



STAFF REPORT

Meeting Date: December 18, 2018
To: Honorable Mayor & City Council
From: Cynthia Owens, Policy & Management Analyst
Subject: Proposed Ordinance in Response to Senate Bill 946, the Safe Sidewalk Vending Act

Attachments:

1. Draft Urgency Ordinance
2. Draft Non-Urgency Ordinance
3. Senate Bill 946 (Lara), Sidewalk Vendors

INTRODUCTION

On September 17, 2018, Governor Jerry Brown signed Senate Bill 946 (Lara), Sidewalk Vendors, into law. This legislation limits the City's ability to regulate sidewalk vending unless the City adopts specific regulations or makes specific findings. Staff has drafted an urgency ordinance (Attachment 1) and a non-urgency ordinance (Attachment 2) establishing a program to permit and regulate sidewalk vendors in accordance with Senate Bill 946 for the City Council to review and provide direction to staff.

DISCUSSION

Background

In 1958, the City Council adopted Ordinance No. 1050, which established Section 9 Sales Tax, Business Licenses, Permits and Regulations of the Beverly Hills Municipal Code. Section 9-1105 Street Stands, Soliciting on Streets and Public Places prohibited the use of any public street, public sidewalk, public place or any lobby or public room in any hotel for the solicitation or transaction of business.

This was further codified in 1962 by the adoption of the Beverly Hills Municipal Code Section 6-13-05, Soliciting in Public Places which reiterated the prohibition of solicitation or transacting business on the public right of way.

On November 22, 1994, the City Council adopted Ordinance 94-O-2220, which regulates outdoor vending on private property. This ordinance prohibits outdoor vending on the public right of way.

On September 17 2018, Senate Bill 946 (SB 946) was signed by Governor Brown. SB 946 requires cities to allow sidewalk vending commencing January 1, 2019. Under the new law, the state mandates local jurisdictions to support and facilitate sidewalk vendors. The stated intent of the legislation is to:

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- 1) Create entrepreneurial and economic development opportunities for immigrant and low-income communities;
- 2) Increase access to desired goods, such as culturally significant food and merchandise;
- 3) Contribute to a safe and dynamic public space; and
- 4) Promote the safety and welfare of the public by encouraging local authorities to support and properly regulate sidewalk vending and the legislation also decriminalizes sidewalk vending.

Sidewalk vending is defined by SB 946 as a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

State law allows for two types of sidewalk vendors, stationary (a person who vends from a fixed location) or roaming (a vendor who moves from place to place and stops only to complete a transaction).

To meet the state mandated regulations as defined by Government Code Section 53036-53039, the City must amend Title 4 (Regulation of Certain Types of Businesses and Activities), Chapter 2 (Regulatory Business Permits) of the Beverly Hills Municipal Code as under the current code, the City does not sanction sidewalk vending other than what is strictly allowed under the issuance of a Peddlers permit.

Analysis

Upon passage of SB 946, staff from the City Attorney's Office, Community Development Department, Community Services, Finance, Fire Department, Police Department, Public Works, and Policy and Management began reviewing the changes to the Government Code and identified required amendments to the City's current Municipal Code in order to comply with state law while maintaining public health, safety, and welfare.

The table below describes the more significant regulations from the law that will affect how the City can regulate vending on sidewalks.

Subject	Description
Areas of Operations	Cities cannot restrict roaming or stationary sidewalk vending in commercial zones unless restrictions are directly related to objective health, safety, or welfare concerns. In residential areas, only stationary vendors can be restricted.
City-Owned Parks	Cities cannot prohibit roaming vendors from operating in City-owned parks, but may prohibit stationary vendors, if under contract with a concessionaire. Special districts are exempt.
Hours of Operation	In commercial zones, hours cannot be more restrictive than other businesses on same street. Placement of hours restrictions is permissible in residential zones.
Limits on Number of Vendors	Cities cannot limit the number of vendors or restrict them to certain areas of the City.

Subject	Description
Storefront Businesses	Cities cannot require a sidewalk vendor to obtain permission from any business to operate near them. Cities do not have the authority to restrict a vendor from operating on the sidewalk due to conflicting business uses.
Americans with Disabilities Act of 1990 (Public Law 101-336)	Cities can adopt requirements necessary to ensure compliance with the federal, state and local disability access standards.

State law also allows further regulation in City-owned parks if the regulations are necessary to:

- 1) Ensure the public's use and enjoyment of natural resources and recreational opportunities; and
- 2) Prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

SB 946 authorizes local government to implement operational regulations regarding the time, place, and manner of sidewalk vending only as it relates to objective health, safety or welfare concerns. Regulations considered for the proposed ordinance include, but are not limited to:

- Requirement for background checks
- Requirement for liability insurance
- Size restriction for vending area
- Sanitation requirements
- Restrictions on hours of operation
- Restriction on noise-making devices
- Enforcement of the federal Americans with Disability Act of 1990 standards
- Prohibition of vending in vicinity of special events and filming
- Proximity to critical City infrastructure
- Proximity to sensitive receptors such as schools and religious institutions

Proposed Ordinance

The proposed ordinance establishes Beverly Hills Municipal Code 4-2-22 Sidewalk Vending. The recommended program is consistent with SB 946 in that it facilitates the entrepreneurial spirit of small business activities by removing the prohibition on selling goods from portable stands. While encouraging more sidewalk vending, the City equally recognizes the importance of regulation and enforcement of sidewalk vendor activities to promote the health, safety, and welfare of the public.

The City's proposed program includes regulations that are necessary to:

- Ensure no interference with:
 - The performance of police, fire, and emergency medical personnel response services.
 - The flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles.
- Provide reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, mailboxes, as well as access to locations used for public transportation services.

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- Reduce exposure to the City for personal injury or property damage claims and litigation that result from sidewalk vending; and
- Ensure sidewalk vending activities only occur in locations where such vending activities would not restrict sidewalk and pathway access and enjoyment to individuals with disabilities.

The following sections provide an overview of some of the rules and regulations established by the proposed ordinance:

Permitting Requirements

Government Code (GOV) Section 51038(C)(4) allows a local authority to require a sidewalk vendor to obtain a permit, subject to certain limitations.

Consistent with SB 946, the City's proposed program would require a valid permit to engage in any sidewalk vendor activities. A permit enables the City to effectively regulate individuals who are engaging in sidewalk vending activities and ensure sidewalk vendors are complying equally with the rules and regulations set forth by the program.

The Finance Department will issue a permit to a sidewalk vendor when the application requirements are satisfied. Permit administration costs will be recovered through the permit fees. Staff is proposing a conservative flat fee based on a professional estimate of time to be spent on the permit process. The recommended fee for the issuance of a new permit is \$46.00, and includes 30 minutes of the Records Specialist time, 15 minutes of a Records Supervisor's time, and 15 minutes of a Customer Service Representative's time. The cost to renew an existing permit is \$20.00 and includes 15 minutes of a Records Supervisor's time and 10 minutes of a Customer Service Representative's time. Applicants are also required to pay the additional standard permit application fees related to the background check and ID card requirements.

Limitation of Hours of Operation

GOV Section 51038(C)(1) allows a local authority to place limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations imposed on other businesses or uses on the same street.

In nonresidential areas, the proposed program would limit hours of operation for sidewalk vending from 7:00 a.m. to 10:00 p.m., daily, which is consistent with most business operations throughout the City; however, the ordinances also provide that the hours of operations will not be more restrictive than the hours of operations imposed on other businesses or uses on the same street.

Beverly Hills Municipal Code (BHMC) Title 10, Chapter 3, Article 19.5 (Transition Between Commercial and Residential Use) considers a business with a closing hour beyond 10:00 p.m. as having extended hours of operation. This requires issuance of an extended hours permit in accordance with BHMC 10-3-1958 (Extended Hours Permits). The proposed limitation is comparable to the transitional commercial area requirements as it takes into account the potential for sidewalk vending in these areas.

In residential areas, staff considered other commercial activities that occur in these areas when establishing the hours of operation. Similar to construction, which is a visible commercial activity to residents, the hours of operation for sidewalk vendors are limited to 8:00 a.m. and 6:00 p.m., daily in the proposed ordinances. These areas tend to be

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more sensitive to noise and traffic impacts; therefore, warrant a smaller operational window.

Uniquely Prohibited Locations

GOV Section 51038(b)(1) prohibits a local authority from requiring a vendor to operate in specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.

The City has a permanent population of approximately 34,484 residents. During the summer months, the daytime population is estimated to range from 150,000 to 200,000 people. Overall, the City ensures the safety of at least 7.4 million visitors each year. These visitors frequent several unique locations and rely heavily on the City's sidewalks and pedestrian pathways in these areas to travel from place to place in a safe manner. Obstructions of the use of the sidewalk will pose a health and safety concern, especially in the locations that are most heavily used.

The following table summarizes the proposed excluded locations and why it is necessary to prohibit sidewalk vending at each of them.

Location	Why is it Necessary?
At least 200' from the Civic Center - The grounds, buildings, structures and open areas bounded by Crescent Drive to the west, Civic Center Drive to the east, North Santa Monica Boulevard to the north and Burton Way/South Santa Monica to the south	The Beverly Hills Civic Center area is central to all civic duties. It is home to the City's Emergency Operations Center (EOC), which could be activated at any time to manage critical resources in an emergency situation. It also has offices for many key fire and police personnel, who may need to respond to an emergency in a moment's notice. It is important that the pathways leading to and from the Civic Center grounds remain generally free and clear of any obstructions to ensure public safety.
Rodeo Drive between Wilshire and North Santa Monica Boulevard beginning May 15th and ending September 15th as well as from the 3rd Thursday of November through January 7th	This location is an extremely popular tourist destination with unusually high pedestrian and vehicular traffic volumes. This necessitates restrictions on sidewalk vending to protect the public from injury and to allow for those visitors with disabilities to adequately utilize the public right of way. Additionally, it protects access for public safety should there be an emergency requiring a response from the police or fire department. This will also ensure there is a clear exit path from commercial businesses that exit on to the public sidewalk.
Beverly Cañon Gardens Park (adjacent to the Montage Hotel) beginning May 15 and ending September 15 as well as from the 3rd Thursday of November through January 7	This location is an extremely popular tourist destination with unusually high pedestrian traffic. The outdoor area attracts visitors from around the world and oftentimes has people shoulder to shoulder inside the park area. This necessitates restrictions on sidewalk vending to protect the public from injury and to allow for those visitors with disabilities to adequately utilize the public right of way. Additionally, it protects access for public safety should there be an emergency requiring a response from the police or fire department.

Location	Why is it Necessary?
<p>Greystone Mansion & Gardens: The Doheny Estate.</p>	<p>This location is known for its idyllic setting. The City already prohibits picnics, animals, and other activities that would directly interfere with the natural character of the Greystone Mansion. This restriction is to assist with regulating any noise impacts to the residential area that Greystone Mansion is located in. Additionally, an undue concentration of commercial activity would unreasonably interfere with the scenic and natural character of the Greystone Mansion.</p>
<p>Lily Pond (located on Santa Monica Boulevard between Canon and Beverly) – year round</p>	<p>Consistent with GOV Section 51038 (B)(i) and GOV Section 51038 (B)(ii) which allow the prohibition of sidewalk vendors when it is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities as well as to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park. This location is an extremely popular tourist destination with unusually high pedestrian traffic. The outdoor area attracts visitors from around the world and oftentimes has people shoulder to shoulder inside the park area. This necessitates restrictions on sidewalk vending to protect the public from injury and to allow for those visitors with disabilities to adequately utilize the public right of way. Additionally, it protects access for public safety should there be an emergency requiring a response from the police or fire department.</p>
<p>Any public property that does not meet the definition of a sidewalk or pathway including, but not limited to, any alley, plaza, square, street, or public parking lot</p>	<p>As defined by SB 946, a "sidewalk vendor" means a person or person(s) who sells food or merchandise from a sidewalk vending receptacle or from one's person, upon a public sidewalk or pathway.</p>
<p>Business triangle during the annual Rodeo Drive Car Show</p>	<p>Annually, the City and the Rodeo Drive Committee host a car show with over 100 exquisite automobiles on display on Rodeo Drive. The Concours d'Elegance is a highly publicized event that draws local, regional and national media coverage and it is estimated over 50,000 people attend this event each year. While the event is hosted on Rodeo Drive, the pedestrian foot traffic on every street in the business triangle is higher than a routine summer day. This necessitates restrictions on sidewalk vending to protect the public from injury and to allow for those visitors with disabilities to adequately utilize the public right of way. Additionally, it protects access for public safety should there be an emergency requiring a response from the police or fire department.</p>

Location	Why is it Necessary?
Within 500' of the route of the LA Marathon	Annually, the LA Marathon runs through the City of Beverly Hills. This marathon is one of the largest marathons in the county with more than 25,000 participants that run from Dodger Stadium in Los Angeles to the Santa Monica Pier. There are also thousands of volunteers and hundreds of thousands of spectators throughout the 26.2 mile route. A portion of the LA Marathon runs through the heart of Beverly Hills and onto Rodeo Drive. This route bifurcates the City into two sections during the LA Marathon. Additionally, when the LA Marathon staff reopens the roads, runners are pushed onto the sidewalk, creating additional pedestrian traffic in Beverly Hills. This necessitates restrictions on sidewalk vending to protect the public from injury and to allow for those visitors with disabilities to adequately utilize the public right of way. Furthermore, it protects access for public safety should there be an emergency requiring a response from the police or fire department. The City would reopen the sidewalks to vendors at 5:00 p.m. to ensure all runners have had the opportunity to clear the City.

Additional Locational Restrictions

The City has a unique physical setting with many visual, recreational, and environmental resources that have influenced the type and form of land uses within the community. The majority of the City is fully developed with a diverse mixture of residential, commercial, recreational, and open space uses.

Many of the sidewalks within the City are narrow with a width of less than eight (8) feet. Given the amount of pedestrian activity, much of the public realm has been improved with public-serving amenities, such as trash receptacles, benches, bike racks, and street trees. In the commercial area, there are a mixture of small lots, medium lots, and large lots. Some of the streets with smaller sized lots include North Beverly Drive, North Canon Drive, and Rodeo Drive. This creates a heavily traveled environment with measures in place, such as color-coded curb zones, to help ensure the safety and welfare of the public.

GOV Section 51038(b)(1) allows a City to regulate where sidewalk vending may occur if it relates to an objective health, safety, or welfare concern. The following table summarizes the additional locational restrictions and why it is necessary to have these restrictions in place to ensure public health, safety and welfare, or the table will site a different section of the Government Code where applicable.

Restriction	Why is it Necessary?
At least 200 feet from any other sidewalk vendor	A concentration of sidewalk vendors in a single area poses a safety hazard and may limit accessibility for pedestrians; thus, affecting the flow of the right-of-way.
At least 500 feet from any public or private school, places of worship, or a large general child daycare facility	These land uses are sensitive receptors to noise and any activity that is disruptive to day-to-day operations and the overall welfare of said uses. In addition, any queuing in front of a school can pose a safety issue with children entering and exiting before and after school. Adjacency of sidewalk vendors near these uses could also attract children off-site or cause children to rush across a street without checking for vehicular traffic.

Restriction	Why is it Necessary?
At least 100 feet from any public picnic area, playground area or playground equipment	Adjacency of sidewalk vendors near these uses could attract children off-site and poses a safety issue.
At least 100 feet from any public community center, athletic field, softball/baseball diamond, basketball court, handball court, pickle ball court, tennis court, soccer field, or volleyball court while the same is in use	These areas are all intended to encourage physical activity and public health and welfare. If not properly regulated, sidewalk vendors will pose an interruption to the intended use.
At least 100 feet from any police officer, firefighter, or emergency medical personnel who is actively performing his or her duties or providing services to the public	In the event any emergency services personnel or vehicles are activated in an area, it is imperative that potential conflicts are minimized to the greatest extent feasible as to prevent any access conflict.
Sidewalks and pathways must be at least 8 feet in width or larger	Many of the sidewalks and pathways in the City are less than eight (8) feet wide. Sidewalk vending in these areas would unreasonably interfere with the flow of pedestrians and disrupt access for persons with disabilities. Assuming a sidewalk vending receptacle that is four (4) feet by four (4) feet, this would leave a minimum of four (4) feet not withstanding any queues or persons patronizing the sidewalk vendor.
At least 100 feet from any intersection of a street and a sidewalk, including alleys.	This restriction helps to ensure there are limited obstructions adjacent to a street intersection. Such obstructions will impede vehicular sight lines and would pose a safety issue for pedestrians and drivers alike.
Within 100 feet of any entrance to a park or Beverly Cañon Gardens Park	Allowing sidewalk vending operations within 100 feet from any entrance will result in inadequate access to the park or inadequate egress from the park in an emergency situation. Additionally, an ADA accessible path of travel will further be impinged.
At least 100 feet from the portion of any City facility that is renting merchandise or selling food to the public or where the rental merchandise is stored.	A concentration of sidewalk vendors and/or similar functions in a single area pose a safety hazard and may limit accessibility for pedestrians; thus, affecting the flow of the right-of-way. Additionally, the City has exclusive agreements with these vendors and therefore, under GOV Section 51038(a)2(A), can prohibit station sidewalk vending in the area.
At least 25 feet from a litter receptacle, bike rack, or restroom	Allowing sidewalk vending operations within 25 feet of any of these public use items will negatively affect the welfare of the public. Sidewalk vending operations will obstruct the view of these items and discourage public use of these items, as they were intended. Further, sidewalk vending adjacent to any of these public use items will hinder required access for a disabled person.

Restriction	Why is it Necessary?
At least 15 feet from any fire hydrant, call box, traffic signal controller, streetlight controller	In the event of an emergency and for regular maintenance, the Fire Department needs to have constant, uninhibited access to hydrants citywide. Adequate space must always be provided to allow for an apparatus (e.g. fire engine) to access the hydrant. The distance for the call box, traffic signal controller and streetlight controller is to allow adequate space for access in the event of an emergency or for regular maintenance.
At least 25 feet from any entrance or exit to a building, structure or facility, including pedestrian entrance/exit or elevator lobby of a City-owned parking structure	Allowing sidewalk vending operations within 25 feet from any entrance or exit will result in inadequate access to the building or inadequate egress from the building in an emergency situation. An ADA accessible path of travel will further be impinged.
At least 5 feet from metered parking along the curb	Allowing sidewalk vending operations within 5 feet of the meter will hinder required access for a disabled person, prevent egress from the vehicle, and prevent access to the meter for the vehicle driver and/or for maintenance.
At least 4 feet from non-metered parking along the curb.	Allowing sidewalk vending operations within 4 feet of the non-metered curb will hinder required access for a disabled person and prevent egress from the vehicle.
At least 3 feet from a red curb, posted permanent no parking, or loading zone	These curb and public right-of-way areas have been designated as special use zones dependent upon the color of the curb. Allowing sidewalk vendors to operate in these special use zones will pose as an obstruction inconsistent with the intended restrictions. For example, a sidewalk vendor in a red zone could hinder emergency access or a sidewalk vendor in a yellow zone could hinder loading and unloading.
At least 100 feet from an alley entrance or exit	Allowing sidewalk vending operations within 100 feet from any alley will pose a safety issue by obstructing vehicular line of sight while obstructing vehicular access or allowing queuing that encroach into vehicular driveway.
At least 10 feet from any driveway or driveway approach	Allowing sidewalk vending operations within 10 feet from any driveway will pose a safety issue by obstructing vehicular line of sight.
At least 10 feet from a marked or curb return of an unmarked crosswalk	Allowing sidewalk vending operations within 10 feet a crosswalk will pose a safety issue by obstructing pedestrian line of sight of oncoming traffic and obstruct vehicular line of sight of pedestrians entering the crosswalk.
Median strip or dividing section	Allowing sidewalk vending operations in a median strip will pose a safety issue by obstructing vehicular line of sight. Additionally, it creates a safety hazard as pedestrians may rush across a street without checking for vehicular traffic. It also would encourage vending to people inside a vehicle which is prohibited by this code as it interferes with the safe flow of traffic.

Restriction	Why is it Necessary?
At least 40 feet from a tour bus loading zone or staging zone	Allowing sidewalk vending operations within 40 feet of a tour bus loading zone will negatively affect the welfare of the public. Ingress and egress from a bus requires a large area where people can congregate immediately before or after loading or unloading. Sidewalk vending adjacent to the loading zone will hinder required access for disabled persons.
At least 25 feet from a limousine staging zone, bus stop, trolley stop, taxi stand, bus bench, bus shelter, or valet parking service.	Allowing sidewalk vending operations within 25 feet of any of these public use items will negatively affect the welfare of the public. People who are at these places are a captive audience and are generally unable to avoid solicitation. Sidewalk vending adjacent to any of these public use items will also hinder required access for a disabled person.
At least 200 feet from a police or fire station	These facilities are high in activity with emergency services personnel activated and entering or exiting the facilities during an emergency. Unimpaired access is necessary to ensure public health and safety services are provided whenever they are needed.
At least 200 feet from a subway station entrance or exit	Allowing sidewalk vending operations within 200 feet from any entrance or exit will result in inadequate access to the subway station or inadequate egress from the subway station in an emergency situation. An ADA accessible path of travel will also be further impinged upon.
At least 15 feet from an automated teller machine or parking pay station	ATMs and parking pay stations are frequently used, especially in areas with a healthy tourism industry. This restriction will help to limit conflicts between sidewalk vendors and patrons of the ATM who may also be queuing. People who are at these places are a captive audience and are generally unable to avoid solicitation. It will also limit obstructions to the public right-of-way that negatively affect accessibility.
Stationary sidewalk vendors not permitted in any park where City has signed an agreement for concessions that exclusively permits sale of food or merchandise by a single concessionaire	This restriction is consistent with GOV Section 51038(2)(A), which allows prohibition of stationary sidewalk vendors in public parks that have a single-concessionaire agreement. Also consistent with State requirements, roaming vendors are not affected by this restriction.
At least 200 feet from an operational back up City EOC	The City's backup EOCs, can be activated at any time to manage critical resources in an emergency situation. These facilities are high in activity with emergency services personnel activated and entering or exiting the facilities during an emergency. Unimpaired access is necessary to ensure public health and safety services are provided whenever they are needed.
Stationary sidewalk vendors not permitted within 170' any area zoned exclusively for residential use	The City identifies a Commercial-Residential Transition area as that area located within 170' for a residential zone. This restriction is to assist with regulating any noise impacts to this area or excessive foot traffic which will be disruptive.

Restriction	Why is it Necessary?
At least 500 feet from any certified farmers' market or swap meet	Consistent with GOV Section 51038(d)(1), which allows a prohibition of sidewalk vendors in the immediate vicinity of such permitted activities.
At least 50' from a public art installation	Consistent with GOV Section 51038 (B)(i) and GOV Section 51038 (B)(ii) which allow the prohibition of sidewalk vendors when it is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities as well as to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park. Additionally, in non-park places, public art requires accessibility for the enjoyment of the public without being impacted by queuing.
At least 100' from an open air dining area	Allowing sidewalk vending operations within 100 feet of any of this area will negatively affect the welfare of the public as it limits the availability of the sidewalk for appropriate pedestrian access due to line queuing. Additionally, people who are at these places are a captive audience and are generally unable to avoid solicitation.
At least 48 inches of clearance on the sidewalk	Ensures an ADA accessible path of travel can be maintained without negatively impacting the flow of pedestrian traffic.

Maintaining Sanitary Conditions

GOV Section 51038(b)(1) allows a city to regulate the time, place, and manner of sidewalk vending when it is directly related to an objective health, safety, or welfare concern.

BHMC-2-2215 Operating Requirements enacts a variety of requirements that directly relate to maintaining sanitary operating conditions in the interest of protection the health and welfare of the public. This includes:

- Having hand sanitizer for use by the vendor and patrons if selling food that is not prepackaged
- Maintaining a litter receptacle which cannot be emptied into a City refuse container
- Requiring the vendor to maintain a neat, sanitary, hazard and trash-free 10' radius of their cart.
- Requiring the vendor to immediately clean up any food, grease or other fluid that falls on public property.
- Being located within 100' of a publicly accessible bathroom if in place for one hour or longer.
- Maintaining a current permit issued by Los Angeles County Department of Public Health when selling food and displaying such permit and food letter grade.
- Selling the types of food approved for that vendor by Los Angeles County Department of Public Health.
- Providing one umbrella and chair for the employee to utilize. No other accessories are allowed.
- Storing vending carts for food in accordance Los Angeles County Department of Public Health requirements.

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- Providing locking wheels on all vending carts to prevent uncontrolled movement.
- Staying with the vending cart at all times as the cart may need to be relocated quickly to provide emergency access to the area for police and fire personnel.
- Removing the cart from the public right of way each evening.

There are some objective health, safety, or welfare concerns that are not related to a location but are related to maintaining a safe environment or assist with addressing objective welfare concerns which are included in BHMC-2-2215 Operating Requirements. These are:

- Ensuring food and merchandise are securely fastened to a vending cart.
- Storing food inside the cart, affixed to the cart or carried by the vendor.
- Ensuring the vending carts do not lean against nor are attached to a building or structure.
- Signage shall be affixed to the vending cart or vendor's person and may not be electrical, flashing, wind-powered, or animated.
- Vending carts shall not exceed a length of 4', a width of 4', or have an umbrella no less than 7' above the surface of the sidewalk.
- Vending carts for merchandise, if stored in the City, shall be fully enclosed by walls and a roof.

Additionally, the vendor may not engage in activities where:

- A reasonable person feels threatened.
- Physically contact a member of the public.
- Sell to a person in a motor vehicle, cause vehicles to stop in traffic lanes, or cause pedestrians to step into traffic lanes.
- Harass people.
- Block the path of a person.
- Rent merchandise.
- Sell lottery tickets, alcohol, cannabis, adult oriented material or tobacco related products.
- Make false statements about what they are vending.
- Sell counterfeit merchandise.
- Barter or solicit offers to purchase services.
- Interfere with people in parks who are engaged in physical activity or watching sports activities.
- Damage public or private property.
- Obstruct the free movement of vehicles, including parked vehicles.

Administrative Requirements

GOV Section 51038(c)(4) through 51038(c)(8) allows the City to adopt an ordinance which requires a vendor to obtain a permit from the City. Additionally, the City may require the vendor obtain other applicable state or local licenses. Based on this section of SB 946, BHMC-2-2215 Operating Requirements enacts the following administrative requirements:

- The vendor must obtain a City permit and the application will contain the information outlined in BHMC 4-2-2203 Permit Application.
- Provide and maintain insurance with:
 - A minimum of \$2 million in general liability which lists the City as an additional insured and contains a 30 day cancelation notice to the City;
 - Vehicle insurance in compliance with state law; and
 - Workers compensation insurance in compliance with state law.
- The vendor must indemnify the City.

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Other requirements include:

- Possessing and displaying the City permit.
- Being in compliance with other generally applicable laws which includes but is not limited to:
 - BHMC 5-1 Noise Regulations
 - BHMC 5-3-14 Aggressive Solicitation
 - Division 1 of Title 11 of the County Health Code
 - Division 1 of Title 8 of the Public Health Licenses
 - Americans with Disabilities Act of 1990 (Public Law 101-336)

Enforcement, Penalties, and Appeals

GOV Section 51039 outlines limitations on punishing sidewalk vendors for violating parameters of the City's program. The City's program encourages efficient enforcement through its operating conditions, such as requiring conspicuous display of a sidewalk vendor permit and requiring the allowance of certain City officials to inspect the operation at all times.

Violations of BHMC 4-2-22, Sidewalk Vending, would be enforced through administrative fines established in SB 946 and in accordance with BHMC 40-22-2217, Administrative Citations.

Additionally, BHMC includes an appeals framework, which provides due process for individuals who are in disagreement with a denial of a permit, issued an administrative citation, or who desire to contest revocation of an issued permit.

FISCAL IMPACT

Costs associated with the issuance and administration of a sidewalk vendor permit are proposed to be recovered through a fee. There is no direct fiscal impact related to this item. There will be indirect costs associated with additional enforcement which cannot be determined at this time until the program is implemented and reviewed.

RECOMMENDATION

Staff requests the City Council review the proposed Ordinance to regulate sidewalk vending.

George Chavez

Approved By