

LEGISLATIVE DIGEST

[Public Works, Port Codes - Enhanced Enforcement for Vending Targeted Merchandise Without a Permit]

Ordinance amending the Public Works Code in accordance with California Senate Bill 276 (2025) to authorize the enforcement of vending permit requirements through warnings, infractions, misdemeanors, and fines up to \$1,000 for vending certain types of merchandise that are common targets of retail theft, on City property without a permit; amending the Port Code to conform with those amendments; making additional conforming amendments consistent with Senate Bill 276; accepting the recommendations and findings of the Public Works Director pertaining to such targeted merchandise and adopting such findings; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Currently, Article 5.9 of the Public Works Code ("Permit Regulations for Vendors") prescribes the requirements for Vending Food and/or Merchandise on City property and sidewalks, including property and sidewalks within the jurisdiction of the Port of San Francisco ("Port").

The Public Works Code defines "Vend" as "[t]o sell, offer for sale, expose or display for sale, solicit offers to purchase or lease, or barter Food or Merchandise." (S.F. Public Works Code Sec. 5.9-2.) The Public Works Code defines "Merchandise" as "[a]ny item that is neither Food, nor unpackaged food, nor food that is cooked or prepared onsite, and that is not an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code." (*Id.*) Article 5.9 prohibits Vending on any City property, including "a public right-of-way or any other street, sidewalk, alley, walkway, or pedestrian path" without a permit issued pursuant to Article 5.9.

Due to restrictions in California Senate Bill 946 ("SB 946"), which decriminalized sidewalk vending in California and constrained local regulatory authority over vending, under Article 5.9 of the Public Works Code, Vendors who Vend without a valid permit may face administrative fines of \$250 (first violation), \$500 (second violation within 12 months of first violation), or \$1,000 for a third violation, and each subsequent violation, within 12 months of the first violation. (S.F. Public Works Code Sec. 5.9-11(c)(2).) Currently, the Public Works Code states that failure to pay administrative fines "shall not be punishable as an infraction or misdemeanor" and "additional fines, fees, assessments, or any other financial conditions beyond those authorized in [Public Works Code Section 5.9-11(c)] may not be assessed." (*Id.*)

Amendments to Current Law

Pursuant to California Senate Bill 276 (2025) ("SB 276"), this ordinance authorizes the City to implement enhanced enforcement to address the Vending of merchandise that is a common target of retail theft, on City property without a permit.

SB 276 authorizes the City to approve an ordinance that requires Vendors to obtain a permit for the sale "on public property, including public streets or sidewalks," of merchandise that the City has determined is a "common target of retail theft," provided that the City make specific written findings supported by substantial evidence in the record, as prescribed by SB 276. Notwithstanding SB 946, SB 276 authorizes the City to make the sale of such merchandise on City property without a permit punishable as follows: with a written warning for the first violation; as an infraction for the second and third violations within 18 months of the first violation; and as infractions or misdemeanors punishable by imprisonment in the county jail for a period not to exceed 6 months and/or a fine not to exceed \$1,000, for the fourth and subsequent violations within 18 months of the first violation.

Citing the Public Works Order referenced in the ordinance, this ordinance adopts the required findings, including that:

- (1) There has been a significant pattern of merchandise being the subject of retail theft and then appearing for sale on public property within San Francisco;
- (2) Requiring a permit to sell will further the objective of preventing retail theft;
- (3) There are reasonable permit requirements to enable the lawful sale of merchandise and to safeguard civil rights; and
- (4) Multiple non-law-enforcement measures to address the resale of stolen goods were attempted prior to adopting the ordinance, including opening marketplaces where vendors may sell items, reducing or removing permit fees, expanding efforts to combat retail theft, partnering with local nonprofit organizations to triage needs of vendors and their families, and offering wraparound support services, resource fairs, marketing support, trainings on entrepreneurship and business development, workforce development opportunities, and support to open brick and mortars if desired.

This ordinance adopts the list of merchandise that is a common target of retail theft set forth in the Public Works Order as the initial list of "Targeted Merchandise." This ordinance authorizes the Public Works Director to amend the list of Targeted Merchandise no more than once per quarter of each fiscal year of the City.

This ordinance makes the sale of Targeted Merchandise on City property without a permit subject to the following punishments: a written warning for the first violation; infractions for the second and third violations within 18 months of the first violation; and infractions or misdemeanors punishable by imprisonment in the county jail for a period not to exceed 6 months and/or a fine not to exceed \$1,000, for the fourth and subsequent violations within 18 months of the first violation.

In addition, this ordinance codifies the enforcement authority granted under SB 276 in Section 5.9-11(f) of the Public Works Code for a period of three years from the effective date of the ordinance. Moreover, this ordinance amends the Port Code to specify that Vending violations that occur on property within the jurisdiction of the Port are subject to the enforcement provisions of Public Works Code Section 5.9-11.

Consistent with the requirements of SB 276, this ordinance will remain in effect for up to three years, subject to annual approval of the requisite written findings by resolution of the Board of Supervisors, and subject to the filing of an annual report, for a period of three years following the effective date. According to the terms of this ordinance, upon the expiration of the ordinance, the City Attorney is authorized to cause Section 9-11(f) to be removed from the Public Works Code. In addition, the City Attorney is authorized to cause the removal of other provisions in Article 5.9 of the Public Works Code to conform to the expiration of Section 9-11(f), and to make nonsubstantive changes in Article 5.9 to conform to the expiration of Section 9-11(f). Any changes caused by the City Attorney following the expiration of this ordinance will be filed in the Board of Supervisors file for this ordinance.

To enable the City to continue exercising enforcement authority under SB 276 beyond the three-year duration of this ordinance, at or prior to the completion of the three-year period, the Board would be required to approve a subsequent renewal ordinance that includes the findings required by SB 276. By its terms, SB 276 will become inoperative on January 1, 2031 and shall be repealed as of that date.

Background Information

In 2018, Governor Brown signed SB 946, which decriminalized sidewalk vending in California and constrained local regulatory authority over vending, restricting local governments to the use of administrative fines or permit rescission to enforce vending programs. In 2022, the City enacted Ordinance No. 44-22, which established San Francisco's sidewalk vending permit program consistent with SB 946.

On October 6, 2025, Governor Newsom signed SB 276, which grants the City authority to adopt an ordinance requiring a permit to sell merchandise that the City determines is a common target of retail theft. SB 276 will become inoperative on January 1, 2031, along with the enforcement authority authorized under SB 276, and will be repealed as of that date.

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