

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-_____

Introduced by Council Member _____

RESOLUTION TO ADOPT AMENDMENTS TO THE HAYWARD MUNICIPAL CODE
AND TRAFFIC CODE TO REGULATE SIDEWALK VENDING IN HAYWARD,
COMPLIANT WITH SENATE BILL (SB 946), THE “SAFE SIDEWALK VENDING
ACT” AND FINDING THAT THE ACTION IS EXEMPT FROM CEQA REVIEW

WHEREAS, on September 17, 2018, California Governor Brown signed Senate Bill 946 ("SB 946") into law, which added Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the California Government Code to regulate sidewalk vendors throughout the state, including within the City of Hayward; and

WHEREAS, SB 946 establishes requirements for local regulation of sidewalk vendors and authorizes such regulations to be adopted by resolution or ordinance; and

WHEREAS, the City seeks to implement sidewalk vending regulations to provide a permitting process and impose operational and locational requirements for sidewalk vendors in the City to comply with SB 946 and protect the health, safety, and welfare of the community; and

WHEREAS, on February 3, 2020, staff brought this item before the CEDC to report on the obtain feedback on the proposed sidewalk vending project and receive clarification on the recommended policy approach; and

WHEREAS, between December 2022 and May 2023, City staff conducted outreach to eighteen internal and external stakeholder groups, including sidewalk vendors, restaurant owners, and other agencies, which consisted of meetings with the various stakeholders; and

WHEREAS, a broader public outreach effort took place through an online survey from March 28, 2023, to May 1, 2023, which was developed to give the public an additional opportunity to give their opinions on sidewalk vending and get a better understanding of interests, opportunities, and concerns tied to the project; and

WHEREAS, on April 3, 2023, staff returned to the CEDC to obtain additional feedback on the proposed scope of the ordinance; and

WHEREAS, on June 6, 2023, the City Council held a public work session to provide feedback and guidance on the proposed locational and operational guidelines for the Sidewalk Vending Ordinance; and

WHEREAS, the City Council finds that, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection; and

WHEREAS, on September 22, 2023, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on October 3, 2023.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(2), the City Council finds that this ordinance will not have a direct or reasonably foreseeable indirect physical change in the environment and, therefore, is not subject to CEQA. Additionally, it can be seen with certainty that there is not possibility that the activity in question may have a significant effect on the environmental per Section 15061(c). Additionally, pursuant to Section 15060(c)(3), the activity is not a “project” as defined in Section 15378 because it has not potential for resulting in physical change to the environment, directly or indirectly.

FINDINGS FOR TEXT AMENDMENTS TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE RELATED TO SIDEWALK VENDORS (REFERRED TO AS THE "TEXT AMENDMENTS")

1. **Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;**

The proposed text amendments will ensure public health, safety, convenience, and general welfare of the residents of Hayward by establishing a regulatory framework for sidewalk vendors to ensure that any impacts resulting from sidewalk vending activities are minimized. The text amendments set parameters relating to distance requirements from various facilities and establishes minimum distances in certain pedestrian areas to maintain accessibility. The proposed text amendments also outline the permit and enforcement processes, consistent with the provisions of SB 946. Additionally, the proposed text amendments will promote additional employment and business opportunities for small businesses through the allowance of sidewalk vending in Hayward.

2. **The proposed change is in conformance with all applicable, officially adopted policies and plans;**

The proposed text amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan* and state law because the Text Amendments update the language to reflect the applicable polices and actions of the general plan and reflect the changes in state law pursuant to SB 946. The

proposed Amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

- ED Policy 1.4: Emerging and Growing Sectors. The City shall establish business attraction efforts that focus on small and medium-sized businesses within emerging and growing business sectors.
- ED Policy 1.9: Culturally Diverse Businesses. The City shall encourage the development of specialty businesses that reflect the diverse ethnic and cultural groups of the Hayward community.
- ED Policy 1.11: Local-Serving Retail. The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.
- ED Policy 1.12: Neighborhood Commercial. The City shall consider the integration of quality neighborhood commercial businesses and developments within residential areas to support the concept of “complete neighborhoods.”
- ED Policy 2.1: Assist Entrepreneurs. The City shall support and assist local entrepreneurs who are starting businesses within the Hayward community.

Further, the proposed text amendments are consistent with other applicable provisions of Chapter 10 of the Municipal Code because applicable provisions of the Code will apply to sidewalk vending activities under the Ordinance.

3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

As currently proposed, the streets and public facilities that currently serve the City are not expected to be significantly impacted by sidewalk vending activities as the proposed regulations will ensure pedestrian and vehicular access will be maintained. No properties are proposed to be reclassified or rezoned with the proposed text amendments. As such, the streets and public facilities, both existing and proposed, would remain adequate to serve all uses in the City.

4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified with the proposed text amendments that regulate sidewalk vending activities under this Ordinance. A beneficial effect will be achieved with the proposed revision to the HMC, as it will provide entrepreneurship opportunities for all residents in Hayward, including those classified as low-income and immigrant communities. By establishing a program for sidewalk vending in the City, it will help increase and expand access to a variety of foods and merchandise, contribute to enlivened public spaces, and protect the public health, safety, and welfare through a regulatory framework and permitting program established by the City of Hayward and the Alameda County Department of Environmental Health.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of the proposed Text Amendments to the Hayward Municipal Code, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 23-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward