), 8.52.050, 8.52.060,8.52.070, 8.52.080, 8.52.090(A), 8.52.090(B), 8.52.090(C), 8.52.100, 8.52.210(B),8.52.210(C), 8.52.210(D), 9.04.040(B), 9.04.040(C), 13.42.030(A), 13.42.030(B),13.42.030(C), 13.42.030(D), 13.42.040(A), 13.42.040(B), 13.42.050(A), 13.42.050(B), 13.42.050(C), 13.42.060, 13.43.030(A), 13.43.040(C), 13.43.040(D), 13.43.050(C), 13.43.050(D), 13.43.060(B), 13.43.070(A), 13.43.070(B), 30.11.070(A)(4),30.11.070(B)(5), 30.11.070(C)(4), 30.12.040(A)(1)(a), 30.12.040(A)(2)(a), 30.12.050(A)(2), 30.12.050(B)(2), 30.13.040(A)(1), 30.13.050(A)(2), 30.14.040(A)(1), 30.14.050(A)(2), 30.14.060(A)(3), 30.14.050(B)(2), 30.14.060(B)(2), 30.15.040(A), 30.15.050(A)(2), 30.15.050(B)(2), 30.31.010(A), 30.31.010(B), 30.31.010(D), 30.31.020(A)(1), 30.31.030(A), 30.31.030(B)(1), 30.32.040(B)(1), 30.32.040(B)(2), 30.32.040(C), 30.32.040(D), 30.32.040(E), 30.32.100, 30.32.130(G)(1), 30.32.130(G)(2), 30.32.130(G)(7), 30.32.160(F), 30.33.040, 30.33.050, 30.33.110(A), 30.33.200, 30.33.210(B)(1), 30.33.210(B)(2), 30.33.210(B)(3), 30.33.210(H), 30.33.210(I), 30.34.020(F), 30.34.020(K), 30.34.030(B)(8), 30.34.030(D), 30.34.040(B), 30.34.140(A), 30.34.140(G), 30.34.150(A), and the following sections from the South Brand Boulevard Specific Plan: X. Implementation, B. Zoning, Sections 405(a), 505(a), 705(a), and 805(a).

E. Whenever in this code any act or omission is made unlawful it shall include causing, permitting, aiding, abetting, suffering or concealing the fact of the act or omission. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by that person, and shall be punishable accordingly.

F. Notwithstanding the above provisions, the criminal penalties provided for in this section shall not apply to Chapter 5.35 of this Code relating to sidewalk vendors.

SECTION 5. **CEQA.** The City Council hereby finds and determines that there is no possibility that the adoption of a sidewalk vending ordinance will have a significant effect on environment and the amendments to the Glendale Municipal Code are exempt from the California Environmental Quality Act ("CEQA"). Accordingly, under the provisions of section 15061(b)(3) and section 15305 of Division 6 of Title 14 of the California Code of Regulations ("the CEQA Guidelines") the adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

SECTION 6. **Urgency Finding.** The City Council finds and declares that the immediate preservation of the public peace, health, and safety requires that this

ordinance be enacted as an urgency measure pursuant to Government Code section 36937(b). Based on public comments, Council expects the interest in sidewalk vending to increase and will require the means to regulate the activity. In addition, the holiday season will begin in earnest with Black Friday on November 29, 2019. During the holiday season, the City receives thousands of visitors who come for cultural events, retail shopping, and dining. For these reasons, and the reasons set forth in Section 1, the Council finds that it is necessary to adopt this ordinance as an urgency measure. Ensuring that this ordinance takes effect immediately will ensure that the City is equipped to preserve the public peace, health, and safety during the upcoming holiday season.

SECTION 7. **Severability.** Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any remaining provisions hereof. The City Council of the City of Glendale hereby declares that it would have adopted this Ordinance despite any partial invalidity of its provisions.

SECTION 8. **Effective Date.** Pursuant to Government Code section 36937(b), this ordinance shall take effect immediately upon its adoption by four-fifths of the City Council.

SECTION 9. **Certification.** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

Passed and adopted by a four-fifths vote on this 19th day of November, 2019.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM

General Counsel - Police

Date: 11/21/19

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF GLENDALE)

I, Ardashes Kassakhian, City Clerk of the City of Glendale, hereby certify that the foregoing Ordinance was adopted by a 4/5th vote of the Council of the City of Glendale, California, at a regular meeting held on the 19th day of November, 2019, and that the same was adopted by the following vote:

AYES: Agajanian, Devine, Gharpetian, Quintero (protem)

NOES: None

ABSENT: Najarian

ABSTAIN: None

City Clerk

Adopted
11/19/19
Devine/Gharpetian
Absent: Najarian

RESOLUTION NO. 19-166

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENDALE, CALIFORNIA, AMENDING COMPREHENSIVE CITYWIDE FEE RESOLUTION REGARDING ADMINISTRATIVE CITATION FINE AMOUNTS FOR SIDEWALK VENDING ACTIVITY AND AMENDING THE EXISTING COMPREHENSIVE CITYWIDE FEE SCHEDULE FOR THE FISCAL YEAR 2019-20 TO ADD VIOLATIONS SUBEJCT TO FINES RELATED TO SIDEWALK VENDING ACTIVITY

WHEREAS, Chapter 1.24 of Title 1 of the Glendale Municipal Code ("GMC") authorizes City enforcement officers to issue administrative citations to responsible persons for violations of the GMC; and

WHEREAS, Chapter 1.24 of Title 1 of the GMC provides that the amount of the fine to be assessed by means of an administrative citation shall be specified by resolution of the City Council; and

WHEREAS, the fine amounts are intended to incentivize violators to correct violations of the GMC in a speedy and efficient manner, thereby conserving City code enforcement resources; and

WHEREAS, Senate Bill No. 946 ("SB 946") became effective on January 1, 2019, and provides that cities may not regulate sidewalk vending except in accordance with its provisions which are codified in Government Code sections 51036 through 51039; and

WHEREAS, SB 946 specifically provides that a violation of a city's sidewalk vending program that complies with Government Code Section 51038 is punishable only by the amounts set forth in Government Code section 51039; and

WHEREAS, the Council adopted Resolution 13-96 on June 25, 2013, which established the fine schedule for the then-recently adopted administrative citation program; and

WHEREAS, the Council has, at various times since, in the past, adopted additional resolutions which have added, amended or deleted GMC violations subject to administrative citation fines; and

WHEREAS, the Council adopted Resolution 19-61 on June 4, 2019, which established certain fees and increased certain fees for various services, permits and certificates provided by the City, and adopted a comprehensive Citywide fee schedule for the fiscal year 2019-20; and

WHEREAS, simultaneously with this Resolution, the Council has adopted Ordinance No. 5936, which adds Chapter 5.35 to the GMC related to sidewalk vendors; and

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WHEREAS, the City desires to include new and additional violations of the GMC related to sidewalk vendors consistent with the ordinance that will be subject to administrative citation fines.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENDALE:

SECTION 1. Fine Amounts: GMC Section Reference. In addition to the violations and corresponding fine amounts to be assessed by means of an administrative citation already adopted in Resolutions 13-96 and 13-216, as well as various other resolutions related to administrative citations, the following additional violations and corresponding fine amounts related to sidewalk vendor regulations to be assessed by means of an administrative citation, set forth in the attached Exhibit 1, are adopted.

SECTION 2. Repeat Violations. The administrative citation fine amount for a second violation of the same GMC provision by the same responsible party within twelve (12) months from the date of the first administrative citation shall be higher than the amount for the first administrative citation, and shall vary depending on the violation cited, as set forth in the attached Exhibit 1. The administrative citation fine amount for a third and any subsequent violation of the same GMC provision by the same responsible party within twelve (12) months from the date of the first administrative citation shall be higher than the amount for the first or second violation, and shall vary depending on the violation cited, as set forth in the attached Exhibit 1.

SECTION 3. Late Payment. Payment of the administrative citation fine amount after thirty (30) days from the date of the administrative citation shall be subject to an additional late payment charge. The late payment charge shall equal ten percent (10%) of the administrative citation fine amount due the City, or ten percent (10%) of the amount remaining unpaid to the City if a portion of the fine amount was timely paid. Late payment charges shall be in addition to the amount of the administrative citation fine amount. In addition, interest shall accrue on all unpaid monies due, exclusive of late payment charges, at the rate of one half of one percent per month, pro rata, of the total amount due from the date the administrative citation fine amount becomes delinquent until the date that all delinquent amounts are paid to the City.

SECTION 4. Processing Fee. Every administrative citation will be assessed a $22 administrative citation processing fee. This processing fee is in addition to the administrative citation fine amount, any applicable late fee, interest or collection costs.

SECTION 5. This Resolution's adopted fees and fines take effect on the effective date of Ordinance No. 5936.

Adopted this 19th day of November, 2019.

Mayor protem

ATTEST:

City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF GLENDALE)

I, Ardashes Kassakhian, City Clerk of the City of Glendale, do hereby certify that the foregoing Resolution No. 19-166 was adopted by the Council of the City of Glendale, California, at a regular meeting held on the 19th day of November, 2019, by the following vote:

Ayes: Agajanian, Devine, Gharpetian, Quintero (protem)

Noes: None

Absent: Najarian

Abstain: None

City Clerk

APPROVED AS TO FORM

General Counsel - Police

Date: 11/13/19

Adopted
11/19/19
Devine/Gharpetian
Absent: Najarian

RESOLUTION NO. 19-165

A RESOLUTION OF THE CITY COUNCIL OF GLENDALE, CALIFORNIA, AMENDING THE ADOPTED 2019-20 CITYWIDE FEE SCHEDULE BY ESTABLISHING FEE FOR SIDEWALK VENDOR LICENSE

WHEREAS, on June 4, 2019, the Council considered and adopted a Citywide Fee Schedule for the Fiscal Year 2019-20, Resolution Nos. 19-61 and 19-62 ("Adopted Citywide Fee Schedule"), which consolidated into a comprehensive list all City taxes, schedules, fees, charges, rates, and penalties that are published on the City's website and are reviewed an updated annually as part of the budget process; and

WHEREAS, simultaneously with this Resolution, the Council has adopted Ordinance No. 5936, which adds a new Chapter 5.35 to the Glendale Municipal Code, 1995. Among other things, the Ordinance at Section 5.35.030 A.14 states that applications shall not be accepted unless accompanied by payment of a non-refundable annual fee set by resolution of the City Council; and

WHEREAS, the Director of Community Development has determined that the actual administrative cost to the City for processing an application for a "Sidewalk Vendor License" is $598 per application; and

WHEREAS, the City Council has determined that imposing a fee equal to the City's fully burdened cost associated with a license may present an unnecessary barrier for sidewalk vendors to access the formal economy and thus desires to establish a fee in the amount of $295; and

WHEREAS, the Council desires to establish the fee for processing a "Sidewalk Vendor License" application in the amount listed above, and include the fee in the Adopted Citywide Fee Schedule; and

WHEREAS, the fee for processing a "Sidewalk Vendor License" application is a charge imposed for any one or more of the following purposes:

1. A specific City benefit conferred or privilege granted (California Constitution, Article XIII C, §1 (e)(1));

2. A City service or product (California Constitution, Article XIII C, §1 (e)(2)); or

3. A charge imposed for City's issuing licenses and permits, performing investigations, inspections, and audits, and administrative enforcement and adjudication (California Constitution, Article XIII C, § 1 (e)(3)); and

WHEREAS, the Director of Community Development has reviewed the fee charged for the City services, and with the City Manager's approval, recommends the fee's adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE;

SECTION 1. Notice of the public meeting at which this Resolution was considered was properly given, and all oral and written presentations made to and heard by the City Council were properly considered.

SECTION 2. The Council hereby:

1. Establishes, approves, and adopts a Sidewalk Vendor License processing fee in the amount of $295; and

2. Amends the 2019-20 Adopted Citywide Fee Schedule to add the fee, to which the City's Revenue Manager shall assign a fee number.

SECTION 3. A reasonable relationship exists between the fee to be collected for the City services and the City's costs in providing those services, as identified in the data made available.

SECTION 4. The newly created fee:

1. Does not exceed the actual or estimated reasonable costs to the City of providing the services to which the fees relate;

2. Is reasonable and necessary to enable the city to provide the benefit for privilege, service or product, license or permit, use or rental, fine or penalty, or property development to which it relates; and

3. Has been allocated in a manner such that the costs to the payer bear a fair and reasonable relationship to the payer's burden on, or benefit's received, from the City.

SECTION 5. This Resolution takes effect on the effective date of Ordinance No. 5936.

Adopted this 19th day of November 2019,

Mayor protem

ATTEST:

City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF GLENDALE)

I, Ardashes Kassakhian, City Clerk of the City of Glendale, hereby certify that the foregoing Ordinance was adopted by the Council of the City of Glendale, California, at a regular meeting held on the 19th day of November, 2019, and that the same was adopted by the following vote:

Ayes: Agajanian, Devine, Gharpetian, Quintero (protem)

Noes: None

Absent: Najarian

Abstain: None

City Clerk

APPROVED AS TO FORM

General Counsel - Police

Date: 11/13/19

CITY OF GLENDALE, CALIFORNIA
REPORT TO THE:

Joint ☐ City Council ☒ Housing Authority ☐ Successor Agency ☐ Oversight Board ☐

November 19, 2019

AGENDA ITEM

Report: Adoption of an Urgency Ordinance of the City of Glendale, California Establishing a Sidewalk Vending Program in Compliance with Senate Bill No. 946; Amending the Glendale Municipal Code, 1995, Adding Chapter 5.35 and Amending Sections 1.20.010 and 9.14.140; and Declaring the Urgency Thereof.

1) Urgency Ordinance Adoption
2) Resolution Amending the Citywide Fee Schedule by Establishing Fee for Sidewalk Vendor License
3) Resolution Amending the Citywide Fee Resolution Regarding Administrative Citation Fine Amounts for Sidewalk Vending Activity and Amending the Citywide Fee Schedule to Add Violations Subject to Fines for Sidewalk Vending Activity

COUNCIL ACTION

Public Hearing ☐ Ordinance ☒ Consent Calendar ☐ Action Item ☐ Report Only ☐

Approved for November 19, 2019 calendar

ADMINISTRATIVE ACTION

	Signature
Submitted by: Philip Lanzafame, Director of Community Development	
Michael J. Garcia, City Attorney	
Prepared by: Carmen O. Merino, General Counsel - Police	
Approved by: Yasmin K. Beers, City Manager	
Reviewed by: Roubik Golanian, Assistant City Manager	
Onnig Bulanikian, Director Community Services & Parks	
Michele Flynn, Director of Finance	

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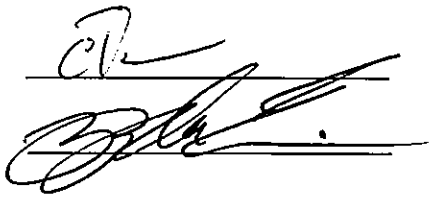
Carl Povilaitis, Chief of Police

Yazdan Emrani, Director of Public Works



RECOMMENDATION

It is recommended that City Council adopt the proposed Urgency Ordinance.

BACKGROUND/ANALYSIS

On October 22, 2019, Council received a report pertaining to sidewalk vendors and Senate Bill 946. After receiving the report and public comment, the Council directed staff to prepare an Urgency Ordinance for Council consideration. On November 5, 2019, Council reviewed a proposed Urgency Ordinance and requested certain amendments. Specifically, Council requested the following three changes to the proposed Urgency Ordinance:

- A reduction in the amount of insurance required from $1,000,000 per occurrence, combined single limit, with $2 million aggregate to $100,000 per occurrence, combined single limit with $200,000 aggregate;
- A requirement that food vendors display the permit from the Los Angeles County Department of Public Health; and
- An increase in the distance that vendors must maintain from 10 feet to 15 feet for bus stops, bus benches, bus shelters, street corners or marked pedestrian crosswalks, entrances to businesses and driveways, outdoor dining areas and driveways or alley approaches.

The attached proposed Urgency Ordinance contains the amendments requested by Council.

Insurance Considerations

During the November 5, 2019 meeting, Council had significant discussion on the issue of insurance. As a result of that discussion, staff contacted the cities of Downey, Huntington Beach, and West Hollywood to inquire whether applicants for sidewalk vending permits were complying with the insurance requirements imposed by cities' respective ordinances. None of the cities contacted have received any applications for sidewalk vending. A representative of one city stated he believed that the insurance requirements may be the reason no applications have been received.

Staff also contacted the City of Los Angeles. According to staff in the Risk Management Department, all permits for activities in the public right-of-way require insurance. However, as of November 8, 2019, no specific insurance recommendations for the sidewalk vendor program have been made by the Risk Management Department.

Staff also conducted internet research and discovered the availability of food vendor insurance through the Food Liability Insurance Program ("FLIP"). The FLIP policy is written through a risk purchasing group. The minimum liability limits offered by this group are $1,000,000 per occurrence and $2,000,000 aggregate. According to the FLIP website, policy premiums start at $299.

License Fee and Administrative Citation Fines

Attached for Council's consideration are two resolutions. One resolution amends the Citywide Fee Schedule to add the violations in the proposed Urgency Ordinance (Chapter

5.35) related to sidewalk vendors as being subject to administrative citation fines. The second resolution amends the Citywide Fee Schedule to establish the fee for a sidewalk vendor license. At Council's direction the fee is set at $295 which is reduced from the $598 fee determined by the Finance Department, in coordination with the Community Development Department, to cover the costs associated with staff time necessary to review a sidewalk vendor license application. (Exhibit 1)

Staff contacted a few cities regarding their sidewalk vendor application or license fees. Huntington Beach imposes annual fees of $298 for the application and $126.70 for a business license. The City of Los Angeles recently adopted an operating permit fee of $291 which is effective until July 1, 2020, at which time the fee will be $541. The City of Downey imposes license fees of $122.58 for stationary vendors and $245.17 for roaming vendors. The City of Pasadena has a sidewalk vending permit application fee of $142.

FISCAL IMPACT

The fiscal impact of sidewalk vending legislation will mostly be associated with licensing/permitting and enforcement.

ALTERNATIVES

Alternative 1: The Council may adopt the Urgency Ordinance.

Alternative 2: The Council decline to adopt the Urgency Ordinance.

Alternative 3: The City Council may consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

Not applicable.

EXHIBITS

Exhibit 1 – Cost Allocation Chart

Sidewalk Vendor License Processing Fee

Position	Billable Rate	Hours	Cost
Code Compliance Inspector	$ 121.00	1.500	$ 181.50
Deputy Director of Planning & NS	$ 170.00	0.033	$ 5.67
N.S. Customer Service Representative	$ 70.00	1.167	$ 81.67
Police Lieutenant	$ 315.00	1.000	$ 315.00
Principal Neighborhood Services Supervisor	$ 171.00	0.083	$ 14.25
			$ 598.08
Fully-Burdened Fee (Rounded Down)			**$ 598.00**

EXHIBIT 1

EXHIBIT 1

Code Section	Code Description	1st Violation	2nd Violation Within 1 year of the first violation	Each additional violation within 1 year of the first violation
GLENDALE MUNICIPAL CODE				
5.35.020	Sidewalk Vendor – License Required	$250	$500	$1000
5.35.080	Operating Requirements	$100	$200	$500

CITY OF GLENDALE, CALIFORNIA
REPORT TO THE:

Joint ☐ City Council ☒ Housing Authority ☐ Successor Agency ☐ Oversight Board ☐

November 5, 2019

AGENDA ITEM

Report: Consideration of an Urgency Ordinance of the City of Glendale, California Establishing a Sidewalk Vending Program in Compliance with Senate Bill No. 946; Amending the Glendale Municipal Code, 1995, Adding Chapter 5.35 and Amending Sections 1.20.010 and 9.14.140; and Declaring the Urgency Thereof.

1) Urgency Ordinance for Introduction

COUNCIL ACTION

Public Hearing ☐ Ordinance ☐ Consent Calendar ☐ Action Item ☒ Report Only ☐

Approved for November 5, 2019 calendar

ADMINISTRATIVE ACTION

	Signature
Submitted by: Phil Lanzafame, Director of Community Development	
Michael J. Garcia, City Attorney	
Prepared by: Carmen O. Merino, General Counsel - Police	
Approved by: Yasmin Beers, City Manager	by
Reviewed by: Roubik Golanian, Assistant City Manager	
Onnig Bulanikian, Director Community Services & Parks	
Carl Povilaitis, Chief of Police	
for Yazdan Emrani, Director of Public Works	8 F

RECOMMENDATION

It is recommended that City Council consider introduction of the proposed Urgency Ordinance.

BACKGROUND/ANALYSIS

The Council received a report from staff on October 22, 2019 pertaining to sidewalk vendors and Senate Bill 946 (Exhibit No. 1). After receiving the report and public comment, the Council directed staff to prepare an Urgency Ordinance for Council consideration. Staff has prepared the attached Urgency Ordinance for Council consideration in light of the Council's direction.

Licensing and Operational Requirements:

Among other provisions, the Ordinance does the following:

- Requires vendors to obtain a license to operate in the City;
- Requires vendors to obtain a seller's permit from the California Department of Tax and Fee Administration;
- Requires vendors of food to obtain all required approvals from the County Department of Health;
- Requires vendors to submit the results of a fingerprint background check and prohibits individuals who are required to register as sex offenders or have been convicted of certain narcotics violations from obtaining a sidewalk vendor's license;
- Requires vendors to indemnify the City and provide proof of comprehensive liability insurance ($1,000,000 per occurrence, $2,000,000 aggregate);
- Prohibits stationary vending in exclusively residential zones;
- Prohibits roaming vending in residential areas except from dawn to dusk.
- Prohibits vending in non-residential areas between the hours of 2:00 a.m. and 6:00 a.m.
- Requires vendors operating in parks to cease vending one hour before closing.
- Imposes a maximum size for vending receptacles (6' long by 4' wide).
- Prohibits the renting of merchandise and the display or advertisement of merchandise or food not available for immediate sale;
- Prohibits the sale of live animals, alcohol, cannabis, adult-oriented material, tobacco products, products that contain nicotine, and any products used to smoke nicotine or cannabis;
- Prohibits vendors from blocking or impeding the path of persons being offered food or merchandise;
- Prohibits vendors from making any threats against individuals;
- Requires vendors that sell food to maintain their own trash can and immediately clean any food, grease or other fluid or item related to sidewalk vending activity that falls on public property;
- Requires the minimum width of the sidewalk where sidewalk vending may occur in commercial and other non-residential zones to be no less than ten (10) feet and the vending occupancy/activity to permit at least five (5) feet of unobstructed area of public walkway; and
- Requires roaming vendors in residential zones to permit at least four (4) feet of unobstructed public walkway when engaged in vending activities.

Prohibited Locations

The Ordinance prohibits vending in certain locations as follows:

- Any public property that is not a public sidewalk or City park, including streets and alleys;
- City Hall or any City library, unless pursuant to an agreement with the City;
- The Glendale Civic Auditorium or any City-owned parking lot or parking structure;
- Within or in the "immediate vicinity" (defined as 500 feet) of a:
    - Certified farmer's market; or
    - An area designated by permit for a special event, for the duration of the event.
- Within 200 feet of a police station, fire station or hospital;
- Within 200 feet of a public or private school between 8:00 a.m. and 5:00 p.m. on days when the school is open;
- Within 100 feet of another vendor;
- Within 25 feet of a valet parking zone, unloading zone, or taxicab stand/zone;
- Within 10 feet of:
    - Any bus stop, bus bench or bus shelter;
    - An entrance to a business when the business is open;
    - An area permitted for outside dining.
- Within three feet of the display window of any building abutting the sidewalk or parkway that interferes with the reasonable use of such window.

Prohibited Areas and Zones

The Ordinance prohibits stationary vendors in residential zones. The Ordinance also makes findings that certain parts of Glendale have unique and historical characteristics and offer a variety of community retail, dining, arts and entertainment activity. The activities in these areas generate significant pedestrian and vehicular activity and sidewalk vending in these areas would pose a threat to the public health, safety and welfare. These areas are as follows:

- The City's Art and Entertainment District, Alex Theatre District, and portions of the Downtown area:
    - The east and west sidewalks of Artsakh Avenue between Wilson Avenue and Harvard Street;
    - The alley west of the Downtown Central Library from Harvard Street to Colorado Street;
    - The north side of Colorado Street from the alley west of Glendale Central Library to Brand Boulevard;
    - The east and west side of Brand Boulevard from Colorado Street to Lexington Drive;
    - The north and south sides of Wilson Avenue from Brand Boulevard to Artsakh Avenue on the south and Maryland Avenue on the north; and

    - The east and west sides of Central Avenue from Colorado Street to underneath the location of the pedestrian bridge that crosses above Central Avenue.

- The Montrose Shopping Park area on Honolulu Avenue between Sunset Avenue on the north side of the street and the western edge of 2462 Honolulu Avenue on the south side of the street to Verdugo Road/Montrose Avenue;

- The Kenneth Village area on Kenneth Road between Sonora and Grandview Avenues, including all commercial properties surrounding the intersections; and

- The commercial Adams Square area along East Chevy Chase Drive between 1015/1020 East Chevy Chase Drive (west of South Adams Street) and East Acacia Avenue, and along South Adams between East Chevy Chase Drive and East Palmer Avenue, including all commercial corner properties at said intersections.

Vending in Parks

With respect to vending in parks, the Ordinance:

- Prohibits stationary vendors from vending in any City park that is subject to a concessionaire agreement. Currently, the City has concession agreements at the Sports Complex, Pacific Park and Montrose Park;
- Requires vendors to cease vending operations in any park one hour prior to park closure;
- Requires vendors to remain on sidewalks or pedestrian pathways while vending in parks; and
- Prohibits vending in a park:
    - Within 50 feet of any field or court that is primarily designed for use in a sporting activity (including, but not limited to, baseball field, softball field, basketball court, tennis court, soccer field, volleyball court, and handball court), while said area is in use; and
    - Within 50 feet of any playground, pool, or exercise area while said area is in use.

Enforcement and Penalties

S.B. 946 prohibits the imposition of criminal liability for violations of a sidewalk vending ordinance. The City may impose administrative citations for violations. As part of the report to be brought for potential adoption of the Urgency Ordinance on November 19, 2019, Council will be presented with a resolution including violations of the proposed Urgency Ordinance in the City's administrative citation fine schedule at the following amounts:

- Violations of City's vending regulations: \$100 (1st), \$200 (2nd), \$500 (3rd+ within one year); and
- Operating without a Sidewalk Vending License: \$250(1st), \$500 (2nd), \$1,000 (3rd+ within one year).

The proposed Ordinance also authorizes revocation of a license after a vendor's fourth violation of an Ordinance, as well as a process for vendor's to appeal administrative citations and revocations. Finally, as discussed on October 22, 2019, the Ordinance also includes provisions allowing vendors to seek an "Ability to Pay" determination to allow vendors meeting certain income qualifications to pay a reduced fine, seek a waiver, or seek community service in lieu of a fine.

FISCAL IMPACT

The fiscal impact of revised sidewalk vending legislation will mostly be associated with licensing/permitting and enforcement. Staff is preparing an update and analysis for the permit costs associated with the sidewalk vendor permit required by the proposed Urgency Ordinance and will present that information to Council on November 19, 2019 when considers adoption. Staff's assessment at this time is that the time and cost of the sidewalk vendor permit will be commensurate with or slightly higher than the current "peddler's permit" which is $233 per year.

ALTERNATIVES

Alternative 1: The Council may introduce the Urgency Ordinance.

Alternative 2: The Council may introduce the Ordinance but not on an urgency basis.

Alternative 3: The Council may introduce the Ordinance, whether urgency or not, with modifications.

Alternative 4: The Council may choose not to introduce the Ordinance.

Alternative 5: The City Council may consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

Not applicable.

EXHIBITS

Exhibit 1 – Report to Council dated October 22, 2019 (w/o Exhibits)

CITY OF GLENDALE, CALIFORNIA
REPORT TO THE:

Joint ☐ City Council ☒ Housing Authority ☐ Successor Agency ☐ Oversight Board ☐

October 22, 2019

AGENDA ITEM

Report: Sidewalk Vendors and Compliance with Senate Bill No. 946.

1) Motion directing staff

COUNCIL ACTION

Public Hearing ☐ Ordinance ☐ Consent Calendar ☐ Action Item ☒ Report Only ☐

Approved for 10/22/19 calendar

ADMINISTRATIVE ACTION

	Signature
Submitted by: Phil Lanzafame, Director of Community Development	
Michael J. Garcia, City Attorney	
Prepared by: Carmen O. Merino, General Counsel - Police	
Approved by: Yasmin Beers, City Manager	
Reviewed by: Roubik Golanian, Assistant City Manager	
Onnig Bulanikian, Director Community Services & Parks	
Carl Povilaitis, Chief of Police	
Yazdan Emrani, Director of Public Works	

EXHIBIT 1

RECOMMENDATION

It is recommended that City Council provide direction to staff regarding the regulation of street vendors.

BACKGROUND/ANALYSIS

Historically, cities have had the ability to regulate sidewalk vending under the traditional police power/public safety rubric, including criminal enforcement against offending vendors. However, the enactment of Senate Bill 946 ("SB 946"), also known as the "Safe Sidewalk Vending Act," changed the legal landscape for sidewalk vendors by making the regulation and criminalization of sidewalk vending a matter of statewide concern. SB 946 became effective on January 1, 2019.

SB 946 was enacted to promote entrepreneurship and to provide economic development opportunities for immigrant and low-income communities. The legislative findings for SB 946 also declare that sidewalk vending contributes to a safe and dynamic public space and the "safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending."

SB 946 is codified in Government Code sections 51035 through 51039. SB 946 specifically prohibits cities from criminalizing sidewalk vending violations. Instead, a violation is punishable only by an administrative fine, pursuant to an ability-to-pay determination.

The statute defines "sidewalk vendors" as "persons who sell 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.

Under SB 946, cities may no longer prohibit sidewalk vendors although they may establish regulations related to sidewalk vending to protect valid health, safety and welfare concerns. If the City Council desires to enact a regulatory scheme to address sidewalk vending, any such scheme must comply with the following parameters.

<u>SB 946 Prohibitions and Restrictions</u>
Under SB 946, the City may not:

- Require a sidewalk vendor to operate within (or outside of) 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.

SB 946 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."

With regard to sidewalk vendors of food items, under SB 946 such vendors are not exempt from state safety regulations and permit requirements.

Permitted Regulations

The City 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) for vendors generally and for roaming vendors in residential areas;
- 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;
- 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; and
- Requiring a sidewalk vendor to submit certain information on his or her operations.

Residential Zones

Stationary sidewalk vendors may be prohibited in residential zones but roaming vendors may only be restricted for reasons directly related to objective health, safety, or welfare concerns.

Parks

Under SB 946, the City may not prohibit a sidewalk vendor from selling food or merchandise in a city park. However, stationary sidewalk vendors (as opposed to roaming

sidewalk vendors) may be prohibited from vending in a park if the City has entered into an exclusive concessionaire agreement for the sale of food or merchandise.

The City may adopt additional requirements regulating the time, place, and manner of vending in a City park where the regulations are:

- 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.

Permitted Temporary Events

With respect to permitted special events, including certified farmers' markets and swap meets, the City may restrict or 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. SB 946 does not define "immediate vicinity."

The City's Existing Regulations

The City is not required to adopt a new program to regulate sidewalk vendors if it has an established/existing program that substantially complies with SB 946. However, if the City does not adopt sidewalk vending regulations that comply with the new state law, the City may not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the statute.

As a result of SB 946, Glendale may no longer enforce Glendale Municipal Code ("GMC") section 9.14.140 which provides, in pertinent part:

A. No person shall peddle from a stationary location on any public property, doorway of any building or unenclosed vacant lot.
***
B. No person shall peddle foods or drinks intended for human consumption, or goods, wares or merchandise, from a vehicle which is nonmotorized or not licensed for street use by the state of California, on any public street or public property.
C. Whenever the holder of any license provided for by, or issued under, this code uses any wagon, cart, tray, basket or other vehicle or receptacle in vending any such goods, wares or merchandise, such license shall be inserted, held and carried in a manner such that it is at all times in plain view in such vehicle or receptacle.

Glendale Municipal Code sections 5.04.020 and 5.08.470 allow the City to charge an annual fee for the issuance of a permit to peddlers engaged in the business of selling food or drink items or goods or merchandise. Under SB 946, these regulations may only be enforced by administrative citations.

Enforcement Mechanisms: Administrative Fines and Permit Rescission

As noted above, SB 946 provides that sidewalk vending violations may only be punishable through issuance of administrative fines. Council may wish to consider amending the Glendale Municipal Code to reflect that violations of the sidewalk peddler provisions are no longer misdemeanors or infractions and that violators are not subject to arrest. Under SB 946, a violation of a local authority's vending regulations is punishable as follows: $100 for the first violation; $200 for a second violation; and $500 for each additional violation within one year of the first violation. These fine amounts are consistent with the Glendale's current administrative citation fine schedule for failure to obtain a peddling permit under 5.04.020.

SB 946 allows a local agency to rescind a permit issued to a sidewalk vendor upon the fourth violation or subsequent violations. The City Council may wish to consider authorizing this action in accordance with due process principles.

Under SB 946, if a local agency requires a sidewalk vendor to obtain a sidewalk vending permit, vending without a permit may be punishable by higher administrative fines. The administrative fines may not exceed $250 for a first violation, $500 for a second violation within one year of the first violation, and $1000 for each additional violation within one year of the first violation. The City Council may also want to consider amending the Citywide Fee Schedule to reflect the higher administrative fines permitted for sidewalk vending without a permit.

With regard to the ability to pay component of SB 946, the City 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. Alternatively, the City 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.

Considerations for Glendale Municipal Code Amendments

It is advisable to amend the Glendale Municipal Code to remove inconsistencies between the Code and sidewalk vending activity now permitted by state law. If the City elects to enact time, place, and manner regulations for sidewalk vending, the City would have to make specific findings related to "objective health, safety or welfare concerns" when developing such regulations. To support findings of objective health, safety, or welfare concerns, the legislative record must be prepared as completely as possible to identify the government interests at play and why government regulation is needed. The City may want to also consider unintended consequences and whether alternative, non-regulatory approaches are available to address the concerns or conduct in question.

Council may take the following one or more actions:

1) Council may direct staff to return with proposed time, place, and manner regulations in the form of an ordinance for sidewalk vending generally. The draft ordinance could include regulations for: hours of operation, sanitation (trash in proper vendor owned receptacles and proper clean up and disposal of food items that fall onto the sidewalk including grease or other fluids), sidewalk accessibility, pedestrian safety,

student safety near schools, noise standards, and signs, among other permitted regulations.

Pasadena, Santa Monica, and West Hollywood have adopted sidewalk vending regulations, highlights of which are set forth below. The Pasadena, Santa Monica, and West Hollywood ordinances are attached as Exhibits A, B, and C, respectively.

Pasadena requires a permit and limits sidewalk vending to the following hours:

1. On sidewalks or pathways directly adjacent to or within residential areas between dawn and dusk daily; and

2. Operating in non-residential areas between the hours of 10:00 p.m. and 7:00 a.m.

Pasadena prohibits sidewalk vending activities at the following locations:

1. Pasadena City Hall;

2. Pasadena Civic Auditorium;

3. Any public property that does not meet the definition of a sidewalk;

4. Within 200 feet of a police station, fire station, or hospital;

5. Within 100 feet of another vendor, public or private school, place of worship, or child day care facility;

6. Within 15 feet of any marked crosswalk;

7. Within 5 feet of any traffic signal controller, traffic signal;

8. Within 3 feet of any utility meter, manhole, service box, parking meter, street light pole;

9. Within 10 feet of any driveway or alley;

10. Within 6 feet of any bus bench or bus shelter; and

11. Within 3 feet of any permitted sidewalk dining area.

Pasadena requires sidewalks occupied for vending activities to be not less than 10 feet in width, and the vending activities must permit at least 5 feet of unobstructed sidewalk. Pasadena also requires that sidewalk vendors immediately clean any food, grease or other fluid or item related to vending activities that falls on public property. In Pasadena, all signage must be attached to the sidewalk vending receptacle or the vendor's person.

Santa Monica requires a permit to engage in sidewalk vending activities. Santa Monica requires that all sidewalk vending stands, pushcarts or tables must not exceed 6 feet (length) by 4 feet (width) and must have locking wheels. Roaming vendors must maintain an unobstructed view over 4 feet in height from the ground to the table top of the cart. Hours of operation for roaming vendors in residential areas are limited to 8:00 a.m. to 9:00 p.m.

Santa Monica also requires food vendors to walk a 100 foot radius from the vending site after the close of business to gather and dispose of beverage and serving materials or other trash left by their customers. Vendors are prohibited from dumping any liquid or solid waste in any public trash cans or dumpsters, public rights-of-way, city streets, city sidewalks, parks, and beaches. Vendors are also required to provide rodent-proof trash receptacles and to remove all waste and litter collected or discarded as a result of preparing or consuming food items or selling merchandise.

West Hollywood requires sidewalk vendors to obtain a permit and prohibits them from:

1. Operating between 2:00 a.m. and 6:00 a.m.;
2. Operating within one block of a certified farmer's market and swap meet during the hours these events are operating;
3. Operating within one block of any public or private school between 8:00 a.m. and 5:00 p.m. on school days;
4. Using amplified sound unless expressly authorized;
5. Being within 25 feet of on-street valet loading zone, city designated passenger loading zone, or any taxicab stand;
6. Being within 200 feet of another vendor; and
7. Being upon or within any roadway, median strip or dividing section.

West Hollywood also requires sidewalk vendors to maintain the following unobstructed sidewalk clearances: 4 feet of unobstructed sidewalk when the sidewalk is no greater than 13 feet, 6 feet when the sidewalk is greater than 13 feet but no greater than 17 feet wide, and 8 feet when the sidewalk is greater than 17 feet wide. Umbrellas may be used by sidewalk vendors as long as the bottom edge of the umbrella is at least 7 feet from the surface of the sidewalk.

2) Council may review areas in the City that are highly congested with pedestrian or vehicular traffic, or have other unique safety concerns, and direct staff to return with an ordinance that restricts sidewalk vendors in these areas. Depending on the particular area, objective public safety and welfare concerns may support restricting sidewalk vendors in these areas during certain hours in order to ensure that individuals who use assistive devices such as walkers, canes, wheelchairs and other devises may use the sidewalks in a manner that is not impeded.

For example, West Hollywood prohibits sidewalk vendors in areas with a high concentration of night-life venues during the hours of 10:00 p.m. and 2:00 a.m.

In Pasadena, sidewalk vendors are prohibited in established business improvement districts, such as Old Pasadena Management District, South Lake Business District,

and the Pasadena Playhouse District, because of unusually high pedestrian and vehicular traffic volumes in these areas. Pasadena also prohibits sidewalk vending in specified areas with extremely narrow sidewalks.

Santa Monica prohibits vending from stationary carts in the area that constitutes the Third Street Promenade.

3) Council may direct staff to return with a proposed ordinance prohibiting stationary sidewalk vendors in residential zones and setting permitted hours and noise limitations for roaming sidewalk vendors in such zones.

   West Hollywood prohibits roaming sidewalk vendors from operating within residential zones between 8:00 p.m. and 9:00 a.m. and also prohibits them from operating on any city block for more than 1 hour in any 4 hour period.

4) Council may request that staff return with a proposed ordinance prohibiting sidewalk vending within the immediate vicinity of permitted certified farmers' markets, permitted swap meets, and other designated areas where temporary special city permits have been issued during the limited operating hours of those events. The draft ordinance should include distance requirements in a definition for "within the immediate vicinity."

   West Hollywood does not permit sidewalk vendors to operate within one block of a certified farmer's market or swop meet during the limited operating hours of these events. Pasadena prohibits sidewalk vending within the immediate vicinity of a permitted certified farmer's market and swap meet.

5) Council may ask staff to return with a proposed ordinance regulating stationary sidewalk vending in parks where there is an exclusive concessionaire agreement.

   Pasadena prohibits sidewalk vendors from operating in the Brookside Golf Course area because the city has a concessionaire agreement.

6) Council may also direct staff to consider specific regulation of sidewalk vending in parks due to objective health, safety, or welfare concerns; related to ensuring the public's use and enjoyment of natural resources and recreational opportunities; or related to preventing an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

   Santa Monica prohibits sidewalk vending within 50 feet of any public picnic area, playground area, playground equipment, public community center, athletic field, tennis court, or soccer field. Santa Monica also prohibits sidewalk vending within 50 feet of any athletic field, basketball court, softball/baseball diamond, tennis court, soccer field, or volleyball court while in use.

   West Hollywood requires that vendors cease vending operations in any park 1 hour before park closing.

Meeting with Community Stakeholders

On October 14, 2019, staff met with representatives from the Glendale Chamber of Commerce, the Downtown Glendale Association, the Montrose Shopping Park Association, and the Montrose-Verdugo Chamber of Commerce to discuss SB 946. The representatives expressed general concerns about the impact of sidewalk vending on local businesses and business districts. They also raised specific concerns regarding the costs they incur in cleaning sidewalk areas where food is sold by the vendors. It was suggested that staff review the sidewalk vending ordinances adopted by Downey and Huntington Beach. These ordinances are attached as Exhibits D and E to this report. Stakeholders are anxious to see the city adopt appropriate regulations, especially in light of cleanup costs and accessibility issues.

FISCAL IMPACT

The fiscal impact of revised sidewalk vending legislation will mostly be associated with licensing/permitting and enforcement. If the Council directs preparation of a sidewalk vending regulatory program that includes permitting, staff will assess the appropriate fee structure to capture those costs and prepare a proposed fee resolution as well.

ALTERNATIVES

Alternative 1: The City Council may direct staff to return with proposed regulations for sidewalk vending consistent with SB 946.

Alternative 2: The City Council may decide not to request that staff draft proposed regulations.

Alternative 3: The City Council may consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

Not applicable.

EXHIBITS

A) Pasadena Ordinance No. 7348
B) Santa Monica Ordinance No. 2607
C) West Hollywood Ordinance No. 19-1070U
D) Downey Ordinance No. 19-1415
E) Huntington Beach Ordinance No. 4179