

ORDINANCE NO. 2451

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, AMENDING SECTION 22-183.2 (“VENDING AUTOMOBILES, WAGONS OR STANDS”) OF ARTICLE V OF CHAPTER 22 OF THE MUNICIPAL CODE TO REGULATIONS FOR SIDEWALK VENDORS

SECTION 1. Findings. The City Council finds as follows:

A. On September 17, 2018, Governor Brown signed Senate Bill 946, which amended the California Government Code sections 51036 through 51039 pertaining to local regulation of sidewalk vendors. The new law will be effective January 1, 2019, and City regulations of sidewalk vendors inconsistent with the new law will be unenforceable;

B. The City desires to amend its existing regulations of sidewalk vendors to comply with the new laws, by enacting new regulations of sidewalk vendors that both protect the health, safety, and welfare of the public while supporting the state’s objective of increasing economic opportunities to low-income and immigrant communities, increase access to culturally significant food and merchandise, and to contribute to safe and dynamic public spaces; and

C. The City has complied with all of the required procedures for adoption of codes by reference including the holding of a public hearing after the first reading of the ordinance and copies of the codes adopted by reference were filed in the City Clerk’s Office at least fifteen (15) days before the public hearing and were made available for public inspection.

SECTION 2. Municipal Code Amendments. The City Council hereby amends the following section of Chapter 22 of the municipal code as follows:

Article V. - STOPPING, STANDING, AND PARKING

Municipal Code Sec. 22-183.2. - ~~Vending automobiles, wagons or stands.~~

~~No person shall keep, maintain or conduct, at any time, any automobile, wagon or other vehicle or temporary stand used for the purpose of selling, vending or furnishing any lunch, meals, popcorn, candy, peanuts, vegetables, fruit or any other articles of food or drink at any stationary place or stand within the boundaries of any street, avenue or sidewalk within the city, except ranchers or gardeners living in the city who are selling their own seasonal products.~~

“Sidewalk vendors.

(a) Findings. The City has set forth operational requirements regulating sidewalk vendors’ operations within the City in this Sec. 22-183.2 to protect the public’s health, safety, and welfare while promoting entrepreneurship and supporting individuals who engage in the businesses of sidewalk vending. The City Council finds:

EXHIBIT A

- (1) Prohibiting sidewalk vending in streets and medians is necessary to protect the health and safety of vendors, because they are at risk of being struck by vehicles and/or causing vehicular accidents if they vend in streets or medians.
- (2) Limiting sidewalk vendors' hours of operation within residential neighborhoods to daylight hours consistent with a residential atmosphere is necessary to protect the safety of sidewalk vendors and residents who would be more vulnerable to criminal activities during evening hours, and to promote the welfare of the residents by prohibiting commercial activities and associated noise and traffic during hours when residents should be able to enjoy peace and quiet. Further, preventing stationary sidewalk vendors in residential neighborhoods and limiting the amount of time a roaming sidewalk vendor may stay in one location within a residential neighborhood is necessary for the welfare of the residents of the city, because allowing sidewalk vendors to operate at a fixed location in residential neighborhoods may subject residents to increased noise and traffic, which may be appropriate for commercial areas, but will interfere with the peace and quiet that residential occupants should enjoy while in their homes.
- (3) Limiting sidewalk vendors' hours of operation in commercial areas to daylight hours or to the same hours as other open businesses in the vicinity where the sidewalk vendor operates in the evening hours is necessary to protect the vendors' health and safety, as they are more vulnerable to crime during nighttime hours, especially if operating where no other businesses are open.
- (4) Prohibiting soliciting within 1,000 feet of schools is necessary to protect the health and safety of the school children, because if vendors operated closer there is a danger that school children may run into traffic and be injured or killed trying to reach the sidewalk vendor.
- (5) Preventing soliciting from residences with "no solicitation" or "Do Not Disturb" signs protects the health and welfare of those who wish to avoid commercial activities while in their residences from unwanted interruptions.
- (6) Preventing sidewalk vendors from physical contact without permission, from persistently soliciting a person after the person rejects the offer, and from threatening injury or damage to a person while vending are necessary to protect the safety and health of persons who may feel threatened or in physical danger if these activities occur.
- (7) Preventing sidewalk vendors from intentionally obstructing the free movement of people on any street, sidewalk, or other place open to the public is necessary to protect the health, safety, and welfare of those who may be seeking emergency services or who

EXHIBIT A

are otherwise uninterested in the goods or services offered and desire to pass through the public area unimpeded.

- (8) Preventing soliciting from a captive audience is necessary to protect the health, safety, and welfare of those people who are not able to walk away or otherwise retreat from an unwanted solicitation.
- (9) Preventing sidewalk vendors from using sound amplifying devices is necessary to protect the welfare of residents and visitors to the City by preventing excessive noise from disturbing the peace and quiet of residential areas or from an accumulation of excessive noise in commercial and other area. Further, sound amplifying devices may cause traffic hazards by distracting drivers resulting in automobile accidents and harm to pedestrians, so prohibiting their use is necessary for the health and safety of motorists and pedestrians.

(b) Definitions.

- (1) "Certified farmers' market" means a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.
- (2) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- (3) "Sidewalk vendor" means 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.
- (4) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(c) Operating requirements:

- (1) Sidewalk vendors are prohibited from operating within a median or on the street.
- (2) Sidewalk vendors may operate in areas zoned for residential use from 9:00 a.m. to 5:00 p.m. In residential areas, stationary sidewalk vendors are prohibited and roaming sidewalk vendors cannot stay in one location for more than 10 minutes.
- (3) Sidewalk vendors may operate in any area zoned for any non-residential use between 8:00 a.m. and 10:00 p.m., except they may operate during 10:00 p.m. and 8:00 a.m. in areas zoned for commercial use where businesses are open during those hours, provided the sidewalk vendor is located within 200 feet of the open business.

EXHIBIT A

- (4) Sidewalk vendors shall dispose of all trash into trash receptacles. Used cooking oil or grease must be disposed of in a sink with a grease trap.
- (5) Sidewalk vendors shall not setup or operate in areas that block disabled access. Street vendors must provide a minimum of 48 inches of access to allow for disabled access and may not set up any closer than 30 feet to a bus stop to allow for disabled access and space for transit riders access.
- (6) No person shall solicit for commercial purposes at any dwelling, including but not limited to a house, apartment, or condominium, where there is a sign indicating "No Solicitations," "Do Not Disturb," or otherwise indicating that the occupants do not wish to be solicited or in any other way have their privacy disturbed.
- (7) No sidewalk vendor shall touch, come into physical contact with, or affix any object to any member of the public, without first receiving express permission therefor from such member of the public.
- (8) No sidewalk vendor shall persistently solicit any member of the public after such member of the public expresses his or her desire not to be solicited.
- (9) No sidewalk vendor shall intentionally obstruct the free movement of any member of the public on any street, sidewalk or other place open to the public generally.
- (10) No sidewalk vendor shall solicit from a captive audience. "Captive audience" shall be defined as purposefully stationary persons, such as persons in line or seated in public areas.
- (11) No sidewalk vendor shall threaten any injury or damage to any member of the public who declines to be solicited.
- (12) Sidewalk vendors shall be required to obtain a business license to operate; no Social Security number shall be required as per State law. The application shall provide a mailing address and description of merchandise. In addition to a business license, each sidewalk food vendor shall be required to obtain a license to operate from the Los Angeles County Department of Public Health. The sidewalk vendor shall have a copy of the business license and license from the Los Angeles County Department of Public Health available and clearly visible at all times they are operating.
- (13) Sidewalk vendors may not operate within 200 feet of any certified farmers' market.
- (14) Sidewalk vendors may not operate within 1,000 feet of any public schools.

EXHIBIT A

- (15) During an urgent or emergency public safety event such as a traffic accident, medical emergencies, gas leaks, natural disasters, fires, etc., the City may temporarily require sidewalk vendors to relocate to another location if doing so is necessary to protect the public's health, safety, or welfare.
- (16) Sidewalk vendors may operate in a public park except when the City has a third-party exclusive agreement for exclusive concessions inside the park. Sidewalk vendors may only operate during posted park hours. The City may adopt further regulations by resolution to limit the number, location, or concentration of sidewalk vendors in City parks due to health, safety and welfare concerns, when necessary to ensure the public's use and enjoyment of the park or to prevent an undue concentration of commercial activity that unreasonably interferes with the character of the park.
- (17) Sidewalk vendors cannot utilize sound amplifying equipment or devices.

(d) Enforcement of the Chapter.

1. Administrative Citations Exclusive Remedy.

Notwithstanding any other provision of the West Covina Municipal Code, this Section 22-183.2 shall be enforced exclusively through the City's administrative citation process, and administrative citation fees shall not exceed the limits set forth in state law (Government Code Section 51039 and as may be amended from time to time). No other civil or criminal remedies may be used to enforce the provisions of this Chapter unless allowed by state law.

2. City's Determination of Violators' Ability to Pay Administrative Fines.

When assessing an administrative fine for a violation of this Chapter, if the violator meets the criteria contained in Government Code Section 68632, subdivision (a) or (b), the City shall accept in full satisfaction, twenty percent (20%) of the administrative fine imposed as satisfaction of the fine.

The City's administrative citation enforcement official shall give notice to the violator of his or her right to request an ability-to-pay determination by including the notice and a checklist for eligibility of the reduced fine amount under Government Code Section 68632 along with the other information contain in Section 15-223, subdivision (b) of this Code. If eligible for the reduced fine, the violator must indicate, by signing under penalty of perjury, which criteria he/she meets and return the form together with the fine to the City."

SECTION 3: INCONSISTENCIES. Any provision of the West Covina Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such

EXHIBIT A

inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 4: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5: PUBLICATION. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in a newspaper of general circulation, printed and published in the City of West Covina or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED, APPROVED AND ADOPTED this 18th day of December, 2018.

Mayor

ATTEST:

Nickolas S. Lewis
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST COVINA)

I, Nickolas S. Lewis, City Clerk of the City of West Covina, do hereby certify that the foregoing Ordinance No. was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 20th day of November, 2018. That, thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 18th day of December, 2018.

AYES:

EXHIBIT A

NOES:

ABSTAIN:

ABSENT:

APPROVED AS TO FORM:

Nickolas S. Lewis
City Clerk

Scott Porter
City Attorney