

ORDINANCE NO. 1198-23

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LAWNDALE, CALIFORNIA ADDING CHAPTER 12.66 TO THE
LAWNDALE MUNICIPAL CODE REGULATING SIDEWALK
VENDORS IN COMPLIANCE WITH SENATE BILL 946**

WHEREAS, Senate Bill 946 was approved by the Governor in September 2018, prohibiting a local authority from regulating sidewalk vendors, except in accordance with the provisions of the Bill; and

WHEREAS, Senate Bill 946 authorizes the City Council to adopt by ordinance additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety or welfare concerns; and

WHEREAS, Senate Bill 946 went into effect January 1, 2019; and

WHEREAS, major construction-related improvement projects impact existing infrastructure within the City of Lawndale ("City") and impact vehicular and pedestrian traffic, parking, and the general quality of life for City residents and businesses for an extended period of time; and

WHEREAS, the City Council desires to establish a sidewalk vending program that will benefit the City; and

WHEREAS, the establishment of a sidewalk vending program under the authority provided in Senate Bill 946, shall ensure protection of the health, safety, and welfare of City residents, businesses and visitors.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAWNDALE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Lawndale hereby makes the following findings:

A. The above recitals are true and correct and incorporated fully herein.

B. the vending of prepared or pre-packaged foods, goods, and/or wares at semi-permanent locations on public sidewalks and rights-of-way may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors.

SECTION 2. Chapter 12.66 of the Lawndale Municipal Code is added to read, in its entirety, as shown in Exhibit A.

SECTION 3. This Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b) (3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty there is no possibility that adoption of an increase to citation amounts for unlicensed vending would have a significant effect on the environment, therefore the activity is not subject to CEQA.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be posted and published in a newspaper of general circulation in the manner required by law.

PASSED, APPROVED, AND ADOPTED this ____ day of ____, 2023.

Robert Pullen-Miles, Mayor

ATTEST:

State of California)
County of Los Angeles) SS
City of Lawndale)

I, Erica Harbison, City Clerk of the City of Lawndale, California, do hereby certify that the City Council duly approved and adopted the foregoing Ordinance No.1198-23at its regular meeting held on the __ day of __, 2023, by the following roll call vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Robert Pullen-Miles, Mayor					
Sirley Cuevas, Mayor Pro Tem					
Pat Kearney					
Bernadette Suarez					
Rhonda Hofmann Gorman					

Erica Harbison, City Clerk

Date

APPROVED AS TO FORM:

Gregory M. Murphy, City Attorney

EXHIBIT A

Chapter 12.66 SIDEWALK VENDORS

12.66.010 Purpose; findings.

A. The City Council finds that the vending of prepared or pre-packaged foods, goods, and/or wares at semi-permanent locations on public sidewalks and rights of way may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors.

B. The purpose of this Chapter is to implement regulations on both roaming and stationary sidewalk vending that protect the public health, safety, and welfare of the community while complying with the requirements of general state law, as amended from time to time, to promote safe vending practices, prevent safety, traffic and health hazards, and preserve the public peace, safety and welfare of the community.

12.66.020 Definitions.

For purpose of this chapter, the following definitions apply:

A. "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

B. "City" means the City of Lawndale, California.

C. "County" means the County of Los Angeles.

D. "Enforcement officer" means any city code enforcement officer or other employee authorized by the city to enforce the provisions of the city's municipal code.

E. "Park" means a public park owned by a governmental entity.

F. "Roaming sidewalk vendor or vending" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

G. "Sidewalk vendor or vending" means a person who sells, offers to sell, or takes orders for food or merchandise, or operates, engages in, or carries on a food or merchandise vending business, from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon, or directed towards pedestrians upon, a public sidewalk or other pedestrian path.

H. "Stationary sidewalk vendor or vending" means a sidewalk vendor who vends from a fixed location.

I. "Temporary event permit" means a permit issued by the City of Lawndale for temporary uses (i.e. special event permits, temporary use permits, film permits, or park reservations).

J. "Event Day" means the calendar day of any concert, trade show, conference, sporting event, or any other event potentially attracting large numbers of persons and vehicles to the venue.

12.66.030 Permit required.

A. Except as provided in subsection (B) below, it is unlawful for any person to engage in the business of sidewalk vendor or vending, or to go from door to door or home to house or street to street for the purpose, direct or indirect, and whether or not the same is the sole purpose, of vending, without first obtaining a permit and paying the applicable fees as provided in this chapter.

B. The persons and entities listed below shall not be required to obtain the sidewalk vendor permit required by subsection (A) above, however, nothing in this subsection (B) shall relieve those persons and entities listed below from any other provision of this Chapter or Code, including, but not limited to, the provisions of Title 5 related to Business Licensing Regulations.

1. Persons soliciting orders from, or selling to, retail dealers for use, or for resale or to manufacturers for processing;
2. Public agencies, such as federal, state or local agencies supported by tax funds;
3. Any person operating a regular delivery route from a non-fixed location with deliveries not less than once a week for newspapers, dairy products, or for laundry or dry-cleaning services;
4. Persons delivering or soliciting for a newspaper of general circulation;
5. Licensed real estate persons;
6. Persons solely distributing literature, writings or merchandise which seek to inform or persuade the listener to support particular causes or particular views on economic, political or social issues;
7. Persons solely soliciting signatures for referenda, recall, initiative, candidates for public office or similar electoral processes; and
8. Persons soliciting funds for any religious, patriotic, philanthropic, social service, environmental, fraternal, or charitable purposes.

C. The "Finance Director or their designee" shall prescribe the forms and procedures for applications for a permit under this chapter. The forms shall indicate the fee for the application, the fee for the permit and the insurance requirements of this chapter, if any. The application shall be verified and shall set forth:

1. The full name, current mailing address and phone number of the applicant;
2. A brief description of the nature of the business and the goods to be sold;
3. If the vendor is an agent of an individual, company, partnership, or corporation, the name and address of the employer and the name and address of any local or State office or manager, together with credentials establishing the exact relationship;

4. The proposed operating hours of the applicant;
5. A general description of the location or area the sidewalk vendor intends to operate;
6. Evidence that the applicant has their photograph and fingerprints on file with the Los Angeles County Sheriff's Department;
7. A statement as to whether the applicant has been convicted of any crime, misdemeanor, or violation of any municipal law, the nature of the offense, and the punishment or penalty assessed therefor; and
8. Other information the "Finance Director or their designee" deems necessary to process the application.

D. The "Finance Director or their designee" shall refer the completed application for the permit required by this chapter to the appropriate City officials for investigation and report as necessary. The "Finance Director or their designee" shall issue or deny the permit within thirty (30) days following such investigation and reports. Each permit so issued shall state on the face thereof the date of expiration.

E. A permit may be denied and/or revoked by the "Finance Director or their designee" on the following grounds:

1. The applicant, employee or agent has been convicted of a felony or misdemeanor involving bodily injury to persons, theft, fraud or misrepresentation;
2. The applicant has violated the provisions of this chapter or any other provision of this Code;
3. The applicant's permit has been previously revoked as provided in this chapter;
4. The applicant has provided false information on the permit application; or
5. The applicant has failed to pay the application permit fee.

F. The "Finance Director or their designee" shall notify the applicant of the denial by depositing written notice of such decision in the first-class U.S. mail, postage prepaid, addressed to the applicant, not later than ten (10) days following the date of such decision. A notice of denial of an application must contain a statement of the facts upon which the denial is based and must contain a statement of the appeal procedure contained in subsection (K) below.

G. All permits issued under this chapter shall be in the form of an identification card, which shall include a photo of the permittee, in a format prescribed by the "Finance Director or their designee".

H. Every sidewalk vendor issued a permit shall display the same on their person and provide the same on request to any person or persons they deal with, to any LASD deputy or to any designated City official. It shall be unlawful for any person other than the permittee to use or wear any permit issued under the provisions of this chapter.

I. All applications for permits under the provisions of this chapter shall be accompanied by an application fee as may be set from time to time by the City Council. No application fee paid under this chapter shall be refunded. All original permits and renewals granted under this chapter shall also require a fee as may be set from time to time by the City Council. All permits issued

under the provisions of this chapter shall be valid for up to two (2) years depending on the City's internal administrative processing schedule. A permit may be renewed by the timely payment of a renewal fee prior to the expiration of the permit as may be set from time to time by the City Council. All permits shall cease and terminate thirty (30) days after the default of payment. Any permit that has terminated pursuant to this chapter shall require the filing of a new application for a permit under this chapter. Such fees shall be established by resolution of the City Council.

J. Whenever it is shown that any person to whom a permit has been issued has caused, permitted, aided, abetted, suffered or concealed a violation any of the provisions of this chapter four (4) or more times within one (1) year, the "Finance Director or their designee" shall immediately suspend the permit and give the permit holder a written notice in person or by mail of the suspension. The notice must contain a statement of the facts upon which the "Finance Director or their designee" has acted in suspending the permit. The notice must contain a statement of the appeal procedure contained in subsection (K) below.

K. Any person aggrieved by the determination of the "Finance Director or their designee" to deny the issuance of a permit or to suspend or revoke a permit may appeal such decision to the City Manager or their designee. Such appeal shall be taken by filing a written notice of appeal with the City Clerk within ten (10) days of the date of the decision to deny or revoke and shall set forth the grounds for the appeal. A failure to file a timely appeal shall render the decision to deny, suspend, or revoke a permit final. The City Manager or their designee shall set a time and place for a hearing on the appeal within ten (10) days of the filing of the appeal. The determination of the City Manager or their designee following the hearing shall be in writing and shall be sent to the permit holder. The decision of the City Manager or their designee shall be final and conclusive.

12.66.040 Stationary sidewalk vending locations and standards.

A. Stationary sidewalk vendors shall be prohibited from operating or establishing in any residential zone of the City.

B. Stationary sidewalk vendors may operate in non-residential zones of the City, including mixed use zones, provided they meet the following:

1. The sidewalk vendor can set up vending operations while still leaving a minimum of thirty-six inches (36") of accessible path of travel, without obstruction, along the public sidewalk or public pathway; and
2. The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and
3. The sidewalk vendor location does not block entrances to buildings, driveways, parking spaces or building windows; and
4. No vending shall occur within ten (10) feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space or access ramp, fire station driveway, or Sheriff station driveway; and
5. No tables, chairs, fences, shade structures, other site furniture, or any freestanding signs shall be permitted in conjunction with the vendors' vending activities; and

6. The vendor shall not attach or use any water lines, electrical lines, or gas lines during vending operations; and
7. Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the vendor is prohibited; and
8. No vending shall occur within five hundred (500) feet of a certified farmers' market, a swap meet, construction-related street or lane closure, filming location, or an event held pursuant to a temporary event permit; and
9. No vending shall occur in downtown commercial areas where there is a likelihood of overcrowding on the sidewalk or overcrowding of parking, such as, but not limited to with the potential of causing pedestrian and traffic safety issues; and
10. No vending shall occur within a corner cutoff area. A corner cutoff area is that area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of forty-five (45) degrees with the side, front, or rear property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of thirty (30) feet from the intersection of such lines at the corner of a street or highway; and
11. No vending shall occur within five hundred (500) feet of any school; any postsecondary educational facility attended by secondary pupils; or any private kindergarten, elementary, or secondary school facility; and
12. No vending shall occur within three (3) feet of any street lights, edges of tree wells, or above-ground utility structures; and
13. No vending shall occur within two (2) feet of any existing subsurface utility box, valve, or vault; and
14. No vending shall occur within twenty (20) feet of another vendor; and
15. No vending shall occur within three (3) feet of bus stop locations, red curbs, or at locations where there are existing above-ground amenities such as newsstands or street furniture, including but not limited to benches and bike racks; and
16. No vending shall occur in public streets, roadways, medians, pedestrian islands, parking lots, alleys, or bikeways; and
17. No vending shall occur within twenty (20) feet of the entrance way to any building, store, theater, movie house, house of worship, or place of public assembly.

12.66.050 Sidewalk vending in parks.

A. Sidewalk vending of food or merchandise by stationary vendors shall be prohibited in any City park with a concession stand operated by a vendor under exclusive contract with the City selling similar food or merchandise.

B. Sidewalk vendors may operate in parks provided they meet the following:

1. For stationary sidewalk vending, the sidewalk vendor can set up vending operations while still leaving a minimum of thirty-six inches (36") of accessible path of travel, without obstruction, along the public sidewalk or public pathway; and
2. The sidewalk vendor shall cease operations one (1) hour prior to the close of the park; and

3. The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and
4. The sidewalk vendor location does not block entrances to buildings, driveways, parking spaces, or building windows; and
5. No vending shall occur within the immediate vicinity of an event held pursuant to a temporary event permit; and
6. No vending shall occur within a corner cutoff area. A corner cutoff area is that area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of forty five (45) degrees with the side, front, or rear property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of thirty (30) feet from the intersection of such lines at the corner of a street or highway; and
7. The sidewalk vendor does not cause an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park or necessary to endure the public's use and enjoyment of natural resources and recreational opportunities or regulations directly related to objective health, safety or wellness concerns; and
8. No vending shall occur in public streets, roadways, medians, pedestrian islands, parking lots, alleys, or bikeways.

12.66.060 Roaming sidewalk vending.

A. Roaming sidewalk vendors shall meet the following:

1. Sidewalk vending hours for residential zones shall be conducted between the hours of 7:00 a.m. and 6:00 p.m. weekdays and 9:00 a.m. and 5:00 p.m. on the weekends; and
2. The sidewalk vendor maintains their temporary vending area in a clean, orderly, and sanitary condition; and
3. The sidewalk vendor does not block entrances to buildings, driveways, parking spaces, or building windows; and
4. The sidewalk vendor does not conduct sales from a public street; and
5. No vending shall occur within a corner cutoff area. A corner cutoff area is that area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of forty-five (45) degrees with the side, front, or rear property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of thirty (30) feet from the intersection of such lines at the corner of a street or highway; and
6. No vending shall occur within five hundred (500) feet of a certified farmers' market, a swap meet, construction-related street or lane closure, filming location, or an event held pursuant to a temporary event permit; and
7. No vending shall occur in downtown commercial areas where there is a likelihood of overcrowding on the sidewalk or overcrowding of parking areas, with the potential of causing pedestrian and traffic safety issues; and
8. No vending shall occur within five hundred (500) feet of any school; any postsecondary educational facility attended by secondary pupils; or any private kindergarten, elementary, or secondary school facility; and

9. No vending shall occur within three (3) feet of any street lights, edges of tree wells, or above-ground utility structures; and
10. No vending shall occur within two (2) feet of any existing subsurface utility box, valve, or vault; and
11. No vending shall occur within twenty (20) feet of another vendor; and
12. No vending shall occur within three (3) feet of bus stop locations, red curbs, or at locations where there are existing above-ground amenities such as newsstands or street furniture, including but not limited to benches and bike racks; and
13. No vending shall occur in public streets, roadways, medians, pedestrian islands, parking lots, alleys, or bikeways; and
14. No vending shall occur within twenty (20) feet of the entrance way to any building, store, theater, movie house, house of worship, or place of public assembly.

12.66.070 Penalties.

A. It is unlawful for any person to violate any provision or fail to comply with any requirements of this chapter. Pursuant to California Government Code Section 51039, a violation of this chapter shall be punished by:

1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
3. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.

B. A violation of vending without a sidewalk vending permit, may in lieu of the penalties set forth in subsection (A), above, be punished by:

1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation.
3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.

C. If an individual is subject to subsection (B), set forth above, for vending without a sidewalk vending permit, upon the individual providing proof of a valid permit issued by the City, the administrative fines set forth in this Chapter shall be reduced to the administrative fines set forth in subsection (A), respectively.

D. The proceeds of any administrative fines assessed pursuant to this chapter shall be deposited in the treasury of the City.

E. Failure to pay an administrative fine assessed under this chapter shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in this chapter shall not be assessed.

F. Any violation of this chapter shall not be punishable as an infraction or misdemeanor, and any person alleged to have violated any provisions of this chapter shall not be subject to arrest except when otherwise permitted under law.

G. Nothing contained herein shall be construed to impede the County's ability to enforce County Health Department codes and regulations.

12.66.080 Removal and/or seizure of cart, food, goods or merchandise, or vending equipment, which creates an imminent danger.

A. An enforcement officer may request a sidewalk vendor to remove any cart if the cart is creating an imminent safety hazard or is placed within a prohibited area as set forth in this chapter. If the sidewalk vendor refuses to remove the cart, or if the cart has been abandoned, the enforcement officer may remove and store the cart. A 30 days' notice shall be provided to the owner of the cart or to the address associated with the cart, to redeem the cart. The city may dispose of the cart in accordance with the City's Municipal Code and/or the law, if the cart is not claimed after the 90 calendar days and any associated fines are not paid. No cart shall be disposed of during the pendency of an appeal.

B. An enforcement officer may immediately remove and dispose of any food products that are unrefrigerated, as improperly stored food products will create an imminent threat to the public health, safety, and welfare. An enforcement officer may also remove and/or dispose of any food products if the vendor does not have a method to prepare food hygienically, or if the vendor is not using proper hand washing techniques.

C. An enforcement officer may request a sidewalk vendor to remove any goods, merchandise or vending equipment if those items create an imminent threat to health, safety, and welfare. If the sidewalk vendor refuses or the goods, merchandise or vending equipment are not removed, an enforcement officer may remove and store the items. An enforcement officer shall further be able to remove and store the cart if the unlicensed vendor does not produce a valid form of identification, issued within the United States, and by a US government agency. A 30 days' notice shall be provided to the owner of the goods, merchandise or vending equipment or to the address associated with the cart, to redeem the goods, merchandise or vending equipment. The city may dispose of the goods, merchandise or vending equipment in accordance with the City's Municipal Code and/or the law, if the goods, merchandise or vending equipment are not claimed after the 90 calendar days and any associated fines are not paid. Illegal goods or contraband shall not be subject to the notice of redemption in this section but is subject to the appeal provisions in 12.66.090. No goods, merchandise or vending equipment shall be disposed of during the pendency of an appeal.

D. Any person may appeal the removal and storage of any good, merchandise or vending equipment as well as any fines imposed, pursuant to section 12.66.090.

12.66.090 Appeal of seizure and/or disposal.

A. Any person aggrieved by any determination regarding removal and storage under section 12.66.080 shall be entitled to an appeal of that decision as provided herein.

B. Any recipient of an administrative citation shall be entitled to contest the allegation of a violation or that he or she is the responsible party.

C. A request for an appeal must be filed with the City Clerk within 15 calendar days from issuance of the administrative citation. The appeal must be in writing, state the grounds for the appeal, include the address to which notice is to be mailed, and be accompanied by any filing fee established by City Council Resolution.

D. If an appeal is timely filed, the City shall set a date for the hearing of the appeal not more than 120 calendar days from the date the appeal is received. At the hearing, the appellant will have the right to offer testimonial, documentary, and tangible evidence bearing on the issues. The hearing officer will not be bound by the formal rules of evidence. Any hearing under this section may be continued for a reasonable time for the convenience of a party or witness.

E. The hearing officer will issue written findings and a decision within 10 calendar days of the conclusion of the hearing and send notice of the decision by certified mail to the appellant. The notice shall include reference to the appellant's right to judicial review under California Code of Civil Procedure section 1094.8.

F. The decision of the hearing officer shall be final unless judicial review is granted pursuant to California Code of Civil Procedure section 1094.8.