

September 21, 2023

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Recommend that the City Council determine that the project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1 – Existing Facilities), Section 15304 (Class 4-Minor Alterations to land), Section 15305 (Class 5 – Minor Alterations to Land Use Limitations), and that it is further exempt from the CEQA Guidelines and none of the exceptions in 15300.2 apply, and that it is further exempt pursuant to Section 15308 (Actions by Regulatory Agencies for Protection of the Environment), as it will not result directly or indirectly in significant environmental impacts. (CE23-112); and

Recommend that the City Council adopt Zoning Code Amendment ZCA23-006, that repeals Long Beach Municipal Code (LBMC) Section 21.45.170.L deleting regulations pertaining to encroachment permits for vendors located within the right-of-way and amending Table 35-1 Uses in the Parks District clarifying that sidewalk vending is a permitted use subject to the regulations of Title 5 of the LBMC. (Citywide)

APPLICANT: City of Long Beach
Development Services Department
411 W. Ocean Blvd., 3rd Floor
Long Beach, CA 90802
(Application No. 2308-36)

BACKGROUND

In 2018, the State of California passed Senate Bill 946 (SB 946) also known as the Safe Sidewalk Vending Act. SB 946, which took effect on January 1, 2019, established parameters for the local regulation of sidewalk vendors, which limits the ability of local authorities to regulate sidewalk vending to the provisions of SB 946. The primary intent was to decriminalize sidewalk vending so that local authorities could only issue administrative rather than criminal citations.

On May 9, 2023, the City Council directed staff to prepare an Ordinance to comply with the recently enacted State legislation regarding sidewalk vending, directing staff to consolidate, where feasible, provisions of the Long Beach Municipal Code (LBMC) related to the regulation and enforcement of sidewalk vendors and similar operations into one Ordinance; and, repeal provisions of the LBMC



that are obsolete, no longer applicable, or no longer enforced related to sidewalk vendors and similar operations. The regulation of sidewalk vending is largely a permitting and licensing matter outside of the Zoning Ordinance (Attachment A – City Council Letter).

An exhaustive review of the LBMC was conducted by a consultant and an interdisciplinary team of staff to support development of a sidewalk vending ordinance. Most of the proposed sidewalk vending ordinance will be housed in Titles 5 (Business Regulations), and 14 (Streets and Sidewalks). However, through review of the code, a need to make minor updates the Zoning Ordinance was determined to ensure consistency between the proposed local regulations and the intent of SB 946. The Planning Commission serves as the advisor of all land use matters to the City Council.

Therefore, the Planning Commission’s role in reviewing this Zone Code Amendment (ZCA) is confined to review of proposed changes to the Zoning Ordinance to determine if the changes are consistent with the General Plan, and to make a recommendation to the City Council.

DISCUSSION

This Zoning Code Amendment is intended to bring consistency in the implementation of sidewalk vending regulations and eliminate obsolete requirements (Attachment B – Draft ZCA). The first amendment proposed would update the land use table within the Park Zoning District. Specifically, the amendment adds language clarifying that the prohibition of “commercial uses-other” is not inclusive of sidewalk vendors. Although sidewalk vendors are not a land use per se, incorporating this exception with the use table would promote consistency in implementation between departments and provide clarity for the public. The proposed additional text is shown in Table 1, below:

Table 1: Uses in Park Districts

Use	District P
Commercial uses-other	<u>N, except sidewalk vendors which are allowed pursuant to Title 5 of the LBMC.</u>

The second proposed change relates to the Special Development Standards Chapter, Chapter 21.45, of the LBMC, which imposes additional development standards upon certain types of land uses to ensure those uses do not generate adverse impacts. Section 21.45.170 of the special development standards include regulations for vending carts on private property. Although these regulations for vending carts are intended for private property, the last standard (LBMC21.45. 170.L) establishes that vending carts within the right-of-way require an encroachment permit within the public right-of-way. This encroachment permit is found to be burdensome and would no longer be required, therefore this is recommended for deletion.

Regulations regarding the time, place, and manner by which sidewalk vending may be conducted on public sidewalks and pedestrian paths will be regulated under the Title 5 Business and Professions code and not within Title 21. The purpose of Title 5 is to identify those businesses,

trades, and professions conducted and carried on in the City that require local regulation in order to promote and protect the public health, safety, and welfare of Long Beach and its citizens.

Changes to Title 5 are not within the purview of the Planning Commission and therefore are not a subject of the proposed ZCA. However, by way of background, the City Council may adopt requirements within Title 5 related to:

- Permits and licensing.
- Placing limitations on hours of operation provided they are not unduly restrictive.
- Adopting requirements to ensure compliance with the federal Americans with Disabilities Act of 1990 and other disability access standards.
- Adopting requirements that ensure sanitary conditions.
- Prohibiting stationary sidewalk vending in areas that are zoned exclusively residential. (Roaming sidewalk vendors cannot be prohibited in areas zoned exclusively residential.)
- Adopting requirements within parks that are necessary to prevent an undue concentration of commercial activity which would unreasonably interfere with the scenic and natural characteristics of a park and to ensure the public's use and enjoyment of natural resources and recreational opportunities.
- Prohibiting stationary sidewalk vendors from vending in parks only if the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
- Prohibiting any vending other than sidewalk vending of food or merchandise.

The City Council will consider the Title 5 changes in tandem with the ZCA for Title 21. The Planning Bureau is not anticipated to have a significant role in reviewing or licensing of the sidewalk vendors as they are not permanent land uses. The proposed ZCA is consistent with the City's General Plan goals and policies to promote economic development strategies that diversify our economy and reflect the diverse population of Long Beach (Attachment C – Findings).

PUBLIC HEARING NOTICE

In accordance with public hearing notification requirements for a Zoning Ordinance Amendment in LBMC Section 21.21.302.C, notice of this public hearing was published in the Long Beach Press-Telegram on September 5, 2023; written notices were sent to all City libraries and the California Coastal Commission. Three public hearing notices were also posted in public places throughout the City. Finally, notice of the proposed code amendment was distributed through the City's LinkLB e-mail blast system. One general inquiry about the ZCA was received at the time the report was prepared.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act Section 15301 (Existing Facilities); 15304 (Minor Alterations to Land) (e) for minor temporary use of land having negligible or no permanent effect on the environment; 15305 (Class 5 – Minor Alterations to Land Use Limitations), and that it is further exempt pursuant to Section 15308 (Actions by Regulatory Agencies for Protection of the

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Environment), as it will not result directly or indirectly in significant environmental impacts (CE-23-112).

Respectfully submitted,



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CK:ASR:ASL:AO

Attachments:

Attachment A – City Council Letter
Attachment B – Draft Zone Code Amendment
Attachment C – Findings