



**ORANGE COUNTY
COUNCIL OF GOVERNMENTS
Technical Advisory Committee**

Meeting Date / Location

**Tuesday, December 4, 2018
9:30 A.M. – 12:00 P.M. (NOON)
QUAIL HILL COMMUNITY CENTER
39 SHADY CANYON DRIVE
IRVINE, CALIFORNIA 92603**

<u>Agenda Item</u>	<u>Staff</u>	<u>Page</u>
INTRODUCTIONS	(Chair Marika Poynter, City of Irvine)	
PUBLIC COMMENTS	(Chair Poynter)	

The agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not include what action will be taken. The Technical Advisory Committee may take any action which it deems appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

At this time members of the public may address the TAC regarding any items within the subject matter jurisdiction, which are not separately listed on this agenda. Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion. NO action may be taken on items not listed on the agenda unless authorized by law. Comments shall be limited to three minutes per person and an overall time limit of twenty minutes for the Public Comments portion of the agenda.

Any person wishing to address the TAC on any matter, whether or not it appears on this agenda, is requested to complete a "Request to Speak" form available at the door. The completed form is to be submitted to the TAC Chair prior to an individual being heard. Whenever possible, lengthy testimony should be presented to the TAC in writing and only pertinent points presented orally. A speaker's comments shall be limited to three minutes.

ADMINISTRATION

1. **OCCOG TAC Meeting Minutes** (Chair Poynter)
 - ◆ **Draft OCCOG TAC minutes for the November 6, 2018 meeting**

Recommended Action: Approve OCCOG TAC minutes of November 6, 2018, as presented or amended

2. **OCCOG TAC Administration for Calendar Year 2019** (Chair Poynter)
 - ◆ **Approve the Proposed OCCOG TAC 2019 Meeting Schedule and Appointment of Chair and Vice Chair**

Recommended Action: Set the OCCOG TAC meeting schedule for calendar year 2019 and appoint OCCOG TAC Chair and Vice Chair

PRESENTATIONS, DISCUSSION AND ACTION ITEMS, REPORTS

- | | | |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| 3. | <p>Center for Demographic Research Update</p> <ul style="list-style-type: none"> ◆ January 1 – December 31, 2018 Housing Inventory System (HIS) Data Collection ◆ HCD Annual Progress Reports (APRs) ◆ DOF Housing Change Survey form ◆ 2020 Census PSAP <p><i>Recommended Action:</i> Receive report. Discussion.</p> | <p>(Ms. Deborah Diep, Director, Center for Demographic Research) – 30 minutes</p> |
| 4. | <p>Accessory Dwelling Unit Addressing Policy</p> <p><i>Recommended Action:</i> Receive report. Discussion.</p> | <p>(Chair Poynter) – 30 minutes</p> |
| 5. | <p>Legislative Update and Discussion</p> <ul style="list-style-type: none"> ◆ Senate Bill 946 ◆ Assembly Bill 626 <p><i>Recommended Action:</i> Receive report. Discussion.</p> | <p>(Chair Poynter, Mr. Ron Santos, City of Lake Forest) – 30 minutes</p> |
| 6. | <p>Update on Regional Policy Issues</p> <ul style="list-style-type: none"> ◆ Orange County Council of Governments Board of Directors meeting – November 29, 2018 ◆ Southern California Association of Governments Working Group Meeting updates ◆ Southern California Association of Governments Regional Housing Needs Assessment (RHNA) Subcommittee meeting <p><i>Recommended Action:</i> Receive report. Discussion.</p> | <p>(Chair Poynter, Ms. Primmer, Ms. Diep, Vice Chair Susan Kim, Anaheim) – 20 minutes</p> |

REPORT FROM THE CHAIR

- ◆ Upcoming Meeting Schedule and LOCATIONS

REPORT FROM THE OCCOG EXECUTIVE DIRECTOR

MATTERS FROM OCCOG TAC MEMBERS

ANNOUNCEMENTS FROM NON-MEMBERS

ITEMS FOR NEXT MEETING

IMPORTANT DATES OR UPCOMING EVENTS

- ◆ December 6, 2018 Southern California Association of Governments 9th Annual Economic Summit

ADJOURNMENT

**Adjourn to: JANUARY 8, 2019
CITY OF IRVINE – CITY HALL
CONFERENCE AND TRAINING CENTER (CTC)
1 CIVIC CENTER PLAZA
IRVINE, CALIFORNIA 92623**



**ORANGE COUNTY
COUNCIL OF GOVERNMENTS**
Technical Advisory Committee

Draft Action Minutes

Meeting of November 6, 2018

The Orange County Council of Governments Technical Advisory Committee (TAC) meeting of November 6, 2018, was called to order by Chair Marika Poynter, City of Irvine, at the City of Irvine City Hall, Conference and Training Center, 1 Civic Center Plaza, Irvine, California 92623 at 9:30 a.m. Attendees were invited by the Chair to introduce themselves. The list of meeting attendees is attached.

PUBLIC COMMENT:

There were no public comments.

ADMINISTRATION

1. OCCOG TAC Meeting Minutes

The OCCOG meeting minutes were unanimously approved by the TAC as moved by Mr. Scott Reekstin, City of Tustin, and a second by Mr. Ron Santos, City of Lake Forest.

PRESENTATIONS, DISCUSSION AND ACTION ITEMS, REPORTS

2. Introduction of Bridget Hennessey

At the September 2018 Orange County Council of Governments Board of Directors meeting, the OCCOG approved a contract with Ms. Bridget Hennessey for strategic grant support and legislative monitoring. Ms. Hennessey introduced herself to the OCCOG TAC and shared that she is available to assist OCCOG member jurisdictions with grant matters.

Action: Received report.

3. Center for Demographic Research Update

Ms. Deborah Diep, Director, Center for Demographic Research, provided the OCCOG TAC with an updated on other CDR related issues. Ms. Diep reminded TAC members that the January 1 – June 30, 2018 housing construction and demolition data was due to CDR on Friday, July 27, 2018. This information will be used for the 2020 Regional Transportation Plan/Sustainable Communities Strategy (2020 RTP/SCS) that will include the next update to the Regional Housing Needs Assessment (RHNA) to reduce allocations for the RHNA by documenting units that were constructed HIS submission forms were updated in 2017 and now include the revised categories for the Accessory Dwelling Units.

Ms. Diep provided an update on the GIS database of parcels that could accommodate Accessory Dwelling Units (ADUs) per jurisdictions based on the existing/approved ordinances that 32 of 35 jurisdictions have approved. Jurisdictions may request copies of the draft of final shapefile for their area. The TAC discussed ADU addressing. This discussion item was brought forth by the City of San Clemente. The Orange County Fire Authority (OCFA) has approached

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addressing of ADUs differently from jurisdiction to jurisdiction. For example, the City of Irvine was initially instructed to not address ADUs separately from the main unit, while the City of San Clemente and Dana Point were instructed to address the ADUs separately using a unique address when possible or with separate numbers (#1 for the main unit/residence and #2 for the ADU/second unit, or as a last resort with letters (A, B). OCFA and the United States Postal Service have stated that they do not want inconsistent addressing or fractional addressing used. Santa Ana indicated that they continue to utilize ½ addresses for ADUs and Costa Mesa indicated that they have been utilizing a 'B' designation for ADUs without requiring the main unit to identify as an 'A'. Chair Poynter indicated that this item would return in December following a discussion with OCFA staff.

In preparation for the 2020 Decennial Census PSAP geographic review program in early 2019, CDR is collecting GIS data from Orange County jurisdictions that have their own traffic model. This information will be used to inform suggested changes to the U.S. Census Bureau to block groups, census tracts and Census Designated Places (CDPs). The information being requested is sub-OCTAM TAZs or full jurisdiction coverage of planning areas. The CDR TAC will be discussing the potential incorporation of sub-OCTAM TAZs into the next iteration of the OCP (OCP-2022) which will have a new benchmark of the 2020 Decennial Census data and geographies. Any jurisdiction with their own sub-OCTA TAZ structure or planning areas should send the GIS data to Ian Boles, CDR GIS Analyst.

Ms. Diep shared that SCAG is continuing to reach out to local agencies in the SCAG region to inform them of their effort to join resources and pool money to expand a Los Angeles County GIS collaborative effort known as LARIAC (Los Angeles Region Imagery Acquisition Consortium) to the entire SCAG region. This joint effort would reduce the cost of purchasing aerial imagery and other GIS information that can be used by all departments within an agency without the need for GIS software by including a user-friendly, non-GIS platform; GIS users would have access to GIS data. The information would include 3-inch pixel aerial/ortho imagery, oblique imagery (45 degree images), contours, digital elevation models (DEMs), LIDAR point clouds, building footprints, elevation and other information. The services would include in-person training, webinars, and additional support. The goal is to join resources to defray costs. Imagery and reference information would be collected in spring 2020, which would provide a critical baseline reference for the 2020 U.S. Decennial Census and the 2024 RTP/SCS. 2020 will also be the base year for CDR's 2022 Orange County Projections (OCP).

To assist SCAG, CDR is collecting information on which jurisdictions or agencies in Orange County purchase aerial or other imagery/GIS data, the company purchased from and how often.

Chair Poynter added that this project could benefit all Orange County jurisdictions and agencies. The data is not limited to planning use and has been instrumental to police and fire. Mr. Doug Feremenga, TCA, asked if the membership would be yearly or a one-time buy in. CDR will continue to monitor the program and will provide more detailed information on the cost once the Request for Information (RFI) is released by SCAG staff.

Action: Received report. Discussion

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4. HCD Annual Progress Report

An open house was hosted by HCD on October 29, 2018, which included discussions on the draft APR forms. CDR led a discussion on the changes to the annual progress reports (APRs), specifically as it pertains to reporting housing construction activities, in comparison to DOF's annual report and CDR's Housing Inventory System (HIS). Aggregated comments on forms and data categories from the TAC on the new APRs will be provided by HCD's November 19 deadline.

Ms. Diep shared the initial draft comments on the proposed changes.

Action: Received report. Discussion

5. Southern California Association of Governments General Plan Data Project

Mr. Tom Vo, Associate Regional Planner with the Southern California Association of Governments, provided the OCCOG TAC with a presentation on the General Plan Update Local Assistance Program. Mr. Vo reported on the pilot program being completed in cooperation with the City of Santa Ana.

Action: Received report. Discussion.

6. Southern California Association of Governments and Orange County Council of Governments Update

Chair Poynter provided an update on the Southern California Association of Governments (SCAG) and Orange County Council of Governments meetings that occurred in October and November. Chair Poynter also provided a recap of the October 29, 2018 Regional Housing Needs Assessment (RHNA) Subcommittee meeting.

REPORT FROM CHAIR/VICE CHAIR

Chair Poynter shared that the December OCCOG TAC meeting will be held at Quail Hill Community Park.

REPORT FROM THE EXECUTIVE DIRECTOR

There was not report from the Executive Director.

MATTERS FROM OCCOG TAC MEMBERS

Ms. Kori Sanders, City of Cypress, asked how jurisdictions are handling EV charging stations, particularly on the height and obtrusiveness.

ANNOUNCEMENTS FROM OCCOG TAC NON-MEMBERS

There were no announcements from OCCOG TAC non-members.

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ITEMS FOR NEXT MEETING

Administrative items for Calendar Year 2019

IMPORTANT DATES OR UPCOMING EVENTS

- November 8, 2018: Environmental Justice Working Group
- November 13, 2018: Future Communities Pilot Program Information Workshop
- November 15, 2018: Southern California Association of Governments Technical Working Group Meeting
- November 29, 2018: Orange County Council of Governments Board of Directors Meeting
- December 4, 2018: Orange County Council of Governments Technical Advisory Committee Meeting
- December 6, 2018: 9th Annual Southern California Economic Summit (The L.A. Hotel Downtown)

ADJOURNMENT

The meeting was adjourned by Chair Poynter until Tuesday, December 4, 2018 at the Quail Hill Community Park, Multipurpose Room A, 39 Shady Canyon Drive, Irvine, CA 92603.

Submitted by:

Marika Poynter, City of Irvine
OCCOG TAC Chair

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Attendees List for November 6, 2018 Meeting

Marika Poynter, City of Irvine
Deborah Diep, Center for Demographic Research/California State University Fullerton
Daniel Inloes, City of Costa Mesa
Heidi Jacinto, City of Costa Mesa
Melanie McCann, City of Santa Ana
Joanna Chang, County of Orange
Ashley Brodtkin, City of Orange
Vidal F. Marquez, City of Orange
Steven Giang, County of Orange
Ron Santos, City of Lake Forest
Chris Chung, City of Garden Grove
Jay Wu, City of Laguna Hills
Doug Feremenga, Transportation Corridor Agencies
Derek Bingham, City of Rancho Santa Margarita
Belinda Deines, City of Dana Point
Christopher Wright, City of San Clemente
Nate Farnsworth, City of Yorba Linda
Scott Reekstin, City of Tustin
Amy Mullay, City of Irvine
Susan Kim, City of Anaheim
Tom Vo, Southern California Association of Governments
Linda Smith, County of Orange
Jennifer A Zambrano, Center for Demographic Research/California State University Fullerton
Ruby Zaman, Center for Demographic Research/California State University Fullerton
Kimberly Clark, Southern California Association of Governments
Kori Sanders, City of Cypress



- Item 2:** **OCCOG TAC Administration Items**
- Recommended Action:**
1. Approve the OCCOG TAC meeting schedule for Calendar Year 2019.
 2. Appointment of OCCOG TAC Chair and Vice Chair for Calendar Year 2019.

Report

A series of administrative actions are required for the OCCOG Technical Advisory Committee to initiate work for the 2019 year:

- Establish a 2019 meeting schedule of dates, time and location of OCCOG TAC meetings; and,
- Appoint OCCOG TAC officers for 2019.

2019 Meeting Schedule

The OCCOG TAC traditionally meets the first Tuesday of each month. A draft calendar of 2019 meeting dates is illustrated in Attachment 1. The 2019 OCCOG TAC calendar identifies a meeting schedule that retains the meeting date of the first Tuesday of each month. There is always the option to cancel meetings if determined not necessary. Due to the New Year's Day holiday, the meeting in January 2019 will be held on the second Tuesday of the month (January 8, 2019).

The draft calendar also identifies the current meeting time of 9:30 a.m. to 12:00 p.m. (Noon) and the current meeting location at the City of Irvine, although the meeting locations vary depending on the availability of the location. The meetings will be held at the Irvine Civic Center.

OCCOG staff requests the OCCOG TAC's review of the draft 2019 calendar components, and approval of said 2019 calendar as presented or amended.

OCCOG TAC Officers: 2019

At the OCCOG TAC meeting of December 2018, OCCOG staff will conduct the annual appointment of officers. OCCOG TAC officers include the positions of Chair and Vice Chair. Nominations will be considered at the December 2018 meeting, becoming effective at the January 2019 meeting. We look forward to active participation of member agencies for these officer positions.

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- Attachments:**
1. DRAFT Calendar of 2019 Meeting Dates for the OCCOG Technical Advisory Committee.

Contact: Ms. Marika Poynter, Chair, OCCOG TAC (City of Irvine)
949/724-6456
mpoynter@cityofirvine.org



*Orange County Council of Governments
Technical Advisory Committee*

**2019 Meeting Schedule
(First Tuesday of each month)
9:30 a.m. to 12:00 p.m. (Noon)**

Tuesday, January 8, 2019 (Irvine Civic Center – CTC)* Moved Due to the Holiday

Tuesday, February 5, 2019 (Irvine Civic Center - CTC)

Tuesday, March 5, 2019 (Irvine Civic Center – CTC)

Tuesday, April 2, 2019 (Irvine Civic Center - CTC)

Tuesday, May 7, 2019 (Irvine Civic Center - CTC)

Tuesday, June 4, 2019 (Irvine Civic Center - CTC)

Tuesday, July 2, 2019 (Irvine Civic Center – CTC)

Tuesday, August 6, 2019 (Irvine Civic Center – CTC)

Tuesday, September 3, 2019 (Irvine Civic Center - CTC)

Tuesday, October 1, 2019 (Irvine Civic Center - CTC)

Tuesday, November 5, 2019 (Irvine Civic Center - CTC)

Tuesday, December 3, 2019 (Irvine Civic Center - CTC)

Meeting Locations

Irvine Civic Center
Conference and Training Center
1 Civic Center Plaza
Irvine, California 92623

**Adopted by the Orange County Council of Governments Technical Advisory Committee
December 4, 2018**



Item 3: **Center for Demographic Research (CDR) Updates**
Recommended Action: Discussion.

Reports

1. **January 1- December 31, 2018 Housing Inventory System (HIS) Data Collection**

July 1- December 31, 2018 housing construction and demolition data is due to CDR on Friday, January 11, 2019. This information will be used for the 2020 RTP/SCS that will include the next update to the Regional Housing Needs Assessment (RHNA) to reduce allocations for the RHNA by documenting units that were constructed. HIS submission forms were updated in 2017 and now include the revised categories for the Accessory Dwelling Units. Please submit data to CDR using the 2017 HIS form located at <http://www.fullerton.edu/cdr/HISform.xls> . Revisions to prior years may use either the new or old form.

CDR's Demographic Analyst and HIS contact is Tania Torres. She can be reached at 657-278-3417 or tatorres@fullerton.edu .

Amendments to DOF data should be submitted to Doug Kuczynski at Douglas.Kuczynski@dof.ca.gov; (916) 323-4086.

2. **HCD Annual Progress Reports (APRs)**

Each jurisdiction (city council or board of supervisors) must prepare an annual progress report on the jurisdiction's status and progress in implementing its housing element. (Government Code Section 65400.) Each jurisdiction's annual progress report must be submitted to HCD and the Governor's Office of Planning and Research by April 1 of each year (covering the previous calendar year). On October 29, 2018, HCD hosted an open house which included discussions on the draft APR forms. Comments on the draft APR forms were due in November 2018.

Attached are the comments submitted by OCCOG, after discussion at the OCCOG TAC, and DOF (with CDR's).

3. **DOF Housing Change Survey form**

DOF is considering updates to their housing change survey form and is collecting informal comments. CDR recommends the form be consistent with CDR and HCD reporting and should include the four types of ADUs. CDR would like to have a discussion with the OCCOG TAC on any additional comments or suggestions on the form, in particular, adding the specific tracking of ADUs.

Attached: DOF Housing Change Survey form

4. **2020 Census PSAP**

The 2020 Census Participant Statistical Areas Program (PSAP) allows invited participants to review and update selected statistical area boundaries for 2020 Census data tabulation following U.S. Census Bureau guidelines and criteria. The designated contact and participant is the County of Orange, but CDR, as a designated participant, will take the lead in coordinating the responses and making the recommended changes in the software provided by the Census Bureau. The CDR will coordinate with the County of Orange throughout the PSAP program. Standard statistical geographies being updated in this program include:

- Census tracts
- Block groups



- Census designated places (CDPs)
- Census county divisions (CCDs), in selected states

Changes provided by the invited participants are recommendations only and the Census Bureau will assess each proposed change, or retention of existing boundaries, and has the final decision-making authority for the geographic boundaries. The PSAP program is expected to begin in January 2020. During the program, CDR will reach out to cities, as applicable, for feedback and confirmation of splits or merges to census tracts and block groups within the guidelines and criteria for geographic thresholds, keeping in mind other geographic boundaries used in local planning, such as the OCTA TAZ boundaries. If any city has suggested changes to census tract or block group boundaries, these should be forwarded to Deborah Diep at ddiep@fullerton.edu by January 11, 2018.

Attached: 2020 Census Participant Statistical Areas Program (PSAP) Information Guide

Contact: Ms. Deborah Diep, Director, Center for Demographic Research
657/278-4596 ddiep@fullerton.edu

For Employment data: Ms. Ruby Zaman, Assistant Director, CDR
657/278-4709 ruzaman@fullerton.edu

For GIS: Mr. Ian Boles, GIS Analyst, CDR
657/278-4670 iboles@fullerton.edu

For HIS: Ms. Tania Torres, Demographic Analyst, CDR
657/278-3417 tatorres@fullerton.edu

2020 Census Participant Statistical Areas Program (PSAP) Information Guide

W-100

Issued June 2018

WHAT IS THE 2020 CENSUS PSAP?

The 2020 Census Participant Statistical Areas Program (PSAP) allows invited participants to review and update selected statistical area boundaries for 2020 Census data tabulation following U.S. Census Bureau guidelines and criteria. The Census Bureau will use the defined statistical areas to tabulate data for the 2020 Census, American Community Survey (ACS), and economic census.

There are two types of statistical geographies eligible for review under the 2020 Census PSAP. The first is standard statistical geography and the second is tribal statistical geography.

Standard statistical geographies include:

- Census tracts.
- Block groups.
- Census designated places (CDPs).
- Census county divisions (CCDs), in selected states.

Tribal statistical geographies include:

- Tribal census tracts (TCTs).
- Tribal block groups (TBGs).
- Census designated places (CDPs).
- Tribal designated statistical areas (TDSAs).
- State designated tribal statistical areas (SDTSAs).
- Alaska Native village statistical areas (ANVSAs).
- Oklahoma tribal statistical areas (OTSAs).
- Statistical tribal subdivisions.

The Census Bureau initially solicits 2020 Census PSAP participation from our 2010 Census PSAP

participants. Where no previous partner exists, the Census Bureau attempts to solicit new partners. The Census Bureau strongly recommends 2020 Census PSAP participants seek input from other census data users and stakeholders regarding the delineation of 2020 Census statistical areas.

The Census Bureau may modify, and if necessary, reject statistical geographic areas and/or their boundaries submitted by participants that do not meet established criteria and guidelines.

WHY PARTICIPATE IN THE 2020 CENSUS PSAP?

The 2020 Census PSAP is the only opportunity prior to the 2020 Census for regional planning agencies (RPAs); councils of governments (COGs); Alaska Native Regional Associations (ANRAs); and tribal, state, county, and local governments (including the District of Columbia and Puerto Rico) to review and update the selected statistical areas. These data are used to:

- Prepare grant applications to fund community and regional development, education, agriculture, energy, and environmental programs, as well as other needed community improvements and enhancements.
- Plan for future community needs.

The next opportunity to review and delineate statistical areas is planned for the 2030 Census.

WHAT IS NEW FOR THE 2020 CENSUS PSAP?

The former Tribal Statistical Areas Program (TSAP) is included as part of the 2020 Census PSAP. Federally recognized tribes and state tribal liaisons are invited

to update tribal statistical geographies in the 2020 Census PSAP.

To reduce participant burden, the Census Bureau will create 2020 Census statistical area suggestions for review and update by all 2020 Census PSAP participants. Participants may accept the Census Bureau's 2020 Census proposed statistical areas, update the 2020 Census proposed statistical areas, or use the 2010 Census statistical area geography as a base to make updates.

Participants reviewing standard statistical area geographies are required to use the Census Bureau's Geographic Update Partnership Software (GUPS) to delineate updates. The GUPS runs in QGIS, which is an open source Geographic Information System (GIS), and it contains all functionality required to make 2020 Census PSAP updates, executes automated checks for program criteria compliance, and creates standardized data output files for Census Bureau processing. The GUPS is available on DVD or available for download from the Census Bureau's Web site at <www.census.gov/programs-surveys/decennial-census/about/psap.html> during the 2020 Census PSAP delineation phase.

Tribal participants reviewing tribal block groups, tribal census tracts, or CDPs may elect to use the GUPS or Census Bureau provided paper map products to review and edit tribal statistical geographies.

Participants using the GUPS must use the Secure Web Incoming Module (SWIM) to send their updates. The SWIM is the official Web portal for uploading partnership materials to the Census Bureau and is found at <<https://respond.census.gov/swim/>>.

Participants reviewing ANVSAs, OTSAs, OTSA tribal subdivisions, TDSAs, or SDTSAs are provided Census Bureau paper map products to review and edit tribal statistical areas.

2020 CENSUS PSAP FEDERAL REGISTER NOTICE

The 2020 Census PSAP *Federal Register* notice is available at <www.census.gov/programs-surveys/decennial-census/about/psap.html>. The *Federal Register* notice includes detailed information on standard and tribal statistical areas geography criteria and guidelines.

2020 CENSUS PSAP SCHEDULE	
Date	Event
March–May 2018	Contact 2010 Census PSAP participants to inquire about 2020 Census PSAP participation.
July 2018	2020 Census PSAP invitation materials sent to participants.
Fall 2018	Final criteria for standard statistical areas published.
January 2019	2020 Census PSAP delineation phase begins. Participants have 120 calendar days to submit updates.
January 2019	2020 Census PSAP Webinar trainings begin.
July 2019	2020 Census PSAP participants notified of delineation phase closeout.
January 2020	2020 Census PSAP verification phase begins. Participants have 90 calendar days to review updates.

2020 CENSUS PSAP PREPARATION CHECKLIST

- ✓ Review the 2020 Census PSAP schedule and determine staffing and budget needs.
- ✓ Identify the primary 2020 Census PSAP contact for your government or organization.
- ✓ Identify the technical 2020 Census PSAP contact for your government or organization.
- ✓ Review the 2020 Census PSAP criteria and guidelines.
- ✓ Seek 2020 Census PSAP stakeholder input.
- ✓ Establish a meeting schedule for stakeholders during the 2020 Census PSAP delineation phase.
- ✓ Conduct research on local housing unit and population data trends.
- ✓ Identify potential CDPs for delineation during the 2020 Census PSAP.
- ✓ Attend a 2020 Census PSAP Webinar training.
- ✓ Review and update 2020 Census PSAP delineation phase materials.
- ✓ Review and update 2020 Census PSAP verification phase materials.

Review the 2020 Census PSAP schedule and determine staffing and budget needs.

Plan for the number of staff needed to review and update statistical geographies prior to the start of the delineation phase scheduled for January 2019.

Identify the primary 2020 Census PSAP contact.

The primary 2020 Census PSAP contact will coordinate the 2020 Census PSAP review and update activities. Past primary PSAP contacts have included planning directors, executive directors, COG presidents, or other persons with decision-making authority.

Identify the 2020 Census PSAP technical contact.

The technical 2020 Census PSAP contact will conduct the technical review work or manage the technical staff. Consider whether this person will be available for the verification phase of the 2020 Census PSAP.

Review the proposed 2020 Census PSAP criteria and guidelines.

Review the 2020 Census PSAP criteria and guidelines for census tracts, block groups, CDPs, and, if applicable to your state, CCDs. Tribal participants should review the 2020 Census PSAP criteria and guidelines for tribal statistical geographies for which they are eligible. Proposed criteria and guidelines for all 2020 Census PSAP statistical areas are published in the *Federal Register* at <www.census.gov/programs-surveys/decennial-census/about/psap.html>.

Seek 2020 Census PSAP stakeholder input.

Contact local governments and planning organizations in your service area for input into the review and update of statistical areas for the 2020 Census PSAP.

Establish a meeting schedule for stakeholders during the 2020 Census PSAP delineation phase.

Coordinate stakeholder meetings during the delineation phase to review the Census Bureau's 2020 Census proposed statistical areas, and subsequent updates, to seek consensus among stakeholders.

Conduct research on local housing unit and population data trends.

Conduct research to determine where housing unit and population growth or decline have occurred since 2010. Determine whether there are areas of future change that may affect the delineation of statistical areas based on housing unit and population criteria beyond the 2020 Census.

Identify potential CDPs for definition during the 2020 Census PSAP.

Work with local stakeholders to identify potential CDPs. CDPs can be delineated for the 2020 Census PSAP for unincorporated, named places with concentrations of housing units or population.

Attend a 2020 Census PSAP Webinar training.

Training Webinars will offer “hands-on” experience using the 2020 Census PSAP materials. Self-training aids and Webinars will be available online on the 2020 Census PSAP Web site. In addition, the 2020 Census PSAP Respondent Guides will contain detailed instructions and examples for conducting your statistical area review.

Review and update 2020 Census PSAP delineation phase materials.

You have 120 calendar days from receipt of materials to conduct your 2020 Census PSAP review and return updates to the Census Bureau. The time it will take to complete your 2020 Census PSAP review and submit your updates depends on the geographic territory and number of changes.

QUESTIONS

For more information about 2020 Census PSAP, call 1-844-788-4921, e-mail us at <GEO.PSAP@census.gov>, or visit our Web site at <www.census.gov/programs-surveys/decennial-census/about/psap.html>.

Review and update 2020 Census PSAP verification phase materials.

After updating statistical areas based on 2020 Census PSAP participants' submissions, the Census Bureau will provide verification products to participants. You have 90 calendar days from the receipt of your verification materials to conduct the 2020 Census PSAP verification review and respond to the Census Bureau.

Table 1.

PROPOSED 2020 CENSUS PSAP STANDARD STATISTICAL AREAS CRITERIA¹

Statistical area	Primary purpose	Nationwide wall-to-wall coverage	Geography nests within	2020 Census population criteria	2020 Census housing unit criteria
CENSUS TRACTS					
Standard census tract	Boundary continuity. Data comparability.	Yes	County	Optimum: 4,000 Minimum: 1,200 Maximum: 8,000	Optimum: 1,600 Minimum: 480 Maximum: 3,200
Special use	Distinguish areas of little or no population that have a specific type of land use. Large water bodies.	No	County	Population Threshold = Little/None or must be within the standard census tract threshold. Area Measurement Thresholds: <ul style="list-style-type: none"> ▪ Within Urban Area = 1 sq. mile. ▪ Outside Urban Area = 10 sq. miles. ▪ Inland water body = 100 sq. miles. ▪ Water body not coextensive with a water only census tract = none. 	
BLOCK GROUPS					
Standard block group	Form the geographic framework within which census blocks are numbered. Smallest area for which demographic characteristics are produced from the American Community Survey (ACS).	Yes	Census Tract	Minimum: 600 Maximum: 3,000	Minimum: 240 Maximum: 1,200
Special use	Distinguish areas of little or no population that have a specific type of land use AND are coextensive with a special land use census tract. Large water bodies.	No	Census Tract	Population Threshold = Little/None or must be within the standard block group threshold. Area Measurement Thresholds: <ul style="list-style-type: none"> ▪ Within Urban Area = 1 sq. mile. ▪ Outside Urban Area = 10 sq. miles. ▪ Inland water body = 100 sq. miles. ▪ Water body not coextensive with a water only block group = none. 	

See notes at end of table.

Table 1.

PROPOSED 2020 CENSUS PSAP STANDARD STATISTICAL AREAS CRITERIA¹—Con.

Statistical area	Primary purpose	Nationwide wall-to-wall coverage	Geography nests within	2020 Census population criteria	2020 Census housing unit criteria
Census designated places (CDPs)	Place-level statistics for well-known, closely settled named localities that are not part of an incorporated place. Mix of residential and commercial areas.	No, CDPs capture distinct communities.	State	Should have population during at least one entire season (at least 3 consecutive months) of the year.	Should have higher housing unit (or population) density than surrounding area. If less than 10 housing units, Census Bureau will ask for an explanation.
Census county divisions (CCDs)	Provide data for sub-county units that have stable boundaries and recognizable names. Usually represents one or more communities, economic centers, or major land uses.	Partial— CCDs and minor civil divisions (MCDs) together provide national coverage. CCDs exist in 21 states. ²	County	None	None

¹ The 2020 Census PSAP standard statistical areas criteria are subject to change upon release of the final *Federal Register* notice.

² CCDs exist in the following states:

Alabama	Montana
Alaska (referred to as census subarea)	Nevada
Arizona	New Mexico
California	Oklahoma
Colorado	Oregon
Delaware	South Carolina
Florida	Texas
Georgia	Utah
Hawaii	Washington
Idaho	Wyoming
Kentucky	

Table 2.

PROPOSED 2020 CENSUS PSAP TRIBAL STATISTICAL AREAS CRITERIA¹

Statistical area	Primary purpose	Coverage	Geography nests within	2020 Census population criteria	2020 Census housing unit criteria
TRIBAL CENSUS TRACTS (TCTs)					
TCT <i>(Conceptually similar and equivalent to standard census tract.)</i>	Meet unique statistical needs of federally recognized American Indian reservation (AIR) and/or off-reservation trust land (ORTL). Tract-level data without the imposition of state or county boundaries. Data comparability.	Entire land and water area of the AIR and/or ORTL must be covered by one or more TCTs.	Federally recognized AIR or ORTL. <i>(Identified uniquely to distinguish from standard census tract.)</i>	Optimum: 4,000 Minimum: 1,200 Maximum: 8,000 <i>(Fewer than 2,400 = 1 TCT coextensive with AIR and/or ORTL.)</i>	Optimum: 1,600 Minimum: 480 Maximum: 3,200
Special use	Distinguish areas of little or no population that have a specific type of land use. Large water bodies.			Population Threshold = Little/None or must be within the standard census tract threshold. Area Measurement Thresholds: <ul style="list-style-type: none"> ▪ Within Urban Area = 1 sq. mile. ▪ Outside Urban Area = 10 sq. miles. ▪ Inland water body = 100 sq. miles. ▪ Water body not coextensive with a water only census tract = none. 	

See notes at end of table.

Table 2.

PROPOSED 2020 CENSUS PSAP TRIBAL STATISTICAL AREAS CRITERIA¹—Con.

Statistical area	Primary purpose	Coverage	Geography nests within	2020 Census population criteria	2020 Census housing unit criteria
TRIBAL BLOCK GROUPS (TBGs)					
TBG <i>(Conceptually similar and equivalent to standard block group.)</i>	Smallest area for which demographic characteristics are produced from the American Community Survey (ACS). Maintained separately from standard county-based block groups to meet unique statistical needs of federally recognized AIR and/or ORTL.	Because TCTs must cover the entire area of each AIR and/or ORTL, by definition, TBGs also must cover the entire area of each AIR and/or ORTL.	TCT <i>(Identified uniquely to distinguish from standard block group.)</i>	Minimum: 600 Maximum: 3,000 <i>(Equal to or fewer than 1,200 = 1 TBG coextensive with TCT, AIR, and/or ORTL.)</i>	Minimum: 240 Maximum: 1,200
Special use	Distinguish areas of little or no population that have a specific type of land use AND are coextensive with a special land use tribal census tract. Large water bodies.			Population Threshold = Little/None or must be within the standard block group threshold. Area Measurement Thresholds: <ul style="list-style-type: none"> ▪ Within Urban Area = 1 sq. mile. ▪ Outside Urban Area = 10 sq. miles. ▪ Inland water body = 100 sq. miles. ▪ Water body not coextensive with a water only block group = none. 	
OTHER TRIBAL STATISTICAL GEOGRAPHIES					
Census designated places (CDPs)	Place-level statistics for well-known, closely settled named localities that are not part of an incorporated place. Mix of residential and commercial areas.	CDPs capture distinct communities.	State <i>(Tribes that would like to delineate CDPs for communities partially or completely outside the boundaries of their legal or statistical area should work with the primary participants for those areas.)</i>	Should have population during at least one entire season (at least 3 consecutive months) of the year.	Should have higher housing unit (or population) density than surrounding area. If less than 10 housing units, Census Bureau will ask for an explanation.

See notes at end of table.

Table 2.

PROPOSED 2020 CENSUS PSAP TRIBAL STATISTICAL AREAS CRITERIA¹—Con.

Statistical area	Primary purpose	Coverage	Geography nests within	2020 Census population criteria	2020 Census housing unit criteria
Tribal designated statistical areas (TDSAs)	<p>Provide meaningful statistical data for federally recognized tribes that do not have an AIR or ORTL and are not based in Alaska, Hawaii, or Oklahoma.</p> <p>Enhance the ability for data users to make more meaningful comparisons, over time, between data for both legal and statistical American Indian Areas (AIAs).</p>	Relates to distribution of tribal members and American Indians receiving governmental services from the tribe.	<p>United States—excluding Alaska, Hawaii, and Oklahoma.</p> <p><i>(Can cross state boundaries.)</i></p>	<p>Minimum = 200</p> <p>American Indian population makes up large proportion of population and majority of that population are members of the delineating tribe.</p> <p>Should not include large numbers of people and households not affiliated with the tribe.</p>	<p>Minimum = 480</p> <p>Housing unit density of at least 3 housing units per square mile.</p>
State tribal designated statistical areas (STDSAs)	<p>Provide meaningful statistical data for state-recognized tribes that are not federally recognized, do not have a state-recognized AIR or ORTL, and are not based in Alaska, Hawaii, or Oklahoma.</p> <p>Enhance the ability for data users to make more meaningful comparisons, over time, between data for both legal and statistical AIAs.</p>	Relates to distribution of tribal members and American Indians receiving governmental services from the tribe.	State in which the respective tribe is officially recognized.	<p>Minimum = 200</p> <p>American Indian population makes up large proportion of population and majority of that population are members of the delineating tribe.</p> <p>Should not include large numbers of people and households not affiliated with the tribe.</p>	<p>Minimum = 480</p> <p>Housing unit density of at least 3 housing units per square mile.</p>

See notes at end of table.

Table 2.

PROPOSED 2020 CENSUS PSAP TRIBAL STATISTICAL AREAS CRITERIA¹—Con.

Statistical area	Primary purpose	Coverage	Geography nests within	2020 Census population criteria	2020 Census housing unit criteria
Alaska Native village statistical areas (ANVSAs)	Provide meaningful, relevant, and reliable statistical data for Alaska Natives and their Alaska Native villages (ANVs) that are federally recognized by Bureau of Indian Affairs (BIA) or recognized pursuant to Alaska Native Claims Settlement Act (ANCSA) as either a Native Village or Native Group.	State of Alaska—represent relatively densely settled portion of each ANV.	Alaska Native Regional Corporation (ANRC).	Significant proportion of the population during at least one season of the year (at least 3 consecutive months) is Alaska Native and the majority are members of the defining ANV.	Majority of housing units, permanent and/or seasonal, should be for Alaska Natives who are members of or receiving governmental services from the defining ANV. Should not include large areas that are unpopulated or have no housing units. Should have housing unit density of at least 3 housing units per square mile.
Oklahoma tribal statistical areas (OTSAs)	Provide a way to obtain data comparable to that provided to federally recognized tribes that currently have an AIR.	Represent the former AIRs that existed in the Indian and Oklahoma territories prior to Oklahoma statehood in 1907.	State of Oklahoma. <i>(Cannot overlap with any other AIA at the same level of the geographic hierarchy.)</i>	Must contain some American Indian population.	Must contain some American Indian housing units.
Statistical tribal subdivisions	Provide a way to obtain data for units of self-government and/or administrations within an OTSA.	Federally recognized tribes in Oklahoma with a defined OTSA.	OTSA	Must contain some American Indian population.	Must contain some American Indian housing units.

¹The 2020 Census PSAP tribal statistical areas criteria are subject to change. The final criteria will be published on the 2020 Census PSAP Web site at <www.census.gov/programs-surveys/decennial-census/about/psap.html>.

GLOSSARY OF TERMS

These definitions are based on criteria in effect as of May 2018. These definitions may change. Please visit the 2020 Census PSAP Web site <www.census.gov/programs-surveys/decennial-census/about/psap.html> in fall 2018 for the final 2020 Census PSAP criteria and definitions.

Alaska Native Regional Associations (ANRAs). The 12 regional nonprofit associations in Alaska (incorporated under State Law in 1973) whose boundaries became the basis of the for-profit regional corporations (Alaska Native Regional Corporations [ANRC]) pursuant to the Alaska Native Claims Settlement Act (ANCSA) (as amended) (43 U.S.C. 1601 et seq. [2000]). Regional nonprofit associations were created to administer social, education, and health services for Alaska Native people in their region.

Alaska Native villages (ANVs). Constitute associations, bands, clans, communities, groups, tribes, or villages recognized pursuant to the Alaska Native Claims Settlement Act of 1971 (Public Law 92-203).

Alaska Native village statistical areas (ANVSAs). Statistical geographic entities that represent the more densely settled portions of ANVs.

American Community Survey (ACS). An ongoing survey that collects demographic and housing characteristics data, January through December, to provide every community with the information they need to make important decisions. The Census Bureau releases new data every year, in the form of estimates, in a variety of tables, tools, and analytical reports.

American Indian reservations (AIRs). Areas that have been set aside by the United States for the use of tribes, the exterior boundaries of which are more particularly defined in the final tribal treaties, agreements, executive orders, federal statutes, secretarial orders, or judicial determinations. The Bureau of Indian Affairs (BIA) maintains a list of all federally recognized tribal governments and makes final determination of the inventory of federal AIRs.

American Indian tribal subdivisions. Described as additions, administrative areas, areas, chapters, county districts, communities, districts, or segments and are legal administrative subdivisions of federally recognized AIRs and ORTLs or are statistical subdivisions of OTSAs.

Block groups. Statistical geographic divisions of census tracts that generally contain population ranging from 600 to 3,000 and are used to present data and control block numbering within a census tract.

Census county divisions (CCDs). Statistical geographic entities in 21 states where MCDs either do not exist or change too frequently for reporting comparable census data over time. The primary goal of the CCD program is to establish and maintain a set of subcounty units that have stable boundaries and recognizable names. In most cases census tracts should nest within CCDs, but in less populated counties CCDs should nest within census tracts.

Census designated places (CDPs). Statistical geographic entities representing closely settled, unincorporated communities that are locally recognized and identified by name. CDPs are the statistical equivalents of incorporated places, with the primary differences being the lack of both a legally defined boundary and an active, functioning governmental structure, chartered by the state and administered by elected officials.

Census tracts. Small, relatively permanent statistical subdivisions of a county or equivalent entity that provide a stable set of geographic units for the presentation of statistical data. Census tracts generally have a population ranging from 1,200 to 8,000, with an optimum population of 4,000.

Geographic Information Systems (GIS). A collection of computer hardware, software, and geographic data for capturing, managing, analyzing, and displaying all forms of geographically referenced information.

Geographic Update Partnership Software (GUPS). A customized GIS, based on the open-source platform QGIS, provided by the Census Bureau to facilitate the participation and submission of statistical area updates for the 2020 Census PSAP.

Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) System. A digital (computer-readable) geographic database that automates the mapping and related geographic activities required to support the Census Bureau's census and survey programs.

Minor civil divisions (MCDs). Primary governmental or administrative divisions of a county in many states (parishes in Louisiana) and the county equivalents in Puerto Rico and the Island Areas.

Off-reservation trust lands (ORTLs). Areas for which the United States holds title in trust for the benefit of a tribe (tribal trust land) or for an individual American Indian (individual trust land).

Oklahoma tribal statistical areas (OTSAs). Statistical entities identified and delineated by the Census Bureau in consultation with federally recognized American Indian tribes that had a former reservation in Oklahoma. OTSAs generally follow the boundaries of former reservations.

2020 Census Participant Statistical Areas Program (PSAP). A decennial census program that allows invited participants to review and update selected statistical area boundaries following Census Bureau guidelines and criteria.

State designated tribal statistical areas (SDTSAs). Statistical entities for state-recognized American Indian tribes that do not have a state-recognized land base (reservation).

Tribal block groups (TBGs). Statistical geographic divisions of tribal census tracts (TCTs) that generally contain population ranging from 600 to 3,000 and are used to present data and control block numbering within a TCT. TBGs are defined independently of the standard county-based block group delineation.

Tribal census tracts (TCTs). Small, relatively permanent statistical subdivisions of federally recognized AIRs or ORTLs that provide a stable set of geographic units for the presentation of statistical data. TCTs generally have a population ranging from 1,200 to 8,000, with an optimum population of 4,000. TCTs are defined independently of the standard county-based tract delineation.

Tribal designated statistical areas (TDSAs). Statistical entities identified and delineated by federally recognized American Indian tribes that do not currently have a federally recognized land base (reservation or off-reservation trust land).



Orange County Council of Governments

November 14, 2018

HCD

Fidel Herrera
Housing Policy Analyst
California State Dept. of Housing & Community Development
2020 W. El Camino Avenue, Suite 500, Sacramento, CA 95833
VIA EMAIL: APR@hcd.ca.gov

RE: Draft Annual Progress Reports (APRs)

Dear Mr. Herrera,

Thank you for the opportunity to provide comments and feedback on the new APRs and your ongoing coordination and outreach with our local agencies. We stress the importance of being able to easily track and report similar and same data to various agencies at the state and local levels. Below are our comments on the draft Annual Progress Reports (APRs).

1. General comments:
 - a. Consolidate and streamline forms/tables into a single useable database as much as is feasible, with efforts to eliminate duplication of data entry and increase consistency in reporting to various agencies: HCD, DOF, CDR etc.
 - b. Provide more detail on instructions for reporting in 2018, i.e., jurisdictions must provide information for all permits issued in 2018 and all units finalized in 2018, but would not have to provide information on permits pulled in 2017 if units were not finalized in 2018.
 - c. Instructions should identify any auto-fill fields or tables and all cells that include formulas.
 - d. Instructions should answer the question for each table "Do I need to fill out this table?"
 - e. Provide sample data entries for each table, e.g., mixed-income developments, multiple addresses/APNs, mixed unit type projects, etc.).
 - f. HCD should host webinars on how to complete the APR forms. These should be posted online for future reference.
 - i. Develop and post an FAQ.
 - g. HCD should provide a template checklist on development eligibility for SB 35.
 - h. If HCD chooses to work with companies that develop permitting software to augment systems to include APR data fields, product should be one that that users can adapt and should generate report for use in APR and DOF reports, any accessory modules should piggyback on existing systems as each jurisdiction customizes software. There should not be a single software system used.
2. For all APR tables:
 - a. Shade cells with embedded formulas in grey and lock cells.
 - b. Provide link to Instructions document at bottom of each table.
 - c. Simplify column titles into single row so that Excel functions, such as filtering and sorting of data, may be used.
 - d. APR tables should be formatted to be compatible with GIS and easily transmitted between Excel and GIS, e.g., simplifying column titles and no merged cells.
 - e. Data system should enable uploading data from Excel to the HCD online system.
 - f. Allow reference fields, such as reporting year, so that data can be used/saved from previous years and be updated instead of having to recreate dataset each year.

- g. Certain fields should accommodate more than one entry as information may change over time, e.g., APNs, addresses and project names may change from initial application to finalized permits.
3. Table A:
- a. Label table title as "Permits issued and finalized".
 - b. Column 1 "APN" field should accommodate multiple parcel numbers as projects may include more than one parcel.
 - c. Column 1- Allow for the "Project Name" column to include information such as tract number and other project information.
 - d. Include a "Permit Number" column in column position 1.5.
 - e. Column 2 "Unit Category" should include unit types consistent with State DOF Housing Unit Change Form, i.e., SFA, SFD, & ADU.
 - i. Include all ADU categories by type if possible: ADU-D, ADU-A, ADU-R & JADU.
 - f. Column 8 "Total Units per Project" should be "Total Units" with cell containing a formula summing the row total as there may be additional lines of different unit types for each project.
 - i. Column 8 should be moved to position 4.5.
 - ii. Column 8 should be embedded formula summing column 4 categories.
 - g. Change title of Column 12 to "Deed Restriction Type".
 - h. Add "Year" field as some data may be in master dataset and need to be sorted, aggregated, or filtered for reporting purposes.
 - i. Add "Notes" column at end of table. This can be used for additional information on project, such as changes in project name, APNs, addresses, etc.
4. Table A2
- a. Clarify table title to say "Project Application Status" or "Project Applications and Approval Status"
 - b. Column 1 "APN" field should accommodate multiple parcel numbers as projects may include more than one parcel.
 - c. Column 1- Allow for the "Project Name" column to include information such as tract number and other project information.
 - d. Column 2 "Date Application Received"- clarify in instructions exactly what is wanted. There are differences in when an application is received vs. when an application is completed. It is possible for an application to be submitted but actually completed on a different date. For SB 35 streamlining, it is required to know when the project application is completed.
 - e. Column 3 "Unit Category" should include unit types consistent with State DOF Housing Unit Change Form, i.e., SFA, SFD, & ADU.
 - i. Include all ADU categories by type if possible: ADU-D, ADU-A, ADU-R & JADU
 - f. Column 6 should be embedded formula summing column 5 categories.
 - g. Reorder to columns 6, 9, 10, then 8.
 - h. After column 8, add section for "Approved Project Totals" and add duplicate set of columns 3, 4, & 5 and then add column 7 "Total Approved Units". Project application may have different numbers of units than what was approved.
 - i. Column 7 at end of table should be row "Total of approved units", not sum total for project as project may be listed on multiple lines since table only allows for one unit type per line (column 3 "Unit Category").
 - i. Add "Year" field as some data may be in master dataset and need to be sorted, aggregated, or filtered for reporting purposes.
 - j. Column 8 "Date Project Approved" – instructions should clarify definition of 'approved' and include details on how to handle projects that get approved/denied, appealed over time, rescinded by voters etc.

- k. Add "Notes" column at end of table. This can be used for additional information on project, such as changes in project name, APNs, addresses, etc. This may also be used to explain changes in project approvals/denials over time.

We appreciate your thoughtful consideration of our feedback and encourage you to continue to work with the Center for Demographic Research at Cal State Fullerton to further refine and coordinate HCD's data collection with CDR and State DOF.

Sincerely,

A handwritten signature in black ink, appearing to read "Marnie O'Brien Primmer". The signature is fluid and cursive, with the first name "Marnie" being the most prominent.

Marnie O'Brien Primmer
Executive Director, OCCOG

CC: OCCOG TAC
Deborah Diep, CDR
Doug Kuczynski, CA DOF
Ada Chan, ABAG

Diep, Deborah

From: Kuczynski, Douglas <Douglas.Kuczynski@dof.ca.gov>
Sent: Monday, November 19, 2018 2:03 PM
To: Diep, Deborah; Annual Progress Reports@HCD; Fidel Herrera (Fidel.Herrera@hcd.ca.gov)
Cc: Marnie Primmer (edoccog@gmail.com); Ada Chan (achan@bayareametro.gov); Marika Poynter (mpoynter@cityofirvine.org); Susan Kim (skim@anaheim.net); Zaman, Rubaiya; Sharygin, Ethan
Subject: RE: CDR comments on HCD's draft APRs

Hi Fidel and Deborah,

We also support the comments outlined by OCCOG. OCCOG and those at the Center of Demographic Research have obviously put some time in evaluating how the users will react to the forms and how the data will be used. I will keep my comments and suggestions brief, highlighting what we think could be potential issues and also what we really liked.

One question that came up regarding the Online Annual Progress Reporting system; will the format be similar to the Excel forms? We've had increased success with our online survey and try to improve upon it every year to make it the most appealing option for users. As you point out, it can limit the risk of errors. Last year, 61% of our housing unit surveys were reported to us online and 33% through email. We recommend making the online form as accessible and easy to use as possible. Having an online form that informs the users when an error is made or when they forgot to enter a required value can save a lot of time on follow up questions.

Positives

- Instructions are clear and very detailed
- The Excel tables are organized in a way that is logical but we agree with the changes proposed by Deborah
- An online reporting format
- Calendar year reporting and DOF housing definitions that allow for comparative use of the data collected

Potential Issues

- Amount of data being asked for and the length of the survey may result in a lower response rate
- Not reporting demolitions and units lost to conversion will cause discrepancies with our data
- Relying on the user to provide a net count of housing units may result in errors and confusion when reporting from year-to-year
- No option for reporting non-permitted housing units
- We treat student housing, where only students can occupy the housing, as group quarters data and that may result in discrepancies between our data

I should also probably inform you all that we were able to work with our IT department and successfully implement a question regarding ADUs to our housing unit survey. We will be asking for total changes of the units added and demolished that are ADUs. While not as detailed as HCD's APR form, it is my hope that it can be used as a comparative tool with the plan that in the future we can offer more detail by type.

Doug Kuczynski
CA Department of Finance
Demographic Research Unit
Phone: 916-754-3956

From: Diep, Deborah [mailto:ddiep@fullerton.edu]

Sent: Friday, November 16, 2018 11:20 AM

To: Annual Progress Reports@HCD <APR@hcd.ca.gov>; Fidel Herrera (Fidel.Herrera@hcd.ca.gov) <Fidel.Herrera@hcd.ca.gov>

Cc: Marnie Primmer (edoccog@gmail.com) <edoccog@gmail.com>; Ada Chan (achan@bayareametro.gov) <achan@bayareametro.gov>; Marika Poynter (mpoynter@cityofirvine.org) <mpoynter@cityofirvine.org>; Susan Kim (skim@anaheim.net) <skim@anaheim.net>; Kuczynski, Douglas <Douglas.Kuczynski@dof.ca.gov>; Zaman, Rubaiya <ruzaman@Fullerton.edu>

Subject: CDR comments on HCD's draft APRs

Fidel,

Please accept the following and attached comments on the draft APRs.

1. We support the comments outlined in the attached OCCOG letter.
2. The APRs should be formatted into a database for collection purposes, rather than for printing. If printing is required for HCD, a separate formatting process should be done post-collection, rather than formatting the Excel file's data collection.
3. In the attached draft APR Excel file, please consider the revisions included:
 - a. Cells in orange have modified titles or have been moved to another column position.
 - b. Cells in yellow have been added
 - c. Text in red has been added
 - d. Column titles are formatted so filtering and sorting can be done.

Thank you again for all the coordination and consideration of the issues raised on the draft APR revisions.

Deborah

DEBORAH S. DIEP

DIRECTOR

CENTER FOR DEMOGRAPHIC RESEARCH

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HOUSING UNIT CHANGE FORM

Date of Estimate: 1/1/2018

PLEASE READ ATTACHED INSTRUCTIONS. RETURN BY **JANUARY 19, 2018.**

Demographic Research Unit, Department of Finance, 915 L Street, Sacramento, CA 95814, Fax (916) 327-0222, Telephone (916) 323-4086.

City/Town: _____

County: _____

Please check the method you reported on this survey for newly constructed units:

Housing units completed between 1/1/17-12/31/17 based on **Final Inspections, Certificates of Occupancy, Completion Certificates or Utility Releases.**

Or

If you can only report building permits issued, you **MUST** adjust the building permits to estimate completions using a different time frame:

Single unit permits issued: 7/1/16 – 6/30/17; **Multiple unit** permits issued: 1/1/16 – 12/31/16.

SECTION I. HOUSING UNITS GAINED	SINGLE-FAMILY			MULTI-FAMILY				TOTAL UNITS	TOTAL AFFORDABLE UNITS
	Detached Units	Attached Units	Mobile Homes	2, 3, or 4 -plex		5 or More			
				Structures	Units	Structures	Units		
1. Newly Constructed Units									
2. Converted Units Gained									
3. Non-Permitted Units Gained									
SECTION II. HOUSING UNITS LOST									
From January 1, 2017 through December 31, 2017									
1. Demolition, fire or natural disaster									
2. Converted Units Lost									
3. Non-Permitted Units Lost									

SECTION III. ANNEXATIONS AND DETACHMENTS
From January 1, 2017 through December 31, 2017

For Cities Only. Attach additional sheets if necessary.

LAFCO #	Annexation Short Titles & Effective Date	SINGLE-FAMILY			MULTI-FAMILY				TOTAL UNITS
		Detached Units	Attached Units	Mobile Homes	2, 3, or 4 -plex		5 or More		
					Structures	Units	Structures	Units	

SECTION IV. CIVILIAN GROUP QUARTERS CHANGE
From January 1, 2017 through December 31, 2017

Attach additional sheets if necessary.

Facility Name, Address, Zip Code, & Telephone Number	DATE OF STATUS CHANGE					PERMANENT RESIDENTS	
	Annexed	Detached	Opened	Closed	Changed	1/1/2017	12/31/2017

Reported by: _____ Department: _____ Title: _____

Address: _____ City: _____ Zip Code: _____

E-mail Address: _____ Telephone: _____ FAX: _____



Item 4: Accessory Dwelling Unit Addressing Policy (OCFA)

Recommended Action: Receive report. Discussion.

Report

As a follow-up to the discussion held at the November 6, 2018 OCCOG TAC meeting, Chair Marika Poynter will provide an update on the Orange County Fire Authority (OCFA) Accessory Dwelling Unit (ADU) addressing policy. At the November 6th meeting, OCCOG TAC members were provided the following excerpt from OCFA:

“After working with our Deputy Fire Marshal, USPS Address Management, Law Enforcement, and the County of Orange we are all in agreement with the Address Standardization especially when dealing with multiple properties, or additional properties (i.e. ADUs) on a single parcel:

- Whenever possible assign a unique address if it will fit within the current numbering scheme.
- If a unique address cannot be assigned, the units must “each” be given a unit identifier.
- Individual identifiers would preferably be numbers (#1 for the main unit/residence and #2 for the ADU) instead of letters (A, B).
- No fractional addressing
- No inconsistent addressing

Additional addressing depends upon the surrounding addressing. In general, we would assign a unique address if it fits within the current numbering scheme. If not, assign each house/unit a number identifier; both houses/units sharing the address should have a number assigned to it in sequential order, i.e., #1 for the front house, #2 for the rear house. Fractional addressing will not be accepted, as they are more confusing than helpful, typically reserved for utilities/meters, they do not register in the USPS database and they are extremely difficult to flag in CAD. Regardless of how they address it, insist the resident displays visible and proper signage, including illumination, to indicate the address/unit in accordance with the state residential code, and directional “way finding” signage pointing emergency responders (i.e. to the rear house for Unit 2, etc.) especially since these types of homes are usually at the rear of another house. When a number or letter is assigned, both houses should have their full address identifier displayed on the address sign, i.e. 123 Main Street #1 for the front house, 123 Main Street #2 for the rear house. California Fire Code 505.1 can be used as a reference.

Our priority is life safety and to eliminate anything that would delay responding units to emergency calls for service, as every second is critical.”

Chair Poynter met with OCFA and USPS personnel and they confirmed that this is the addressing policy that should be utilized countywide, or at least by jurisdictions under the OCFA umbrella. OCFA personnel has discussed this with the Orange County Sheriff Department (OCSD) and they concur with this approach. OCSD indicated that they were unaware of the ADU situation. OCFA and USPS staff requested that this message be provided to the OCCOG TAC members. OCFA personnel will be working on developing a written policy to address this matter.



OCCOG Technical Advisory Committee

December 4, 2018

Contact:

Ms. Marika Poynter, Chair, City of Irvine

949/724-6456

mpoynter@cityofirvine.org

Agencies that are served by OCFA & County Sheriff 11/2018

Jurisdiction	OCFA	OCSA-Sheriff
County of Orange	Yes	Yes
Aliso Viejo	Yes	Yes
Anaheim	Yes	No
Brea	Yes	No
Buena Park	Yes	No
Costa Mesa	No	No
Cypress	Yes	No
Dana Point	Yes	Yes
Fountain Valley	No	No
Fullerton	Yes	No
Garden Grove	No	No
Huntington Beach	No	No
Irvine	Yes	No
Laguna Beach	Yes	No
Laguna Hills	Yes	Yes
Laguna Niguel	Yes	Yes
Laguna Woods	Yes	Yes
La Habra	No	No
Lake Forest	Yes	Yes
La Palma	Yes	No
Los Alamitos	Yes	No
Mission Viejo	Yes	Yes
Newport Beach	No	No
Orange	No	No
Placentia	Yes	No
Rancho Santa Margarita	Yes	Yes
San Clemente	Yes	Yes
San Juan Capistrano	Yes	Yes
Santa Ana	Yes	No
Seal Beach	Yes	No
Stanton	Yes	Yes
Tustin	Yes	No
Villa Park	Yes	Yes
Westminster	Yes	No
Yorba Linda	Yes	Yes



Item 5: Legislative Update and Discussion

Recommended Action: Receive report. Discussion.

Report

Senate Bill 946 and Assembly Bill 626 were approved this past legislative session and Mr. Ron Santos, City of Lake Forest, requested the OCCOG TAC discuss the impact the legislation may have on local jurisdictions. The bill text for Senate Bill 946 and Assembly Bill 626 are attached for the TAC's reference.

Senate Bill 946 is also known as the Safe Sidewalk Vending Act. Under the law, which goes into effect January 1, 2019, sidewalk vendors may not be prohibited, although local authorities will be able to establish regulations on sidewalk vendors to protect valid health, safety and welfare concerns.

Assembly Bill 626 is also known as the Homemade Food Operations Act. AB 626 makes it legal to start a home based food business in California.

Contact: Ms. Marika Poynter, Chair, City of Irvine
949/724-6456
mpoynter@cityofirvine.org

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.

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.

The Anaheim Municipal Code defines a “solicitor” as any person, whether or not a resident of the City of Anaheim, traveling by foot, vehicle, or other type of conveyance, from place to place or from door to door or at any temporary, stationary location on public property, and carrying, displaying, conveying, transporting or offering for sale any goods, wares, merchandise, fresh or frozen food products, fruit, farm produce or any services, or making sales and delivering articles thus sold to a purchaser thereof. The Anaheim Municipal Code regulates solicitors by requiring a permit and business license unique to solicitors and prohibiting solicitors in certain areas of the City of Anaheim. Presently, the Code prohibits sidewalk vendors on public sidewalks in the City of Anaheim. Sidewalk vendors are a subset of the broader category of “solicitor.” In addition, the Anaheim Municipal Code prohibits sales upon any public sidewalk or other public property (e.g. a City park) in the City of Anaheim.

SB 946’s definition of “sidewalk vendor” overlaps with the Code’s definition of “solicitor.” Therefore, the City Attorney’s office has proposed several amendments to the Code to comport with SB 946. These amendments are necessary if the City wishes to regulate sidewalk vendors after January 1, 2019. For example, SB 946 prohibits the City from banning sidewalk vending, but allows the City of Anaheim to impose regulations on sidewalk vending based on health, safety and welfare concerns. In addition, SB 946 requires that violations of the City’s sidewalk vending regulations may only be punishable by administrative fines. If the City fails to adopt the proposed ordinance, the City will have no ability as January 1, 2019 to enforce some of its existing regulations on sidewalk vendors.

Staff therefore recommends approval of the attached ordinance, which would amend the Anaheim Municipal Code in the following ways:

EXISTING	PROPOSED
<p>Title 4 (Business Regulation)</p> <p>Provides for permit and license requirements for “solicitors” and prohibits the same on specified public streets in the Resort Area</p>	<ul style="list-style-type: none"> • Adds regulatory permit requirements unique to sidewalk vendors as mandated by SB 946 • Retains the existing prohibition of sidewalk vending in the Resort Area based on health, safety and welfare concerns • Adds a prohibition on sidewalk vending on certain public streets near Angel Stadium of Anaheim, the Honda Center, and the City National Grove based on public health, safety and welfare concerns • Provides for administrative penalties and a process to adjust fines based on

	ability-to-pay determinations
Title 12 (Streets and Sidewalks) Prohibits obstructions to the public right-of way without an encroachment permit	<ul style="list-style-type: none"> Exempts people that have a valid permit to engage in sidewalk vending in permitted areas from the encroachment permit process
Title 13 (Parks and Boulevards) Prohibits the sale of goods near parks	<ul style="list-style-type: none"> Allows sidewalk vendors in public parks subject to the permit and licensing requirements
Title 14 (Traffic) Prohibits the sale of goods from human-powered devices on the sidewalk	<ul style="list-style-type: none"> Allows sidewalk vending in permitted areas pursuant to a valid Sidewalk Vendor Permit

SB 946 does not require any amendment to the City’s existing health and safety regulations for mobile food vendors and all of these regulations remain in effect. In addition, the proposed ordinance retains all of the City’s regulations that apply to all other types of solicitors. Currently, the Code prohibits commercial solicitation in the Resort Area. This prohibition was adopted by the City Council in 2000 in response to a study prepared by the City analyzing pedestrian volume and circulation patterns, and physical conditions throughout the Disneyland, Convention Center and Anaheim Resort areas. This established restriction is directly related to objective health, safety and welfare concerns and complies with SB 946; consequently, the City need not adopt new regulations in order to enforce this provision of its Code. Due to the high volume of attendance, similar objective health, safety and welfare concerns exist in the public right-of-way adjacent to the Angel Stadium of Anaheim, the Honda Center, and the City National Grove of Anaheim. As authorized by SB 946, the proposed ordinance therefore restricts sidewalk vendors two hours before, during and two hours after events at these venues on the following public right-of-ways:

- Orangewood Avenue, from west side of State Route 57 to 300 feet west of State College Boulevard.
- State College Boulevard, from 300 feet south of Orangewood Avenue to the north side of Katella Avenue.
- Katella Avenue, from the west side of State College Boulevard to the Santa Ana River Trail.
- Douglass Road, from the entrance to the Angel Stadium of Anaheim to Cerritos Avenue.
- Dupont Drive.
- Rampart Street from Orangewood Avenue to Dumaine Street.
- Gene Autry Way from South Chris Lane to the entrance of the Angel Stadium of Anaheim.

The proposed ordinance amends Title 13 (Parks and Boulevards) to allow sidewalk vendors in City-owned or City-operated parks as required by SB 946. Regulations on stationary sidewalk

vending in such parks are authorized if the City has a concessionaire agreement. In addition, the City may adopt requirements regulating the time, place and manner of sidewalk vending in such parks if these requirements are either: (i) directly related to objective health, safety or welfare concerns; (ii) necessary to ensure the public's use and enjoyment of a natural resources and recreational opportunities; or (iii) necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park. As a result, in order to implement any restrictions on vending in its parks, aside from the requirements to obtain a City-issued vending permit and business license, City staff will need to prepare a report on these findings and bring forward additional Code amendments at a future date. City staff is currently analyzing where restrictions on sidewalk vending in City parks may be appropriate.

The proposed ordinance implements SB 946 by decriminalizing sidewalk vending and implementing an administrative-fine only enforcement process. In addition, the City is mandated to notify violators of a process by which they can have the assessed fine reduced based on their ability to pay.

For several years, the Code Enforcement Division has enforced the City's regulations on the public right-of-way including encroachments and vending on the public sidewalks. These regulations are necessary to ensure public safety and pedestrian mobility. With the passage of SB 946, the City must amend its Code if it wishes to continue regulating sidewalk vendors after January 1, 2019.

Environmental Impact Analysis: Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) California Environmental Quality Act (CEQA) Guidelines establishes a statutory exemption for the adoption of an ordinance because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a "project," as that term is defined in Section 15378 of the State CEQA Guidelines. The proposed Code amendment qualifies for this exemption.

IMPACT ON BUDGET:

The costs associated with the processing of City-initiated Code amendments are included in the Planning and Building Department's adopted FY 2018/19 budget.

Respectfully submitted,

David Belmer
Planning and Building Director

Respectfully submitted,

Robert Fabela
City Attorney

Attachment:

1. Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ANAHEIM AMENDING CHAPTER 4.10 (COMMERCIAL SOLICITATION IN THE RESORT AREA); CHAPTER 4.52 (PEDDLERS AND SOLICITORS); CHAPTER 12.12 (STREETS AND SIDEWALKS); CHAPTER 13.08 (PUBLIC PARKS); AND, CHAPTER 14.32 (PARKING AND STOPPING) TO REGULATE SIDEWALK VENDORS PURSUANT TO SENATE BILL NO. 946 AND FINDING AND DETERMINING THAT THIS ORDINANCE IS NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15060(C)(2), 15060(C)(3) AND 15061(B)(3) OF THE STATE CEQA GUIDELINES, BECAUSE IT WILL NOT RESULT IN A DIRECT OR REASONABLY FORESEEABLE INDIRECT PHYSICAL CHANGE IN THE ENVIRONMENT BECAUSE THERE IS NO POSSIBILITY THAT IT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND BECAUSE IT IS NOT A PROJECT AS DEFINED IN SECTION 15378 OF THE CEQA GUIDELINES.

WHEREAS, the Legislature delegates to local governments the authority to regulate any type of vending as well as the time, place and manner of vending from vehicles on streets within their jurisdiction; and

WHEREAS in accordance with this authority, the City Council of the City of Anaheim (“City Council”) has adopted provisions of the Anaheim Municipal Code that regulate peddlers and solicitors in the City of Anaheim; and

WHEREAS, the Anaheim Municipal Code defines a “peddler or solicitor” as any person traveling by foot, vehicle, or other type of conveyance, from place to place or from door to door or at any temporary, stationary location on public property, and carrying, displaying, conveying, transporting or offering for sale any goods, wares, merchandise, fresh or frozen food products, fruit, farm produce or any services, or making sales and delivering articles thus sold to a purchaser thereof; and

WHEREAS, on September 17, 2018, the Governor signed Senate Bill No. 946 (2017-2018 Reg.Sess.) (“SB 946”) prohibiting local agencies such as the City of Anaheim from regulating sidewalk vendors except in accordance with its provisions, which are codified in Government Code Sections 51038 and 51039; and

WHEREAS, the City of Anaheim is not required to adopt a new program regulating sidewalk vendors if its existing program substantially complies with SB 946; and

WHEREAS, SB 946 defines a “Sidewalk vendor” as a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

WHEREAS, as a result, SB 946 restricts the City’s ability to regulate peddlers and solicitors on public sidewalks and other pedestrian paths in the City of Anaheim; and

WHEREAS, the City Council has the authority to enact and enforce ordinances and regulations for the public peace, morals and welfare of the City of Anaheim and its residents; and

WHEREAS, on December 12, 2000, the City Council adopted Ordinance No. 5750 and prohibited Sidewalk vendors generally within the Anaheim Resort and specifically on the following public streets and sidewalks: (1) Ball Road, from west side of Walnut Street to Palm Street east of Harbor Boulevard; (2) Disney Way, from Harbor Boulevard to the east side of Clementine Street; (3) Katella Avenue, from Walnut Street to the east side of Clementine Street, except for the south side of Katella Avenue between Walnut Street and West Street; (4) Convention Center Drive, from Katella Avenue to the south side of Convention Way; (5) Convention Way, from West Street/ Disneyland Drive to the east side of Harbor Boulevard; (6) Convention Center Walkway, from Katella Avenue to the south side of Convention Way; (7) West Street/ Disneyland Drive, from Cerritos Avenue to the south side of Katella Avenue; (8) Harbor Boulevard, from Ball Road, to the south side of Convention Way; and (9) Manchester Avenue, from Harbor Boulevard; and

WHEREAS, Ordinance No. 5750 substantially complies with SB 946 because its regulation of Sidewalk vendors was based on findings of City Council that restricting the time, place, and manner of vending on the designated public streets and sidewalks was necessary to preserve and protect the safety and welfare of the public from the impacts of vendor sales; and

WHEREAS, the City of Anaheim owns the Anaheim Arena, an approximately 19,000-seat arena that is home to the Anaheim Ducks of the National Hockey League and located at 2695 East Katella Avenue in Anaheim, California (the “Honda Center”). The Honda Center and its surrounding parking lots are bounded by Katella Avenue to the south, and State Route 57 (“SR 57”) to the west; and

WHEREAS, the City also owns Anaheim Stadium, an approximately 46,000-seat baseball stadium that is home to the Los Angeles Angels of Anaheim, a Major League Baseball Team located at 2000 Gene Autry Way in Anaheim, California (“Angel Stadium of Anaheim”). Angel Stadium of Anaheim and its surrounding parking lots are roughly bounded by Katella Avenue to the north, SR 57 to the east, Orangewood Avenue to the south and State College Boulevard to the west; and

WHEREAS, the City also owns The Grove of Anaheim, an indoor, live music and event center at 2200 East Katella Avenue (“The City National Grove of Anaheim”), which is adjacent to the Angel Stadium of Anaheim and Interstate 5; and

WHEREAS, the Anaheim Regional Transportation Intermodal Center (ARTIC) services the Metrolink of Orange County Line and Amtrak Pacific Surfliner and is located adjacent to the Honda Center, the Angel Stadium of Anaheim, The City National Grove of Anaheim, and is south of Katella, west of SR 57 and accessed through Douglass Road gate at the northeast corner of the parking lot of the Angel Stadium of Anaheim; and

WHEREAS, the Honda Center, Angel Stadium of Anaheim and The City National Grove of Anaheim are all located on major and primary arterial roadways and are adjacent to a 10-lane freeway. On days of events, there is heavy vehicular and pedestrian traffic on the adjacent public right-of-way before, during and after events. Furthermore, is not uncommon for events to be held at the Honda Center, Angel Stadium of Anaheim and The City National Grove of Anaheim simultaneously; and

WHEREAS, before, during and after events at the Honda Center and Angel Stadium of Anaheim, the City utilizes a variety of traffic control systems to promote mobility and safety notwithstanding the high volume of pedestrian and vehicular traffic on sidewalks and the public right-of-way. These systems include the use of Traffic Management Control Operators to adjust and synchronize traffic lights and the deployment of Anaheim Police Department safety officers to control and direct pedestrian and vehicular traffic to promote pedestrian and vehicular mobility during events; and

WHEREAS, based on the physical characteristics of the sidewalks adjacent to the Honda Center, Angel Stadium of Anaheim, The City National Gove of Anaheim, and their respective parking areas, the presence of vendors on sidewalks and pedestrian paths within certain areas adjacent to the Honda Center and Angel Stadium of Anaheim before, during and after events would obstruct such sidewalks thereby jeopardizing the safe and convenient circulation of the large number of pedestrians and motorists who utilize the streets and sidewalks in areas adjacent to the Honda Center, Angel Stadium of Anaheim and The City National Grove; and

WHEREAS, in order to promote mobility and safety of pedestrians and vehicles at all times, the City Council has determined that prohibiting persons from engaging in sidewalk vending two hours before, during and two hours after events at the Honda Center, Angel Stadium of Anaheim, and The City National Grove of Anaheim is necessary to preserve and protect the health, safety and welfare of the public; and

WHEREAS, City Council now desires to amend the provisions of the Anaheim Municipal Code to implement SB 946 pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution; and

WHEREAS, the City Council determines that this ordinance is a matter of City-wide importance and necessary for the preservation and protection of the public peace, health, safety and/or welfare of the community, is a valid exercise of local police power and is in accordance with the public purposes and provisions of applicable State and local laws and requirements; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*; herein referred to as “CEQA”) and the State of California Guidelines for Implementation of the California Environmental Quality Act (commencing with Section 15000 of Title 14 of the California Code of Regulations; herein referred to as the “State CEQA Guidelines”), the City is the “lead agency” for the preparation and consideration of environmental documents for this ordinance; and

WHEREAS, the City Council finds and determines that this ordinance is not subject to CEQA pursuant to Section 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a “project,” as that term is defined in Section 15378 of the State CEQA Guidelines; and

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

SECTION 1. That Section 4.10.010 (Vending Prohibited in Designated Areas) of Chapter 4.10 (Commercial Solicitation in the Resort Area) of Title 4 (Business Regulation) of the Anaheim Municipal Code be, and the same is, amended to read in full as follows:

4.10.010 VENDING PROHIBITED IN DESIGNATED AREAS.

.010 Notwithstanding any ordinance to the contrary, it is unlawful for any person to (i) permit to remain, or hereafter erect or place any permanent or temporary apparatus, structure, device, object or thing including, but not limited to, furniture, equipment, tent, stand, stall, booth, showcase, vending machine, post, pole, board, frame, table, bench, booth, chair, rack, pushcart, barrel, box, ware, good, merchandise, brick, stone, lumber or any other similar apparatus, structure, device, object or thing of any kind or description, other than a newsrack subject to the provisions of Chapter 4.82 (Newsracks on Public Rights-of-Way); (ii) sell or offer for sale, rent or offer for rent, or giveaway or offer to giveaway, any goods, wares, merchandise, product samples, foodstuffs, refreshments or other kinds of property or services, or (iii) hold, conduct or engage in any street performance or act including, but not limited to, playing musical instruments, singing, dancing, acting, pantomiming, puppeteering, juggling, reciting, or creating visual art, on the following designated public streets and sidewalks within the City of Anaheim.

.0101 Ball Road, from the west side of Walnut Street to Palm Street east of Harbor Boulevard.

.0102 Disney Way, from Harbor Boulevard to the east side of Clementine Street.

.0103 Katella Avenue, from Walnut Street to the east side of Clementine Street, except for the south side of Katella Avenue between Walnut Street and West Street.

.0104 Convention Center Drive/Convention Center Walkway, from Katella Avenue to the south side of Convention Way.

.0105 Convention Way, from West Street to the east side of Harbor Boulevard.

.0106 West Street/Disneyland Drive, from Magic Way to the south side of Katella Avenue.

.0107 Harbor Boulevard, from Ball Road, to the south side of Convention Way.

.0108 Manchester Avenue, from Harbor Boulevard to 600 feet easterly of Harbor Boulevard.

.020 The first violation of subsection .010 of this section by any person other than a person engaged in the business of being a Sidewalk Vendor pursuant to a valid Sidewalk Vendor Permit, as those term are defined in Chapter 4.52, shall be punishable as an infraction in accordance with applicable provisions of the California Penal Code and the California Government Code. The second and all subsequent violations of said subsection .010 committed by such person shall be punishable as a misdemeanor.

.0201 A violation of subsection .010 of this section by any person engaged in the business of being a Sidewalk Vendor pursuant to a valid Sidewalk Vendor Permit, as those terms are defined in Chapter 4.52, shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this code, relating to the issuance of citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing. Each person who violates any provision of this chapter shall be subject to the imposition and payment of an administrative fine(s) as provided below:

Number of Offenses in One-Year Period	Amount of Administrative Penalty
First	\$100.00
Second	\$200.00
Third	\$500.00

SECTION 2. That Section 4.52.050 (Sidewalk Vendors) be added to Chapter 4.52 (Peddlers and Solicitors) of Title 4 (Business Regulation) of the Anaheim Municipal Code to read in full as follows:

4.52.050 SIDWALK VENDOR PERMIT REQUIRED

.010 DEFINITIONS

The definitions contained in this section shall govern the construction, meaning and application of words and phrases used in this section.

.0101 “Roaming Sidewalk Vendor” means a Sidewalk Vendor who moves from place to place and stops only to complete a transaction.

.0102 “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. The term “Sidewalk Vendor” includes both roaming and stationary vendors.

.0103 “Sidewalk Vendor Permit” means a permit issued by the City of Anaheim authorizing a person to engage in the business of being a Sidewalk Vendor.

.0104 “Stationary Sidewalk Vendor” means a sidewalk vendor who vends from a fixed location.

.020 SIDEWALK VENDOR’S PERMIT REQUIRED.

No person not otherwise excepted by law shall engage in the business of being a Sidewalk Vendor without first obtaining a permit therefor.

.030 SIDEWALK VENDOR’S PERMIT APPLICATION.

No permit to engage in the business of being a solicitor shall be issued except upon the satisfactory completion of an application therefor on forms supplied by the Revenue Manager. Said application shall include the name of the applicant; the address of the applicant; the address designated and agreed to by the applicant for receipt of notices from the City; a passport size photograph of the applicant; a description of the goods, wares or services to be offered for sale; proof of a valid California Department of Tax and Fee Administration seller’s permit; the applicant's social security number or federal or state employer's identification number or tax identification number or California driver’s license or California identification number; the applicant's former residence or places of business for a period of five years preceding the date of the application, and a list of any convictions of the applicant for a felony or misdemeanor involving moral turpitude for the previous five years. The application shall be signed by the applicant under penalty of perjury and shall be accompanied by a fee in an amount established by the Revenue Manager. The Revenue Manager may utilize the service of the Anaheim Police Department to investigate and verify the facts set forth in the application. Any social security number, California driver’s license number or identification number submitted with the permit application shall not be disclosed except as required for administrative purposes or to comply with a state law or state or federal court order.

The requirement of a Sidewalk Vendor permit under this section shall be in addition to the requirement for a business license from the City of Anaheim and any additional licenses required by other state or local agencies, including but not limited to any permit required by the Orange County Health Care Agency.

.040 Revocation of Sidewalk Vendor Permit.

.0401. Upon the fourth violation of any provision of this Code regulating sidewalk vending within the term of the Sidewalk Vendor Permit, the Revenue Manager may revoke the Sidewalk Vendor Permit granted to any person upon a finding that such person has violated any provision of this chapter. The Revenue Manager may also revoke the Sidewalk Vendor Permit granted to any person upon a finding that such person has made a material misrepresentation on his or her Sidewalk Vendor Permit application

.0402 No permit shall be revoked until after a hearing has been held before the City Manager or designee to determine good cause for such revocation. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. The notice shall state the ground for the proposed revocation and shall state the time and place where such hearing will be held.

.0403 Said notice shall be served upon the permit holder by delivering the same to such person or by leaving such notice at the place of business of the permit holder during usual business hours, with the person who is apparently in charge thereof, or at the residence of the permit holder, in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found and the service of such notice cannot be made in the manner herein provided, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at the address designated by the permit holder on the Sidewalk Vendor Permit application as the address for receipt of notices from the City at least ten (10) working days prior to the date of such hearing.

.0404 After said hearing, the City Manager or his or her designee shall render a written decision within thirty (30) working days from the date the matter is submitted for decision. The action of the City Manager or his or her designee shall be final and conclusive

SECTION 3. That Section 4.52.060 (Unlawful Conduct by Sidewalk Vendors) be added to Chapter 4.52 (Peddlers and Solicitors) of Title 4 (Business Regulation) of the Anaheim Municipal Code to read in full as follows:

4.52.060 UNLAWFUL CONDUCT BY SIDWALK VENDORS.

.010 It shall be unlawful for any person to engage in the business of being a Sidewalk Vendor as defined in this chapter in or upon the grounds of any stadium, convention center, government office building, police station, fire station library or other public facility owned or operated by the City of Anaheim except with the prior written consent of the City of Anaheim.

.020 It shall be unlawful for any person to engage in the business of being a Sidewalk Vendor on any of the following public streets and sidewalks within the City of Anaheim two (2) hours before, during and two (2) hours after events at Angel Stadium of Anaheim, the Honda Center and The City National Grove of Anaheim:

.0201 Orangewood Avenue, from west side of State Route 57 to 300 feet west of State College Boulevard.

.0202 State College Boulevard, from 300 feet south of Orangewood Avenue to the north side of Katella Avenue.

.0203 Katella Avenue, from the west side of State College Boulevard to the Santa Ana River Trail.

.0204 Douglass Road, from the entrance to the Angel Stadium of Anaheim to Cerritos Avenue.

.0205 Dupont Drive.

.0206 Rampart Street from Orangewood Avenue to Dumaine Street.

.0207 Gene Autry Way from South Chris Lane to the entrance of the Angel Stadium of Anaheim.

.030 Stationary Sidewalk Vending is prohibited in any location zoned exclusively residential.

.040 Sidewalk vending is prohibited in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited 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 21600) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulation adopted pursuant to that article.

.050 Sidewalk vending is prohibited within the immediate vicinity of an area designated for a temporary special permit, 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.

.060 Sidewalk Vendors shall maintain sanitary conditions and contain all refuse until properly disposed of by the Sidewalk Vendor.

.070 Sidewalk Vendors shall comply with the federal American with Disabilities Act of 1999 and other disability access standards, including but not limited to allowing for a minimum width of at least thirty-six (36) inches of accessibility on any sidewalk.

.080. Sidewalk Vendors shall comply with all other generally applicable laws.

.090 It shall be unlawful for any person to engage in the business of being a Sidewalk Vendor as defined in this chapter without having in his or her possession a valid permit issued under the provisions of this section and a valid business license issued by the City of Anaheim pursuant to this Code.

.100 Any violation of subsections 4.52.060.010 -.080 shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this code, relating to the issuance of citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing, and shall be subject to the imposition and payment of administrative fine(s) as provided below:

Number of Offenses in an One-Year Period	Amount of Administrative Penalty
First	\$100.00
Second	\$200.00
Third	\$500.00

.101 A violation of subsection 4.52.060.090 as well as engaging in the business of being a Sidewalk Vendor without a valid Sidewalk Vendor Permit in violation of Chapters 4.10, 12.12, 13.08 or 14.32 of this Code, shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this code, relating to the issuance of citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing, and subject to the imposition and payment of administrative fine(s) as provided below:

Number of Offenses in an One-Year Period	Amount of Administrative Penalty
First	\$250.00
Second	\$500.00
Third	\$1,000.00

.102 If a person issued an administrative citation meets the criteria described in (a) or (b) of Government Code Section 68632, the Revenue Manager shall accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this section.

.103 A notice of a violation of this section 4.52.060 shall include notification to the person cited that he or she may request an ability-to-pay determination and a corresponding reduction in a fine assessed under this section, including instructions for making such a request. Upon receipt of such

an ability to pay request, the Revenue Manager or his or her designee shall hold a hearing in accordance with this section.

.104 To request an ability-to-pay determination, a person issued an administrative citation shall file with the City a signed application in a form prescribed by the Revenue Manager, specifying the citee's ability to pay the assessed fines. The Revenue Manager shall provide notice to the citee of the time, date and place that his/her ability to pay request shall be heard, which hearing date shall not be sooner than ten (10) days following the date notice of such hearing is given to the citee. The citee shall personally appear at the hearing and provide evidence sufficient to establish his or her inability to pay the assessed fine. Failure of the citee to personally appear at the hearing shall constitute an abandonment of the application for an ability-to-pay determination.

.105 Following conclusion of the hearing on the ability to pay request, the Revenue Manager or his or her designee shall issue a written decision and specifying the amount of the fine imposed and the reasons therefore, including the citee's ability to pay. The Revenue Manager may allow the citee to complete community service in lieu of paying the administrative fine, may waive the administrative fine or may offer an alternative disposition.

SECTION 3. That Section 12.12.010 (Obstructions to Public Right-of-Way –Permit Required) of Chapter 12.12 (Obstructions to Public Right-of-Way) of Title 12 (Streets and Sidewalks) of the Anaheim Municipal Code be amended to read in full as follows:

12.12.010 OBSTRUCTIONS TO PUBLIC RIGHT-OF-WAY — PERMIT REQUIRED.

.010 It shall be unlawful for any person, firm or corporation to excavate or perform any construction within, obstruct in any manner, or place any temporary, portable or permanent structure or device within, any public right-of-way or easement, including any right-of-way or easement, including but not limited to, any street, alley, sidewalk, or public utility easement (hereinafter "public street"), unless such person, firm or corporation possesses a written permit from the Director of the Public Works Department (hereinafter "Director"). For purposes of this chapter, said permit shall be referred to as a right-of-way construction permit, regardless of whether such permit relates to excavation, construction or obstruction in the public right-of-way. The provisions of this section shall not apply to any person, firm or corporation undertaking emergency repairs to existing facilities, when said person, firm or corporations complies with the provisions of Section 12.12.070 of this chapter.

.020 The provisions of this section shall not apply to:

.0201 Any person, firm or corporation undertaking emergency repairs to existing facilities, when said person, firm or corporation complies with the provisions of Section 12.12.070 of this chapter;

.0202 Any temporary traffic control device or measure erected, placed or maintained, or any traffic control activity undertaken, by an officer or employee of the City of Anaheim in the performance of such person's official duties;

.0203 Any temporary street closure for a block party as approved by the Traffic and Transportation Manager, or any other obstruction or street closure approved or authorized pursuant to any other provision of this Code, or any policy or regulation adopted by the City Council;

.0204 Any vehicle stopped, standing or parked upon any public street, which vehicle is authorized for use upon a public street pursuant to the California Vehicle Code, and which vehicle is stopped, standing or parked in compliance with all applicable provisions of this Code and the California Vehicle Code;

.0205 Any refuse receptacle or other device during the period such device is authorized to be placed or located within a public right-of-way pursuant to any provision of law; or

.0206 Any person on a sidewalk or pedestrian path within the public right-of-way engaged in the business of being a Sidewalk Vendor pursuant to a valid Sidewalk Vendor Permit issued by the City of Anaheim pursuant to Chapter 4.52 of this Code.

.030 Notwithstanding any other provision of this Code, the first violation of any provision of this section by any person within any twelve-month period shall be punishable as an infraction in accordance with applicable provisions of the California Penal Code and California Government Code. The second and all subsequent violations of this section by said person occurring within any twelve-month period, whether such violation is of the same or a different provision of said section, shall be punishable as a misdemeanor. (Ord. 5582 § 1 (part); November 19, 1996; Ord. 5942 § 2; September 28, 2004.)

SECTION 4. That Section 13.08.020.170 (Prohibited Conduct Generally) of Chapter 13.08 (Public Parks) of Title 13 (Parks and Boulevards) of the Anaheim Municipal Code be amended to read in full as follows:

.170 To sell or offer for sale any merchandise, article or thing, whatsoever, without first obtaining permission from the City Council or a permit from the Community Services Department so to do unless authorized to engage in the business of being a Sidewalk Vendor pursuant to a valid Sidewalk Vendor Permit issued by the City of Anaheim pursuant to Chapter 4.52 of this Code. A Stationary Sidewalk Vendor, as that term is defined in Chapter 4.52, is prohibited from vending in a Public park that is subject to a concessions agreement that exclusively permits the sale of food or merchandise in that Public Park.

SECTION 5. That Section 13.08.020.230 be added to Section 13.08.020 (Prohibited Conduct Generally) of Chapter 13.08 (Public Parks) of Title 13 (Parks and Boulevards) of the Anaheim Municipal Code to read in full as follows:

.230 A violation of subsection .170 by a person engaged in the business of being a Sidewalk Vendor pursuant to a valid Sidewalk Vendor Permit shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this code, relating to the issuance of citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing. Each person who violates subsection .170 shall be subject to the imposition and payment of administrative fine(s) as provided below:

Number of Offenses in One-Year Period	Amount of Administrative Penalty
First	\$250.00
Second	\$500.00
Third	\$1,000.00

SECTION 6. That Section 13.08.070 (Sale of Goods Near Public Parks) of Chapter 13.08 (Public Parks) of Title 13 (Parks and Boulevards) of the Anaheim Municipal Code be amended to read in full as follows:

13.08.070 SALE OF GOODS IN NEAR PUBLIC PARKS.

Unless engaged in Sidewalk Vending pursuant to a valid Sidewalk Vendor Permit issued by the City of Anaheim pursuant to Chapter 4.52 of this Code, it shall be unlawful for any person or persons to sell, expose for sale or offer to sell in or along any public street, lane or thoroughfare adjoining or approaching any public park in the City of Anaheim within two hundred feet of said park, any goods, wares or merchandise of any kind whatsoever

SECTION 7. That subsection .020 of Section 14.32.310 (Sale of Goods or Merchandise by Vehicle) of Chapter 14.32 (Parking and Stopping) of Title 14 (Traffic) of the Anaheim Municipal Code be amended to read in full as follows:

.020 Sales from Human Powered Devices Prohibited. Except for any person engaged in the business of being a Sidewalk Vendor pursuant to a valid Sidewalk Vendor's Permit, it is unlawful for any person to sell or offer for sale, or operate a human powered device or conduct any business for the purpose of causing the sale of or offering for sale, any goods or merchandise from any human powered device parked, stopped, or standing upon any public street, alley, parkway, sidewalk or other public property in the City of Anaheim.

SECTION 8. That Section 14.32.320 (Citations for Violations of Title) of Chapter 14.32 (Parking and Stopping) of Title 14 (Traffic) of the Anaheim Municipal Code be amended to read in full as follows:

.010 All police officers, police cadets, traffic control officers, police service representatives, volunteers designated by the Chief of Police, Stadium and Convention Center security guards, City code enforcement officers or parking checkers employed by firms hired by the City of Anaheim to enforce parking regulations of the City of Anaheim are authorized to give citations to any and all persons violating any of the provisions of this Anaheim Municipal Code title and any such citation shall be deemed to be a civil complaint charging violations of this title and requiring payment of the penalty set forth therein.

.020 A violation of section 14.32.310.020 by a Sidewalk Vendor shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this code, relating to the issuance of citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing. Each person who violates section 14.32.310.020 shall be subject to the imposition and payment of administrative fine(s) as provided below:

Number of Offenses in One-Year Period	Amount of Administrative Penalty
First	\$100.00
Second	\$200.00
Third	\$500.00

All other violations of this section shall be processed as civil penalties in accordance with California Vehicle Code Sections 40200 et seq., or any successor provision thereto.

SECTION 9. SEVERABILITY.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence or word of this ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this ordinance independent of the elimination here from of any such portion as may be declared invalid.

SECTION 10. SAVINGS CLAUSE.

Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

SECTION 11. CERTIFICATION; PUBLICATION BY CLERK.

The City Clerk shall certify to the passage of this ordinance and shall cause this ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ____ day of _____, 2018, and thereafter passed and

adopted at a regular meeting of said City Council held on the ____ day of _____, 2018,
by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: _____
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM

130052v4/LM

Assembly Bill No. 626

CHAPTER 470

An act to amend Sections 110460, 111955, 113789, and 114390 of, to add Section 113825 to, and to add Chapter 11.6 (commencing with Section 114367) to Part 7 of Division 104 of, the Health and Safety Code, relating to the California Retail Food Code.

[Approved by Governor September 18, 2018. Filed with
Secretary of State September 18, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 626, Eduardo Garcia. California Retail Food Code: microenterprise home kitchen operations.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities for regulation by the State Department of Public Health, and requires local enforcement agencies to enforce these provisions. Existing law defines "food facility" as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, as specified. Existing law exempts, among others, a private home, including a registered or permitted cottage food operation, from the definition of food facility. A violation of the California Retail Food Code is generally a misdemeanor.

This bill would, among other things, include a microenterprise home kitchen operation within the definition of a food facility, and would define a microenterprise home kitchen operation to mean a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets specified requirements, including, among others, that the operation has no more than one full-time equivalent food employee and has no more than \$50,000 in verifiable gross annual sales. The bill would specify that the governing body of a city or county, or city and county, shall have full discretion to authorize, by ordinance or resolution, the permitting of microenterprise home kitchen operations in accordance with the provisions of this bill, except as provided. The bill would require a microenterprise home kitchen operation to be considered a restricted food service facility for purposes of certain provisions of the code, except as otherwise provided, and would exempt a microenterprise home kitchen operation from various provisions applicable to food facilities, including, among others, provisions relating to handwashing, sinks, ventilation, and animals. The bill would require the applicant for a permit to operate a microenterprise home kitchen operation to submit to the local enforcement agency written standard operating procedures that include specified information, including all food types or

products that will be handled and the days and times that the home kitchen will potentially be utilized as a microenterprise home kitchen operation.

The bill would require an Internet food service intermediary, as defined, that lists or promotes a microenterprise home kitchen operation on its Internet Web site or mobile application to, among other things, be registered with the department, to clearly and conspicuously post on its Internet Web site or mobile application the requirements for the permitting of a microenterprise home kitchen operation, as specified, prior to the publication of the microenterprise home kitchen operation's offer of food for sale, and to submit the name and permit number of a microenterprise home kitchen operation to the local enforcement agency if it receives, through its Internet Web site or mobile application, 3 or more unrelated individual food safety or hygiene complaints in a calendar year from consumers who have made a purchase through its Internet Web site or mobile application. The bill would also make related findings and declarations.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 113789 of the Health and Safety Code proposed by AB 2178 and AB 2524 to be operative only if this bill and AB 2178, this bill and AB 2524, or all 3 bills are enacted and this bill is enacted last.

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.

The people of the State of California do enact as follows:

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

(1) California is the largest agricultural producer and exporter in the United States.

(2) California is home to the "farm-to-table" movement, which embraces the idea that restaurants and other food sellers should prioritize locally and sustainably produced foods.

(3) Many cities have embraced the idea of locally grown, produced, and prepared foods. Sacramento, for example, proclaimed itself the farm-to-fork capital of America.

(4) Accordingly, Californians have shown a preference for supporting local agriculture and local business and for finding sustainable solutions to food insecurity.

(5) The retail and commercial food market is an integral part of California's economy.

(6) Small-scale, home-cooking operations can create significant economic opportunities for Californians that need them most — often women, immigrants, and people of color.

(7) Under existing law, individuals can sell food through retail food facilities or cottage food operations, the latter of which being limited to a restricted list that primarily consists of nonperishable food items that can be prepared in the home. Both of these options make it difficult for the vast majority of home cooks to independently benefit from their labor, skills, and limited resources.

(8) Because the bar for entry to restaurant ownership is high, and the cost of renting a retail kitchen is so great, an informal economy of locally produced and prepared hot foods exists in the form of meal preparation services, food carts, and communally shared meals.

(9) However, due to a lack of appropriate regulations, many experienced cooks in California are unable to legally participate in the locally prepared food economy and to earn an income legally therein.

(10) As a result, and because they feel they have no other option, thousands of private chefs, home caterers, and many other food microentrepreneurs cook out of private homes or unlicensed food facilities, with little access to education for best practices or safety guidelines.

(11) Many of these cooks are unable to enter the traditional food economy based on disability, family responsibilities, or lack of opportunity.

(12) Under existing law, preparing and selling food from a home kitchen normally can be treated as a criminal act and may be punishable as a misdemeanor.

(13) Providing guidelines, training, and safety resources to home cooks would also increase public health safeguards in existing informal food economies.

(14) The exchange of home-cooked food can also improve access to healthy foods for communities, particularly in food deserts with severely limited options.

(15) The California Retail Food Code establishes health and sanitation standards for retail food facilities. That law exempts private homes from the definition of a food facility and includes cottage food operations in that exemption.

(16) Therefore, the Legislature should create a framework that authorizes the safe preparation and sale of meals prepared in home kitchens, providing adequate regulations and requirements for food handling and safety.

(b) It is the intent of the Legislature that this act authorize the use of home kitchens for small-scale, direct food sales by home cooks to consumers, providing appropriate flexibility in food types and appropriate health and sanitation standards.

SEC. 2. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food

operation that is registered or has a permit pursuant to Section 114365 or a microenterprise home kitchen, as defined in Section 113825.

SEC. 3. Section 111955 of the Health and Safety Code is amended to read:

111955. “Food processing establishment,” as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. “Food processing establishment” shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365 or a microenterprise home kitchen, as defined in Section 113825.

SEC. 4. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen’s markets.

(12) Microenterprise home kitchen operations.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home when used for private, noncommercial purposes or when used as a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment, as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

SEC. 4.1. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

- (1) Public and private school cafeterias.
- (2) Restricted food service facilities.
- (3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).
- (4) Commissaries.
- (5) Mobile food facilities.
- (6) Mobile support units.
- (7) Temporary food facilities.
- (8) Vending machines.
- (9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen’s markets.

(12) Microenterprise home kitchen operations.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home when used for private, noncommercial purposes or when used as a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment, as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

(14) A limited service charitable feeding operation, as defined in Section 113819.

SEC. 4.2. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen’s markets.

(12) Microenterprise home kitchen operations.

(13) Catering operation.

(14) Host facility.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home when used for private, noncommercial purposes or when used as a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment, as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

SEC. 4.3. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen’s markets.

(12) Microenterprise home kitchen operations.

(13) Catering operation.

(14) Host facility.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home when used for private, noncommercial purposes or when used as a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the

producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment, as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

(14) A limited service charitable feeding operation, as defined in Section 113819.

SEC. 5. Section 113825 is added to the Health and Safety Code, to read:

113825. (a) "Microenterprise home kitchen operation" means a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets all of the following requirements:

(1) The operation has no more than one full-time equivalent food employee, not including a family member or household member.

(2) Food is prepared, cooked, and served on the same day.

(3) Food is consumed onsite at the microenterprise home kitchen operation or offsite if the food is picked up by the consumer or delivered within a safe time period based on holding equipment capacity.

(4) Food preparation does not involve processes that require a HACCP plan, as specified in Section 114419, or the production, service, or sale of raw milk or raw milk products, as defined in Section 11380 of Title 17 of the California Code of Regulations.

(5) The service and sale of raw oysters is prohibited.

(6) Food preparation is limited to no more than 30 individual meals per day, or the approximate equivalent of meal components when sold separately, and no more than 60 individual meals, or the approximate equivalent of meal components when sold separately, per week. The local enforcement agency may decrease the limit of the number of individual meals prepared based on food preparation capacity of the operation, but shall not, in any case, increase the limit of the number of individual meals prepared.

(7) The operation has no more than fifty thousand dollars (\$50,000) in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.

(8) The operation only sells food directly to consumers and not to any wholesaler or retailer. For purposes of this paragraph, the sale of food

prepared in a microenterprise home kitchen operation through the Internet Web site or mobile application of an Internet food service intermediary, as defined in Section 114367.6, is a direct sale to consumers. An operation that sells food through the Internet Web site or mobile application of an Internet food service intermediary shall consent to the disclosures specified in paragraphs (6) and (7) of subdivision (a) of Section 114367.6.

(b) “Microenterprise home kitchen operation” does not include either of the following:

- (1) A catering operation.
- (2) A cottage food operation, as defined in Section 113758.

(c) For purposes of this section, “resident of a private home” means an individual who resides in the private home when not elsewhere for labor or other special or temporary purpose.

SEC. 6. Chapter 11.6 (commencing with Section 114367) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.6. MICROENTERPRISE HOME KITCHEN OPERATION

114367. (a) Except as provided in subdivision (b), the governing body of a city or county, or city and county, shall have full discretion to authorize, by ordinance or resolution, the permitting of microenterprise home kitchen operations in accordance with this chapter.

(b) A permit issued by a county that has authorized the permitting of microenterprise home kitchen operations in accordance with this chapter shall be valid in any city within the county regardless of whether the city has separately enacted an ordinance or resolution to authorize or prohibit the permitting of microenterprise home kitchen operations within that city.

114367.1. (a) A microenterprise home kitchen operation, as defined in Section 113825, shall be considered a restricted food service facility for purposes of, and subject to all applicable requirements of, Chapter 1 (commencing with Section 113700) to Chapter 9 (commencing with Section 114265), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), except as otherwise provided in this chapter.

(b) A microenterprise home kitchen operation shall be exempt from all of the following provisions:

(1) Handwashing facilities requirements, as required in Section 113953, provided that a handwashing sink is supplied with warm water and located in the toilet room and supplied, as specified in Section 113953.2.

(2) Any provision in this part relating to sinks, warewashing machines, and manual or machine sanitation, including but not limited to, Sections 114099, 114099.2, 114099.4, 114099.6, 114099.7, 114101.1, 114101.2, 114103, 114107, 114123, 114125, 114163, and 114279, provided that the sink in a microenterprise home kitchen operation has hot and cold water and is fully operable.

(3) Prohibition on the presence of persons unnecessary to the food facility operation in the food preparation, food storage, or warewashing areas, as specified in Section 113945.1.

(4) No smoking sign posting requirements, as specified in Section 113978.

(5) Limitations on employee consumption of food, drink, or tobacco outside of designated areas, as specified in Sections 113977 and 114256.

(6) Limitations on consumer access to the food facility through food preparation areas, as specified in Section 113984.1.

(7) Display guard, cover, and container requirements, as specified in Section 114060, provided that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer.

(8) Limitations on outdoor display and sale of foods, as specified in Section 114069.

(9) Requirements to provide clean drinking cups and tableware for second portions and beverage refills, as specified in Section 114075.

(10) Requirements pertaining to the characteristics and certification of utensils and equipment, as specified in Sections 114130, 114130.1, and 114139, provided that utensils and equipment are designed to retain their characteristic qualities under normal use conditions.

(11) Requirements pertaining to the characteristics, construction, and multiuse of food-contact and nonfood-contact surfaces, as specified in Sections 114130.1, 114130.3, and 114130.4, provided that food contact surfaces are smooth, easily cleanable, and in good repair.

(12) Requirements pertaining to the characteristics, construction, and disassembly of clean in place (CIP) equipment, as specified in Section 114130.5.

(13) Limitations on the use of wood as a food contact surface and in connection with other equipment, as specified in Section 114132.

(14) Any provision in this part relating to ventilation, including, but not limited to, Article 2 (commencing with Section 114149) of Chapter 6, provided that gases, odors, steam, heat, grease, vapors, and smoke are able to escape from the kitchen.

(15) Requirements that cold or hot holding equipment used for potentially hazardous food be equipped with integral or permanently affixed temperature measuring device or product mimicking sensors, as specified in subdivision (c) of Section 114157.

(16) Requirements pertaining to the installation of fixed, floor-mounted, and table-mounted equipment, as specified in Section 114169.

(17) Dedicated laundry facility requirements, as specified in Section 114185.5, provided that linens used in connection with the microenterprise home kitchen operation shall be laundered separately from the household and other laundry.

(18) Requirements pertaining to water, plumbing, drainage, and waste, as specified in Sections 114193, 114193.1, and 114245.7.

(19) Any requirement that a microenterprise home kitchen operation have more than one toilet facility or that access to the toilet facility not

require passage through the food preparation, food storage, or utensil washing areas, including, but not limited to, the requirements specified in Sections 114250 and 114276.

(20) Light intensity, light source, and lightbulb requirements, as specified in Sections 114252 and 114252.1, provided that food preparation areas are well lighted by natural or artificial light whenever food is being prepared.

(21) Requirements to provide and use lockers, storage facilities, and designated dressing areas, and that food facility premises be free of litter and items that are unnecessary to the operation, as specified in Sections 114256.1 and 114257.1, provided that personal effects and clothing not ordinarily found in a home kitchen are placed or stored away from food preparation areas and dressing takes place outside of the kitchen.

(22) Limitations on the presence and handling of animals, such as domestic, service, or patrol animals, as specified in Sections 114259.4 and 114259.5, provided that all animals, other than service animals, are kept outside of the kitchen and dining areas during food service and preparation.

(23) Requirements pertaining to floor, wall, and ceiling surfaces, as specified in Sections 114268, 114269, and 114271, provided that the floor, wall, and ceiling surfaces of the kitchen, storage, and toilet areas are smooth, of durable construction, and easily cleanable with no limitations on the use of wood, tile, and other nonfiber floor surfaces ordinarily used in residential settings.

(24) Any local evaluation or grading system for food facilities, as authorized by Section 113709.

(25) All prohibitions and limitations on the use of a kitchen in a private home as a food facility, including, but not limited to, prohibitions and limitations specified in Section 114285, provided that food is not prepared in designated sleeping quarters. Open kitchens adjacent to living and sleeping areas, kitchens in efficiency, studio, and loft-style residences, and kitchens without doors at all points of ingress and egress may be used in microenterprise home kitchen operations.

(26) Planning and permitting provisions of Sections 114380, 114381, and 114381.2.

(c) A microenterprise home kitchen operation may operate an open-air barbecue or outdoor wood-burning oven, pursuant to the requirements of Section 114143.

(d) The operator of a microenterprise home kitchen operation shall successfully pass an approved and accredited food safety certification examination, as specified in Section 113947.1.

(e) Any individual, other than the operator, who is involved in the preparation, storage, or service of food in a microenterprise home kitchen operation shall be subject to the food handler card requirements specified in Section 113948.

114367.2. (a) A microenterprise home kitchen operation shall not be open for business unless it has obtained a permit issued from the local enforcement agency.

(b) The department shall post on its Internet Web site the requirements for the permitting of a microenterprise home kitchen operation, pursuant to this chapter and any ordinance, resolution, or rules adopted by any city or county, or city and county, that has authorized the permitting of microenterprise home kitchen operations, which shall be written at a high school level.

(c) The applicant shall submit to the local enforcement agency written standard operating procedures that include all of the following information:

(1) All food types or products that will be handled.

(2) The proposed procedures and methods of food preparation and handling.

(3) Procedures, methods, and schedules for cleaning utensils, equipment, and for the disposal of refuse.

(4) How food will be maintained at the required holding temperatures, as specified in Section 113996, pending pickup by consumer or during delivery.

(5) Days and times that the home kitchen will potentially be utilized as a microenterprise home kitchen operation.

(d) (1) The local enforcement agency shall issue a permit after an initial inspection has determined that the proposed microenterprise home kitchen operation and its method of operation comply with the requirements of this chapter.

(2) A local enforcement agency shall not require a microenterprise home kitchen operation to comply with food safety requirements that are different from, or in addition to, the requirements of this chapter.

(e) For purposes of permitting, the permitted area includes the home kitchen, onsite consumer eating area, food storage, utensils and equipment, toilet room, janitorial or cleaning facilities, and refuse storage area. Food operations shall not be conducted outside of the permitted areas.

(f) A local enforcement agency may require a microenterprise home kitchen operation to renew its permit annually.

(g) A permit, once issued, is nontransferable. A permit shall be valid only for the person and location specified by that permit, and, unless suspended or revoked for cause, for the time period indicated.

(h) The permit, or an accurate copy thereof, shall be retained by the operator onsite and displayed at all times the microenterprise home kitchen operation is in operation.

(i) A local enforcement agency may collect a fee for the issuance of a permit pursuant to this chapter in an amount that does not exceed the reasonable administrative costs by the local enforcement agency in issuing the permit.

(j) Notwithstanding any other law, if there are multiple local agencies involved in the issuance of any type of permit, license, or other authorization to a microenterprise home kitchen operation, the governing body of the city or county, or city and county, shall designate one lead local agency that shall be vested with the sole authority to accept all applications for, to collect all fees for, and to issue, any permit, license, or other authorization required

for a microenterprise home kitchen operation to operate in the city or county, or city and county. A local agency other than the lead local agency shall not accept any applications for, collect any fees for, nor issue, any permits for the same purpose.

114367.3. (a) Notwithstanding any other law, after the initial inspection for purposes of determining compliance with this chapter, a microenterprise home kitchen operation shall not be subject to routine inspections, except that a representative of a local enforcement agency may access, for inspection purposes, the permitted area of a microenterprise home kitchen operation after the occurrence of either of the following:

(1) The representative has provided the microenterprise home kitchen operation with reasonable advance notice.

(2) The representative has a valid reason, such as a consumer complaint, to suspect that adulterated or otherwise unsafe food has been produced or served by the microenterprise home kitchen operation, or that the microenterprise home kitchen operation has otherwise been in violation of this part.

(b) Notwithstanding any other law, a microenterprise home kitchen operation shall not be subject to more than one inspection each year by the local enforcement agency, except in cases in which the local enforcement agency has valid reason, such as a consumer complaint, to suspect that adulterated or otherwise unsafe food has been produced or served by the microenterprise home kitchen operation, or that the microenterprise home kitchen operation has otherwise been in violation of this part.

(c) The local enforcement agency shall document the reason for the inspection, keep that documentation on file with the microenterprise home kitchen operation's permit, and provide the reason in writing to the operator of the microenterprise home kitchen operation.

(d) Access provided under this section is limited to the permitted area of the microenterprise home kitchen operation, during the posted operating hours of the microenterprise home kitchen operation, and solely for the purpose of enforcing or administering this part.

(e) A local enforcement agency may seek recovery from a microenterprise home kitchen operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the microenterprise home kitchen operation for compliance with this part if the microenterprise home kitchen operation is found to be in violation of this part.

114367.4. (a) (1) A city, county, or city and county shall not prohibit the operation of, require a permit to operate, require a rezone of the property for, or levy any fees on, or impose any other restriction on, a microenterprise home kitchen operation in any residential dwelling for zoning purposes. A microenterprise home kitchen operation shall be a permitted use of residential property in any residential dwelling for zoning purposes if the microenterprise home kitchen operation complies with both of the following criteria:

(A) Abstain from posting signage or other outdoor displays advertising the microenterprise home kitchen operation.

(B) Be in compliance with applicable local noise ordinances.

(2) This subdivision does not supersede or otherwise limit the investigative and enforcement authority of the city, county, or city and county with respect to violations of its nuisance ordinances.

(b) The use of a residence for the purposes of a microenterprise home kitchen operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code), or for purposes of local building and fire codes.

(c) A microenterprise home kitchen operation shall be considered a residence for the purposes of the State Uniform Building Standards Code and local building and fire codes.

114367.5. (a) A person delivering food on behalf of a microenterprise home kitchen operation with a permit issued pursuant to Section 114367.2 shall be an employee of the operation or a family member or household member of the permit holder, and, if the person drives a motor vehicle in the delivery of the food, the person shall have a valid driver's license.

(b) The microenterprise home kitchen operation shall keep on file a copy of the valid driver's license of a person delivering food on behalf of the operation.

114367.6. (a) An Internet food service intermediary that lists or promotes a microenterprise home kitchen operation on its Internet Web site or mobile application shall meet all of the following requirements:

(1) Be registered with the department.

(2) Prior to the listing or publication of a microenterprise home kitchen operation's offer of food for sale, clearly and conspicuously post on its Internet Web site or mobile application the requirements for the permitting of a microenterprise home kitchen specified in this chapter, which shall be written at the high school level and be provided by the department.

(3) Clearly and conspicuously post on its Internet Web site or mobile application the fees associated with using its platform in a manner that allows both the consumer and the microenterprise home kitchen operation to see and understand the amount being charged for the services provided by the Internet food service intermediary. The Internet food service intermediary shall notify microenterprise home kitchen operations of any changes to these fees exceeding a 2-percent increase in writing and no later than one month before the changes take effect.

(4) Clearly and conspicuously post on its Internet Web site or mobile application whether or not it has liability insurance that would cover any incidence arising from the sale or consumption of food listed or promoted on its Internet Web site or mobile application.

(5) Provide a dedicated field on its platform for a microenterprise home kitchen operation to post the permit number, and shall provide notice to the microenterprise home kitchen operation of the requirement that the permit number be updated annually.

(6) Clearly and conspicuously post on its Internet Web site or mobile application how a consumer can contact the Internet food service

intermediary through its Internet Web site or mobile application if the consumer has a food safety or hygiene complaint and a link to the department's Internet Web site that contains information for how to file a complaint with the local enforcement agency.

(7) Submit the name and permit number of a microenterprise home kitchen operation to the local enforcement agency if it receives, through its Internet Web site or mobile application, three or more unrelated individual food safety or hygiene complaints in a calendar year from consumers that have made a purchase through its Internet Web site or mobile application. The Internet food service intermediary shall submit this information to the local enforcement agency within two weeks of the third complaint received.

(8) If it is notified by the local enforcement agency of significant food safety related complaints from a verified consumer that has made a purchase through its Internet Web site or mobile application, submit to the local enforcement agency the name and permit number of microenterprise home kitchen operation where the food was purchased, and a list of consumers who purchased food on the same day from that microenterprise home kitchen operation through its Internet Web site or mobile application.

(9) Prior to the listing or publication of a microenterprise home kitchen operation's offer of food for sale, obtain consent from the microenterprise home kitchen operation to make the disclosures to government entities required pursuant to this section.

(b) For purposes of this chapter, an "Internet food service intermediary" means an entity that provides a platform on its Internet Web site or mobile application through which a microenterprise home kitchen operation may choose to offer food for sale and from which the Internet food service intermediary derives revenues, including, but not limited to, revenues from advertising and fees for services offered to a microenterprise home kitchen operation. Services offered by an Internet food service intermediary to a microenterprise home kitchen operation may include, but are not limited to, allowing a microenterprise home kitchen operation to advertise its food for sale and providing a means for potential consumers to arrange payment for the food, whether the consumer pays directly to the microenterprise home kitchen operation or to the Internet food service intermediary. Merely publishing an advertisement for the microenterprise home kitchen operation or food cooked therein does not make the publisher an Internet food service intermediary.

SEC. 7. Section 114390 of the Health and Safety Code is amended to read:

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is

stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(3) The enforcement officer may, for the purpose of determining compliance with the gross annual sales requirements for operating a microenterprise home kitchen operation or a cottage food operation, require those operations to provide copies of documents related to determining gross annual sales.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made, and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

SEC. 8. (a) Section 4.1 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2178. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 113789 of the Health and Safety Code, (3) Assembly Bill 2524 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2178, in which case Sections 4, 4.2, and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2524. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 113789 of the Health and Safety Code, (3) Assembly Bill 2178 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2524, in which case Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by this bill, Assembly Bill 2178,

and Assembly Bill 2524. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2019, (2) all three bills amend Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2178 and Assembly Bill 2524, in which case Sections 4, 4.1, and 4.2 of this bill shall not become operative.

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.