

BOARD REPORT

NO. 18-236 Revised

DATE November 7, 2018

C.D. ALL

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: **RULES AND REGULATIONS FOR VENDING OF FOOD AND MERCHANDISE IN CITY PARKS**

*AP Diaz	<u>AP/wood</u>	V. Israel	_____
R. Barajas	_____	S. Piña-Cortez	_____
H. Fujita	_____	N. Williams	_____

Nael D. Williams

 General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS

1. Establish the following rules and regulations for vending of food and merchandise in all City parks (Enclosure 1);
2. Make the following legislative findings (Enclosure 1) to support enactment of the draft rules and regulations for vending of food and merchandise in City parks;
3. Instruct the Department of Recreation and Parks (RAP), with the assistance of the City Attorney, to create and implement uniform standards for posting of appropriate signs in parks making notice of the rules and regulations for vending; and
4. Direct the Board of Recreation and Park Commissioners' (Board) Secretary to transmit forthwith the proposed rules and regulations for vending of food and merchandise in city parks to the City Council for approval.

SUMMARY

Currently, Los Angeles Municipal Code (LAMC) Sections 63.44 and 42.15 restrict and prohibit unpermitted vending in city parks, with the exception of identified, first amendment expressive speech and related mediums such as: flyers, bulletins, pamphlets, buttons etc.

On September 18, 2018, Governor Jerry Brown signed Senate Bill No. 946, passed by the state legislature, to both legalize and decriminalize stationary and mobile vending of food and merchandise on sidewalks and in parks, in all California cities. SB 946, in essence, overrides the City's existing vending ordinances.

This new state law does allow municipalities to establish either a permit-based vending system or regulatory vending system to control vending in their respective jurisdictions. Under a permit-based system, the City could issue permits based on location (i.e., sidewalks and parks) and may

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issue permits for roaming vendors anywhere in the City based on health, safety, and welfare concerns.

Under a regulatory vending system, the City may control vendors by regulating the time, place, and manner of their vending activities. For example, vendors would be able to choose a vending location on a first-come, first-served basis and could be required to follow rules such as no vending on exits or entryways, no blocking the sidewalk in compliance with the American Disabilities Act (ADA), and showing proof of health permits, business license, and liability insurance.

Because of the length of time it would take to create a permit-based system, the City Council is currently focused on creating regulations for vendors that would be in place by the date SB 946 takes effect, January 1, 2019. On that date, the City's park vending regulations in LAMC Sections 63.44 and 42.15 will no longer be enforceable, as currently drafted. For that reason, RAP staff is recommending that the Board implement a new scheme of rules and regulations consistent with state law, in order to better regulate vending in City parks.

Importantly, SB 946 states that regulatory programs in substantial compliance with the provisions of the bill in place prior to January 1, 2019, are allowable under the law. In addition, the bill allows park authorities, such as RAP, to create regulations to limit the vending of food and merchandise in parks where narrowly tailored to meet safety, health and welfare concerns; necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; or necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

In addition, under the state bill, RAP may prohibit outright all stationary vendors from selling food or merchandise in any City park where RAP has a signed agreement that exclusively permits the sale of food or merchandise by a specific concessionaire. However, SB 946 states that any violations of the proposed rules and regulations are punishable only by an administrative fine, as specified, and even further limited by an ability-to-pay determination.

In response to the state legislation, the City Council is moving toward the adoption of sidewalk vending program to, among other things, 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, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. City Council has placed the management of that sidewalk vending program under the control of the Bureau of Street Services.

At the same time, the City Council directed RAP to adopt similar rules and regulations for vending of food and merchandise in City parks and return those Commission-approved rules and regulations to the City Council for its approval by November 15, 2018.

This report, and the attached findings, rules and regulations, are in response to that request from City Council.

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ENVIRONMENTAL IMPACT STATEMENT

Exempt.

FISCAL IMPACT STATEMENT

None.

LIST OF ATTACHMENTS:

- Enclosure 1) Proposed Rules and Regulations for Vending Food and Commercial Items
in City Parks
- A-1) Greek Theatre 5000-foot Diameter Map
- A-2) Griffith Observatory 5000-foot Diameter Map
- B) RAP Concessions Contracts with Exclusivity Provisions Listing
- C) RAP Property Listing