



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JULY 20, 2021
FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT WARDS: ALL
SUBJECT: ORDINANCE TO AMEND RIVERSIDE MUNICIPAL CODE CHAPTER 5.38 -
SIDEWALK VENDORS

ISSUE:

Adoption of an ordinance to amend Riverside Municipal Code Chapter (RMC) 5.38 regarding sidewalk vendors.

RECOMMENDATION:

That the City Council:

1. Adopt the proposed ordinance (Attachment 5) to amend RMC Chapter 5.38 – Sidewalk Vendors, as recommended by the Land Use, Sustainability and Resilience Committee.

COMMITTEE RECOMMENDATIONS:

On May 27, 2021, the Land Use, Sustainability and Resilience Committee (Committee) met to consider proposed changes to Riverside Municipal Code Chapter 5.38 regarding sidewalk vending. Following discussion, the Committee voted with 2 ayes (Chair Plascencia and Vice Chair Edwards) and 1 no (Committee Member Perry) to: (1) recommend that the City Council amend the Riverside Municipal Code Chapter 5.38 Sidewalk Vending, to include options for consideration as outlined in the staff report as follows: (a) options 1-7; (b) add the language for additional restrictions located in the first paragraph under option number 9, “Stationary vendors in public parks may be prohibited outright where the 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.”; (c) keep Regional Reserves/Open Spaces and remove Special Use Parks; (3) accept section B through E and not A of option number 10; and (d) prohibit vending in center medians; and (2) direct the City Attorney to prepare an ordinance to be presented for City Council consideration in July, 2021.

BACKGROUND:

The Governor signed Senate Bill SB 946, and it became effective on January 1, 2019, as Government Code sections 51036 – 51039 (Attachment 2). 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 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 to make recommendations for further revisions that were specific to the City of Riverside.

Subsequently, staff made two presentations to the Land Use, Sustainability and Resilience Committee on January 11, 2021, and May 27, 2021, to discuss the sidewalk vending ordinance.

Also, pursuant to Committee direction, staff conducted several 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 was attended by approximately 40 participants. Three main perspectives emerged during the course of these meetings:

1. Overall support for sidewalk vending and easing restrictions to allow this business model to expand. Sidewalk vendors are an integral part of the community and many people patronize them and prefer having them in their communities.
2. The necessity to restrict sidewalk vending to safeguard public health, safety and welfare. Concerns include food safety, underage workers, crime related to late night vending, pedestrian safety in overcrowded areas, etc.
3. Postponement of this discussion for 12 months to allow existing businesses an opportunity to recover from COVID-19 restrictions.

DISCUSSION:

At the May 27, 2021 meeting, the Land Use, Sustainability and Resilience Committee directed staff to make the following changes to the existing sidewalk vending ordinance:

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). Other valid forms of identification (ID) are still required.
2. Remove discretionary language which states that 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, 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. 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 dimension requirements as this is self-regulating. Pushcarts are naturally not overly large or burdensome so as to remain mobile and must still allow sidewalk accessibility. 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 in which they are conducting business. 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, speakers, etc.
8. Add additional restrictions for City Parks as follows:

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.

According to the Parks, Recreation and Community Services Director, open space/regional reserves provide an opportunity for residents to enjoy the peace, solitude and natural beauty of the area without the commercial distractions typically seen in an urban environment. Restricting sidewalk vending in these parks is necessary to preserve the natural characteristics and resources of open space parks. In addition, the terrain and topography of these parks can make operating pushcarts or setting up vending operations hazardous to the operator and customers.

Regional Reserves/Open Space:

- a. Box Springs Mountain Open Space
 - b. Challen Park Open Space
 - c. Mount Rubidoux Park and San Andreas Ave./Glenwood Dr. between Tequesquite Ave. and 14th St.
 - d. Pachappa Hill Open Space
 - e. Quail Run Open Space
 - f. Sycamore Canyon Wilderness Park
9. Add additional Right-Of-Way Restrictions related to health/safety/welfare.
 - a. Vending shall be prohibited within any designated bikeway, bike lane, or bicycle parking area.

- b. 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.
- c. 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.
- d. Sidewalk vendors shall maintain an unobstructed 4-ft walking path at all times.

The Committee also recommended that sidewalk vending be prohibited in center medians of public streets as this creates an inherent risk to the health, safety and welfare of not only the vendor, but to the customers and surrounding motorists.

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.

Options that were not recommended for inclusion by the Committee were additional weekend and evening restrictions in the Downtown Entertainment District during peak hours (Thu-Sat 5 P.M-3 A.M.), prohibitions on vending in Special Use Parks including White Park, Carlson and Riverwalk Dog Park and the Arlanza Community Garden; and a prohibition on vending along Magnolia Ave. in the Arlington Business District which is a shared pedestrian/bike lane.

It should also be noted that the proposed ordinance revision (Attachment 4) includes clean-up language on definitions of a sidewalk vendor consistent with the definitions located in the applicable California Government Code. A red-line version showing the proposed changes to the ordinance is included as Attachment 3.

The Interim Public Works Director, the Director of Parks, Recreation and Community Services, and the Chief of Police concur with the recommendations in this staff report.

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

Concurs with:



Gaby Plascencia, Chair
Land Use, Sustainability and Resilience Committee

Attachments:

- 1) Existing Riverside Municipal Code Chapter 5.38 – Sidewalk Vendors
- 2) California Government Code 51036-51039
- 3) Proposed Ordinance - Redline
- 4) Presentation