



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of October 27, 2020

TO: Mayor Esquivias and Members of the City Council

SUBMITTED BY: Patrick Tang, City Attorney
Robert Reber, Community and Economic Development Director
Michael Roberts, Public Works Director/City Engineer

SUBJECT: Continued Discussion of SB 946 Sidewalk and Park Vending Requirements and Proposed Draft Ordinance

RECOMMENDED ACTION:

Accept staff report, further discuss, and direct staff to amend amendments to the Hercules Municipal Code to establish revised regulations for sidewalk and park vendors consistent with the requirements of SB 946.

FISCAL IMPACT OF RECOMMENDATION:

None as a result of this report. If Council approves proposed license requirements for sidewalk vendors, there would be some cost associated with administering and enforcing those requirements.

BACKGROUND:

Senate Bill 946 (SB 946) was signed into law on September 18, 2018 and became effective on January 1, 2019. It prohibits cities and counties from regulating sidewalk vendors unless an ordinance is adopted in accordance with the state legislation. The implications of this new legislation on the City's ability to regulate sidewalk vendors was initially presented and discussed at the City Council meeting of October 13, 2020. A draft ordinance was included with the agenda materials for Council consideration.

In drafting the proposed ordinance, staff reviewed sidewalk vending ordinances from a number of jurisdictions, and selected as a primary model an example that, in staff's opinion, would be consistent with the goals of SB 946, protect the health and safety of the residents of Hercules and, in consideration of limited staffing, allow for a simple administrative and enforcement scheme.

DISCUSSION:

At the October 13, 2020 City Council meeting, the Council directed staff to schedule additional discussion of this matter, with modifications to the draft ordinance as follows:

- Extend the distances for parking near crosswalks and bus zones from five to fifteen feet.
- Include language similar to current ice cream truck regulations to prevent sidewalk vending near schools while school is in session.

- Provide information to all applicants regarding penalties for engaging in human trafficking.
- Provide that both vendors and all employees of vendors be listed on permit applications, and subject to background checks as deemed appropriate by the Chief of Police.

The requested changes are included in the Revised Draft Ordinance, provided as Attachment 2 to this Report. It should be noted that the existing municipal code provisions restricting ice cream truck vending during school hours east of Interstate 80 and south of State Route 4 arguably conflict with the provisions of SB 946, and thus cannot be applied to sidewalk and park vendors. However, a more narrowly tailored restriction that would be consistent with SB 946 requirements has been crafted by staff for Council consideration and is contained in the attached redlined draft ordinance.

On a related note, the draft ordinance also includes minor amendments to the existing definition of Mobile Food Vehicle in Hercules Municipal Code Section 3-4.1012(a), to clarify that, with the new sidewalk vendor requirements, mobile food vehicle regulations would no longer apply to “push carts”.

As discussed during the October 13, 2020 meeting, in conjunction with any new code requirements adopted by the City Council, staff would also prepare administrative Sidewalk Vending Rules and Regulations to assist vendors and potential vendors to better understand program requirements. The administrative rules and regulations would track the proposed Municipal Code requirements, with additional detail pertinent to the vendors.

SUMMARY:

The ordinance if adopted would:

- require a vendor to obtain a license that would need to be renewed annually,
- require providing contact information of any persons employed by a vendor,
- require applicants and employees to undergo background checks if requested by the Police Department,
- require inspection and approval by the County Health Department,
- regulate the size and dimensions of any vending cart or kiosk,
- regulate the signage used by vendors,
- impose requirements regarding trash and noise,
- regulate what locations within the city stationary or roaming carts could operate and the hours of operation,
- limit operation of vendors near schools during school hours, and
- regulate placement of carts to avoid blocking pedestrian use of sidewalks.

ATTACHMENTS:

1. October 13, 2020 Staff Report
2. Revised Draft Ordinance
3. SB 946