

BACKGROUND:

Senate Bill (SB) 946, also known as the Safe Sidewalk Vending Act, was approved by the California legislature in 2018, making sidewalk vending in California legal, and prohibiting a local authority from regulating sidewalk vendors, except in accordance with the provisions of the Bill. However, by local ordinance, a city may adopt additional requirements regulating the time, place, and manner of sidewalk vendors if the requirements are directly related to objective health, safety or welfare concerns.

Senate Bill (SB) 972 was recently adopted and also pertains to sidewalk vending. SB 972 is mainly applicable to licensing by health departments responsible for issuance of food handling permits. The proposed sidewalk vendor ordinance does not conflict with the provisions of SB 972.

The City Council conducted study sessions on the proposed Sidewalk Vendor ordinance on November 9, 2022 and December 14, 2022.

Staff received direction from the City Council at both study sessions and the proposed ordinance, which is consistent with SB 946, streamlines the City's permitting process and authorizes confiscation and/or removal of carts or products based on an imminent danger to public health and safety.

Attached for consideration is an ordinance that includes Exhibit A – Chapter 5.98 “Sidewalk Vendors” and Exhibit B – Chapter 5.48 “Peddlers”.

DISCUSSION:

The sidewalk vendor ordinance would establish a street vendor permit program that includes application and operational requirements where vendors must display their permit, operate only on public sidewalks, maintain a clean and litter free area, and provide a trash receptacle. Stationary vendors would be prohibited in residential areas and vending of any sort would be prohibited in the median of any street.

The City Council directed staff to identify the permissible operating hours so that they are clear to sidewalk vendors. The ordinance has been revised to state that sidewalk vendors may operate in non-residential areas between 7:00 a.m. and dusk, except they may operate beyond said limits in areas zoned for commercial use where businesses are open during those hours. This wording is consistent with SB 946 and gives flexibility based on the varying operating hours of businesses.

A new section was added to state that nonprofit, charitable organizations and similar operations are required to obtain a sidewalk vendor permit; however, the permit fee will not be required.

A revision was made to clearly state that offering a service from a public sidewalk is prohibited.

Sidewalk vending is permitted in public parks except that it is not allowed within 300 feet

of a permitted event, which includes certified farmer's markets, swap meets and events that obtained a temporary use permit from the City. Stationary vendors are not permitted in any park where an exclusive concessionaire's agreement is in place. The ordinance was amended to prohibit sidewalk vending between the hours of 8:00 p.m. and 7:00 a.m. and to prohibit vending in public parks within picnic shelters or similar park amenities.

Consistent with SB 946, the proposed ordinance only allows for the issuance of administrative citations for violations of the ordinance.

The proposed ordinance would allow for the removal and/or seizure of a cart, food, goods or merchandise or vending equipment creating an imminent danger to public health, safety or welfare.

In the case of carts, equipment and non-food products, if the vendor does not remove the items creating an imminent health and safety hazard, then the enforcement officer may remove/seize the item. Notice to reclaim the items will be given.

In the case of food products, food that is obviously spoiled, rotten, infested or otherwise unsuitable for human consumption the food product may be immediately seized and/or disposed. This determination is made by a county health official or a code officer trained in food handling.

Issuance of an administrative citation or the removal/seizure of items is subject to appeal. Except that contraband, the sale of which is prohibited, can be immediately seized and is not subject to appeal.

Chapter 5.48 Peddlers

Chapter 5.48 is proposed to be amended only to ensure it is consistent with the proposed sidewalk vendor ordinance. For example, roaming vendors have been historically permitted under the Peddler ordinance and the permitting will now fall under the new sidewalk vendor ordinance.

FISCAL IMPACT:

None