



STAFF REPORT
10/14/2020

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Ordinance No. 1154 amending Sections 5.04.380, 8.040.010, and 12.04.030 of the Coachella Municipal Code and adding Chapter 12.50 to the Coachella Municipal Code, imposing regulations on sidewalk vending in compliance with Senate Bill 946 and amending the enforcement authority regarding the City's Environmental Health Code. (*1st Reading*)

STAFF RECOMMENDATION:

Staff recommends that the City Council introduce for first reading, by title only, Ordinance No. 1154 amending Sections 5.04.380, 8.040.010, and 12.04.030 of the Coachella Municipal Code and adding Chapter 12.50 to the Coachella Municipal Code, imposing regulations on sidewalk vending in compliance with Senate Bill 946 and amending the enforcement authority regarding the City's Environmental Health Code.

BACKGROUND:

In 2018, the California Legislature passed Senate Bill 946 (SB 946) which prohibits cities from regulating sidewalk vendors, except in accordance with the provisions of SB 946. SB 946 applies to both charter and general law cities. SB 946 prohibits local governments from imposing criminal penalties for sidewalk vending, except SB 946 did not affect the applicability of the California Retail Code, commencing at Health and Safety Code section 113700. SB 946 authorizes the implementation of time, place, and manner regulations that are directly related to objective health, safety, or welfare concerns, and that do not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. Accordingly, staff has been working with the City Attorney's office to develop the attached Ordinance No. 1154 provisions, which would amend the Coachella Municipal Code.

DISCUSSION/ANALYSIS:

By definition in the statutes, a Sidewalk Vendor means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path. SB 946 also takes into consideration a Roaming Sidewalk Vendor which means a sidewalk vendor who moves

from place to place and stops only to complete a transaction.

The attached Ordinance includes “permit requirements” that are consistent with SB 946, as they are reasonable, related to objective health, safety, and welfare concerns, and are based upon compliance with other generally applicable laws including the Americans with Disabilities Act and the City of Coachella’s (“City”) general encroachment permit requirements for work and/or activities in the public right of way. The standards imposed on stationary sidewalk vendors requiring a minimum path of accessible travel are necessary to comply with the Americans with Disabilities Act and maintain minimum safe access along public sidewalks.

The total number of vendors in the City is proposed to be capped at fifty (50) vendors, and the cap is objectively related to health, safety, and welfare concerns as having many sidewalk vendors has impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection. Specifically, placing a cap of fifty (50) sidewalk vendors is intended to help ensure that driveways and street intersections throughout the City are kept clear and unobstructed.

Staff arrived at the cap number of fifty (50) sidewalk vendors by calculating that there could potentially be one (1) vendor for every five hundred linear feet (500’) of sidewalk in the City’s commercial corridors, which amounts to approximately thirty-two (32) vendors. Staff further estimated that there could potentially be one (1) roaming vendor to potentially service two (2) residential neighborhoods on a given day, out of a total of thirty-six (36) residential neighborhoods with public streets, which amounts to eighteen (18) vendors. Thus, thirty-two (32) vendors in the commercial corridors plus eighteen (18) vendors in residential neighborhoods equals an overall City total of fifty (50) vendors.

There will be no designation of how many vendors may be permitted to vend in commercial areas, specifically, or residential neighborhoods, specifically. While the proposed Ordinance prohibits all stationary vendors from vending in residential zones, roaming vendors would be allowed to vend anywhere in the City along a public right-of-way (that has a sidewalk), as long as they comply with the requirements of the proposed Ordinance.

Standards for maintaining access to building entrances, and not blocking driveways, fire hydrants, parking areas and building storefront windows are necessary to guard the health and safety of patrons, drivers, vendors and existing business owners and promote fire suppression and law enforcement practices that allow the City’s safety personnel to observe activities within buildings and maintain access.

The proposed Ordinance clarifies the City’s own authority to enforce its Environmental Health Code. Absence of sidewalk vending regulations in the City’s Municipal Code would continue the status quo, which currently prevents the City from enforcing any regulation or impose a licensing requirement on the vendor.

Issues/Findings for Code Amendment:

Staff asks the City Council to find and determine that the installation, repair, maintenance, and removal of encroachments in the public way must be regulated in order to protect the public health,

safety, and welfare and to provide for the orderly administration and maintenance of the public access ways for the benefit of the community, while at the same time allowing reasonable accommodation and cooperative flexibility for providing necessary utility and other convenience services to the community.

Staff asks the City Council to find that, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection.

Staff asks the City Council to find that the inherent nature of sidewalk vending and the ability of such vendors to be located on private property and public streets and move quickly from place to place in the community, including near parks, schools, and other places frequented by children, warrants imposing certain regulatory measures, including requiring background checks, to protect the health, safety, and welfare of the community.

Staff asks the City Council to find that the capping of the total number of sidewalk vendors permitted within the City to fifty (50) vendors is related to objective health, safety, and welfare concerns for the reasons mentioned above.

ALTERNATIVES:

1. Introduce for first reading, by title only, the attached draft Ordinance No. 1154.
2. Introduce for first reading, by title only, the attached draft Ordinance No. 1154 with modifications to the proposed regulations.
3. Continue this matter and provide staff direction.
4. Take no action.

FISCAL IMPACT:

Undetermined at this time. Permit fees and fines will determine whether the fiscal impact is positive or negative.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1 or #2 as noted above.

Attachments: Ordinance No. 1154 (1st Reading)