

City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: OCTOBER 22, 2019**
FROM: CITY ATTORNEYS OFFICE **WARD: ALL**
SUBJECT: AN AMENDMENT TO CHAPTER 5.38 OF THE RIVERSIDE MUNICIPAL CODE REGARDING SIDEWALK VENDORS.

ISSUE:

Adopt an ordinance amending Chapter 5.38 of the Riverside Municipal Code to comply with State Law for Sidewalk Vendors.

RECOMMENDATION:

That the City Council:

1. Introduce and subsequently adopt the attached Ordinance amending Chapter 5.38 of the Riverside Municipal Code regarding Sidewalk Vendors.

COMMITTEE RECOMMENDATION:

The Public Safety Committee met on September 18, 2019, with Chair Perry and Council Members Adams and Melendrez present. The Committee received a presentation from the City Attorney's Office that included analysis of California Senate Bill 946, which provides a uniform state law regulating Sidewalk Vendors. After discussion, the Committee had no recommendation, and voted 2-1 to send the presentation to the full City Council for further discussion.

BACKGROUND:

The City of Riverside currently allows Sidewalk Vendors (Pedestrian Food Vendors) to sell their wares pursuant to Riverside Municipal Code (RMC) Chapter 5.38, adopted in 1988. Currently, Sidewalk Vendors cannot operate on major arterial streets, nor can they be in any City park without the written permission of the Parks, Recreation and Community Services Director. Sidewalk Vendors selling food must stay at least 150' away from restaurants. Sidewalk Vendors operating in violation of RMC Chapter 5.38 are subject to civil and criminal penalties, as well as confiscation of their carts and wares.

The City of Los Angeles had a similar ordinance regulating Sidewalk Vendors. However, there were complaints that the City of Los Angeles unfairly restricted where Sidewalk Vendors could operate in order to favor brick and mortar businesses. In addition, concern grew that some Sidewalk Vendors who had suffered criminal convictions for violating the Los Angeles ordinance would be subject to deportation by the federal government. To protect these Sidewalk Vendors, state senator Ricardo Lara introduced Senate Bill 946, which restricted a local authority's ability to regulate Sidewalk Vendors, and removed criminal penalties for violations. Senator Lara wrote

in his comments:

“The author wants to allow sidewalk vendors to operate freely in local jurisdictions throughout the state and to decriminalize violations issued for local sidewalk vending policies.”

- The general rule of SB 946 is that any restriction on a sidewalk vendor must be directly related to an objective health, safety or welfare concern.

The governor signed SB 946 on September 17, 2018, and it became effective on January 1, 2019 as Government Code sections 51036 – 51039.

DISCUSSION:

RMC Chapter 5.38 in its current form substantially complies with SB 946, but amendments are needed to bring it into full compliance. The proposed ordinance makes the following changes:

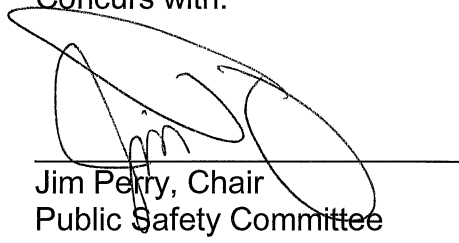
1. Restrictions on which streets Sidewalk Vendors can operate have been lifted.
 - Stationary vendors are still banned from residential neighborhoods. (Mobile vendors are allowed.)
2. Sidewalk Vendors can now operate next to restaurants.
 - Govt Code section 51038(e) “economic competition does not constitute an objective health, safety or welfare concern.”
3. Sidewalk Vendors can now operate in parks.
 - However the City can adopt time/place/manner restrictions for any of the following:
 - i. Objective health, safety, welfare concerns. (Mt. Rubidoux)
 - ii. Necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities. (Sycamore Wilderness Park)
 - iii. Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park. (Rose garden at Fairmount Park; White Park.)
4. Criminal prosecution and/or seizure of carts and merchandise is no longer allowed.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Gary G. Geuss, City Attorney

Concurs with:

A handwritten signature in black ink, appearing to read "Jim Perry", is written over a horizontal line. The signature is stylized and loops around the line.

Jim Perry, Chair
Public Safety Committee

Attachment: Ordinance