



Land Use, Sustainability & Resilience Committee

City of Arts & Innovation

TO: LAND USE, SUSTAINABILITY & RESILIENCE COMMITTEE MEMBERS **DATE: MAY 27, 2021**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT **WARDS: ALL**

SUBJECT: PROPOSED AMENDMENTS TO SIDEWALK VENDING ORDINANCE

ISSUE:

Consider the proposed changes to Chapter 5.38 regarding sidewalk vending.

RECOMMENDATIONS:

That the Land Use, Sustainability & Resilience Committee direct staff to:

1. Take no further action on the existing sidewalk vendor ordinance (maintain status-quo); or
2. Postpone the discussion for 12 months to allow local businesses an opportunity to recover from COVID-19 related challenges; or
3. Prepare amendments to RMC 5.38 – Sidewalk Vending, to amend the current code as directed, for City Council consideration and subsequent approval.

BACKGROUND:

On September 17, 2018, the Governor signed Senate Bill SB 946, and it became effective on January 1, 2019, as Government Code sections 51036 – 51039. The legislation defines a “sidewalk vendor” as a person who sells food or merchandise on a public sidewalk or other pedestrian paths. This law decriminalizes sidewalk vending with the intent to promote entrepreneurship and economic development opportunities for low-income and immigrant communities. The general rule of SB 946 is that any restriction on a sidewalk vendor in public parks and on public sidewalks must be directly related to an objective health, safety, or welfare concern.

Many of the City’s former restrictions regarding sidewalk vending in the Riverside Municipal Code conflicted with the current State law. On July 21, 2020, City Council adopted amendments to RMC 5.38, bringing the municipal code into compliance with State Law. At that time, City Council also directed staff to explore other opportunities to revise the RMC and create a law that would balance the needs of the City of Riverside, the community, and the business operators themselves. The goal is to ensure public health, safety, and welfare and, at the same time, allow for a climate of entrepreneurship and prosperity for the business community.

Riverside Municipal Code Section 5.38 regulates sidewalk vendors. On January 11, 2021, staff

presented a review of the City's sidewalk vending ordinance to the Land Use, Sustainability & Resilience Committee (Committee) and outlined three different options for consideration as follows:

1. Maintain status quo and leave the current code unchanged;
2. Include additional restrictions that are related to health, safety, and welfare; or
3. Explore opportunities to further lessen restrictions than the current code currently includes.

Committee Members Plascencia and Edwards asked that staff prepare an option for consideration that loosened existing restrictions, and Committee Member Perry asked that a balance of health, safety, and welfare factors be considered with the need to provide more opportunities for entrepreneurs. All Committee Members asked that staff conduct additional community outreach with vendors, business owners, residents, and advocate groups and further review best practices of other local agencies.

Pursuant to Committee direction, staff conducted two virtual community round-table meetings to provide a background of the project to participants as well as solicit their feedback and perspectives on several topics related to the City's current sidewalk vending ordinance and future direction of the City concerning sidewalk vending. The first meeting was held on March 25, 2021 and was attended by approximately 100 participants. The second meeting was conducted on April 8, 2021 and attended by approximately 40 participants. During the course of these meetings, three general perspectives emerged from the community.

1. Sidewalk vending should be encouraged and supported in the City with restrictions and barriers to entry lessened.
2. Sidewalk vending should be regulated to a greater degree due to primarily health/safety concerns.
3. The discussion regarding sidewalk vending should be postponed for at least 12 months to allow local restaurants a chance to recover from COVID-19 challenges without also needing to compete with an influx of additional food vending businesses (sidewalk vendors).

Staff also conducted two (2) virtual roundtable meetings to solicit feedback from a broad spectrum of the community and reviewed/compared numerous local codes regarding sidewalk vending. Opinions from the virtual roundtable meetings varied with 3 main perspectives emerging:

1. Opportunities for vendors should be increased.
2. Stricter enforcement and rules should be applied due to health/safety concerns.
3. The City should postpone the discussion for 12 months to allow local restaurants to recover from COVID-19 challenges without added competition.

In addition to conducting community outreach meetings and virtual roundtable meetings, staff also researched other agency's codes related to sidewalk vending including: City of Anaheim, City of Pasadena, City of San Diego, City of Los Angeles, City of Corona, City of Santa Ana and City of Jurupa Valley. Some of these agencies have not yet updated their laws to comply with the California Government Code. Those that have, shared similarities in that they substantially comply with State Law and have other provision (specific to that agency) which pertain to vending operations and the protection of health/safety/welfare that are not included in State Law.

The City's existing sidewalk vending ordinance is in compliance with the California Government Code and currently contains allowances for sidewalk vending activity as long as the proprietor

obtains the proper permits and licenses.

DISCUSSION:

As the City of Riverside's Municipal Code regarding sidewalk vending currently stands, it provides broad allowances for sidewalk vending equally throughout all areas of the City and does comply with the California Government Code regarding sidewalk vendors. The City has an opportunity to amend the pertinent RMC as outlined below. The following options have been developed through community engagement/feedback, Council Committee Member input, review of local codes and ordinances related to sidewalk vending, and recommendations of other affected City Departments including, Riverside Police, Parks, Recreation and Community Services, City Attorney, Traffic Engineering and Public Works.

OPTIONS FOR CONSIDERATION

1. Remove the requirement of providing a Social Security Number to the Permit Officer when applying for Pedestrian Food Vendor Permit, which is currently required by RMC 5.38.040 (A1).
2. Remove discretionary language that states a Permit Officer shall issue a permit if all of the requirements have been met and the Permit Officer is "reasonably satisfied" that the operation will conform with standards, as currently stated in RMC 5.38.070, and a state permit shall be issued if all of the requirements of the preceding permit application requirements have been met.
3. Replace the word "promptly" with a defined timeline (i.e. 5 business days) in RMC 5.38.100(2) – Permit Revocation, which currently requires the permittee to "promptly" notify the Permit Officer of any changes occurring subsequent to the time of application and the issuance of a permit.
4. Consider allowing a permittee that was denied a Pedestrian Food Vendor Permit to appeal to the legislative body. Current RMC 5.38.110 – Permit Appeal prescribes this function to the City Manager with the decision of the City Manager being final.
5. Extend the time that a roaming sidewalk vendor in a residential area can remain stationary while conducting sales from the current ten-minute maximum per RMC 5.38.115 (2) to thirty minutes to allow that vendor to service everyone in that area that may be waiting.
6. Eliminate cart dimensions as this is self-regulating, and pushcarts are naturally not overly large or burdensome so as to remain mobile and must still allow sidewalk accessibility/not block sidewalk. Current RMC 5.39.120 (C) limits cart size to six feet in length by four feet in width.
7. Eliminate prohibition on the use of sound-making devices for pedestrian vendors to allow them to notify a neighborhood they are conducting business. Potentially continue to restrict loudspeakers and amplified sound. Current RMC 5.38.120 (F) prohibits the use of any sound-making devices including bells, chimes, horns, and speakers, etc.
8. Add additional Restrictions – Downtown Entertainment District.

Prohibit sidewalk vending in the area bounded by Third Street to the east, Tenth Street to the west, Lime Street to the south, and Market Street to the north Thursday-Saturday between the hours of 5:00 P.M. and 3:00 A.M.

During these days and times, the described area experiences a high volume of vehicular and pedestrian activity that is exacerbated by allowing sidewalk vending to take place in this same small, defined area. The Downtown Entertainment District includes numerous bars, restaurants, and entertainment venues that draw large numbers of guests. While

volume has decreased during the COVID-19 pandemic and resulting Stay-at-Home order, a renewed proliferation of sidewalk vendors would cause traffic congestion and pedestrian safety concerns. Customers surrounding vendors set up on downtown sidewalks have obstructed sidewalks forcing pedestrians to walk mid-block, which can increase the risk to pedestrians and motorists. In addition, drivers often abruptly stop and/or park illegally to patronize the sidewalk vendors. Further, there has been an increase in violent and nuisance incidents as patrons leaving bars/venues at closing time may continue to congregate in the downtown area to patronize the sidewalk vendors, and this increased activity has led to fights, noise disturbances, and other incidents requiring a police response.

Prior to the COVID-19 pandemic, Riverside Police Department officers on foot patrol in the Downtown Entertainment District witnessed numerous dangerous incidents of pedestrians leaving the sidewalk and walking in the busy roadways due to the presence of vendors on the sidewalks. Vehicle operators blocked by stopped cars were observed making sudden lane changes, risking collisions with other vehicles and pedestrians in the street.

The Riverside Police Chief concurs with the proposed Downtown Entertainment District restriction stated herein as directly related to address health, safety, or welfare concerns.

Vending in the public right-of-way and public parks creates the potential for increased safety risks including, but not limited to, interfering with the performance of police, firefighter, and paramedic services; contributing to traffic congestion and; interfering with the ability of pedestrians to follow a safe path of travel. This proposed regulation of sidewalk vendors is designed to promote the mobility and safety of pedestrians and vehicles at all times. It is narrowly tailored to restrict the time, place, and manner of vending on the designated public streets and sidewalks to the extent necessary to preserve and protect the safety and welfare of the public from the impacts of vendor sales.

The Public Works Director and City Engineer Gilbert Hernandez have assessed the safety consideration in the public roadway and concur that the proposed restrictions stated herein are directly related to addressing health, safety, and welfare concerns.

9. Add additional Restrictions – Parks

Stationary vendors in public parks may be prohibited outright where a city has entered an exclusive concessionaire agreement. Otherwise, vendors may be restricted in a park owned or operated by the City, if the requirements are any of the following: (i) directly related to objective health, safety, or welfare concerns; (ii) necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; or (iii) necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

The City of Riverside has 72 developed and undeveloped parks. The majority of them are accessible to sidewalk vendors. However, some parks have special uses, such as off-leash dog parks, that conflict with sidewalk vending activity. In addition, the topography and terrain of open space/"wilderness" parks makes sidewalk vending activity hazardous. Lastly, sidewalk vending in certain parks within the City would not only be a health/safety concern but would interfere with the public's use and enjoyment of natural resources and recreational activities.

Special Use Parks:

- a. Carlson Dog Park
- b. Arlanza Neighborhood Garden
- c. Riverwalk Dog Park
- d. White Park

Regional Reserves/Open Space:

- e. Box Springs Mountain Open Space
- f. Challen Park Open Space
- g. Mount Rubidoux Park and San Andreas Ave./Glenwood Dr. between Tequesquite Ave. and 14th St.
- h. Pachappa Hill Open Space
- i. Quail Run Open Space
- j. Sycamore Canyon Wilderness Park

The Parks, Recreation & Community Services Director has assessed the current state of City parks and believes the outlined restrictions are appropriate and meet the standards set forth in SB 946.

10. Add additional Right-Of-Way Restrictions

To improve safety between motorists, bicyclists, and sidewalk vendors, staff recommends the following additional restrictions:

- a. Vending shall be prohibited along the portion of Magnolia Avenue, generally within the Arlington Business District, along where bicyclists are currently allowed to share the sidewalk.
- b. Vending shall be prohibited within any designated bikeway, bike lane, or bicycle parking area.
- c. Sidewalk vendors shall not obstruct access to public infrastructure including, parking meters, parking pay stations, shared mobility parking zones, waste receptacles, crosswalk pedestrian push buttons, and public furniture, etc.
- d. Vending shall be prohibited adjacent to any portion of the curb designated as a passenger, commercial, or school loading zone via signage and/or curb markings.
- e. Sidewalk vendors shall maintain an unobstructed 4-ft walking path at all times.

11. Other potential amendments that may arise through the Committee discussion process.

All of the options stated herein could be implemented pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution.

FISCAL IMPACT:

There is no fiscal impact associated with the receipt of this report.

Prepared by: David Welch, Community & Economic Development Director
Certified as to availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer

Approved by: Rafael Guzman, Assistant City Manager
Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

- 1) Riverside Municipal Code 5.38 – Sidewalk Vendors
- 2) California Government Code 51036-51039
- 3) Presentation