



# City of Rialto

## Legislation Text

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For City Council Meeting [enter date here]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Administrator

FROM: Fred Galante, City Attorney

Request City Council Conduct a Public Hearing and Introduce for First Reading the Sidewalk Vendor **Ordinance No. 1625** entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING, ADDING AND REPEALING VARIOUS CHAPTERS AND SECTIONS OF THE RIALTO MUNICIPAL CODE TO IMPLEMENT SIDEWALK VENDOR REGULATIONS," reading by title only and waiving further reading.

**(ACTION)**

### **BACKGROUND**

This proposed Ordinance seeks to provide a regulatory scheme for sidewalk vendors, in compliance with Senate Bill 946 (SB 946). This bill was passed last year and came into effect on January 1, 2019. The proposed Ordinance would amend the Rialto Municipal Code (RMC) to remove sections not in compliance with SB 946, and add sections creating a regulatory scheme in compliance with SB 946.

By passing SB 946, the State Legislature prohibited local governments from regulating sidewalk vendors within their own jurisdictions, except in accordance with state law. SB 946 lists a number of regulations that a local government is authorized to impose. All adopted local regulations must be related to objective health, safety, or welfare concerns.

A copy of SB 946 is attached to this staff report for reference. **(Exhibit A)**

The bill defines "sidewalk vendor" and makes a distinction between "stationary sidewalk vendor" and "roaming sidewalk vendor", and also provides which local government regulations may be applied to each definition. The regulations allowed pursuant to SB 946 include limitations in residential zones, limitations in parks with concessions, limits on hours of operation, sanitary requirements, compliance with ADA requirements, local permit requirements, compliance with Health Department regulations, and distance requirements from farmers' markets and special events.

The proposed Ordinance **(Exhibit B)** would generally keep City regulations in place for vendors who do not meet the state law definition of sidewalk vendors (e.g. vendors using a vehicle or motorized conveyance), exempt sidewalk vendors from regulations that might otherwise apply where inconsistent with state law and create separate regulations for sidewalk vendors consistent with state law. Sidewalk vendors will be required to secure the following:

1. A City vending permit.
2. A valid California Department of Tax and Fee Administration seller's permit.
3. Certain levels of insurance as required by the City's risk manager.
4. A permit issued by the San Bernardino County Health Department if vending any food items.

Importantly, SB 946 and the proposed ordinance does not affect the City's zoning laws providing that any person on private property secure appropriate entitlements and permits to operate any vending operation. SB 946 only impacts sidewalk vendors. The City's Community Compliance Division may still take code enforcement action against any vendor on private property operating without appropriate zoning entitlements and permits.

Additionally, any rules relating to food trucks parked in the public right-of-way would be subject to current parking regulations and may be amended by the Council separately.

The proposed Ordinance was presented to the Economic Development Committee (EDC) on February 26, 2019. The EDC concurred with the regulations included in the draft, but requested that it be presented to the City's Beautification Commission for further consideration before it proceeded to the Planning Commission.

On April 17, 2019, the Beautification Commission reviewed and held a public discussion on the draft ordinance. After consideration, the Beautification Commission voted 3-0 in favor of forwarding to the Planning Commission and the City Council a recommendation to approve the draft ordinance. Thereafter, on May 8, 2019, the Planning Commission held a duly-noticed public hearing on the draft ordinance and, by vote of 5-0, with 2 Commissioners absent, the Planning Commission voted to recommend approval of the Ordinance to the Council.

Additionally, at the September 24, 2019 Council meeting, the Mayor Pro Tem suggested that the proposed ordinance also consider action being contemplated by the City of Los Angeles to prohibit obstructions of the public right of way in a way that restricts passage as required by the Americans with Disabilities Act (ADA). The proposed language of such City of Los Angeles ordinance is provided at **Exhibit C** to this staff report. The proposed Ordinance includes a similar provision as the one contemplated by Los Angeles.

Per City Council direction on October 8, 2019, City Staff has noticed a public hearing to be heard for October 22, 2019, to consider adoption of the proposed Ordinance. (See Public Hearing Notice provided at **Exhibit D**)

### **ANALYSIS/DISCUSSION**

The proposed Ordinance would prohibit the sidewalk vender from operating under the following conditions:

- (a) Operate between the hours of 7:00 p.m. and 8:00 a.m.;
- (b) Leave any stand unattended;
- (c) Store, park, or leave any stand overnight on any public street, sidewalk, or park;
- (d) Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use;
- (e) Leave any location without first disposing all trash or refuse remaining from sales conducted.

Trash and refuse generated by the vending cart operations shall not be disposed of in public trash receptacles;

- (f) Allow any items relating to the operation of the sidewalk vending business to be placed anywhere other than in, on, or under the stand;
- (g) Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described by his or her application;
- (h) Solicit or conduct business with persons in motor vehicles or motorized conveyances;
- (i) Sell anything other than that which he or she is licensed to vend;
- (j) Sound or permit the sounding of any device that produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public;
- (k) Operate within 50 feet of a fire hydrant or 25 feet of a transit stop;
- (l) Operate within 15 feet of the outer edge of a driveway or vehicular entrance to public or private property in residential zones;
- (m) Operate in a manner that does not maintain 4 feet of clear space on a public sidewalk, in any manner that restricts 10 feet of clearance from any operational and utilizable entrance, exit, driveway or loading dock, or in a manner that restricts passage as required by the Americans with Disabilities Act (ADA);
- (n) Operate on any street that does not have a public sidewalk;
- (o) Operate a stationary vending cart in residential zones;
- (p) Operate a stationary sidewalk vending cart in any city park that has a concessionaire during the hours the concessionaire is open;
- (q) Operate within 50 feet of an abutting residential zone within a city park;
- (r) Operate within a parking lot within a city park;
- (s) Operate as a stationary sidewalk vendor within 500 feet of a certified farmers' market or swap meet during the operating hours of that certified farmers' market or swap meet; and
- (t) Operate in violation of any other generally applicable law

The City's Community Compliance Division would provide primary code compliance in relation to the proposed ordinance. The proposed Ordinance also imposes administrative fines for violations of the City's sidewalk vendor regulations consistent with what is allowed by state law. (Violations are only punishable by an administrative fine.) SB 946 requires that any ordinance that imposes fines for violations also provide for an ability-to-pay determination. This ability-to-pay determination is incorporated into the proposed Ordinance.

### **ENVIRONMENTAL IMPACT**

The requested action does not constitute a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: "... (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment."

### **GENERAL PLAN CONSISTENCY**

Approval of this action complies with the following City of Rialto Guiding Principles, General Plan Goals and Policies:

*Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.*

**LEGAL REVIEW**

The City Attorney prepared this staff report and Ordinance.

**FINANCIAL IMPACT**

Adoption of the Ordinance is not anticipated to have any financial impact, other than confirm that any vendor must secure a city business license and pay applicable fees.

**RECOMMENDATION**

Staff recommends that the City Council Introduce for first reading the Sidewalk Vendor Ordinance entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING, ADDING AND REPEALING VARIOUS CHAPTERS AND SECTIONS OF THE RIALTO MUNICIPAL CODE TO IMPLEMENT SIDEWALK VENDOR REGULATIONS,"