

# CITY COUNCIL DIRECTION ON AMENDING STREET & SIDEWALK VENDOR ORDINANCE

City Council Meeting—July 6, 2021

Kim Espinosa, Planning Manager



## **SB 946 (2018)**

- ▶ Only covers sidewalk vendors
- ▶ States that “Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities... Increases access to desired goods, such as culturally significant food and merchandise... (and) contributes to a safe and dynamic public space.”
- ▶ Requires Jurisdictions to have “Objective Health, Safety, and Welfare Concerns” to Justify Regulations for Sidewalk Vendors
- ▶ Removed Criminal Penalties for Violating Sidewalk Vendor Ordinances
- ▶ City’s Current Ordinance was Written in 1987 and regulates both Street and Sidewalk Vendors
- ▶ There are a number of changes required to bring the City’s Ordinance into Compliance with SB 946 along with other modifications recommended by City staff as follows.

## **Application for Permit (Sec. 5.54.030)**

- ▶ Currently, the City requires sidewalk vendors to have a social security number and a driver's license number.
- ▶ Under SB 946, the City must accept 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..."
- ▶ In the Draft, both sidewalk vendors and street vendors would be able to use the same forms of identification for an application in compliance with SB 946.

## **Designated Location - Sidewalk Vendors (Sec. 5.54.080)**

- ▶ The City ordinance says sidewalk vendors “shall only operate at a designated fixed location” and also says “pushcarts are prohibited from travelling along the sidewalks of the city.”
- ▶ SB 946 says the City “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.”
- ▶ The law says the City can ban stationary sidewalk vendors in residential zones, “but shall not prohibit roaming sidewalk vendors.”
- ▶ A prohibition on operating within 500 feet of other sidewalk vendors and near businesses selling food and drink should be eliminated from the City ordinance because SB 946 states “perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.”
- ▶ The Fire Chief requested the ordinance be amended to say sidewalk vendors shall not locate “so that fire hydrants, fire department inlet connections or fire protection system control valves, and fire department access lanes are obstructed” for public safety.

## **Revocation of Permit (Sec. 5.54.160)**

- ▶ Under SB 946, regulatory offenses for sidewalk vendors are decriminalized, so failure to obtain a permit becomes an administrative matter only.
- ▶ The City ordinance allows the permit of a sidewalk or street vendor to be revoked for any violation of the ordinance upon the 1st offense.
- ▶ SB 946 sets out a process where the permit cannot be revoked until the 4th, or subsequent, violation.
- ▶ The Draft includes the same SB 946 administrative process, except the first violation in Merced results in a warning, rather than a possible \$100 fine. The same process used for sidewalk vendors is also applied to street vendors in the Draft.
- ▶ SB 946 also allows for fines to be forgiven if a permit is obtained and for fines to be lowered or waived under various circumstances including if the vendor qualifies as low income, and to use community service instead of fines if desired. The Draft includes these provisions.

## **Hours of Operation (Sec. 5.54.100)**

- ▶ SB 946 states, “In nonresidential areas, any limitations on the hours of operations for sidewalk vending shall not be more restrictive than any limitations on hours of operation on other business or uses on the same street.”
- ▶ The City does not currently limit hours of operation for businesses in other zones of the City. There are some uses controlled by Conditional Use Permits (CUPs) that have regulated hours, but that varies. Any limits the City imposes for non-residential areas must not be “unduly restrictive,” and they must be “directly related to objective health, safety, or welfare concerns.”
- ▶ The current ordinance says street and sidewalk vendors can only operate from 10 a.m. to 8 p.m.
- ▶ The Draft applies these operating hours to residential zones only.

## **Products Sold (Sec. 5.54.110)**

- ▶ The City ordinance says “Street vendors and sidewalk vendors shall only sell food and nonalcoholic drinks. The sale of goods and/or merchandise is prohibited.”
- ▶ This limit doesn’t appear to be based on “health, safety, or welfare” concerns as required by SB 946, but on economic competition.
- ▶ Under SB 946, sidewalk vendors can sell goods and merchandise.
- ▶ The Draft eliminates the product limits for both sidewalk and street vendors.

## **Stopping and Parking -Street Vendors** **(Sec. 5.54.090)**

- ▶ The Draft eliminates the words “and only at the request of a bona fide purchaser” because the operators don’t tend to be flagged down, but instead park and remain temporarily located to attract customers to their locations.
- ▶ The Draft also changes the time limit to 60 minutes because 10 minutes often doesn’t give street vendors enough time to set up before they begin vending, especially if it involves food preparation.

# City Council Direction

- ▶ City Council should provide direction to staff to proceed with these changes or indicate any modifications Council would like to see prior to the public hearing.
- ▶ Set public hearing for August 2, 2021.

