



The City of San Diego

Staff Report

Date issued: July 15, 2019
TO: Honorable Members of the City Council
FROM: Office of Mayor Kevin L. Faulconer
SUBJECT: Regulation of Sidewalk Vending

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Council District(s): All

OVERVIEW:

This action is to adopt an ordinance to regulate the time, place, and manner during which an individual may participate in sidewalk vending.

PROPOSED ACTIONS:

Approve an ordinance to amend Chapter 3 of the San Diego Municipal Code to add a new Article 6 Division 1 titled Sidewalk Vending Ordinance, approve amendments to Chapter 6 Article 3 Division 1 Section 63.0102, Chapter 5 Article 4 Division 1 Section 54.0105, to make consistent with newly added Sidewalk Vending Ordinance.

DISCUSSION OF ITEM:

Sidewalk vending is the act of selling food, beverages, or other merchandise from the city's right of way.

In 2018, the State of California passed SB 946 which established requirements for the local regulation of sidewalk vendors. The bill's primary intent was to decriminalize sidewalk vending by requiring municipalities to penalize violations with administrative citations rather than criminal citations, in turn promoting entrepreneurship and economic success for sidewalk vendors.

In order to be compliant with SB 946, the City needs to repeal sections of the San Diego Municipal Code (SDMC) and adopt new regulations that conform to the bill. The sections of the SDMC in the land development code that regulate pushcarts, which will be amended, will be heard at Planning Commission on July 25th. SB 946 allows municipalities to regulate sidewalk vending near farmer's markets, swap meets, special events, parks, and within the public right-of-way where the objective is directly related to public health, safety and welfare. The bill also allows municipalities to regulate sidewalk vendors to ensure conformance with ADA laws.

In adherence with SB 946, the proposed regulations create a framework that regulates sidewalk vendors in the following ways:

Establishes criteria for issuance and revocation of a sidewalk vendor permit:

Permits will be administered by the City Treasurer upon receiving a completed application. Applications will require basic contact information of the individual, information regarding any company for which the individual may be employed, a valid government issued ID, business tax certificates, and other information as required by the City. Vendors wishing to sell food will be required to provide the City with a health permit from the County of San Diego. The ordinance also allows for the City to deny or revoke a permit.

Establishes distance requirements to ensure accessibility and to reduce pedestrian and vehicle conflict:

The proposed ordinance identifies a distance requirement for vendors from certain locations as well as from certain structures within the public right-of-way that must remain accessible and protected for the public health, safety and

welfare. Such locations and structures in the ordinance include, but may not be limited to, fire hydrants, fire lanes, intersections, loading zones, building entrances, major transit stops, and schools.

Regulates operations in parks:

SB 946 allows the city to regulate sidewalk vending within parks as long as it's "necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities" or "necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park." The proposed ordinance protects the public's enjoyment of regional, coastal and local parks by providing parking locations where vending is prohibited and allowed.

Regulates heavily trafficked sidewalks:

Allowing sidewalk vending on sidewalks that are heavily trafficked throughout the year presents a public safety issue for the City. For this reason, the proposed ordinance identifies locations where sidewalk vending is not allowed such as the Mission Beach and La Jolla Shores boardwalks, heavily trafficked sidewalks within certain beach communities, Gaslamp, Little Italy and within the ballpark district on event and Padres game days. The ordinance also regulates sidewalk vending within the vicinity of the Convention Center during conventions.

Sets hours of operation and operating procedures in residential and non-residential areas:

SB 946 allows the prohibition of stationary sidewalk vendors in residential areas but does not allow the prohibition of roaming vendors. The proposed ordinance sets time limits for roaming sidewalk vendors within residential areas.

Requires clean and sanitary conditions within the vicinity of sidewalk vendors:

SB 946 allows municipalities to require vendors to maintain sanitary conditions around their operation. The proposed ordinance requires vendors to provide trash receptacles and a 10-foot area around their operation that is clean and free of trash and debris.

Requires compliance with the American with Disabilities Act of 1990:

To ensure that there is no obstruction of pedestrians on the sidewalk, the proposed ordinance requires vendors to generally maintain at least 4 feet of access for pedestrians, except temporarily for the brief duration of time for a roaming sidewalk vendor to conduct a sale. Regardless of whether a sale is being conducted or not, all sidewalk vendors must immediately move to provide access to the sidewalk so as not to impede the flow of pedestrian or other traffic.

Regulates the use of sidewalk vending equipment:

SB 946 allows the City to set parameters for cooking and non-cooking operations and outlines dimensions for sidewalk vending equipment in order to protect public safety, health and welfare.

Sets penalties for violations in accordance with SB 946:

SB 946 sets limits on administrative fines associated with violations related to sidewalk vending. For those with valid permits, fines range from \$100 to \$500. For those without valid permits, fines range from \$250 to \$1,000. By law, violations related to this ordinance cannot be punishable as an infraction or misdemeanor and any additional fines, fees, assessments, or any other financial conditions beyond those authorized in SB 946, cannot not be assessed

Education, Outreach and Enforcement

Education, outreach and enforcement will be conducted by Parks and Recreation staff, the San Diego Police Department and Code Enforcement in the performance of normal duties and in response to complaints from the public.

The proposed ordinance carefully balances the intent of SB 946 while also protecting the public health, safety, and welfare. This ordinance has not completed the City Attorney's Office full review process which takes place after committee, and changes may be made to ensure compliance with local state and federal laws.

City Strategic Plan Goal(s)/Objective(s):

Goal 2: Create and sustain a resilient and economically prosperous City with opportunity in every community

Objective 3: Diversify and grow the local economy

Fiscal Considerations:

None specifically associated with the adoption of this ordinance. The cost to administer the applications will be cost recovered at \$30. The cost for education, outreach, and enforcement will be borne by Parks and Recreation staff, code enforcement, and the San Diego Police Department as part of regular operations.

Environmental Impact:

This activity is not a project pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378, because it would not result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The project is also exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because there is no possibility that the activity in question may have a significant effect on the environment. Sidewalk vending located within the right-of-way would not involve permanent structures and is designed to service existing pedestrian activity.

Equal Opportunity Contracting Information (if applicable):

Not Applicable.

Previous Council and/or Committee Actions:

Not Applicable

Key Stakeholders and Community Outreach Efforts:

Key stakeholders include sidewalk vendors, residents and other interested parties from neighborhoods, business corridors, and visitors to San Diego.

Almis Udrys

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