



OFFICE OF THE CITY ATTORNEY

411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802
(562) 570-2200
Facsimile: (562) 436-1579

R-21

CHARLES PARKIN
City Attorney

GARY J. ANDERSON
Assistant City Attorney

DAWN A. MCINTOSH
Assistant City Attorney

May 10, 2022

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution in support of legislation to enact changes to the California Retail Code related to sidewalk food vending to address barriers to legal operation by small-scale operators; and

Adopt a Resolution to implement a Citywide enforcement model that prioritizes education and outreach for sidewalk food vendors operating without a health permit while reserving the right to enforce violations of the California Retail Food Code for violations that threaten the health, safety, and welfare of individuals patronizing such vendors.

DISCUSSION

Pursuant to your request of March 22, 2022, this office has prepared and submits the above described Resolutions for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

Taylor M. Anderson
Deputy City Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH IN SUPPORT OF LEGISLATION TO ENACT CHANGES TO THE CALIFORNIA RETAIL FOOD CODE RELATED TO SIDEWALK FOOD VENDING TO ADDRESS BARRIERS TO LEGAL OPERATION BY SMALL-SCALE OPERATORS

WHEREAS, on September 17, 2018, Governor Brown signed into law Senate Bill (SB 946), also known as the Safe Sidewalk Vending Act; and

WHEREAS, SB 946 decriminalized sidewalk vending statewide and established parameters for how sidewalk vending may be enforced by local jurisdictions; and

WHEREAS, despite the passage of SB 946, the California Retail Food Code imposes restrictions and requirements that are not in alignment with the City Council’s intent to support small-scale sidewalk food vending; and

WHEREAS, a recent report from the Public Counsel and the UCLA School of Law Community Economic Development Clinic titles “Unfinished Business: How Food Regulations Starve Sidewalk Vendors of Opportunity and What Can be Done to Finish the Legalization of Street Food” outlines the financial and administrative barriers for small-scale sidewalk vendors of food to legally vend food; and

WHEREAS, sidewalk vending of food promotes important entrepreneurship and economic development opportunities to low income and immigrant communities; and

WHEREAS, since the City is preempted by State law, changes to the California Retail Food Code are necessary for the City to lower barriers for sidewalk food vendors to obtain a health permit from the Department of Health and Human

1 Services and to operate legally; and

2 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
3 follows:

4 Section 1. The City of Long Beach hereby recommends to the State
5 Legislature, at a minimum, make the following changes to the California Retail Food
6 Code:

7 A. Streamline approvals for code-compliant carts, including
8 giving more discretion to local health authorities to approve innovative
9 designs and encouraging the pre-approval of cart design blueprints to
10 catalyze manufacturing of affordable sidewalk carts at a scale that meets
11 need; and

12 B. Revise regulations around the slicing of fruits and vegetables
13 and the hot-holding of prepared foods to establish clear and easy-to-follow
14 safety protocols that account for the types of foods commonly sold by
15 sidewalk vendors; and

16 C. Simplify onerous sink, power, water, fire safety and other
17 equipment requirements; and

18 D. Create a process for addressing non-compliance without
19 criminal penalties; and

20 E. Make food safety regulations more sensitive to the context of
21 sidewalk food vending.

22 Section 2. The City Clerk is directed to transmit a copy of this resolution
23 to Assembly Speaker Anthony Rendon, Senator Lena Gonzalez and Senate President
24 Pro Tem Toni Atkins, and to other officials, agencies, entities, and individuals as may be
25 deemed appropriate by the City Manager.

26 Section 3. This resolution shall take effect immediately upon its adoption
27 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2022, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

1 RESOLUTION NO.
2

3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH TO IMPLEMENT A CITYWIDE
5 ENFORCEMENT MODEL THAT PRIORITIZES
6 EDUCATION AND OUTREACH FOR SIDEWALK FOOD
7 VENDORS OPERATING WITHOUT A HEALTH PERMIT
8 WHILE RESERVING THE RIGHT TO ENFORCE
9 VIOLATIONS OF THE CALIFORNIA RETAIL FOOD CODE
10 THAT THREATEN THE HEALTH, SAFETY, AND
11 WELFARE OF INDIVIDUALS PATRONIZING SUCH
12 VENDORS
13

14 WHEREAS, on September 17, 2018, Governor Brown signed into law
15 Senate Bill (SB 946), also known as the Safe Sidewalk Vending Act; and

16 WHEREAS, SB 946 decriminalized sidewalk vending statewide and
17 established parameters for how sidewalk vending may be enforced by local jurisdictions;
18 and

19 WHEREAS, sidewalk vending of food promotes important
20 entrepreneurship and economic development opportunities to low income and
21 immigrant communities; and

22 WHEREAS, the City currently does not enforce the provisions of Long
23 Beach Municipal Code (LBMC) relating to peddlers and sidewalk vendors, including the
24 requirement that such vendors obtain a City business license, because such provisions
25 currently prohibit or limit the activities of sidewalk vendors, which places the LBMC in
26 conflict with SB 946; and

27 WHEREAS, the City may enforce provisions of the California Retail Food
28 Code as it pertains to sidewalk food vendors operations, including, but not limited to,

1 related to food handling and preparation, to ensure the health, safety, and welfare of
2 individuals patronizing such vendors continue to be protected; and

3 WHEREAS, changes to the California Retail Food Code are necessary for
4 the City to implement local regulations that support small-scale sidewalk food vending
5 and that lower barriers for sidewalk food vendors to operate legally; and

6 WHEREAS, while the City advocates for changes to the California Retail
7 Food Code, the City Council desires to implement an enforcement model that prioritizes
8 education and outreach to vendors operating without a City health permit; and

9 WHEREAS, where such education and outreach efforts do not on their
10 own gain compliance for vendors operating without a City health permit, the City may
11 issue civil, administrative, and/or criminal citations to those vendors who refuse to
12 obtain a City health permit; and

13 WHEREAS, since the City's primary goal is to ensure the public health
14 and safety remain protected through compliance by sidewalk food vendors of the
15 California Retail Food Code, the City may continue to issue administrative, civil, and/or
16 criminal citations for sidewalk food vendors violating the California Retail Food Code for
17 violations that threaten the health, safety, and welfare of individuals patronizing such
18 vendors;

19 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
20 follows:

21 Section 1. Unless and until the State amends the California Retail Food
22 to support the operation of small-scale sidewalk food vendors, the City of Long Beach will
23 engage in outreach and education efforts prior to taking any enforcement action,
24 including, but not limited to, administrative, civil, and/or criminal enforcement actions,
25 against a sidewalk food vendor who does not hold a City health permit to operate. If a
26 sidewalk food vendor fails to obtain a City health permit after outreach and education
27 efforts by the City, the City may take enforcement action against the noncompliant vendor
28 to ensure the health, safety, and welfare of individuals patronizing such vendors is

1 protected.

2 Section 2. The City may continue to take enforcement action, including,
3 but not limited to, administrative, civil, and/or criminal enforcement actions, for sidewalk
4 food vendors violating the California Retail Food Code related to food handling, storage,
5 and preparation as such violations that threaten the health, safety, and welfare of
6 individuals patronizing such vendors.

7 Section 3. This resolution shall take effect immediately upon its adoption
8 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

9 I hereby certify that the foregoing resolution was adopted by the City
10 Council of the City of Long Beach at its meeting of _____, 2022, by the
11 following vote:

12
13 Ayes: Councilmembers: _____
14 _____
15 _____
16 _____

17 Noes: Councilmembers: _____
18 _____

19 Absent: Councilmembers: _____
20 _____

21 Recusal(s): Councilmembers: _____

22
23
24 _____
City Clerk

25
26
27
28