



**DATE:** October 10, 2023

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Sidewalk Vendor Program: Introduce an Ordinance Related to Text Amendments to the Hayward Municipal Code and the Traffic Code and Adopt a Resolution Supporting the Proposed Text Amendments to Establish Regulations and Guidelines for Sidewalk Vendors in the City of Hayward, Consistent with SB 946, the “Safe Sidewalk Vending Act” of the State of California; and Finding that the Action is Exempt from CEQA Review

**RECOMMENDATION**

That the City Council adopts a resolution (Attachment II) supporting the proposed amendments to the Hayward Municipal Code and introduces an Ordinance (Attachment III) amending the Hayward Municipal Code regulating Sidewalk Vendors.

**SUMMARY**

The City currently does not have an ordinance regulating sidewalk vending activities consistent with SB 946 and the purpose of the proposed ordinance would be to establish a regulatory framework for all sidewalk vendors operating within the public right-of-way in order to maintain public health, safety and general welfare.

Since late 2022, staff have been working with internal and external stakeholders, including the Council Economic Development Committee (CEDC) and City Council, to obtain input on the proposed sidewalk vendor program. Staff have reviewed Sidewalk Vending Ordinances from other cities in California to identify best practices for inclusion in City’s proposed program.

Staff is proposing to update the HMC to be consistent with SB 946 including the following four changes:

1. Repeal a requirement in the Municipal Code for City authorization in order to use the sidewalk to sell or prepare food (Section 3.5.13 of the HMC);

2. Amend the definitions in the Municipal Code that excludes sidewalk vending activities (Section 4-10.04 of the HMC);
3. Add a new Chapter 6, Article 16 “Sidewalk Vendors” to create regulations and guidelines for all sidewalk vendors, including the establishment of a new permitting program.
4. Amend Section 8-1.02 of the HMC to exclude sidewalk vending activities from being subject to criminal prosecution for operating without a business license.

Based on the feedback received from stakeholders and following review of best practices from other jurisdictions, staff believes the proposed sidewalk vending program with related text amendments are consistent with SB946 and recommends that Council make the required findings to approve the text amendments, as proposed.

## **BACKGROUND**

Senate Bill (SB) 946 was signed into law on September 17, 2018, by former Governor Jerry Brown. Effective January 1, 2019, SB 946 decriminalized sidewalk vending statewide and limits local jurisdictions’ authority to regulate sidewalk vending. Further, SB 946 preempts any contrary local regulations, requiring any local regulation of sidewalk vending be consistent with SB 946. SB 946 aimed to provide “important entrepreneurship and economic development opportunities to low-income and immigrant communities,” increase access to “culturally significant foods and merchandise,” and contribute “to a safe and dynamic public space.”<sup>1</sup>

Since the effective date of the statute in 2019, the City has been working to develop a regulatory framework that aligns with State law. City staff have convened on several occasions to discuss the implications of the statute on the City’s existing regulations related to sidewalk vending and the potential development of a regulatory program consistent with State law. Moreover, in adopting its FY 2021-23 Strategic Roadmap, the City Council included the “Sidewalk Vendor Ordinance” as a priority in an effort to “invest in programs that support Hayward businesses and workers” under the “Grow the Economy” strategic priority.

Due to shifting priorities in response to the Covid-19 pandemic, the project was suspended until Fall of 2022. Since that time, the Planning Division has conducted additional outreach and engagement with various community stakeholders and a summary of that outreach and feedback is provided in the “Public Contact” section below.

*Council Economic Development Committee:* In February 2020, the CEDC held a work session to obtain feedback and clarification on the City’s recommended policy approach.<sup>2</sup> The CEDC suggested that if either a permissive policy approach or a regulatory approach were undertaken, an entrepreneurial permitting program should be established, with rules and

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<sup>1</sup> SB 946, Section 1: [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB946&search\\_keywords=vendor](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB946&search_keywords=vendor)

<sup>2</sup> February 3, 2020 CEDC Meeting Minutes:

<https://hayward.legistar.com/View.ashx?M=E3&ID=752549&GUID=55B8F6DC-4EB5-4A69-9DB3-ADD4E3C2B809>

guidelines that participants would be required to follow to ensure public safety such as obtaining a permit issued by the Alameda County Department of Environmental Health (ACDEH). The CEDC also expressed concerns about businesses based outside of Hayward coordinating sidewalk vendors to sell products in the city and the impact of sidewalk vending on brick-and-mortar businesses. Other considerations included a requirement that sidewalk vendors carry insurance coverage, receipt of sales tax from the selling of merchandise, and inclusion of a list of conditions and best practices in the ordinance.

On April 3, 2023, staff returned to the CEDC to obtain specific feedback on the some of the additional policy considerations being considered within the draft ordinance.<sup>3</sup> Specifically, staff requested direction on whether the sidewalk vending ordinance should include some of the optional regulations allowed per State law, including limiting the hours of operation; establishing minimum performance standards; creating an integrated sidewalk vending permitting process; and establishing an enforcement framework based on either fines established by the State or a more collaborative approach focused on education and awareness.

During the meeting, the CEDC expressed overall support for a balanced regulatory framework that would decriminalize sidewalk vending and help integrate the businesses into the formal economy, while continuing to support existing businesses. The CEDC inquired whether the ordinance could include regulations to address sidewalk vending in areas with no parking and with high traffic volumes as well as asked whether the City could limit sidewalk vending activity to certain areas of the City. Staff responded that those regulations are generally permissible under State law, as long as the regulations are tied to objective health, safety, and welfare concerns. The CEDC also stated that it was in favor of limiting hours of operation for sidewalk vendors with the caveat that those hours cannot be more restrictive than the operating hours of surrounding businesses, as allowed per State law. Moreover, the CEDC supported establishing minimum performance standards for sidewalk vendors to ensure public safety and recommended that vendors should be required to obtain liability insurance that indemnifies the City in case of any life/safety issue. The CEDC also supported an approach focused more on education and awareness prior to any fines being assessed.

*City Council Work Session:* On June 6, 2023<sup>4</sup>, the City Council held a Work Session to provide feedback and direction to staff regarding the recommended locational and operational requirements and the alternative enforcement approach proposed by staff. The Council discussed potential regulations for vending activities located within proximity of a driveway or alleyway; vending activities within 100 feet of an emergency facility; vending activities near brick-and-mortar restaurants; the requirement to obtain a Mobile Food Facility Permit from the Alameda County Department of Environmental Health (ACDEH); and the opportunity for sidewalk vendors to congregate on pre-identified spaces within the City to engage in sidewalk vending activities.

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<sup>3</sup> April 3, 2023 CEDC Meeting Minutes:

<https://hayward.legistar.com/View.ashx?M=E3&ID=1085128&GUID=DDFF5144-F038-46E7-A732-57A85092FE31>

<sup>4</sup> June 6, 2023 City Council Meeting Minutes: <https://hayward.legistar.com/View.ashx?M=E3&ID=1103460&GUID=352755C5-2843-4CB5-ABED-2718690DA72D>

The Council also supported a balanced regulatory approach that provides a pathway for sidewalk vendors to become entrepreneurs in the City and supported the City providing technical assistance for vendors in multiple languages.

## DISCUSSION

*SB 946 Overview.* The Safe Sidewalk Vending Act, or SB 946, applies to 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.” Under SB 946, a city cannot entirely prohibit or criminalize sidewalk vending. Further, the provisions of SB 946 preempt any contrary local ordinance related to sidewalk vending and requires local jurisdictions to adopt ordinances consistent with SB 946 to lawfully regulate sidewalk vending. SB 946 is codified in Sections 51036 to 51039 of the Government Code<sup>5</sup>.

Generally, SB 946 allows local jurisdictions to adopt a range of regulations as long as those regulations are directly related to objective health, safety, and welfare concerns. Expressly permitted regulations under the statute include the following:

- Cities may prohibit stationary vendors in residential zones outright, but not mobile vendors. Mobile vendors may be subject to reasonable regulations directly related to objective health, safety, or welfare concerns.
- Cities may prohibit sidewalk vendors from locating near certified farmers’ markets, swap meets, or other specially permitted temporary events, but only for the duration of the event.
- Cities may prohibit all sidewalk vending in parks (including beaches or open space areas) if a city has an exclusive concessionaire agreement with another operator for that site.

SB 946 also enumerates a set of permissible optional regulations that a city may adopt. While the list is not exhaustive, the statute provides examples of reasonable time, place, and manner restrictions directly related to objective health, safety, and welfare concerns:

- 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;
- Requirements to maintain sanitary conditions;
- Requirements necessary to ensure compliance with the federal Americans with Disabilities Act;
- Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license;

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<sup>5</sup> Government Code:

[https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=5.&part=1.&chapter=6.2.&article=](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=5.&part=1.&chapter=6.2.&article=)

- Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller’s permit;
- Requiring additional licenses from other state or local agencies to the extent required by law (e.g. a Mobile Food Facility Permit issued by Alameda County);
- Requiring compliance with other generally applicable laws (e.g. fire safety requirements); and
- Requiring a sidewalk vendor to submit information on his or her operations.

SB 946 also limits cities from imposing the following:

- Prohibiting all sidewalk vending;
- Requiring a sidewalk vendor to operate only within specific parts of the public right-of-way or only within specific neighborhoods or areas – except for a restriction directly related to objective health, safety, or welfare concerns;
- Restricting the overall number of sidewalk vendors permitted to operate within the City– except for a restriction directly related to objective health, safety, or welfare concerns; and
- Requiring 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

Additionally, SB 946 imposes limits on local jurisdictions’ enforcement mechanism. After January 1, 2019, a city can no longer punish sidewalk vending by criminal infraction or misdemeanor. Instead, if a vendor violates local regulations, the State has established the following maximum fine amounts:

First Violation	Administrative Fine of \$100
Second Violation Within One Year of First	Administrative Fine of \$200
Each Additional Violation Within One Year of the First	Administrative Fine of \$500
Fourth and Subsequent Violations	Revocation of Permit

If a sidewalk vending permit is required, vending without a permit is punishable by the following fines:

First Violation	Administrative Fine of \$250
Second Violation Within One Year of First	Administrative Fine of \$500
Each Additional Violation Within One Year of the First	Administrative Fine of \$1,000

SB 946 also requires local jurisdictions to establish an administrative process to determine one’s ability to pay the administrative fine.

*Draft Ordinance and Amendments:* Following feedback from various stakeholder groups through targeted outreach, the online survey, review of 18 other municipal ordinances throughout the State, and feedback from the CEDC and City Council, staff has prepared a draft Ordinance with related text amendments to the HMC to align with the provisions of SB 946. Staff believes the proposed ordinance reflects a balanced approach to ensure public health,

safety, and welfare concerns with sidewalk vending while creating a pathway for vendors to legally operate in the City, thus supporting new business growth and entrepreneurship. An overview of the proposed Ordinance and related text amendments are outlined below and proposes to update the HMC to accommodate the proposed Sidewalk Vendor Program.

- Amend Section 3-5.13 “Use of Sidewalks for Outdoor Dining, Sales, of Food Preparation”. This proposed amendment would eliminate the requirement for authorization from the City for sidewalk vendors to sell merchandise or prepare food along the sidewalk. Instead, regulations related to sidewalk vending will be governed by the new Chapter 6, Article 16 of the HMC.
- Add Section 3-5.14 “Sidewalk Vending”. This section is added to make permissible “[a] pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used by a sidewalk vendor for vending activities” on a sidewalk. Further, this Section will refer to the new Chapter 6, Article 16 of the HMC for permissible locations for sidewalk vending.
- Amend Section 4-10.03 “Definitions” of the “Aggressive Solicitation Ordinance”. Currently, the definition of “Solicit, ask, or beg” excludes peddling, as defined in Chapter 8, Article 1 of the HMC, from the definition. As this definition may extend to sidewalk vendors if left unchanged, language has been added to the definition to expressly exclude sidewalk vendors governed by Chapter 6, Article 16 of the HMC.
- Repeal Section 6-2.01 “Hand Cart Sells Prohibited”. Currently, hand cart activities are prohibited by the HMC; however, a hand cart is a type of “vehicle moved by human power”, which directly conflicts with SB 946. As such, staff is proposing to repeal this Section in its entirety.
- Add Chapter 6, Article 16 “Sidewalk Vendors”. In accordance with SB 946, this new Article will contain a comprehensive framework for the regulation of sidewalk vendors within the City, which includes the requirement to obtain a Sidewalk Vending Permit. If selling food, vendors will also be required to obtain a Mobile Food Facility (MFF) Permit from ACDEH as a prerequisite to issuance of the Permit from the City of Hayward. The Ordinance establishes locational requirements from various public assets and facilities and includes operational requirements relating to the time and manner in which sidewalk vendors can operate. The Ordinance also differentiates between stationary sidewalk vendors, who vend from fixed locations, and roaming sidewalk vendors, who move from place to place and stop to complete a transaction. The ordinance also outlines the application and permitting process and includes the proposed fine/penalty framework established by SB 946 as well as the proposed alternative enforcement approach proposed by staff.
- Amend Section 8-1.84 “Peddlers”. As presently written, the “Peddlers” section of the HMC could apply to sidewalk vendors. To exclude sidewalk vendors from

consideration under this section, language has been added to state that this section does not apply to sidewalk vendors governed by Chapter 6, Article 16 of the HMC.

- Amend Section 10-1.2735(m)(3) of the Zoning Ordinance. Section 10-1.2735(m) of the Zoning Ordinance regulates food vendors, which are those that sell food from vending equipment on private property. Language has been added to Section 10-1.2735(m)(3) to clarify that these regulations apply to vending on private property only and distinguish food vendors from sidewalk vendors. Further, language has been added to expressly exclude sidewalk vendors governed by Chapter 6, Article 16 from the food vendor regulations.
- Amend Section 6.24 of the Traffic Code “Selling Merchandise on City Property”. This section of the Traffic Code bars the selling, or offering for sale, “any solid or liquid food or beverage, or any type of goods or merchandise, or conduct any commercial activity upon any City street, municipal parking lot, or other off-street property possessed and used by the City” unless a permit for temporary commercial activity from the City is issued. The temporary permit allows commercial activity on a street, municipal parking lot, or other off-street City property for seven days. Language has been added that clarifies that permits for vending on a city sidewalk shall be exclusively issued pursuant to the Sidewalk Vending Ordinance in Chapter 6, Article 16 of the Hayward Municipal Code.

Sidewalk Vending Permit. Per the proposed program, a Sidewalk Vending Permit must be obtained prior to any vending on sidewalks. To obtain a Sidewalk Vending Permit, an applicant will be required to provide basic contact information such as their name, mailing address, and telephone number. Applicants will also be required to describe the food or merchandise to be sold, to indicate whether they are an agent of an individual, company, partnership, or corporation, and to indicate whether they are stationary or roaming vendors. If the applicant proposes to be a stationary sidewalk vendor, a description of the location and a site plan/map will also be required. If the sidewalk vendor proposes to sell food, a copy of the Mobile Food Facility Permit issued by ACDEH must also be provided. If applicable, a copy of a valid California Department of Tax and Fee Administration seller's permit must accompany the Sidewalk Vending Permit application.

Sidewalk Vending Permit applicants will also be required to provide a copy of the policy of comprehensive general liability insurance, in an amount to be determined by the City Attorney, and a copy of a City-issued business license. Applicants will be required to sign an agreement to indemnify and hold harmless the City, its officers, and employees, for any damage or injury arising from the sidewalk vending activities. As part of the application, the sidewalk vendor must certify that the information contained in the application is true.

Sidewalk Vending Permits are envisioned to be processed over counter at the Permit Center by the Planning Division. Similar to a Home Occupation Permit, applicants will furnish all the required documents at the counter and Planning Division staff will check that all required documents are received. If all required documents are received and complete, a Sidewalk

Vending Permit will be issued in conjunction with needing a business license. Upon receipt of a Sidewalk Vending Permit, sidewalk vendors would be given additional materials and reference information to ensure they are properly educated on the rules and regulations associated with their operation. The Sidewalk Vending Permit will be valid for one calendar year from the date of issuance and must be renewed annually. In addition, sidewalk vendors are expected to visibly display their permit at all times when vending.

Staff will continue to work with community-based organizations and ACDEH to assist in providing information in various languages to work with the diverse group of vendors.

*Permit Fees.* Staff has researched the sidewalk vending permit fees of several Bay Area cities. The fees, exclusive of business license, range from \$0 to \$622.13. If a sidewalk vendor is selling food, these fees are in addition to the fee for a Mobile Food Facility (MFF) permit issued by Alameda County Department of Environmental Health, which is \$500 to \$700.

Staff recognizes that sidewalk vendors are emerging entrepreneurs and presenting lower barriers to entry would encourage compliance with regulations and continue to expand business opportunities in the City of Hayward. As the permitting process entails a simple verification ensuring that the Sidewalk Vending Permit application is complete, including the MFF Permit is issued from ACDEH, staff does not believe there will be significant time needed to administer the program and as such, is recommending any potential fee be waived at the present time but staff will track the number of permits issued annually and the amount of staff time needed to administer the program and, if necessary, may propose a permit fee at some point in the future, if supported. Sidewalk vendors will still need to pay for the City's business license fees, the cost of insurance, and any other applicable state, county, and local fees.

*Proposed Enforcement.* The sidewalk vendor ordinance proposes an alternative procedure to that of the administrative citation procedure set forth in Section 1-3.07<sup>6</sup> of the Hayward Municipal Code to enforce its provisions. The enforcement procedure of the sidewalk vending ordinance will allow the City to take a more inclusive and collaborative approach with the sidewalk vendor that focuses on education and awareness of the City's regulations. Enforcement will be conducted by the Code Enforcement Division. The enforcement procedure with the fine amounts adopted consistent with the maximum fine allowed per SB946 is described below:

- For the first incident, a verbal warning be given along with educational materials to the vendor which outlines the sidewalk vending regulations and permit process.
- For the second incident, a written warning was issued, which specifies the regulation being violated along with educational materials and includes a timeline for compliance.
- For the third incident, the following administrative citation procedures would apply:

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<sup>6</sup> Section 1-3.07 of the Hayward Municipal Code:  
[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH1GEPR\\_ART3PE\\_S1-3.07ADCIPR](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH1GEPR_ART3PE_S1-3.07ADCIPR)



If a vendor violates local regulations, other than operating without a permit, the following maximum fine amounts would apply:

First Violation	Administrative Fine of \$100
Second Violation Within One Year of First	Administrative Fine of \$200
Each Additional Violation Within One Year of the First	Administrative Fine of \$500

If a sidewalk vending permit is required and the vendor is operating without a permit, the following fine amounts would apply:

First Violation	Administrative Fine of \$250
Second Violation Within One Year of First	Administrative Fine of \$500
Each Additional Violation Within One Year of the First	Administrative Fine of \$1,000

If selling food, the sidewalk vendor is also required to obtain a Mobile Food Facility Permit issued by ACDEH. If a complaint is received that a sidewalk food vendor is allegedly violating provisions of the California Health and Safety Code, an ACDEH Inspector will investigate in pairs and if the violation is found, will prepare a Notice of Violation. For a first violation, the Notice of Violation is sent that informs the vendor that they're in violation of the State Health and Safety Code, cites the specific regulation that they're violating, and provides outreach documents that contain instructions on how to become compliant. For a second violation, an Inspector from the Department of Environment Health will contact the vendor again to highlight the violation as well as provide the necessary documentation to be compliant with health and safety codes. In some instances, the cart/pushcart will be impounded.

*Environmental Review.* Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(2), the City Council can find that this ordinance will not have a direct or reasonably foreseeable indirect physical change in the environment and, therefore, is not subject to CEQA. Additionally, it can be seen with certainty that there is not a possibility that the activity in question may have a significant effect on the environment per Section 15061(c). Additionally, pursuant to Section 15060(c)(3), the activity is not a "project" as defined in Section 15378 because it has no potential for resulting in physical change to the environment, directly or indirectly.

## **STRATEGIC ROADMAP**

In January 2020, the City Council adopted six Strategic Priorities as part of its three-year Strategic Roadmap. The Strategic Roadmap was updated in June 2023. This agenda item supports the Strategic Priority of Grow the Economy. Specifically, this item relates to the implementation of the following:

Project E5: Final Sidewalk Vendor Ordinance and provide a training on how to apply for a business license

## **ECONOMIC IMPACT**

While the specific economic impact is unknown, as new businesses, sidewalk vendors will be required to obtain a business license and pay State and local taxes, akin to brick-and-mortar businesses.

## **FISCAL IMPACT**

Staff anticipates that the sidewalk vendor program will have minimal fiscal impact. Staff resources will be primarily allocated to reviewing Sidewalk Vending Permit applications to ensure compliance with the adopted regulations and any related education and outreach efforts necessary to implement the Ordinance and promote the program. As previously mentioned, staff intends to monitor the staff time and materials needed to implement the program and if the actual costs for administrating the program are significant and greater than expected, staff can reevaluate the total costs and return to Council for consideration of a Sidewalk Vending Permit fee to cover the cost of program administration.

## **SUSTAINABILITY FEATURES**

While the draft policies do not include any Sustainable Features, staff did include regulations that require the sidewalk vendor maintain the vending area clear of any trash or debris as well as a requirement that all vendors provide a trash receptacle. This will help mitigate any nuisance issues tied to public health and safety.

## **PUBLIC CONTACT**

Public outreach efforts have entailed a series of targeted internal and external stakeholder meetings, face-to-face interviews with sidewalk vendors around the City, creating a project webpage to solicit feedback and provide project updates, and creating an online survey. In February, an article on the sidewalk vending ordinance was featured in the East Bay Times highlighting the outreach efforts and progress on the ordinance. Additional details on the extensive public outreach efforts are provided below:

*Targeted Stakeholder Meetings.* On December 19, 2022, staff held an informal listening session with several business owners that attended the City Council meetings. Staff provided an overview of SB 946 and the business owners were given the opportunity to express their concerns, which focused on public safety and whether the City could initiate enforcement activity on sidewalk vendors as well as discussed the types of enforcement activities that the City could engage in. City staff followed up with each of these business owners and provided an update explaining the extent of the City's enforcement authority regarding sidewalk vendors.

On February 2, 2023, staff held a stakeholder meeting with sidewalk vendors. The meeting had a total of 10 attendees, including five City staff, two sidewalk vendors, one potential sidewalk vendor, and two staff members of a community organization. During the meeting, the sidewalk vendors expressed a willingness to obtain a permit and comply with all applicable regulations. However, they stated that a costly permit fee could be an obstacle to

getting a permit. They also stated that workshops to guide sidewalk vendors through the permitting process would be helpful.

On February 6, 2023, staff held a stakeholder meeting with representatives of Hayward Unified School District (H.U.S.D.). While H.U.S.D. has not received recent complaints from parents about sidewalk vendors, H.U.S.D. is discussing whether there is interest in a buffer distance between schools and sidewalk vendors but recommended the City establish a buffer between school property and sidewalk vendors to protect school children from vending activities.

On February 9, 2023, staff held a stakeholder meeting with representatives of the Downtown Hayward Improvement Association (DHIA). While complaints about sidewalk vendors operating in close proximity to restaurants have not been received, DHIA did express a concern that sidewalk vendors undercut the profits of the brick-and-mortar restaurants downtown. The DHIA also mentioned that ADA accessibility and health and safety concerns should be addressed in the ordinance.

On February 15, 2023, staff held a stakeholder meeting with representatives of Hayward Area Recreation and Park District (H.A.R.D.). Although HARD does have jurisdiction of park areas within its boundaries and have dealt with vendors, it has been observed that the vendors often move from the park to the sidewalk and, at times, to the sidewalk across the street from the park, creating a hazardous condition for people crossing lanes of traffic outside of the crosswalk. To address this potential hazard, H.A.R.D. has expressed interest in a buffer distance between its parks and sidewalk vendors. Included in the Ordinance is the recommended buffer distance of 100 feet from parks.

On February 16, 2023, staff held a stakeholder meeting with representatives of Alameda County Department of Environmental Health. Given that a County-issued Mobile Food Facility Permit is generally required for sidewalk vendors that sell food, the County did express interest in a partnership with the City to hold workshops after ordinance adoption to further educate the vendors about the permit process.

On February 28, 2023, staff held a stakeholder meeting with representatives of the Hayward Farmer's Market. One of the challenges observed in other jurisdictions was that sidewalk vendors often operate in close proximity to a farmer's market. Farmer's markets are areas of high pedestrian traffic and sidewalk vendors located next to farmer's markets can impede pedestrian access. The farmer's market was interested in a buffer distance between sidewalk vendors and the market but also expressed a willingness to partner with sidewalk vendors to be included in the market.

Throughout March and April 2023, staff met with various City departments to discuss the potential components of a sidewalk vending ordinance. The departments/divisions consulted included Economic Development, Public Works -Transportation, Code Enforcement, Fire and Fire-Hazardous Materials, Finance, Public Works - Environmental Services and Solid Waste, Diversity and Inclusion, and Police. Much of the feedback provided by the City departments has been incorporated into the draft policy language document and additional feedback

related to the administration and implementation of the ordinance will be part of the draft ordinance.

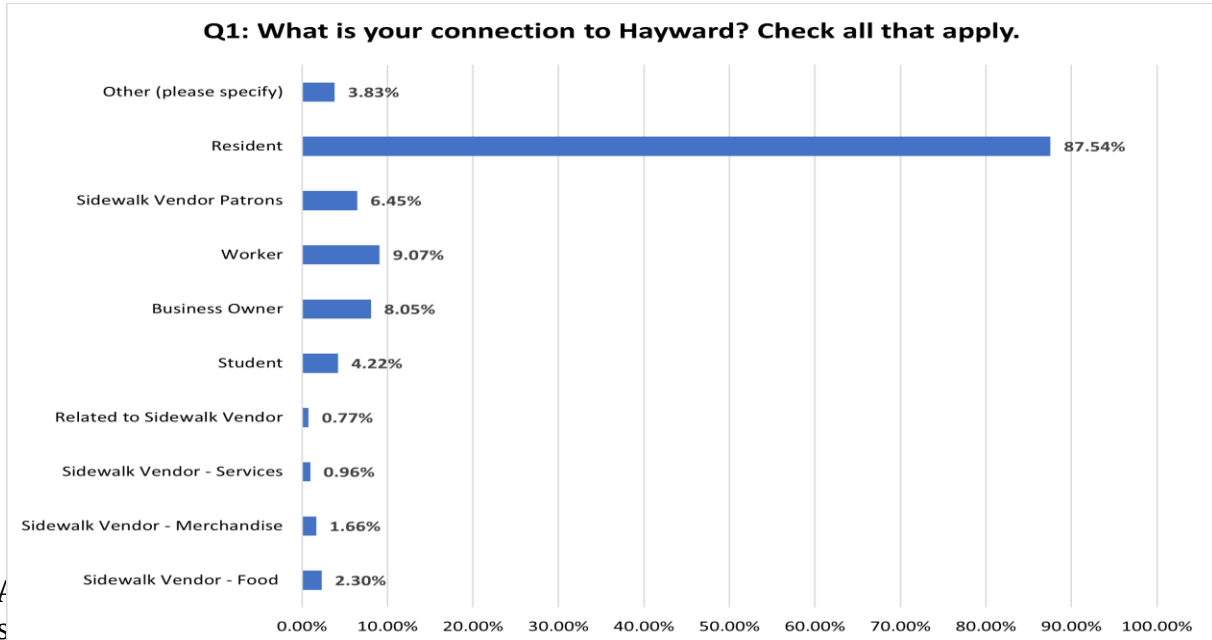
On April 7, 2023, staff held a stakeholder meeting with the Government Relations Committee (GRC) of the Chamber of Commerce. Staff gave a brief presentation to the GRC on the overview of SB 946 and explained the limits on the City's authority. The GRC expressed support for requiring a sidewalk vending permit, establishing operational requirements, ensuring food safety, and creating an enforcement mechanism of the provisions of the sidewalk vending ordinance to ensure public health and safety are maintained.

On April 6 and 7, 2023, staff canvassed the City and interviewed four vendors at various locations throughout the City. Staff asked the vendors whether they were aware of any permit process for sidewalk vending, especially for the vending of food, and, if so, what was their experience with the permit process. All sidewalk vendors interviewed responded that they were not aware of a permit process but were willing to comply if the City adopts an ordinance regulating sidewalk vendors. Staff also asked whether they were aware of the State legislation that decriminalized sidewalk vending and all responded that they were not aware of the legislation. When asked about the incentives to apply for a permit, sidewalk vendors would apply for a permit if noncompliance would cause an interruption to their business. Additionally, access to additional educational and financial resources would incentivize compliance with the permit requirement. When asked about the obstacles in applying for a permit, all four vendors mentioned costs. The vendors also requested they be provided time to obtain the necessary permits and recommended that the permit materials be expanded and provided in other languages to broaden the outreach, education, and awareness for those non-English speaking vendors. In addition, all the vendors interviewed expressed support and a willingness to participate in a training workshop to help guide new vendors through the permitting process.

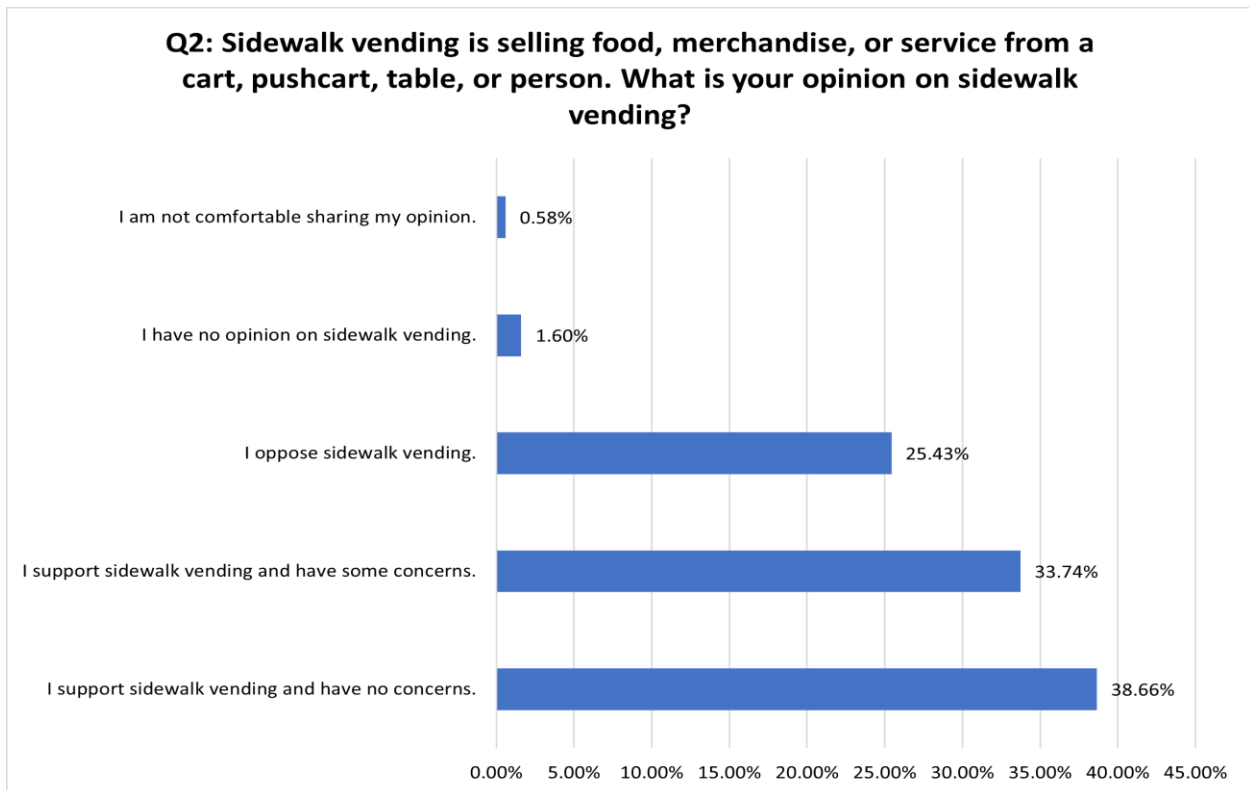
*Project Webpage.* In mid-February, staff launched a webpage that provides regular project updates as well as information related to SB946. The webpage also contains staff contact information, provides key dates for future stakeholder meetings, work sessions and public hearings, indicates key project milestones, and provides members of the public access to the draft sidewalk vending ordinance when completed. Moreover, a dedicated email address for the project was created which allows members of the public the opportunity to sign up for project notifications and submit comments. To date, there have been 95 comments received from the public. The comments were related to the general comments of competition with brick-and-mortar businesses, permitting, public safety, food safety, cleanliness of area and equipment, traffic, and impact on neighborhood appearance. The webpage can be accessed at the following web address: <https://www.hayward-ca.gov/content/sidewalk-vending-ordinance-update>.

*Online Survey.* In addition to the stakeholder meetings, a broader public outreach effort took place through an online survey, which was developed to give the public an additional opportunity to give their opinions on sidewalk vending and get a better understanding of interests, opportunities, and concerns tied to the project. The survey was active from March 28, 2023, to May 1, 2023, and made available on the project's webpage, LinkedIn, and featured

in a *Stack Extra* article published in late March. The online survey received a total of 1,565 responses, with 126 complete surveys and 1,439 partially complete surveys. The graph below is a breakdown of respondents' connection to Hayward (responses total more than 100 percent because respondents could choose multiple options):



breakdown of community opinion:



A complete list of the survey results is included as Attachment IV.

*East Bay Times Article.* On February 23, 2023, an article was published in the East Bay Times that highlighted the City's community outreach efforts and progress toward the development of a sidewalk vending ordinance. Staff emphasized taking a balanced approach to ensure that new sidewalk vendor program established policies to ensure safe operation by sidewalk vendors and provide an equitable and inclusive approach.

## **NEXT STEPS**

If the Council introduces the attached ordinance this evening, a second reading and adoption will be brought back during a regular meeting scheduled in October 2023. If approved, the proposed text amendments will be effective 30 days after adoption. Following adoption of the ordinance, staff will be working to create information handouts on the new program and coordinate training and education workshops with community-based organizations and ACDEH to assist vendors in understanding the new regulations and navigating the permit process.

*Prepared by:*                 Rozalynne Thompson, Senior Planner  
  Dulce Ochoa, Assistant Planner

*Recommended by:*       Sara Buizer, Development Services Director

Approved by:



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Kelly McAdoo, City Manager