



# Administrative Report

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H.22., File # 21-2980

Meeting Date: 9/7/2021

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**To: MAYOR AND CITY COUNCIL**

**From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR**

## **TITLE**

INTRODUCTION AND FIRST READING OF ORDINANCE NO. O-3220-21 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, AMENDING MUNICIPAL CODE TITLE 3, CHAPTER 7, ARTICLE 20, TO CONFORM REGULATIONS REGARDING STREET VENDING IN THE CITY OF REDONDO BEACH WITH SENATE BILL 946

## **EXECUTIVE SUMMARY**

On January 1, 2019, Senate Bill 946, the "Safe Sidewalk Vending Act," (hereinafter, "SB 946") became effective, which largely decriminalized sidewalk vending. If a local jurisdiction wishes to regulate sidewalk vending, it must adopt local sidewalk vending provisions that comply with SB 946. It establishes the requirements for local regulation and prohibits all criminal penalties for sidewalk vending violations, enforcement must consist solely of escalating fines.

The current Municipal Code regulates sidewalk vending in Title 3, Chapter 7, Article 20. After passage of SB 946, this code is no longer enforceable. On June 15, 2021 the City Council discussed regulation options. Based on Council direction from that meeting, staff presented a draft ordinance for discussion on August 17, 2021, which would replace Title 3, Chapter 7, Article 20 in its entirety to comply with SB 946. The City Council recommended changes to the proposed ordinance, removing restrictions on the use of propane, natural gas, and batteries. The attached ordinance reflecting those changes is being presented tonight for introduction and first reading.

## **BACKGROUND**

Current Redondo Beach Municipal Code sections relating to vending and soliciting are out of compliance with SB 946, and need to be amended. If the City Council wishes to regulate sidewalk vending, it must adopt regulations compliant with SB 946. At the June 15, 2021 meeting, staff provided exemplar ordinances from other cities for City Council to discuss possible provisions for a local ordinance.

Based on direction given by the Council to staff on June 15<sup>th</sup>, a draft ordinance was prepared and presented to City Council on August 17, 2021. The City Council made changes to the draft, and the revised ordinance is presented tonight for introduction. This ordinance will apply to sidewalk vendors using carts per SB 946, and would not be applicable to vending from a vehicle, such as food trucks.

Senate Bill 946 defines a sidewalk vendor as a person who sells food or merchandise on a sidewalk or pedestrian path. The law controls the way that local jurisdictions may regulate sidewalk vending. Such regulation *must* be based on specific, objective public health, safety, and welfare concerns.

Pursuant to SB 946, local jurisdictions can:

- Limit hours of operation with specified parameters;
- Prohibit stationary sidewalk vending in residential areas, however, roaming sidewalk vendors must be permitted to operate in those zones;
- Prohibit sidewalk vending near farmers' markets, swap meets, and temporary special permit areas, as well as in parks where the City has a concessionaire agreement;
- Require compliance with sanitary conditions;
- Require the vendor to obtain necessary approvals from other regulatory agencies (such as the Department of Health for food vendors), prove that they possess necessary licenses prior to issuing a local permit, as well as displaying such licenses/permits on their sidewalk vending receptacles;
- Require vendors to comply with the Americans with Disability Act (for example, vendors cannot block curb ramps, they must leave a minimum of forty-eight inches (48") of accessible route area);
- Request certain information about the business' operations (name, mailing address, type of sales);
- Implement a local sidewalk vending licensing program, requiring a local license; and
- Make violations subject to administrative fines.

Local jurisdictions cannot:

- Require sidewalk vendors to operate in a specific area, *unless* the local authority is implementing such restrictions in order to protect the community's health, safety, or welfare;
- Require vendors to ask permission from businesses, non-governmental organizations or anyone besides the local jurisdiction;
- Prohibit sidewalk vendors from operating in public parks, unless the park has a concessionaire agreement, or the park is restricting vending if:
  - It is to protect the community's health, safety, or welfare;
  - 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.
- Restrict the total number of sidewalk vendors, unless the restriction is to protect the community's health, safety, or welfare;
- Make violations punishable by infraction or misdemeanor. Even failure to pay levied administrative fines cannot be criminalized.

All local sidewalk vendor regulations must be directly related to "objective health, safety or welfare concerns." The City must demonstrate a rational basis for the regulation, and the regulations cannot be arbitrary. The recitals and purpose section of the ordinance amendment must clearly explain why

the City is enacting the regulations.

Lastly, sidewalk vending violations cannot be punishable by misdemeanor or infraction. As such, in order to enforce violations of local sidewalk vending provisions, the City would need to establish administrative fines for such violations.

The ordinance being introduced tonight complies with all provisions set forth in SB 946.

**COORDINATION**

The ordinance has been prepared by the City Attorney's Office

**FISCAL IMPACT**

Fiscal impact of a local sidewalk vendor licensing program will be assessed upon adoption of a resolution establishing the fee.

**APPROVED BY:**

*Joe Hoefgen, City Manager*

**ATTACHMENTS**

Ordinance No. O-3220-21