



CITY OF POMONA COUNCIL REPORT

November 7, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Arnold Alvarez-Glasman, City Attorney

By: Andrew L. Jared, Assistant City Attorney
Vanessa Ibarra, Deputy City Attorney

Subject: **Discussion of Senate Bill No. 946 Pertaining to New State Regulations for Sidewalk Vendors**

OVERVIEW

Recommendation – That the City Council provide direction to the City Attorney’s Office regarding a City Code Amendment to reflect requirements imposed by Senate Bill No. 946.

Fiscal Impact – None as a result of this action.

Previous Related Action – None.

EXECUTIVE SUMMARY

Senate Bill No. 946 (“SB 946”) was sponsored by Senator Ricardo Lara and approved by Governor Brown on September 17, 2018. SB 946 prohibits a city, including a charter city, from regulating “sidewalk vendors” except in accordance with the provisions of SB 946 (codified as Government Code Sections 51036-51039). SB 946 goes into effect on January 1, 2019. A city may not cite, fine or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with SB 946 beginning January 1, 2019.

The City Attorney’s Office requests direction from the City Council prior to drafting a City Code amendment to reflect requirements imposed by SB 946.

BACKGROUND

Prior to SB 946, a local authority was authorized to adopt requirements for any type of vending in order to regulate public safety. The City of Pomona has a significant history in regulating

push cart vending. The City's existing regulations of foot and pushcart vendors were recodified in 2004 to be found in Sections 30-671 through 30-710 of Article X (Foot and Pushcart Vendors) of Chapter 30 (Licenses, Permits, and Miscellaneous Regulations) of the Pomona City Code, which prohibit a person from selling or offering to sell food or merchandise from, any pushcart in the public right-of-way.

SB 946 prohibits a city, including a charter city from regulating "sidewalk vendors" except in accordance with the provisions of SB 946 (codified as Government Code Sections 51036-51039). A city is required to adopt a new program to regulate sidewalk vendors, if the city's existing regulatory scheme does not substantially comply with the requirements of SB 946. The City's existing all-encompassing prohibition of persons selling food or merchandise from any pushcart in the public right-of-way is inconsistent with SB 946.

DISCUSSION

In pertinent part, SB 946 requires the following:

- SB 946 prohibits the City from regulating sidewalk vendors, except in accordance with SB 946. A sidewalk vendor is defined as a "person who sells food or merchandise from a pushcart, stand, display, pedal driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path."
- The City may not:
 - Require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.
 - Restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the City, unless the restriction is directly related to objective health, safety, or welfare concerns.
 - Restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.
- The City may, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns.
- SB 946 prohibits criminal penalties for violations of sidewalk vending ordinances and regulations. SB 946 imposes administrative fines for violations of sidewalk vending regulations.