

CORCORAN PLANNING COMMISSION MEETING AGENDA

City Council Chambers
1015 Chittenden Avenue
Corcoran, CA 92312

Monday, November 18, 2019
5:30 P.M.

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

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

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

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

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

ROLL CALL

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

FLAG SALUTE

1. PUBLIC DISCUSSION

2. APPROVAL OF MINUTES

2.1 Approval of minutes of the regular Planning Commission meeting on October 21, 2019.

3. RE-ORGANIZATION - None

4. **PUBLIC HEARING**

4.1 Continuation of a Public Hearing to consider draft ordinance regarding Mobile Food Vendor. *(Tromborg) (VV)*

- A. Public hearing
- B. Staff Report
- C. Accept written testimony
- D. Accept oral testimony
- E. Close hearing
- F. Commission discussion
- G. By motion, approve/approve with changes/deny recommendation.

4.2 Public Hearing to determine the zoning classification and zoning requirements for processing and manufacturing of industrial hemp and its bi-products. *(Tromborg) (VV)*

- A. Public hearing
- B. Staff Report
- C. Accept written testimony
- D. Accept oral testimony
- E. Close hearing
- F. Commission discussion
- G. By motion, approve/approve with changes/deny recommendation.

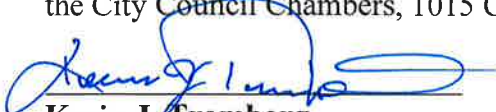
5. **STAFF REPORTS**

6. **MATTERS FOR PLANNING COMMISSION**

- 6.1. Information Items:
- 6.2 Staff Referrals - *Items of Interest (Non-action items the Commission may wish to discuss)*
- 6.3 Committee Reports - None

7. **ADJOURNMENT**

I certify that I caused this Agenda of the Corcoran Planning Commission meeting to be posted at the City Council Chambers, 1015 Chittenden Avenue on November 14, 2019.



Kevin J. Tromborg
Community Development Director

**MINUTES
CORCORAN PLANNING COMMISSION
REGULAR MEETING
Monday, October 21, 2019**

The regular session of the Corcoran Planning Commission was called to order by Vice-Chairperson, Kassner, in the City Council Chambers, 1015 Chittenden Avenue, Corcoran, CA at 5:30 P.M.

ROLL CALL

Commissioners present: Bega, Kassner, Tristao and Watkins
Commissioners absent: DeVaney, Jarvis and Van Velson
Staff present: Kevin J. Tromborg and Ma. Josephine Lindsey
Also present: Ken Jorgensen, City Attorney

FLAG SALUTE The flag salute was led by Kassner.

1. PUBLIC DISCUSSION

2. APPROVAL OF MINUTES

Following Commission discussion, a **motion** was made by Bega and seconded by Tristao to approve the minutes of the regular meeting on September 16, 2019 with correction on Item 4.1, Paragraph 3, First sentence, it should be Resolution No. 19-05 and not 19-04. Motion carried by the following vote:

AYES: Bega, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: DeVaney, Jarvis and Van Velson

3. RE-ORGANIZATION – None

4. PUBLIC HEARING

4.1 Public Hearing to consider draft ordinance regarding Mobile Food Vending was declared open at 5:33 p.m. Tromborg presented the staff report pertaining to draft ordinance 639.

Oral testimony was received from Yulissa Gonzalez, resident of 1809 Josephine Avenue, Corcoran, CA 93212, representing the owner of Tacos Like business. She requested the Commission to allow the business to operate more than twenty (20) minutes per area or longer hours of operation and to have a permanent status. She added that the owner is willing to follow and abide whatever the City's rules and regulations.

Having no written testimony received, the hearing was closed at 5:43 p.m.

Commission raised the following concerns:

- Safety issue – fire department does not include inspection of a mobile vending;
- Timeliness of Conditional Use Permit (CUP) approval vs. Administrative Review (AR). The CUP review and decision takes up to one to three months or more and requires comments from residents within 300 ft. radius of location;
- Mobile vending is allowed under the draft ordinance, however, construction sites can also be a residential zone; mobile vending in a residential zone may pose some issues from residents;
- Limited time of operations.

Following Commission discussion, a **motion** was made by Tristao and seconded by Bega to continue the public hearing on Mobile Food Vending until the next Planning Commission meeting, pending revision of the ordinance to include the following changes:

- On Section C.1 - Catering Food Truck Vendors are limited to vending food at construction sites between 10:00 a.m. to 2:00 p.m.;
- On Section C.2 – separate this item/renumber or put after Section C.4;
- On Section C.4 – Revise to “Each Catering Food Truck Vendor that does not have the CUP shall comply with the following standards”;
- On Section C.4.a – Shall stay within two (2) hours per location
- On Section C.4.d – Shall not be open between the hours of 1:00 a.m. and 7: a.m. except for City-permitted special events.

Motion carried by the following vote

AYES: Bega, Kassner, Tristao and Watkins

NOES:

ABSTAIN:

ABSENT: DeVaney, Jarvis and Van Velson

5. STAFF REPORTS

5.1 Tromborg presented the staff report to determine the zoning classification and zoning requirements for cultivation, processing and manufacturing of industrial hemp and its bi-products.

Following Commission discussion, the Commission, directed the staff to do a Public Hearing regarding the processing and manufacturing of industrial hemp and its bi-products in Light Industrial and Heavy Industrial zones in the next Planning Commission meeting.

6. MATTERS FOR COMMISSION

6.1. Commission received information item on the following:

- Building and code enforcement reports;
- Citation appeal hearing process in placed. Public Works Director or Community Development Director from the City of Lemoore serve as Hearing Officer;
- Dedication of new Police Department scheduled on October 26, 2019 at 10:00 a.m.

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

6.3 Committee Reports – None

7. ADJOURNMENT

At 7:16 p.m., the meeting was adjourned to the next regular meeting on Monday, November 18, 2019 in the Corcoran City Council Chambers 1015 Chittenden Avenue, Corcoran, CA 93212.

APPROVED ON: _____

Shea DeVaney
Planning Commission Chairperson

ATTEST:

Kevin J. Tromborg, Community Development Director

Chairperson

Shea DeVaney

Vice-Chairperson

Karl Kassner

Commissioners

David Bega
Dennis Tristao
David Jarvis
Troy Van Velson
Janet Watkins

Planning Commission



832 Whitley Avenue, Corcoran
CALIFORNIA 93212

**Community
Development
Department**

(559) 992-2151
FAX (559) 992-2348

STAFF REPORT

PUBLIC HEARING

Item # 4.1

To: Planning Commission

From: Kevin J. Tromborg, Community Development Director, Planner, Building Official.

Date: November 18, 2019

Subject: Continuation of Public Hearing: Mobile Food Vendors draft Ordinance.

General Information:

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

Discussion

At the regularly scheduled Planning Commission meeting on August 19, 2019 Staff presented to the Planning Commission a draft Ordinance regarding mobile vending. Currently the City of Corcoran does not have a stand-alone Ordinance regarding Mobile food vendors. In 2014 The City Council at the recommendation of the Planning Commission adopted a new zoning code that has limited regulations regarding mobile vendors. Section 11-15-7 (see Attached). New State law that went into effect on January 1, 2019 has changed the City's ability to regulate Mobile vending. At the regularly scheduled Planning Commission meeting on October 21, 2019, under a Public Hearing staff presented a draft ordinance regarding mobile vending.

The Planning Commission voted to continue the public hearing to the next schedule meeting to address some concerns regarding the proposed draft ordinance. Attached is the revised draft ordinance that encompasses the new state regulations and the City's new requirements pertaining to mobile vending and sidewalk vending and the Planning Commissions recommendations.

Recommendation:

Staff recommends the Planning Commission considers the revised draft ordinance, makes recommendations if needed and presents their recommendations by resolution to the City Council.

Public Input: This is a public hearing.

Attachments:

1. Revised Draft Ordinance Attachment "A"
2. Resolution No. 19-06
3. SB 946 Safe Sidewalk Vending Act
4. Mobile Food Vendors section 11-15-7 Corcoran Zoning Code.

ORDINANCE NO. 2019 639

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORCORAN AMENDING CHAPTER 11-15 SECTION 7 OF THE CORCORAN ZONING CODE ESTABLISHING REGULATIONS AND STANDARDS PERTAINING TO MOBILE FOOD AND MERCHANDISE VENDORS

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

SECTION 1. FINDINGS.

- (a) WHEREAS, on September 18, 2018, Governor Brown signed into law Senate Bill ("SB") 946, adding Government Code Sections 51036-51039, which requires local agencies to allow sidewalk vendors, subject to regulations, including within the City of Corcoran; and
- (b) WHEREAS, because sidewalk vending and catering trucks has a relatively low barrier to entry, encourages entrepreneurship; and
- (c) WHEREAS, the City Council finds that the provisions of the Ordinance are intended to regulate the time, place, and manner of sidewalk vending and catering trucks directly relating to public health, safety, and welfare objectives and concerns; and
- (d) WHEREAS, the Corcoran City Council further finds that the regulations enacted by this Ordinance are intended to promote and protect the health, safety, and welfare of the City's residents, businesses, and visitors and are in furtherance of the City's police powers to regulate the sale of food and merchandise in the public right of way; and
- (e) WHEREAS, regulations are needed to ensure that the public has a simple way to ensure vendors prepare food safely and according to the Kings County Department of Public Health's requirements; and
- (f) WHEREAS, regulations are needed to protect the natural resources and scenic character of the City's parks and to ensure the public's use and enjoyment of them by preventing unsanitary conditions and ensuring trash and debris are removed by vendors; and
- (g) WHEREAS, regulations are needed to accommodate a sidewalk vendor's equipment while safe-guarding pedestrian movement on the sidewalk and compliance with the federal Americans with Disabilities Act of 1990; and

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(h) WHEREAS, the City Council desires to retain the ability for local enforcement of sidewalk vendor and catering truck regulations, including the imposition of fines for violations, to the extent consistent with State law, as it leads to orderly commerce.

SECTION 2. SEVERABILITY.

Each of the provisions of this ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3.

The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five days prior to adoption and again 15 days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney.

This Ordinance shall take effect and be in full force 30 days from and after its adoption.

SECTION 5. The foregoing Ordinance No. 639 introduced at a regular meeting of the City Council of the City of Corcoran on the ##th day of 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sidonio "Sid" Palmerin, Mayor of the City of Corcoran

ATTEST:

Marlene Spain, City Clerk

ATTACHMENT "A"

CHAPTER 11-15

Mobile Food and Merchandise Vendors

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

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

B. Definitions.

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

12. **Stationary Cart.** A piece of equipment used for Vending, which has no motor and is not mobile, except when being pushed, carried or transported to and from a space on the Sidewalk on a daily basis.
 13. **Vend, Vends, or Vending.** To sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter Food or Merchandise, or to require someone to negotiate, establish, or pay a fee before providing Food or Merchandise, even if characterized as a donation.
- C. **Catering Food Truck Vendor Requirements.** The following regulations apply specifically to Catering Truck Vendors doing business in Agricultural and Industrial zones.
1. Catering Food Truck Vendors are limited to Vending Food at construction sites and Agricultural and Industrial zoning districts **between the hours of 10:00 AM and 2:00 PM.**
 2. Each Catering Food Truck shall be able to upon request while Vending show proof of approval to Vend Food by the Kings County Health Department. A Catering Food Cart approved by the Health Department to Vend one type of Food may not be used to Vend a different type of Food.
 3. Each Catering Food Truck Vendor shall comply with the following standards:
 - a. **Shall stay no longer than two (2) hours per location without Administrative approval for extended stay.**
 - b. Shall not be located in congested areas where the operation impedes vehicular or pedestrian traffic or in a designated bike lane.
 - c. Shall not be located within three blocks of K-12 schools during school hours.
 - d. **Shall not be open between the hours of 1 a.m. and 7:00 a.m., except for City-permitted special events.**
 4. All disturbed areas must be cleaned following each stop.
 5. Continuous music or repetitive sounds shall not project from the Catering Food Truck.
 6. A five-foot clear space shall be maintained around the Catering Truck Vendor.

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7. No sales are allowed within public park facilities except for special events, such as the Corcoran Cotton Festival.
8. A tagged fire extinguisher shall be kept accessible.
9. At least one employee who sells Food shall be able to provide proof of completion of a food handler training course at all times while Vending.

D. **A Conditional Use Permit is required for temporary long term Catering Food Truck Vending within commercial zoning districts.**

E. **Sidewalk Vending Permit required.** Every Sidewalk Vendor must first obtain, and at all times maintain, a valid Sidewalk Vending Permit from the Community Development Department in accordance with this chapter.

1. Every Sidewalk Vendor must Vend in compliance with the terms and conditions of the Sidewalk Vending Permit.

F. **Sidewalk Vending Permit Application process.** To apply for a Sidewalk Vending Permit, a Sidewalk Vendor must present valid identification, such as a State of California identification or any other government-issued identification card and provide the following information:

1. The name, address, and telephone number of the Sidewalk Vendor and of all persons that will be employed to Vend for the Sidewalk Vendor.
2. Proof of liability insurance of such types and such amounts required by the Community Development Department.
3. An agreement by the Sidewalk Vendor to defend, indemnify, release and hold harmless the City, its City Council, boards, commissions, officers, and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relating (directly or indirectly) to the Sidewalk Vending Permit or the Sidewalk Vendor's Vending activities. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the Sidewalk Vendor, Sidewalk Vendor's agent, the City, or the parties initiating or bringing such proceeding.

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

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- G. Issuance of a Sidewalk Vending Permit.** Within 30 days of receiving a complete application determined at the sole discretion of the Community Development Department, the Community Development Department may issue a Sidewalk Vending Permit, with appropriate conditions, if it finds based on all the relevant information that:
1. The conduct of the Sidewalk Vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety, or general welfare; and
 2. The conduct of the Sidewalk Vendor will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the Sidewalk Vendor; and
 3. The Vending will not constitute a fire hazard, and all proper safety precautions will be taken; and
 4. The Vending will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the City; and
 5. The Sidewalk Vendor has not had a permit revoked within the same calendar year; and
 6. The Sidewalk Vendor has satisfied the requirements of this chapter; and
 7. The Sidewalk Vendor has paid all applicable fees as set by City Council Resolution; and
 8. The Cart and proposed activities conform to the requirements of this chapter; and
 9. The Sidewalk Vendor has adequate insurance to protect the City from liability associated with the Vendor's activities, including naming the City as an additional insured, as determined by the Community Development Department or City's risk manager; and
 10. The Sidewalk Vendor has satisfactorily and truthfully provided all information requested by the Community Development Department to consider the application.

H. Sidewalk Vending Operating conditions.

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

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as an umbrella attached to a Mobile Cart. The shade structure may not impede the flow of pedestrian traffic.

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

Commented [KJ1]: I could not find a noise standard and choose a standard to be interpreted by code enforcement and police.

Commented [JL2R1]:

I. Placement of Sidewalk Carts.

1. Carts, Food, and Merchandise shall be prohibited:
 - a. Within 5 feet of a marked crosswalk.

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

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- q. Stationary Carts are prohibited in any Pocket Park. These parks are small by design and adjacent to individual private residences. The prohibition will prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park and quiet enjoyment of residential neighborhoods. Stationary Carts will result in increased traffic, noise, and crowding, resulting in health, welfare, and safety issues.
 - r. At any park where the City has signed an agreement for concessions that exclusively permits the sale of Food or Merchandise by the concessionaire.
2. Notwithstanding any specific prohibitions in this subsection, no Sidewalk Vendor shall install, use, or maintain a Cart in a manner that endangers the safety of persons or property.

J. Penalties.

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

K. Appeals.

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

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Ordinance 639 (Mobile Food and Merchandise Vendors)

2. Appeals made by a Sidewalk Vendor shall be modified from the provisions outlined in Chapter 11-27 as follows:
 - a. No hearing shall be held unless and until the fine or penalty has been deposited with the City, or an advance deposit hardship waiver has been issued by the hearing officer.
 - b. If an administrative fine is the subject of an appeal, the hearing body shall take into consideration the person's ability to pay the fine. The Community Development Department shall provide the Sidewalk Vendor with a notice of his or her right to request an ability-to-pay determination. The person may request an ability-to-pay determination at or before the hearing or while the administrative fine remains unpaid.
 - c. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the appellate hearing body shall accept, in full satisfaction, 20% of the administrative fine imposed pursuant to this chapter.
 - d. The appellate hearing body may allow the person to complete community service instead of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

**CORCORAN PLANNING COMMISSION
RESOLUTION NO. 19-06
RECOMMENDATIONS REGARDING ORDINANCE 639 AMMENDING CHAPTER 11-
15 SECTION 7 OF THE CORCORAN ZONING CODE ESTABLISHING
REGULATIONS AND STANDARDS PERTAINING TO MOBILE FOOD,
MERCHANDISE VENDORS, AND SIDEWALK VENDORS**

At a meeting of the Planning Commission of the City of Corcoran duly called and held on November 18, 2019, the Commission approved the following:

Whereas, On September 18, 2018, Governor Brown signed into law Senate Bill (SB) 946, adding Government Code sections 51036-51039, which requires local agencies to allow sidewalk vendors, subject to regulations, including within the City of Corcoran; and:

Whereas, the City of Corcoran Zoning code does not adequately address sidewalk and mobile vending.” and:

Whereas, the City Council has directed the Planning Commission to review under a public hearing a draft ordinance and submit their recommendation by resolution for sidewalk and mobile vending; and:

Whereas, the Planning Commission finds that the provisions of the ordinance are intended to regulate the time, place, and manner of sidewalk vending and mobile truck vending directly related to public health, safety, and welfare objectives and concerns; and

Whereas, the Planning Commission further finds that the regulations enacted by the ordinance are intended to promote and protect the health, safety, and welfare of the City’s residents, business and visitors and are in furtherance of the City’s police powers to regulate the sale of food and merchandise in the public right of way; and:

Whereas, the regulations are needed to ensure that the public has a simple way to ensure vendors prepare food safely and according to Kings County Department of Public Health’s requirements; and:

Whereas, regulation are needed to protect the natural resources and scenic character of the City’s parks and to ensure the public’s use and enjoyment of them by preventing unsanitary conditions and ensuring trash and debris are removed by vendors; and:

Whereas, regulations are needed to accommodate a sidewalk vendor’s equipment while safeguarding pedestrian’s movement on the sidewalk and compliance with the federal Americans with Disabilities Act of 1990; and:

Whereas, the City desires to retain the ability for local enforcement of sidewalk vendor and catering truck and mobile vendor regulations, including the imposition of the fines for violations, to the extent consistent with State law, as it leads to orderly commerce, and:

Whereas, this Commission considered the staff report on November 18, 2019; and

Whereas, the Planning Commission recommends that the City Council review and accept Resolution 19-06 and adopt Ordinance 639 as presented;

IT IS THEREFORE RESOLVED that Zone Text Amendment and Resolution 19-06 should be approved.

AYES:

NOES:

ABSENT:

ABSTAIN:

Adopted this 18th day of November 2019

Shea DeVaney, Planning Commission Chairman

Kevin Tromborg, Community Development Director

CERTIFICATE

City of Corcoran }
County of Kings } ss.
State of California }

I, Ma. Josephine D. Lindsey, Planning Commission Secretary of the City of Corcoran, hereby certify that this is a full, true and correct copy of Resolution No. 19-06 duly passed by the Planning Commission of the City of Corcoran at a regular meeting thereof held on the 18th day of November, 2019, by the vote as set forth therein.

DATED: November 18, 2019

Ma. Josephine D. Lindsey, Planning Commission Secretary

ATTEST:

Marlene Spain, City Clerk

**SB-946 Sidewalk vendors.** (2017-2018)

SHARE THIS:



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

Senate Bill No. 946**CHAPTER 459**

An act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, relating to sidewalk vendors.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 946, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending and the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority, as defined, from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill would provide that a local authority is not required to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the provisions of the bill. The bill would apply these provisions to a chartered or general law city, county, or city and county.

The bill would require a local authority that elects to adopt a sidewalk vending program to, among other things, not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. The bill would authorize a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The bill would also authorize a local authority to prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, as specified, and to restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, as specified. A violation would be punishable only by an administrative fine, as specified, pursuant to an ability-to-pay determination, and proceeds would be deposited in the treasury of the local authority.

The bill would require the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors that have not reached final judgment. The bill would also authorize a person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, as specified, to petition for dismissal of the sentence, fine, or conviction.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities.
 - (2) Sidewalk vending increases access to desired goods, such as culturally significant food and merchandise.
 - (3) Sidewalk vending contributes to a safe and dynamic public space.
 - (4) The safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending.
 - (5) The safety and welfare of the general public is promoted by prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations.
 - (6) This act applies to any city, county, or city and county, including a charter city. The criminalization of small business entrepreneurs, and the challenges that those entrepreneurs face as a result of a criminal record, are matters of statewide concern. Further, unnecessary barriers have been erected blocking aspiring entrepreneurs from accessing the formal economy, harming California's economy in the process, and disrupting the regulation of business, which is a matter of statewide concern. Moreover, California has an interest in the regulation of traffic, a matter of statewide concern, whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk.
- (b) It is the intent of the Legislature to promote entrepreneurship and support immigrant and low-income communities.

SEC. 2. Chapter 6.2 (commencing with Section 51036) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.2. Sidewalk Vendors

51036. For purposes of this chapter, the following definitions apply:

- (a) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.
- (b) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- (c) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.
- (d) "Local authority" means a chartered or general law city, county, or city and county.

51037. (a) A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039.

(b) Nothing in this chapter shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

(c) Nothing in this chapter shall be construed to require a local authority to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the requirements in this chapter.

51038. (a) A local authority may adopt a program to regulate sidewalk vendors in compliance with this section.

(b) A local authority's sidewalk vending program shall comply with all of the following standards:

- (1) A local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.

(2) (A) A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

(B) Notwithstanding subparagraph (A), a local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:

(i) Directly related to objective health, safety, or welfare concerns.

(ii) Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities.

(iii) Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

(3) A local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.

(4) (A) A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.

(B) Notwithstanding subparagraph (A), a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.

(5) A local authority shall not restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the local authority, unless the restriction is directly related to objective health, safety, or welfare concerns.

(c) A local authority may, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:

(1) Limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street.

(2) Requirements to maintain sanitary conditions.

(3) Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

(4) Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license, provided that the local authority issuing the permit or business license accepts a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the local authority otherwise requires a social security number for the issuance of a permit or business license, and that the number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

(5) Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit.

(6) Requiring additional licenses from other state or local agencies to the extent required by law.

(7) Requiring compliance with other generally applicable laws.

(8) Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:

(A) The name and current mailing address of the sidewalk vendor.

(B) A description of the merchandise offered for sale or exchange.

(C) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

(D) The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.

(E) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

(d) Notwithstanding subdivision (b), a local authority may do both of the following:

(1) Prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(2) Restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(e) For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

51039. (a) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038 is punishable only by the following:

(A) An administrative fine not exceeding one hundred dollars (\$100) for a first violation.

(B) An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.

(C) An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.

(2) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

(3) (A) If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):

(i) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.

(ii) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.

(iii) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.

(B) Upon proof of a valid permit issued by the local authority, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.

(b) The proceeds of an administrative fine assessed pursuant to subdivision (a) shall be deposited in the treasury of the local authority.

(c) Failure to pay an administrative fine pursuant to subdivision (a) shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision (a) shall not be assessed.

(d) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the

jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law.

(2) Notwithstanding any other law, paragraph (1) shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

(e) A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

(f) (1) When assessing an administrative fine pursuant to subdivision (a), the adjudicator shall take into consideration the person's ability to pay the fine. The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to subdivision (a).

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

(g) (1) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under the act that added this section had that act been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to dismiss the sentence or fine, if applicable, and dismiss and seal the conviction, because the sentence, fine, and conviction are legally invalid.

(3) Unless requested by the petitioner, no hearing is necessary to grant or deny a petition filed under paragraph (1).

(4) If the court that originally sentenced or imposed a fine on the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

(5) Nothing in this subdivision is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner.

(6) Nothing in this subdivision or related provisions is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this chapter.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 51038 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The Legislature finds and declares that in order to protect the privacy of a sidewalk vendor with regard to his or her California driver's license or identification number, individual taxpayer identification number, or municipal identification number, when that number is collected in lieu of a social security number for purposes of the issuance of a permit or business license, it is necessary that the sidewalk vendor's number be confidential, except as provided in this act.

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

11-15-7 Mobile Food Vendors

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

11-15-8 Photovoltaic Panel Systems

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

Chairperson

Shea DeVaney

Vice-Chairperson

Karl Kassner

Commissioners

David Bega
Dennis Tristao
David Jarvis
Troy Van Velson
Janet Watkins

Planning Commission



A GREAT PLACE

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**Community
Development
Department**

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832 Whitley Avenue, Corcoran
CALIFORNIA 93212

STAFF REPORT	PUBLIC HEARING	Item # 4.2
To:	Corcoran Planning Commission	
From:	Kevin J. Tromborg, Community Development Director, Planner, Building Official.	
Date:	November 18, 2019	
Subject:	Public Hearing and Resolution 19-07: Zoning classification and requirements for the processing, and manufacturing of Industrial Hemp and its bi-products.	

General Information: At the regular City Council meeting on August 13, 2019, the Corcoran City Council gave direction to staff to prepare an ordinance that removes language that restricts industrial hemp from cultivation and manufacturing in order to be in compliance with new state and federal law. Additionally, the City Council directed to staff to bring the issue of zoning classification and zoning requirements to the Corcoran Planning Commission for review, public hearing(s) and recommendations for requirements regarding zoning for the processing or manufacturing of Industrial hemp and its bi-products. On October 21, 2019, Staff brought to the Planning Commission under a discussion item, information regarding the zoning classification of industrial hemp. After discussion, Planning Commission directed staff to bring the item back under a Public Hearing.

1. Discussion: Industrial Hemp, means a crop that is limited to the type of plant - cannabis Sativa L. Having no more than three-tenths of 1 percent Tetrahydrocannabinol (THC).
2. The California Business and Professional Code section 26001 (f) explicitly states that cannabis does not include industrial hemp .
3. Division 24 of the California Food and Agricultural Code provides for the cultivation of industrial hemp by registered growers and established research centers.

4. The Agriculture Improvement Act of 2018 (2018 Farm Bill) signed into law by the President on December 20, 2018, effective January 1, 2019, removed hemp from schedule 1 of the Federal Controlled Substance Act. Thus, hemp is no longer federally regulated as a controlled substance.
5. All growers of hemp for commercial purposes must register with the county agricultural commissioner prior to cultivation.
6. California law does not currently provide any requirements for the manufacturing, processing, or selling of non-food industrial hemp or hemp products. However, Assembly Bill 228 proposes to establish framework for industrial hemp products to be used as a food, beverage or cosmetic substance.
7. California law also does not currently provide for a permit or license for the manufacturing, processing, or selling of non-food industrial hemp or hemp products.
8. Division 24 of the California Food and Agriculture Code does not create a distinction between the cultivation of industrial hemp or any other agricultural product with respect to where it may be cultivated. However, the City of Corcoran has the authority to specify its land use and zoning for all its commercial agriculture.
9. Division 24 of the California Food and Agricultural Code, provides for the cultivation of industrial hemp by registered growers and established research centers.

The Planning Commission may want to consider these options regarding zone classification.

Note: Industrial hemp grown in Agricultural Zones is allowed under state regulations and licenses.

- A. What zone shall we allow the processing and manufacturing of its bi-products?
- B. Shall we require administrative approval or a conditional use permit?

The Planning Commission may want to consider these options regarding the processing and manufacturing of industrial hemp and its bi-products under Administrative Approval or Conditional Use Permit.

- A. Safety and security (fencing of outdoor storage areas, cameras, alarms etc.)
- B. Nuisance prevention (odor control, noise, etc.)
- C. Waste management
- D. Water use, recycling, restrictions and control

Recommendation: Staff recommends the Planning Commission consider approval of Resolution 19-07 regarding Industrial Hemp and its by-products; processing and manufacturing in Industrial and Highway Commercial Zones on lots five (5) Acres or more under a Conditional Use Permit.

Attachments:

1. Resolution 19-07
2. Assembly Bill 228

**CORCORAN PLANNING COMMISSION
RESOLUTION NO. 19-07
INDUSTRIAL HEMP ZONING DESIGNATION**

At a meeting of the Planning Commission of the City of Corcoran duly called and held on November 18, 2019, the Commission approved the following:

Whereas, In December 2018, the President signed into law the 2018 Federal Farm Bill, which removed industrial hemp from the federal list of controlled substances, authorizing the US Department of Agriculture to create quality control standards for hemp production, and gave states the ability to adopt regulation over the production of hemp within a state; and:

Whereas, the City Council has removed the ban of Industrial Hemp or Hemp from Ordinance 637 “ An Ordinance of the City of Corcoran banning non-medical and medicinal commercial cannabis cultivation, business, transaction and land uses.” and:

Whereas, the City Council has directed the Planning Commission for their recommendations for zoning designation for the processing and manufacturing of industrial hemp and its by-products; and:

Whereas, the Zoning Ordinance regulates land use and development within the City including the permitted locations of certain uses; and

Whereas, City proposed certain amendments to the Zoning Ordinance to establish permitted zoning locations and regulations for the processing and manufacturing of Industrial Hemp and its by-products

Whereas, this Commission considered the staff report on November 18, 2019; and

Whereas, the Planning Commission recommends that the City Council adopt the amendments (as defined below);

(A) That the Processing and manufacturing of Industrial Hemp or Hemp and its by-products be an allowed use in the Industrial and Highway Commercial zones on lots five (5) acres or more.

(B) That the processing and manufacturing of Industrial Hemp or Hemp and its by-products be allowed by Conditional Use permit with the following consideration.

1. Safety and security
2. Nuisance prevention
3. Waste management
4. Water use, recycling, restrictions and control

(C) That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;

(D) That the proposed use will have no adverse effect upon adjoining or other properties. In making this determination, the Commission shall consider the proposed location of improvements on the site; vehicular ingress, egress and internal circulation; setbacks; heights of buildings; walls and fences; landscaping; outdoor lighting; signs; and such other characteristics as will affect surrounding property;

(E) That the proposed use is consistent with the objectives and the policies of the Corcoran General Plan, or any specific plans, area plans, or planned development approved by the City;

IT IS THEREFORE RESOLVED that Zone Text Amendment and Resolution 19-07 should be approved.

AYES:

NOES:

ABSENT:

ABSTAIN:

Adopted this 18th day of November 2019

Planning Commission Chairman

Community Development Director

CERTIFICATE

City of Corcoran }
County of Kings } ss.
State of California }

I, Ma. Josephine D. Lindsey, Planning Commission Secretary of the City of Corcoran, hereby certify that this is a full, true and correct copy of Resolution No. 19-07 duly passed by the Planning Commission of the City of Corcoran at a regular meeting thereof held on the 18th day of November, 2019, by the vote as set forth therein.

DATED: November 18, 2019

Ma. Josephine D. Lindsey, Planning Commission Secretary

ATTEST:

Marlene Spain, City Clerk

**AB-228 Food, beverage, and cosmetic adulterants: industrial hemp products.** (2019-2020)

SHARE THIS:



Date Published: 06/26/2019 09:00 PM

AMENDED IN SENATE JUNE 26, 2019

AMENDED IN SENATE JUNE 17, 2019

AMENDED IN SENATE JUNE 03, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

AMENDED IN ASSEMBLY MARCH 13, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL**NO. 228****Introduced by Assembly Member Aguiar-Curry**
*(Coauthor: Senator Wilk)***January 17, 2019**

An act to add Section 26003 to the Business and Professions Code, and to add Sections 109950.5, 110382, 110407, 110469, 110611, and 111691 to, and to add Chapter 9 (commencing with Section 111920) to Part 5 of Division 104 of, the Health and Safety Code, relating to industrial hemp, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 228, as amended, Aguiar-Curry. Food, beverage, and cosmetic adulterants: industrial hemp products.

Existing state law, the Sherman Food, Drug, and Cosmetic Law, prohibits the manufacture, sale, delivery, holding, or offer for sale of adulterated foods, beverages, or cosmetics. Existing law prescribes when a food or beverage is adulterated, including if it bears or contains any poisonous or deleterious substance that may render it injurious to the health of a person or other animal that may consume it. Existing law prescribes when a cosmetic is adulterated, including when it bears or contains a poisonous or deleterious substance that may render it injurious to users under the conditions of use prescribed in the labeling or advertisement of the cosmetic, under customary or usual conditions.

The Sherman Food, Drug, and Cosmetic Law, among other things, regulates the labeling of food, beverages, and cosmetics and makes it a crime to distribute in commerce any food, drug, device, or cosmetic if its packaging or labeling does not conform to these provisions. Existing law also makes it unlawful for a person to disseminate any false advertisement of any food, drug, device, or cosmetic.

Existing law makes a violation of the Sherman Food, Drug, and Cosmetic Law a misdemeanor.

Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), provides for the licensing and regulation of commercial cannabis activity, including cultivation, manufacturing, distribution, and retail sale.

Existing law requires a grower of industrial hemp that is to be used for commercial purposes to register with the commissioner of the county in which the grower intends to engage in industrial hemp cultivation.

This bill would require a manufacturer of food that includes industrial hemp to be able to demonstrate that all parts of the plant used in their food come from a state or country that has an established and approved industrial hemp ~~program~~ *program, as defined*, that inspects or regulates hemp under a food safety program or equivalent criteria to ensure safety for human consumption and the industrial hemp cultivator or grower to be in good standing and compliance with the governing laws of the state or country of origin.

This bill would state that a food, beverage, or cosmetic is not adulterated by the inclusion of industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp, and would prohibit restrictions on the sale of food, beverages, or cosmetics that include industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp based solely on the inclusion of industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp.

This bill would require the label of any package of a food, beverage, or cosmetic product containing cannabidiol derived from industrial hemp to include a specified statement. The bill would also prohibit a manufacturer, distributor, or seller of an industrial hemp product from including on the label, or publishing or disseminating in advertising or marketing, a health-related statement, as defined, that is untrue in any particular manner or that tends to create a misleading impression as to the effects on health of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp. By creating a new crime, this bill would impose a state-mandated local program.

This bill would prohibit a raw hemp product, as defined, from being distributed or sold in this state without a certificate of analysis from an independent testing laboratory, as defined, that confirms specified information, including that the tested batch of industrial hemp does not contain contaminants that are unsafe for human consumption. By creating a new crime, this bill would impose a state-mandated local program.

This bill would state that an entity that is licensed to engage in commercial cannabis activity pursuant to MAUCRSA is not prohibited from manufacturing, distributing, or selling products that contain industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp grown in compliance with the registration requirements for growers.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 26003 is added to the Business and Professions Code, to read:

26003. This division does not prohibit an entity licensed pursuant to its provisions from manufacturing, distributing, or selling products that contain industrial hemp, as defined in Section 11018.5 of the Health and Safety Code, or cannabinoids, extracts, or derivatives from industrial hemp grown in compliance with Division 24 (commencing with Section 81000) of the Food and Agricultural Code.

SEC. 2. Section 109950.5 is added to the Health and Safety Code, to read:

109950.5. (a) "Industrial hemp" has the same meaning as in Section 11018.5.

(b) (1) "Industrial hemp product" means a finished product containing industrial hemp that meets all of the following conditions:

(A) Is a cosmetic, food, food additive, dietary supplement, or herb.

(B) Is for human or animal consumption.

(C) Contains any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives.

(D) Contains no more than 0.3 percent tetrahydrocannabinol.

(2) "Industrial hemp product" does not include industrial hemp or a hemp product that is a drug that has been approved as a drug by the United States Food and Drug Administration.

SEC. 3. Section 110382 is added to the Health and Safety Code, to read:

110382. The label of any package of a food, beverage, or cosmetic containing cannabidiol derived from industrial hemp shall include the following statement:

"CANNABIDIOL USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. KEEP OUT OF REACH OF CHILDREN."

SEC. 4. Section 110407 is added to the Health and Safety Code, to read:

110407. (a) A manufacturer, distributor, or seller of an industrial hemp product shall not include on the label of the product, or publish or disseminate in advertising or marketing, any health-related statement that is untrue in any particular manner or that tends to create a misleading impression as to the health effects of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp.

(b) For purposes of this section, "health-related statement" means a statement related to health, and includes a statement of a curative or therapeutic nature that, expressly or impliedly, suggests a relationship between the consumption of industrial hemp or industrial hemp products and health benefits or effects on health.

SEC. 5. Section 110469 is added to the Health and Safety Code, to read:

110469. (a) A wholesale food manufacturing facility that manufactures products that contain industrial hemp shall be registered in accordance with Section 110460.

(b) In order for industrial hemp to be used in food products, the manufacturer shall be able to demonstrate both of the following:

(1) All parts of the hemp plant used in food shall come from a state or country that has an established and approved industrial hemp program that inspects or regulates hemp under a food safety program or equivalent criteria to ensure safety for human consumption.

(2) The industrial hemp cultivator or grower shall be in good standing and in compliance with the governing laws of the state or country of origin.

(c) (1) For purposes of this section, "manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a product.

(2) "Manufacture" does not include planting, growing, harvesting, drying, curing, grading, or trimming a plant or part of a plant.

(d) For purposes of this section, "established and approved industrial hemp program" means a program that meets all federal requirements regarding the lawful and safe cultivation of industrial hemp.

SEC. 6. Section 110611 is added to the Health and Safety Code, to read:

110611. Except as provided in Section 25621.5 of the Business and Professions Code, a food or beverage is not adulterated by the inclusion of industrial hemp, as defined in Section 11018.5, or cannabinoids, extracts, or derivatives from industrial hemp. The sale of food or beverages that include industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp shall not be restricted or prohibited based solely on the inclusion of industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp.

SEC. 7. Section 111691 is added to the Health and Safety Code, to read:

111691. A cosmetic is not adulterated because it includes industrial hemp, as defined in Section 11018.5, or cannabinoids, extracts, or derivatives from industrial hemp. The sale of cosmetics that include industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp shall not be restricted or prohibited based solely on the inclusion of industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp.

SEC. 8. Chapter 9 (commencing with Section 111920) is added to Part 5 of Division 104 of the Health and Safety Code, to read:

CHAPTER 9. Industrial Hemp Products

111920. For purposes of this chapter, the following definitions apply:

(a) "Independent testing laboratory" means a laboratory that meets all of the following requirements:

- (1) Does not have a direct or indirect interest in the entity for which testing is being done.
- (2) Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells raw hemp products in this state or in another jurisdiction.
- (3) Does not have a license issued pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, other than as a licensed testing laboratory.
- (4) Is either of the following:
 - (A) A testing laboratory licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
 - (B) Accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.

(b) "Raw hemp product" means a product that is derived from industrial hemp that is intended to either be used by a consumer or included in a food, beverage, or cosmetic.

111920.1. A raw hemp product shall not be distributed or sold in this state without a certificate of analysis from an independent testing laboratory that confirms all of the following:

- (a) The raw hemp product is the product of a batch of industrial hemp that was tested by the independent testing laboratory.
- (b) A tested random sample of the batch of industrial hemp contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry-weight basis.
- (c) The tested sample of the batch did not contain contaminants that are unsafe for human consumption.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect a rapidly expanding industry relating to derivatives from industrial hemp in California and to reduce inconsistency in implementation of state and federal law, it is necessary that this bill take effect immediately.