



DATE: June 6, 2023

TO: Mayor and City Council

FROM: Acting Development Services Director

SUBJECT: Sidewalk Vending Ordinance: Review and Discuss Draft Program Policies for an Amendment to the Hayward Municipal Code to Comply with Senate Bill (SB) 946, the “Safe Sidewalk Vending Act”

RECOMMENDATION

That the City Council reviews the report and provides feedback and direction to staff regarding the recommended locational and operational requirements and the alternative enforcement approach for the draft Sidewalk Vending Ordinance.

SUMMARY

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 limited 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. The City currently does not have an ordinance that regulates sidewalk vendors consistent with SB 946 and the purpose of the 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 to obtain input on the proposed sidewalk vendor program and have reviewed other Sidewalk Vending Ordinances from cities in California to identify best practices for inclusion in the Hayward program. Staff has completed that analysis and is seeking input and feedback from the Council on several draft policies related to locational and operational requirements for vendors as well as feedback on an alternative enforcement approach that supports collaborative efforts towards compliance. Following this work session, staff will finalize the draft Ordinance, including any other related Municipal Code amendments, in preparation for final program adoption. Staff anticipates the proposed Ordinances will be presented to Council for consideration later this summer.

BACKGROUND

The Safe Sidewalk Vending Act, also known as SB 946, was signed into law by then-Governor

Jerry Brown on September 17, 2018, and became effective January 1, 2019. By decriminalizing sidewalk vending statewide and limiting local jurisdictions authority to regulate sidewalk vending, 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.”¹ Most significantly, SB 946 preempts any local regulation which is inconsistent with State law and, absent consistent regulations, required local jurisdictions to develop and adopt regulations that align with SB 946.

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 stakeholders and a summary of that outreach and feedback is provided in the “Public Contact” section below.

Council Economic Development Committee. In February 2020, staff brought this item before the CEDC to report on the progress on the project and receive clarification on the City Council’s recommended policy approach.² 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 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 additional feedback on the proposed scope of the ordinance.³ Specifically, staff requested direction on whether the sidewalk vending ordinance should include some of the optional regulations allowed per State law, including whether the CEDC supported limiting the hours of operation for sidewalk vendors; whether minimum performance standards should be established; whether the CEDC supported an integrated sidewalk vending permit program that entails a separate sidewalk vending permit, encroachment permit, and liability insurance; and whether the CEDC

¹ SB 946, Section 1: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB946&search_keywords=vendor

² February 3, 2020 CEDC Meeting Minutes:

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

³ April 3, 2023 CEDC Meeting Minutes:

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

supported an enforcement framework focused on penalizing by the 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, such as sign standards for signs displayed on and around equipment and sanitation and food safety standards set forth by statute and agreed that when a permit is issued, vendors should be required to obtain liability insurance that indemnifies the City in case of any life/safety issue. As for enforcement, the CEDC supported an approach focused on education and awareness prior to fines being assessed and that educational materials distributed to sidewalk vendors be translated to multiple languages. Staff believes the proposed policies listed in Attachment II reflect the feedback received from the CEDC as well as other community stakeholders.

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 Code⁴.

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.

⁴ Government Code:

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=5.&part=1.&chapter=6.2.&article=

- Cities may prohibit all sidewalk vending in a park (including beaches or open space areas) if a city has an exclusive concessionaire agreement 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;
- 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 the regulations that cities may impose on sidewalk vendors. including:

- 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 mechanisms. 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:

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|--|------------------------------|
| 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:

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|--|--------------------------------|
| 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.

Alameda County Mobile Food Permit. If selling food, the sidewalk vendor is also required to obtain a Mobile Food Facility Permit issued by Alameda County Department of Environmental Health. If a complaint is received that a sidewalk food vendor is allegedly violating provisions of the California Health and Safety Code, an Alameda County Department of Environmental Health 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 Environmental 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.

Draft Policy Overview. Following feedback from various internal and external stakeholder groups through targeted outreach, the online survey, review of 18 other municipal ordinances throughout the State, and feedback from the CEDC, staff has prepared a set of draft policies that establish locational and operational requirements for sidewalk vendors to ensure public safety and operation, as well as highlight an alternative enforcement approach to the administrative process that relies on education and awareness prior to any citations being issued. Staff believes the proposed policies listed in Attachment II reflect a balanced approach to ensure public health, safety and welfare with vending while creating a pathway for a vendor to legally operate in the City. Staff has also included several optional guidelines for consideration and feedback, should the Council support additional regulations. An overview of the proposed location and operational guidelines, including the optional guidelines, are detailed below.

Proposed Locational Guidelines

The recommended draft policy language establishes distance requirements from various public assets and facilities, private structures, and other sidewalk vendors to address potential public safety and accessibility impacts. The optional location requirements are also included to address public safety and accessibility issues that were identified, specific to Hayward. As part of the stakeholder outreach and consistent with other jurisdictions, specific setback requirements are being proposed and based on input received from, but not limited to, the City's Department of Public Works Engineering and Utilities, the Transportation Division, the Planning Division, the Fire Department, and the Hayward Unified School District (H.U.S.D.).

Specifically, staff is recommending a 200-foot distance requirement from certified farmer's markets and special events to avoid undue interference and congestion with any vendor at the farmer's market. There is also a recommended 100-foot distance requirement from public and private schools during days and hours that the schools are in session to not interfere with instruction and other school-related activities. A 100-foot distance requirement is also recommended from police and fire stations, and hospitals, to ensure that public services, especially those of an emergency nature, are not interrupted. The recommended locational requirements also propose to restrict sidewalk vending near pedestrian facilities, such as building entrances and exits and crosswalks to ensure pedestrian safety and accessibility. The recommended locational requirements also would prohibit sidewalk vending in areas that are on any public property that does not meet the definition of a sidewalk, on City-owned property, unless otherwise authorized by the City, any area that blocks pedestrian or vehicle access, or on any median strip within the public right-of-way. For any sidewalk vending on private property, applicants are subject to the Food Vendor regulations contained in Section 10-1.2735(m) of the Municipal Code.

Optional Locational Guidelines

If the Council would like the program to include additional public safety and accessibility guidelines beyond what many cities have identified in their Ordinances, the City could add setback distance requirements from public plazas where people congregate, landscaped areas, designated emergency vehicle access ways, traffic signals or regulatory signs, above-ground structures affixed to sidewalks (such as fire hydrants, public utility poles and boxes, and street furniture), as well as areas designated as parking zones (curbs painted yellow, white, blue, red, or green). Additionally, staff has included an optional policy that only allows roaming sidewalk vendors to operate in residentially zoned areas, thereby prohibiting stationary vendors. While many of these optional guidelines were not common in other Ordinances staff reviewed, they were identified by stakeholders as areas where the City may want additional regulation.

Proposed Operational Guidelines

In addition to the proposed locational guidelines, staff is also proposing a series of operational guidelines be included, as well as several optional guidelines the Council could consider. Operational guidelines will help the City establish standards that relate to the time and manner in which sidewalk vendors operate. The guidelines were based on feedback received from internal and external stakeholders, feedback from the online survey, as well as common regulations from many of the 18 jurisdictions that staff reviewed.

Specifically, the operational policies are intended to protect public health and safety by: requiring sidewalk vendors display their sidewalk vending permit and other required licenses at all times when vending; allowing sidewalk vending activities in residential districts between the hours of 9 a.m. to 7 p.m.; allowing sidewalk vending activities in non-residential zones to similar hours as allowed for surrounding businesses, excluding those businesses operating 24 hours; requiring that sidewalk vendors provide trash receptacles and keep the area surrounding the equipment free and clear of trash and debris; prohibiting freestanding appurtenances such as freestanding signs and chairs, tables, or

benches adjacent to the sidewalk vending equipment for use by persons other than the sidewalk vendor; complying with noise standards; and prohibiting the vending of certain merchandise which is heavily regulated elsewhere, such as alcohol, tobacco products and cannabis.

Optional Operational Guidelines

In reviewing ordinances of other jurisdictions, staff has identified some optional operational guidelines that the City Council could consider. While the optional guidelines are not commonly found in other jurisdictions' ordinances, they may address public health and safety concerns that are significant to this community.

An optional guideline to consider is prohibiting sidewalk vendors from entering and encroaching onto private property to conduct any vending activities. Section 10-1.2375(m) of the Hayward Municipal Code allows food vendors on private property with a Food Vendor Permit, which requires authorization from the property owner prior to issuance. Prohibiting sidewalk vendors from encroaching onto private property prevents unauthorized vending on the site.

Another optional guideline to consider is prohibiting sidewalk vendors from selling or offering to sell services or engage in or offer to engage in any type of rental activity, including the rental of any goods or services. A "service" is an activity that involves the performance of work for others or the provision of intangible items that cannot be returned once they are provided. Examples of services include tax preparation, massages, hairstyling, and tattooing. This guideline is recommended because SB 946 only applies to the vending of food or merchandise and does not apply to services or rental of any goods or services.

Also, the City Council may wish to consider only allowing the display of goods that are available for immediate on-site sale and prohibiting the display of signs advertising any off-site business. Only allowing the display of goods that are available to immediate on-site sale would address the potential issue of falsely advertising items that are not immediately available or do not exist. Prohibiting the display of signs advertising any off-site business ensures consistency with the sign regulations and also prohibits falsely advertising items.

Alternative Enforcement Approach

Violations of the Hayward Municipal Code are subject to the administrative citation procedure set forth in Section 1-3.07⁵ of the Hayward Municipal Code. Generally, the administrative citation process entails receiving a complaint regarding an alleged violation, verifying that a violation has occurred, sending an Administrative Notice In Lieu of Citation to notify the individual of the violation, giving the individual a date to cure the violation which depends on nature of the violation, a timeline for reinspection, and a date the applicant has to cure the violation, which is followed by a second reinspection to verify compliance with the Hayward

⁵ 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

Municipal Code. If there is still noncompliance after these initial attempts, then an administration citation is issued and penalties and fees are assessed, as determined by the City’s Master Fee Schedule⁶.

As part of the proposed Ordinance, staff recommends an alternative procedure of enforcing the provisions of the sidewalk vending ordinance be adopted to allow the City to take a more inclusive and collaborative approach with the sidewalk vendor that focuses on education and awareness related to the City’s regulations and permitting process as described below with the fine amount adopted consistent with the maximum fine allowed per SB946 as 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 would be issued, which specifies the regulation being violated along with educational materials and includes a timeline for compliance.
- For the third incident, the administrative citation procedures would apply.

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

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| 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 |

Policies Not Recommended for Consideration

Following input and feedback received from stakeholders and the online survey, there are a few common policy suggestions that staff is not recommending be included for consideration. The policies and an explanation of the reasons behind their exclusion from the draft policy is detailed below.

Specific Health and Safety Code Regulations Regarding Sanitation, Equipment, and Cooking:
 Staff has received a significant amount of feedback that specific regulations related to the California Health and Safety Code should be included in the draft ordinance. The Alameda County Department of Environmental Health is charged with the authority to enforce the provisions of the Health and Safety Code, including those related to sanitation, food

⁶ <https://www.hayward-ca.gov/sites/default/files/documents/Adopted-FY22-Master-Fee-Schedule.pdf>

preparation, food storage, and cooking processes. While the City cannot enforce the specific requirements of the Health and Safety Code, the draft ordinance does require that sidewalk vendors comply with all applicable federal, state, county, and local laws, and as such, any issue with specific health and safety regulation, including sanitation, equipment, and cooking, will be forwarded to Alameda County Department of Environmental Health for review and possible enforcement.

Human Trafficking: Staff has also received feedback that sidewalk vendors are being trafficked and exploited by larger operations. While Human Trafficking continues to be an issue around the country, the purpose of the sidewalk vending ordinance is to establish a balanced regulatory framework to allow vending activities to safely occur on sidewalks in Hayward. Any criminal activity that may be associated with sidewalk vending, such as human trafficking, is within the purview of law enforcement authorities and will be handled accordingly.

Employment of Minors: An additional concern raised by the public was the employment of minors as sidewalk vendors. The employment of minors is governed by federal and state labor laws and the California State Labor Commission is tasked with the enforcement of labor laws. While the City cannot enforce federal and state labor laws, the draft ordinance does require that sidewalk vendors comply with all federal, state, county, and local laws.

STRATEGIC ROADMAP

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

Project 6d: Sidewalk Vendor Ordinance

FISCAL IMPACT

The costs associated with the administration of the sidewalk vending permit program have not yet been determined. However, for reference, 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.

During the preparation of the draft ordinance, City staff would determine the costs associated with the implementation, education/outreach, permitting, and enforcement of the sidewalk vending permit program. At the time of introduction of the draft ordinance, staff will recommend whether the fee imposed for the sidewalk vending permit should fully recover all staff costs or be reduced for equity considerations.

SUSTAINABILITY FEATURES

While the draft policies do not include any Sustainability Features, staff did include guidelines 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 internal and external stakeholder meetings, interviewing sidewalk vendors, establishing a project webpage, 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.

Targeted Stakeholder Meetings. On December 19, 2022, staff held an informal listening session with several of the business owners that had attended previous 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 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 and met 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 include some 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 in 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 H.A.R.D. 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. Staff is awaiting a response from H.A.R.D. on a recommended buffer distance. Staff will continue to collaborate with H.A.R.D. in determining an appropriate buffer distance from park properties. The determined buffer distance will be incorporated into the draft ordinance to be introduced to City Council on a future date.

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. The County is also responsible for enforcement of the Health and Safety Code so additional education and awareness on safe vending of food is recommended.

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, 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

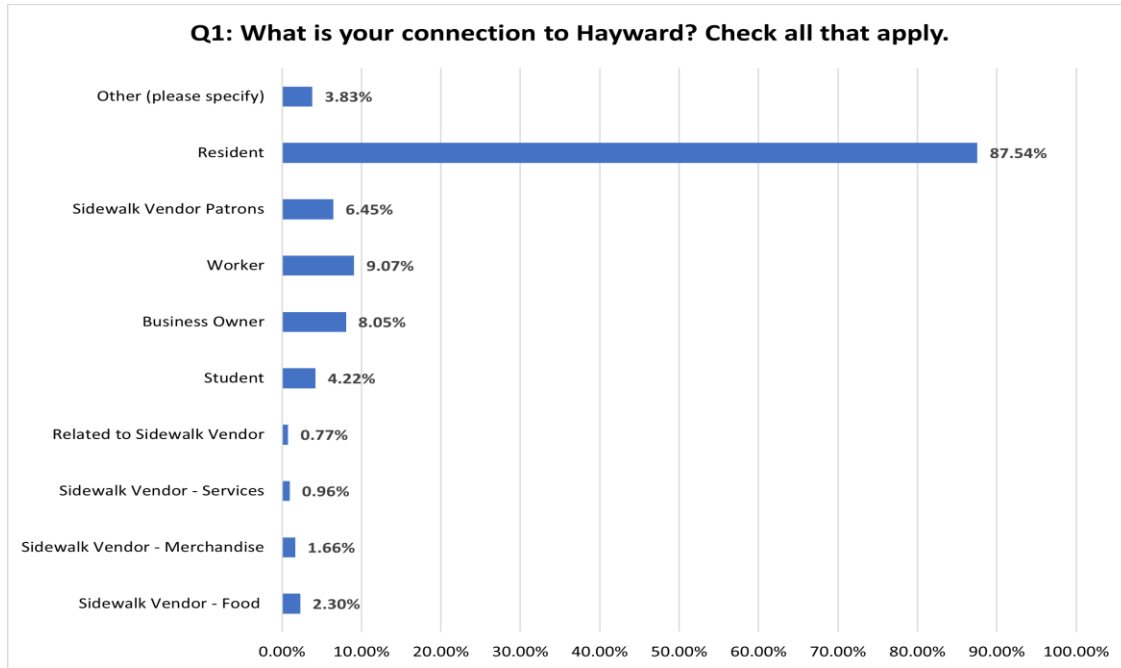
regulating sidewalk vendors. Staff also asked whether they were aware of the State legislation that decriminalized sidewalk vending and all responded that they were not aware of the legislation. When asked about the incentives to apply for a permit, sidewalk vendors would apply for a permit if noncompliance would cause an interruption to their business. Additionally, access to additional educational and financial resources would incentivize compliance with the permit requirements. 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.

Throughout March and April, staff also 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. Some themes from the feedback received from the various departments included pedestrian safety and access, public safety, driver visibility, trash and waste management, and creating an equitable vendor permit program.

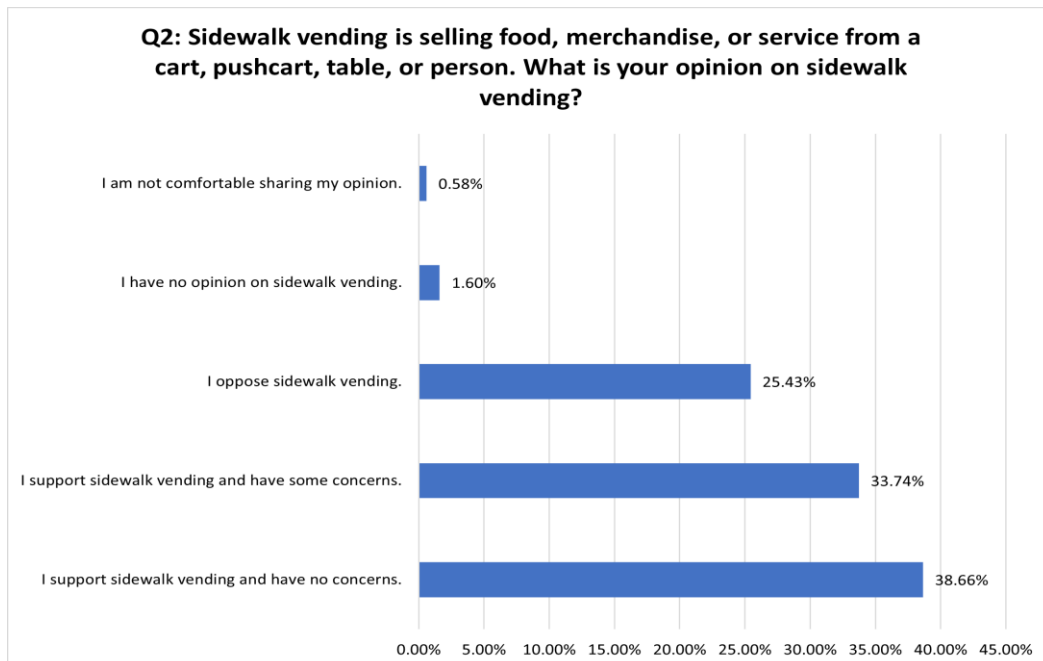
Project Webpage. In mid-February, staff launched a webpage that provides regular project updates as well as information related to SB946. The webpage also contains staff contact information, provides key dates for future stakeholder meetings, work sessions and public hearings, indicates key project milestones, 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 83 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. A survey link was also sent to those stakeholders and members of the public who signed up to be on the "Interested Parties" list, as well as a QR code was provided to the sidewalk vendors and others, as requested.

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):



As for the community's opinion on sidewalk vending overall, most of the survey respondents supported sidewalk vending and did not have any concerns. The graph below provides a breakdown of community opinion:



Please see Attachment III for additional results of the survey.

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

Following this Work Session, staff will finalize the draft ordinance and identify and amend sections of the Hayward Municipal Code that conflict with the draft ordinance and SB 946. The draft ordinance and amendments to the Hayward Municipal Code will be introduced at City Council later this summer.

Prepared by: Rozalynne Thompson, Senior Planner
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Recommended by: Sara Buizer, Acting Development Services Director

Approved by:



Kelly McAdoo, City Manager