

July 25, 2019

Economic Development and Intergovernmental Relations Committee

# Regulation of Sidewalk Vending

Office of the Mayor

# Senate Bill No: SB 946

SB 946 decriminalizes sidewalk vending and establishes requirements for local regulation of sidewalk vendors

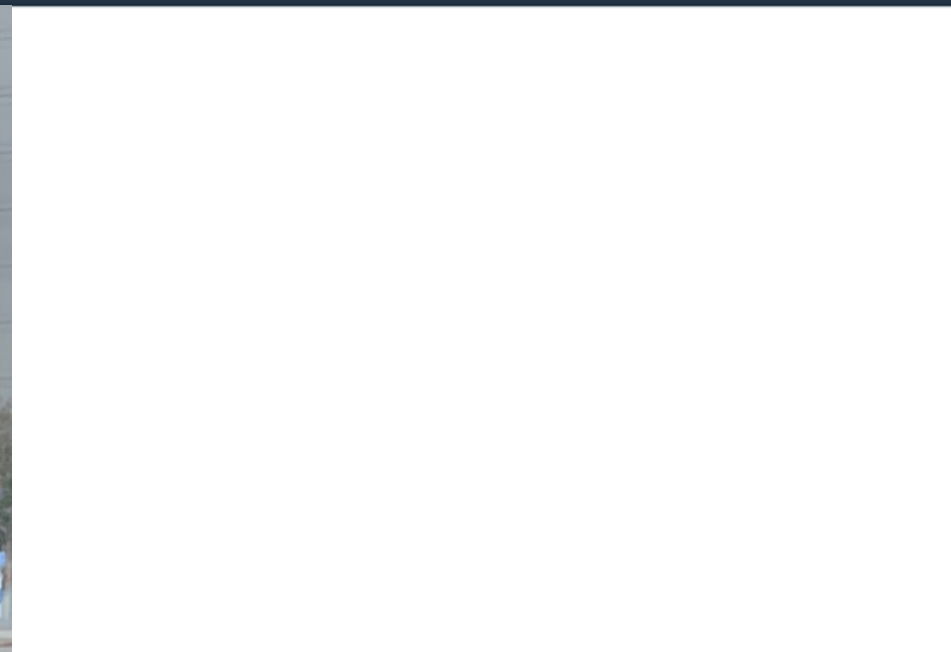
- SB 946 primary objectives:
  - Reduce violations of sidewalk vending from criminal citations to civil penalties
  - Promote entrepreneurship and economic success for sidewalk vendors
- SB 946 establishes and sets parameters for how sidewalk vending can be regulated within the public right-of-way:
  - Special events, swap meets/farmer's markets, ADA access, enjoyment of parks, operations in residential and non residential areas
  - Allows cities to establish permit programs requiring basic information
  - Restrictions must be directly related to public health, safety, or welfare concerns
  - Restricts regulations that are based on perceived community animus or economic competition



# Economic Development and Intergovernmental Relations Committee







# Overview of the Proposed Ordinance

## Proposed regulations for sidewalk vendors in the public right-of-way

- Establishes criteria for issuance and revocation of a sidewalk vendor permit
- Establishes distance requirements to ensure accessibility and to reduce pedestrian and vehicle conflict
- Regulates operations in parks and beaches
- Regulates heavily trafficked sidewalks and areas of high pedestrian activity
- Sets hours of operation and operating procedures in residential and non-residential areas
- Requires clean and sanitary conditions within the vicinity of sidewalk vendors
- Requires compliance with the American with Disabilities Act of 1990
- Regulates the use of sidewalk vending equipment
- Sets penalties for violations in accordance with SB 946

# Permit Regulations

All sidewalk street vendors must obtain a vending permit

- Information to be submitted on a permit application:
  - Name and contact information
  - Proof of government-issued identification
  - Name and business address of principle company, if applicable
  - Current valid business tax certificate
  - Proof of California Department of Tax and Fee Administration seller's permit
  - Release and indemnification requirement
  - Not requiring insurance policies
- Permits are valid for one calendar year and must be renewed annually
- Process for revocation of permits
- Food vendors must additionally submit on their permit application proof of:
  - A valid San Diego County Environmental Health Permit
  - A valid San Diego County Food Handlers Card

# Permit Regulations (cont.)

## Additional information:

- Permits will be issued by the City Treasurer's Office
  - Application process and issuance of permit ID will be cost recovered at \$30
- Ordinance allows the City to revoke a permit for:
  - False information on application or subsequent changes
  - Violations of local, state, or federal laws
  - Repeated violations of sidewalk vending regulations
  - Failure to pay previous administrative fines associated with this ordinance



## Heavily Trafficked Sidewalks, Petco Park and the Convention Center

These areas would be prohibited based on public health, safety and welfare

- Heavily Trafficked Sidewalks
  - Newport Ave from Abbott Street to Sunset Cliffs Blvd.
  - Garnet Ave from Ocean Front Walk to Cass Street
  - Ventura Place from Mission Blvd to Ocean Front Walk
  - Coast Blvd from Cave Street to Coast Blvd South
  - Imperial Ave from Park Blvd to 17th Street
  - Fifth and Fourth Ave between Broadway and Harbor Drive
  - India Street, Kettner Blvd and Columbia Street from Beech Street to Laurel Street
  - San Diego Ave between Conde Street and Twiggs Street
- Petco Park and the Ballpark District on event and Padres Game Days
  - 6th Avenue through 14th Street between Market Street, Harbor Drive and Commercial Street
- Mission Beach and La Jolla Shores Boardwalks
- Prohibited within 500 feet of the Convention Center during conventions
- Prohibited at Sunset Cliffs Natural Park



# Distance Regulations

These areas would be prohibited based on public health, safety and welfare

## 5 feet of any:

- Fire hydrant or fire escape
- Above ground facility such as street lights, tree wells, parking meters, utility structure, utility boxes, bike racks, scooter corrals, newspaper racks and public benches, tables, walls, and stairs

## 25 feet of:

- Any fire lane
- The Botanical Building and Lily Pond in Balboa Park

## 100 feet of any:

- Vehicle entrance of any emergency facility
- Any major transit stop
- City street or sidewalk closures

## 15 feet of any:

- Other sidewalk vendors
- Intersection, driveway or building entrance, or within any space designed for vehicular parking
- Heavily trafficked sidewalk
- Any beach access points, loading zone, bus stop, parking space or access ramp for persons with disabilities
- Outdoor dining or patio area
- Public restroom
- Location with a valid encroachment permit displayed such as a sidewalk cafe

## 500 feet of:

- Any permitted special event
- Any school during recess or within 30 minutes before or after operating hours
- City Sports Facilities on event days

# Operations in Parks

## Restrictions to protect the scenic and natural character of our 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."
- Vending shall be permitted between 8:00 am and sunset in public parks and beach areas
- Vending is prohibited during the Summer Moratorium in Balboa Park, Mission Bay Park, Presidio Park, Belmont Park and the Shoreline Parks, which are those parks contiguous to the shoreline or beach in the communities of Ocean Beach, Mission Beach, Pacific Beach, and La Jolla
- Vending activities are prohibited in the following locations in Balboa Park: the 25-foot area surrounding the Botanical Building and Lily Pond, El Prado, Village Place, Pan American Way, Presidents way, the Prado, and all covered walkways
- Sidewalk vendors may need to obtain an additional park sales permit to vend in the following parks: Balboa Park, Mission Bay Park, Ocean Beach Park, Mission Beach Park, Scripps Ellen Browning Park, Kellogg Park, Ocean Boulevard Park; South Mission Beach Park, and Torrey Pines City Park

# Equipment and Operations Requirements

Sidewalk street vendors must:

- Display a valid vending permit at all times of operation
- Provide a trash receptacle for customers and a 10 foot area around operation clean of trash and debris
- No sidewalk vendor shall occupy a space exceeding six feet in length and four feet in width
- No sound-making devices including, but not limited to, loudspeakers, public address systems, bells, chimes or other noise-making devices
- No erecting freestanding structures adjacent to vending activities
- No vending equipment shall make contact with any public structure
- Maintain no less than 48 inches of ADA access with limited circumstances
- No vending shall take place in a parked vehicle or to any individuals traveling within motor vehicles along a public roadway

# Stationary and Roaming Vendors

SB 946 provides parameters for the regulation of stationary and roaming vendors

- Stationary Vendors
  - No stationary vendor shall be located on a sidewalk less than six (6) feet in width
- Roaming Vendors
  - Only roaming vendors can operate on residential blocks and that may only occur between the hours of 8:00 a.m. and sunset
  - No vending on any exclusively residential street block for longer than 60 minutes at any given time.
- Roaming and Stationary Vendors
  - Vending activities on non-residential blocks may only occur between the hours of 8:00 a.m. and 10:00 p.m. or the hours of operation imposed on other businesses on the same street block, whichever is least restrictive.



# Portable Cooking Equipment

SB 946 provides parameters for the regulation of stationary and roaming vendors

- Roaming sidewalk vendors are prohibited from using any portable cooking equipment, flammable-gas-fueled appliance, or any open flame
- All sidewalk vendors are prohibited from:
  - Deep fat frying
  - Using portable generators
  - Using outdoor wood burning ovens or charcoal barbecues
  - Using gasoline or kerosene
- Stationary sidewalk vendors may use portable cooking equipment in accordance with the following:(1)
  - Operate a minimum of 20 feet from any permanent structure and a minimum of 30 feet from a grass, grain, brush, or forested covered area
  - Only propane, natural gas, and butane cylinder tanks shall be used. Each tank used or stored on the conveyance must be 20 gallons or less. A sidewalk vendor may have up to two 20-gallon tanks on a conveyance
  - Conform to fire extinguisher requirements



# Items Prohibited to Sell

SB 946 provides parameters for the regulation of stationary and roaming vendors

- Sidewalk vendors are prohibited from selling the following goods:
  - alcoholic beverages; tobacco or electronic vaping products; smoking and drug related paraphernalia; cannabis products; weapons, including knives, guns, or explosive devices; BB devices and imitation firearms; pharmaceuticals; or other products prohibited by local, state and federal laws

# 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



# Violations

## Penalties and fines in accordance with SB 946

- For violating regulations of this Division
  - First violation - an administrative citation and \$100 penalty
  - Second violation – an administrative citation and \$200 penalty within one year of first violation
  - Third and each subsequent violation – an administrative citation and \$500 penalty within one year of the first violation
- For vending without a vending permit
  - Administrative fine of \$250 for a first violation
  - Administrative fine of \$500 for a second violation within one year of the first violation
  - Administrative fine of \$1,000 for a third and each subsequent violation within one year of first violation
- Impoundment of vending equipment after fourth or more violation
- Permit revocation after the issuance of four or more citations
  - Will receive a 30 day prior notice



# Next Steps

- 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
- Council approval in the fall

# Questions