

**STAFF REPORT – PLANNING  
CITY OF TEMECULA  
PLANNING COMMISSION**

**DATE OF MEETING:** April 17, 2019

**TO:** Planning Commission Chairperson and members of the Planning Commission

**FROM:** Luke Watson, Director of Community Development

**PREPARED BY:** Sara Toma, Assistant Planner

**PROJECT SUMMARY:** Long Range Planning Project No. LR18-1663, in conformance with Senate Bill (“SB”) 946, the City is (1) adding a new Chapter 8.60 to regulate outdoor vending on public property, (2) renumbering Chapter 5.20 (Outdoor Vendors) as Chapter 8.61 (Outdoor Vending on Private Property), and (3) amending Section 12.04.060 regarding vending in parks.

**CEQA:** Categorically Exempt  
Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Section 15061(b) (3).

**RECOMMENDATION:** Adopt a Resolution recommending City Council to adopt an Outdoor Vendor Ordinance that renumbers Chapter 5.20 Outdoor Vendors as Chapter 8.61 (Outdoor Vending on Private Property) and making related amendments, adding a new Chapter 8.60 pertaining to Outdoor Vending on Public Property, and amending Section 12.04.060 pertaining to outdoor vending in City parks to establish Citywide standards for outdoor vendors.

**BACKGROUND SUMMARY**

On March 14, 1995, the City Council adopted Ordinance No. 95-05 (Outdoor Vendors) to add Chapter 5.20 (Outdoor Vendors) to the Temecula Municipal Code, which regulates stationary outdoor vending on private property. This ordinance prohibits outdoor vending on the public right-of-way.

Senate Bill (“SB”) 946 Sidewalk Vendors was signed into law on September 17, 2018, and became effective January 1, 2019. Under the new law, the State mandates local jurisdictions to support and facilitate outdoor vendors within the public right-of-way. The stated intent of the legislation is to:

1. Create entrepreneurial and economic development opportunities for immigrant and low-income communities;
2. Increase access to desired goods, such as culturally significant food merchandise;
3. Contribute to a safe and dynamic public space; and
4. Promote the safety and welfare of the public by encouraging local authorities to support and properly regulate sidewalk vending and the legislation to decriminalize sidewalk vending.

Sidewalk vendor (which is referred to in this report as outdoor vendor) is defined by SB 946 as a person who sells food or merchandise from a pushcart, stand, display, pedal-driver cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

State law allows for two types of outdoor vendors; stationary (a person who vends from a fixed location) or roaming (a vendor who moves from place to place and stops only complete a transaction).

To meet the new State law codified in California Government Code Sections 51038 and 51039, the City is adding a new Chapter 8.60 that will add regulations for outdoor vending on public property. The proposed ordinance also renumbers Chapter 5.20 Outdoor Vendors (private property) as Chapter 8.61 (Outdoor vending on private property) and amends Section 13.024.060 regarding vending in parks.

The bill allows a city to adopt outdoor vending regulations so long as those regulations (1) do not require a 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 (2) do not require vendors to operate only in a designated neighborhood or area, except as specified. The bill authorizes a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns.

Pursuant to SB 946, a violation is punishable only by an administrative fine, as specified, pursuant to an ability to pay determination, and proceeds are to be deposited in the treasury of the local authority. The bill requires the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting vendors that have not reached final judgment. The bill also authorizes a person who is currently serving, or who completed a sentence, or who is subject to a fine for a conviction of a misdemeanor or infraction for vending, to petition for dismissal of the sentence, fine, or conviction.

### **SUMMARY OF SB 946**

Upon the passage of SB 946, staff from the Community Development Department and City Attorney worked closely with Public Works, Temecula Community Service Department (TCSD), and Code Enforcement to review SB 946, and identified required amendments to the City's Municipal Code in order to comply with State law while maintaining public peace, health, safety, and welfare.

The table below describes the more significant operating requirements, and regulations from the law that affect how the City can regulate vending on sidewalks and in public parks.

<b>Finding</b>	<b>Description</b>
Areas of Operations	Cities cannot restrict roaming or stationary sidewalk vending unless restrictions are directly related to objective health, safety, or welfare concerns. In residential areas, only stationary vendors can be restricted.
City-Owned Parks	Cities cannot prohibit roaming vendors from operating in City-owned parks, but may prohibit stationary vendors, if under contact with a concessionaire.
Hours of Operation	Cities can impose limitations on hours of operation

	that are not unduly restrictive. In non-residential areas, hours cannot be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same block.
Limits on Number of Vendors	Cities can restrict the number of vendors but only if the restriction is directly related to objective health, safety, or welfare concerns.
Storefront Businesses	Cities cannot require a vendor to obtain permission from any non-governmental entity or individual before the vendor can operate. Cities do not have the authority to restrict a vendor from operating on the sidewalk due to conflicting business uses.
Americans with Disabilities Act (ADA) Compliance	Cities can adopt requirements necessary to ensure compliance with federal, state and local disability access standards.

State law also allows further regulation in City-owned parks if the regulations are necessary to:

1. Ensure the public's use and enjoyment of natural resources and recreational opportunities; and
2. Prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park or public trail.

SB 946 authorizes local governments to implement operational regulations regarding the time, place, and manner of sidewalk vending only as it relates to objective health, safety or welfare concerns.

## ANALYSIS

The proposed ordinance is consistent with SB 946 in that it facilitates the entrepreneurial spirit of small business activities by removing the prohibition on selling goods from portable stands on public right-of-way. While encouraging more outdoor vending, the City equally recognizes the importance of regulation and enforcement of outdoor vendor activities to promote the health, safety, and welfare of the public.

The City's proposed ordinance includes regulations that are necessary to ensure no interference with:

- The performance of police, fire, and emergency medical personnel response services;
- The flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles.
- Provide reasonable access for the use and maintenance of sidewalks, pathways, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, mailboxes, as well as access to locations used for public transportation services;
- Reduce exposure to the City for personal injury or property damage claims and litigation that result from outdoor vending; and
- Ensure outdoor vending activities only occur in locations where such vending activities would not restrict sidewalk and pathway access and enjoyment to individuals with disabilities.

The proposed ordinance also includes operational regulations regarding the time, place, and manner of outdoor vending, including, but not limited to the following:

- Sanitation requirements;
- Requirement for liability insurance;
- Size restriction for vending area or vendor cart;
- Restrictions on hours of operation;
- Restriction on noise-making devices;
- Separation requirements from critical City infrastructure to maintain safety;
- Restriction on vending in vicinity of special events;
- Enforcement of the Federal Americans with Disability Act of 1990 standards; and
- Proximity to sensitive receptors such as schools.

The following sections provide an overview of the rules and regulations established by the Outdoor Vendor Ordinance:

#### Permit Requirements

Government Code Section 51038 (C)(4) allows a local authority to require an outdoor vendor to obtain a permit, subject to certain limitations.

Consistent with SB 946, the City's proposed ordinance would require a valid permit to engage in any outdoor vendor activities. A permit enables the City to effectively regulate individuals who are engaging in outdoor vending activities and ensure outdoor vendors are complying with the rules and regulations set forth by the program.

#### Limitation of Hours of Operation

Government Section 51038 (C)(1) allows a local authority to place limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for outdoor vending shall not be more restrictive than any limitations imposed on other businesses, or uses on the same street or block.

In nonresidential areas, the ordinance would limit hours of operation for outdoor vending from 7:00 a.m. to 10:00 p.m. daily, which is consistent with most business operations throughout the City, however, the ordinance also provides that the hours of operations will not be more restrictive than the hours of operations imposed on other businesses on the same block.

In residential areas, stationary outdoor vendors are prohibited and the ordinance would limit the hours of operation for roaming outdoor vending from dusk until dawn within the following zoning districts: Hillside Residential District (HR), Rural Residential (RR), Very Low Density Residential (VL), Low Density Residential (L-1 and L-2), Low Medium Density Residential (LM), Medium Density Residential (M), High Density Residential (H), and Hillside Residential-Santa Margarita (HR-SM). These areas tend to be more sensitive to noise and traffic impacts; therefore, warrant a smaller operational window.

#### Prohibited Areas on Public Property

Government Section 51038 (8)(E)(1) allows local authority to prohibit outdoor vendors in areas located within the immediate vicinity of a permitted certified farmers market or a permitted swap meet during the limited operating hours of that certified event. In areas with a permitted certified farmer's market or a permitted swap meet, the ordinance would restrict outdoor vendors to maintain a 200 foot distance separation from the event(s). The 200 foot restrictions on distance

separation was based on City's traffic engineer input concerning motor vehicle speed, pedestrian flow, and sight distance standards.

Government Section 51038 (8)(E)(2) allows local authority to prohibit outdoor vendors in areas located within the immediate vicinity of an area designated for a temporary special permit issued by local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. In areas with a designated temporary special permit, the ordinance would restrict outdoor vendors to maintain a 200 feet distance separation from the event(s). The 200 feet restrictions on distance separation was based on City's traffic engineer input concerning motor vehicle speed, pedestrian flow, and sight distance standards.

Government Section 51038(2)(A), which allows prohibition of stationary outdoor vendors in public parks that have a single-concessionaire agreement. It is also consistent with State requirements, roaming vendors are not affected by this restriction. In areas with a single-concessionaire agreement within a public park, stationary outdoor vendors are prohibited.

#### **Distance Separation Restrictions**

Government Section 51038 (b)(1) allows a city to regulate where outdoor vending occurs if it relates to an objective health, safety, or welfare concern. The distance measurement restrictions specified below was based on City's traffic engineer input concerning motor vehicle speed and sight distance standards. Moreover, the following table summarizes the proposed distance separation restrictions or location restrictions that would prohibit outdoor vendors from being located within certain areas or within certain distances of specified structures or buildings, these restrictions are necessary to protect the public health, safety, or welfare.

<b>Distance Restriction</b>	<b>Why it is Necessary?</b>
Fifty (50) feet away from any street intersection	This restriction helps to ensure there are limited obstructions adjacent to a street intersection. Such obstructions could impede vehicular sight lines and could pose a safety issue for pedestrians and drivers alike.
Fifteen (15) feet away from any fire hydrant, fire call box, police call box or other emergency facility	In the event of an emergency, and for regular maintenance, the Fire Department needs to have constant, uninhibited access to hydrants City-wide. Adequate space must always be provided to allow for an apparatus (e.g. fire engine) to access the hydrant. The distance for the call box, traffic signal controller and streetlight controller is to allow adequate space for access in the event of an emergency or for regular maintenance.
Twenty five (25) feet away from any driveway or driveway apron	Allowing outdoor vending operations from or near any driveway will pose a safety issue by obstructing vehicular line of sight.
Fifty (50) feet away from a transit stop	Allowing outdoor vending operations within 50 feet of a transit stop will negatively affect the welfare of the public. People who are at these places are a captive audience and are

	generally unable to avoid solicitation. Outdoor vending adjacent to a transit stop will also hinder required access for a disabled person.
Two hundred (200) feet away from a permitted certified farmers' market, a swap meet, or an area designated for a City Special Event and temporary special permit. This prohibition shall be limited to the operating hours of the farmers' market or swap meet, or the limited duration of the temporary special permit.	Consistent with Government Section 51038 (d)(1) which allows a prohibition of outdoor vendors in the immediate vicinity of such permitted activities. Two hundred (200) feet away will ensure that all outdoor vendor activities are at least a block away.
Two hundred (200) feet away from any property on which a school building or facility is located during the following times: (a) an hour before school is in session; and (b) an hour before and an hour after school dismissal.	These land uses are sensitive receptors to noise and any activity that is disruptive to day-to-day operations and the overall welfare of said uses. In addition, any queuing in front of a school can pose a safety issue with children entering and exiting before and after school. Adjacency of outdoor vendors near these uses could also attract children off-site or cause children to rush across a street without checking for vehicular traffic.
One hundred (100) feet away from any public picnic area, playground area, or playground equipment.	Adjacency of outdoor vendors near these uses could attract children off-site and poses a safety issue.
Two hundred (200) feet away from the Civic Center building, Civic Quad and Town Square	The Temecula Civic Center is central to all civic duties. It is home to the City's Council Chambers, key Community Services and personnel, and is the center location of the Emergency Operations Center (EOC), which could be activated at any time to manage critical resources in an emergency situation. It is important that the pathways leading to and from the Civic Center grounds remain generally free and clear of any obstructions to ensure public safety. Furthermore, the civic quad and town square are locations of many City events year round, with high pedestrian traffic and to ensure public safety from injury, a distance separation is necessary.

### **Additional Regulations and Requirements**

Government Section 51038 (b)(1) allows a city to regulate the time, place, and manner of sidewalk vending when it is directly related to an objective health, safety, and welfare concerns. The following table summarizes additional rules and regulations requirements that would restrict outdoor vendors for the purpose of public health, safety, and welfare.

<b>Safe Flow of Traffic</b>	
Upon or within any roadway, median strip, or dividing section	Allowing outdoor vending operations in any roadway, median strip or dividing section will pose a safety issue by obstructing vehicular

	line of sight. Additionally, it creates a safety hazard as pedestrians may rush across a street without checking for vehicular traffic. It also would encourage vending to people inside a vehicle which interferes with the safe flow of traffic.
Outdoor vendors shall not be located at any signalized intersections or in any manner block traffic signal equipment and cabinets.	Allowing outdoor vendors at signalized intersections could endanger the traveling public on City streets. This regulation would also ensure no interference with the performance of police, firefighter, and emergency medical personal services.
Outdoor vendors shall not be located on any public property that is unpaved or unimproved (i.e., is not made from concrete, asphalt, or similar material)	Vending on unpaved or unimproved surfaces could result in pollutants contaminating the ground.
<b>Stationary Vending Cart</b>	
Stationary outdoor vendors shall not be located on utility boxes or in a manner that obstructs access to a utility box.	Utility providers need access to the utility boxes, particularly in an emergency.
<b>Autonomous vending</b>	
Autonomous vending of any kind is prohibited. Outdoor vendors stationary and/or roaming are required at all time to be present with their vending cart.	Autonomous vending is new technology and it is unknown whether this type of vending could cause injury to pedestrians or the traveling public.
<b>Permitting Requirement</b>	
Outdoor vendors shall possess at all times while vending proof of liability insurance.	Requiring that a vendor possess proof of liability insurance will ensure that if there is an accident, or someone is injured from the vending activities, that person will have access to the insurance information necessary to make a claim.
<b>Prohibited Items</b>	
All outdoor vendors on public and private property are prohibited from selling the following items: <ol style="list-style-type: none"> <li>1. Alcohol;</li> <li>2. Cannabis;</li> <li>3. Tobacco products, vapes, e-cigarettes;</li> <li>4. Adult orientated material;</li> <li>5. Weapons of any kind; or</li> <li>6. Starter guns and fake knives.</li> </ol>	These items are items that the City wants to keep out of the hands of youth. Allowing street vendors to sell these items could result in youth being exposed to these items and increases the likelihood that these items could be obtained by youth.

### **Maintaining Sanitary Conditions**

Government Section 51038 (b)(1) allows a city to regulate the time, place, and manner of sidewalk vending when it is directly related to an objective health, safety, and welfare concerns.

The proposed ordinance enacts a variety of requirements that directly relate to maintaining sanitary operations conditions in the interest of protecting the health and welfare of the public. These regulations include:

- Maintaining a current permit issued by County of Riverside Department of Environmental Health when selling food and displaying such permit on the vendor cart;
- Maintaining a litter receptacle which cannot be emptied into a City refuse container;
- Requiring the vendor to maintain a neat, sanitary, hazard and trash free area around the cart;
- Requiring the vendor to immediately clean up any food, grease or other fluid that falls on public property;
- Staying with the vending cart at all times as the cart may need to be relocated quickly to provide emergency access to the area for police and fire personnel.
- Removing the cart from the public right-of-way each evening;
- Ensuring the vending carts do not lean against nor are attached to a building or structure; and
- Signage shall be affixed to the vending cart or vendor's person and may not be electrical, flashing, wind-powered, or animated.

### **Enforcement, Penalties, and Appeals**

Government Section 51039 outlines limitations on punishing sidewalk vendors for violating parameters of the City's program. The City's program encourages efficient enforcement through its operating conditions, such as requiring conspicuous display of an outdoor vendor permit and requiring the allowance of certain City officials to inspect the operation at all times.

Violations of proposed ordinance would be enforced through administrative fines in the amounts established by SB 946.

Additionally, the proposed ordinance includes an appeals framework, which provides due process for individuals who are in disagreement with a denial of a permit, issued an administrative citation, or who desire to contest revocation of an issued permit.

### **LEGAL NOTICING REQUIREMENTS**

Notice of the public hearing was published in the *U-T San Diego* on April 4, 2019.

### **ENVIRONMENTAL DETERMINATION**

In accordance with the California Environmental Quality Act Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Section 15061(b)(3), the proposed project has been deemed to be categorically exempt from further environmental review.

### **STAFF RECOMMENDATION**

Adopt a Resolution recommending that the City Council adopt an Outdoor Vendor Ordinance that rennumbers Chapter 5.20 Outdoor Vendors (Private Property) as Chapter 8.61 (Outdoor Vending on Private Property), adds a new Chapter 8.60 pertaining to Outdoor Vending on



Public Property, and amends Section 12.04.060 regarding vending in public parks to establish Citywide standards for outdoor vendors.

**ATTACHMENTS**

1. Draft Planning Commission Resolution
2. Exhibit A – Draft City Council Ordinance
3. Notice of Public Hearing

**DRAFT**

**PLANNING COMMISSION RESOLUTION**

**PC RESOLUTION NO.19-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TEMECULA RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE ENTITLED “AN ORDINANCE OF THE CITY OF TEMECULA RENUMBERING CHAPTER 5.20 (OUTDOOR VENDORS) AS CHAPTER 8.61 (OUTDOOR VENDING ON PRIVATE PROPERTY) AND MAKING RELATED AMENDMENTS, ADDING A NEW CHAPTER 8.60 PERTAINING TO OUTDOOR VENDING ON PUBLIC PROPERTY, AMENDING SECTION 12.04.060 PERTAINING TO VENDING IN CITY PARKS, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (LONG RANGE PLANNING PROJECT NO. LR18-1663)”**

Section 1. Procedural Findings. The Planning Commission of the City of Temecula does hereby find, determine and declare that:

A. City Staff identified a need to amend the adopted Municipal Code to add a new Chapter 8.60 to the Temecula Municipal Code to address SB 946 and outdoor vendors (Planning Application No. LR18-1663).

B. The Ordinance was processed including, but not limited to a public notice, in the time and manner prescribed by State and local law.

C. The Planning Commission, at a regular meeting, considered the application and environmental review on April 17, 2019, at a duly noticed public hearing as prescribed by law, at which time the City staff and interested persons had an opportunity to and did testify either in support or in opposition to this matter.

D. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission recommended that the City Council approve Planning Application No. LR18-1663 subject to and based upon the findings set forth hereunder.

E. All legal preconditions to the adoption of this Resolution have occurred.

Section 2. Further Findings. The Planning Commission, in approving the application hereby finds, determines and declares that:

A. The proposed Ordinance is in conformance with the General Plan for Temecula and with all applicable requirements of State law and other Ordinances of the City;

*The proposed Outdoor Vendor Ordinance conforms to the City of Temecula General Plan in that the criteria for establishing public health, safety, and welfare identified in the City of Temecula General Plan Public Safety Element. Furthermore, the proposed Outdoor Vendor Ordinance directly responds to Goal community safety and security, Policy 3.1 and 3.4 of the General Plan Public Safety Element.*

B. The proposed Ordinance is consistent with the Municipal Code and Development Code for the City of Temecula;

*The proposed Outdoor Vendor Ordinance has been designed to be internally consistent with the Municipal Code and the Development Code in terms of referencing key components of the City's currently adopted 95-05 Outdoor Vendors Ordinance, which applies to public safety, noise, sanitation, and enforcement issues.*

Section 3. Environmental Compliance. This Ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b) (3) and 15378 of Division 6 of Title 14 of the California Code of Regulations. It can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment. The Ordinance will have no adverse environmental affects because it is not considered a "project" under CEQA project definition. The Planning Commission, therefore, recommends that the City Council of the City of Temecula adopt a Notice of Exemption for the proposed ordinance.

Section 4. Recommendation. The Planning Commission of the City of Temecula recommends that the City Council approve Planning Application No. LR18-1663 Outdoor Vendor, a proposed Citywide Ordinance as set forth on Exhibit A, attached hereto, and incorporated herein by this reference.

Section 5. **PASSED, APPROVED AND ADOPTED** by the City of Temecula Planning Commission this 17 day of April 2019.

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Gary Watts, Chairman

ATTEST:

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Luke Watson  
Secretary

[SEAL]

STATE OF CALIFORNIA     )  
COUNTY OF RIVERSIDE    )ss  
CITY OF TEMECULA         )

I, Luke Watson, Secretary of the Temecula Planning Commission, do hereby certify that the forgoing PC Resolution No. 19-         was duly and regularly adopted by the Planning Commission of the City of Temecula at a regular meeting thereof held on the 17 day of April 2019, by the following vote:

AYES:                 PLANNING COMMISSIONERS:

NOES:                 PLANNING COMMISSIONERS:

ABSENT:               PLANNING COMMISSIONERS:

ABSTAIN:              PLANNING COMMISSIONERS:

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Luke Watson  
Secretary

**EXHIBIT A**  
**DRAFT CITY COUNCIL ORDINANCE**

## **ORDINANCE NO. 19-**

**AN ORDINANCE OF THE CITY OF TEMECULA  
RENUMBERING CHAPTER 5.20 (OUTDOOR VENDORS)  
AS CHAPTER 8.61 (OUTDOOR VENDING ON PRIVATE  
PROPERTY) AND MAKING RELATED AMENDMENTS,  
ADDING A NEW CHAPTER 8.60 PERTAINING TO  
OUTDOOR VENDING ON PUBLIC PROPERTY,  
AMENDING SECTION 12.04.060 PERTAINING TO  
VENDING IN CITY PARKS, AND MAKING A FINDING OF  
EXEMPTION UNDER THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT (LONG RANGE  
PLANNING PROJECT NO. LR18-1663)**

**WHEREAS**, Senate Bill (“SB”) 946 was signed into law on September 17, 2018, and became effective January 1, 2019;

**WHEREAS**, SB 946 limits the authority of cities and counties to regulate outdoor vendors on public property, except in accordance with California Government Code Sections 51038 and 51039;

**WHEREAS**, the City of Temecula Municipal Code currently prohibits outdoor vendors within the public right-of-way and public parks, in conflict with SB 946;

**WHEREAS**, the City Council finds that the act of outdoor vending in areas of the public right-of-way creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

**WHEREAS**, the City Council finds that restrictions on outdoor vendors are needed to accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian movement on sidewalks and in the public right-of-way, safe-guarding the traveling public on City streets, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services;

**WHEREAS**, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that outdoor vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning;

**WHEREAS**, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by outdoor vendors are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant;

**WHEREAS**, the City Council finds that restrictions on outdoor vendors in public parks is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;

**WHEREAS**, the City Council finds that restrictions on outdoor vendors in residential areas and schools are necessary to ensure that such areas are protected from excessive traffic impacts to maintain circulation flow and without distractions while sustaining pedestrian safety during peak-time hours;

**WHEREAS**, the City Council finds that restrictions prohibiting stationary outdoor vendors from vending on unpaved or unimproved surfaces is necessary to protect the public health and safety as pollutants could contaminate the ground;

**WHEREAS**, the City Council finds that restrictions on outdoor vendors are necessary to safe-guard the flow of pedestrian, bicycle, and automobile movement along street intersections, driveway or drive apron, and transit stops with proper distance separation to safe-guard the traveling public on City streets, maintain American with Disabilities Act (ADA) accessibility standards, and ensuring no interference with the performance of police, firefighter, and emergency medical personal services;

**WHEREAS**, the City Council finds that restrictions regarding the hours of operations of outdoor vendors are necessary within residential neighborhoods to ensure that the vendors are not creating excess noise and a commercial type activities within a residential zone that can be detrimental to the general welfare of the community;

**WHEREAS**, the City Council finds that requiring proof of liability insurance for outdoor vendors as part of the permit requirement is essential to protect the public health and welfare and ensure that the City is protected from potential liability as a result of any injuries caused by the vending carts or operation of the vending carts;

**WHEREAS**, the City Council finds that restrictions prohibiting the sale of alcohol, cannabis, tobacco, adult-orientated materials, weapons, starter guns and fake knives is necessary to protect the public health, safety, and welfare;

**WHEREAS**, the City Council finds that restrictions regarding the appearance of the vending carts are necessary to ensure that the vendor carts are not detrimental to the general welfare of the community; and

**WHEREAS**, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City's purpose of protecting of the health, safety, and welfare of its residents, businesses and visitors.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TEMECULA DOES ORDAIN AS FOLLOWS:**



**Section 1.** Chapter 5.20 (Outdoor Vendors) of Title 5 (Business Licenses and Regulations) of the Temecula Municipal Code is hereby renumbered as Chapter 8.61 and renamed as “Outdoor Vending on Private Property”, and is hereby added to Title 8 (Health and Safety) of the Temecula Municipal Code.

**Section 2.** Section 8.61.030 (License and application.) of Chapter 8.61 (Outdoor Vending on Private Property) of Title 8 (Health and Safety) of the Temecula Municipal Code is hereby amended to add a new subsection C to read as follows:

“C. This Chapter shall not apply to outdoor vending on public property which is regulated pursuant to Chapter 8.60 of the Municipal Code.”

**Section 3.** Section 8.61.080 (Prohibited conduct and hours of operation.) of Chapter 8.61 (Outdoor Vending on Private Property) of Title 8 (Health and Safety) of the Temecula Municipal Code is hereby amended to amend subsection C to read as follows (with additions shown in underline and deletions shown in strikethrough):

“C. Store, park or leave any vending stand ~~within any public right of way or~~ on any undeveloped or otherwise vacant property, or store, park or leave any vending stand within any public right of way unless it is done in compliance with Chapter 8.60 of the Municipal Code;”

**Section 4.** The Temecula Municipal Code is hereby amended to add a new Chapter 8.60 to Title 8 (Health and Safety), which shall read as follows:

### **“Chapter 8.60 - Outdoor Vending on Public Property**

#### **Sections:**

<b>8.60.010</b>	<b>Definitions.</b>
<b>8.60.020</b>	<b>Permit Required.</b>
<b>8.60.030</b>	<b>Permit Application.</b>
<b>8.60.040</b>	<b>Criteria for Approval or Denial of Permit.</b>
<b>8.60.050</b>	<b>Permit Expiration and Renewal.</b>
<b>8.60.060</b>	<b>Permit Rescission.</b>
<b>8.60.070</b>	<b>Appeals.</b>
<b>8.60.080</b>	<b>Permits Non-Transferrable.</b>
<b>8.60.090</b>	<b>Operating Standards.</b>
<b>8.60.100</b>	<b>Administrative Citations.</b>

#### **8.60.010 Definitions.**

The following words and phrases, whenever used in this chapter, shall mean as follows:

A. “Block” means the aggregate of private lots, passages, and common drives without the separation of another street or an area of land within a subdivision entirely bounded by streets, or bounded on part by streets and in part by the exterior boundary of the subdivision.

B. “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.

C. “Director” means the City Manager, or his or her designee.

D. “Outdoor vendor” means a person who vends from a vending cart or from one’s person, upon a public sidewalk, pedestrian path, or other public right of way available to pedestrians. An outdoor vendor may be either a roaming vendor or a stationary vendor.

E. “Permit” means an outdoor vendor permit issued pursuant to this Chapter.

F. “Person” means one or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

G. “Roaming vendor” means a vendor who moves from place to place and stops only to complete a transaction.

H. “Stationary vendor” means a vendor who vends from a fixed location.

I. “Swap meet” means a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

J. “Temporary special permit” means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerns.

K. “Transit Stop” means a site containing a rail station or the intersection of two or more bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods.

L. “Vend” or “vending” means to sell, offer for sale, display for sale, or solicit offers to purchase, food, food products, beverages, goods, or merchandise.

M. “Vending cart” means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

#### **8.60.020 Permit Required.**

No person, either for themselves or any other person, shall conduct or engage in outdoor vending within the City without first obtaining an outdoor vending permit pursuant to this chapter.

#### **8.60.030 Permit Application.**

To apply for an outdoor vending permit, a person must file an application with the Director, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name and current address and telephone number of the applicant;
- B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- C. A description of the food or merchandise offered for sale;
- D. Whether the applicant intends to operate as a stationary vendor or a roaming vendor;
- E. A copy of a valid business license issued pursuant to Chapter 5.04 of the Temecula Municipal Code;
- F. A California seller's permit number pursuant to Section 6067 of the Revenue and Taxation Code;
- G. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief;
- H. If an outdoor vendor of food or food products, certification to completion of a food handler course and proof of all required approvals from the Riverside County Department of Environmental Health;
- I. Proof of liability insurance;
- J. A plan of how the outdoor vendor will collect and dispose of trash and recycling;
- K. A diagram that identifies the dimensions of the vending cart (height, width, and depth);
- L. A colored photograph of the vending cart;
- M. A plan of how the outdoor vendor will properly display Department of Environmental Health permit and Business License on the cart;
- N. Identify the proposed hours of operation; and
- O. Any other reasonable information regarding the time, place, and manner of the proposed vending.

**8.60.040 Criteria for Approval or Denial of Permit.**

- A. The Director shall approve the issuance of a permit unless he or she determines that:

1. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail; or
2. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or
3. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in Section 8.60.090; or
4. The applicant has failed to pay any previous administrative fines, or complete any community service associated with a previous violation of this chapter.

B. If the permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

#### **8.60.050 Permit Expiration and Renewal.**

A permit shall be valid for twelve (12) months from the date of issuance, and shall expire and become null and void on the anniversary of its issuance. A person may apply for a permit renewal on a form provided by the City prior to the expiration of his or her active permit.

#### **8.60.060 Permit Rescission.**

The Director may rescind a permit issued to an outdoor vendor for a fourth violation or subsequent violation of this Chapter. An outdoor vendor whose permit is rescinded may apply for a new permit upon the expiration of the term of the rescinded permit.

#### **8.60.070 Appeals.**

Any person aggrieved by the decision of the Director to issue, deny issuance, or rescind a permit may appeal the decision to the City Council. The appeal shall be filed with the City Clerk within fifteen (15) days following the date of the Director's decision.

#### **8.60.080 Permits Nontransferable.**

No permit granted pursuant to this Chapter shall be transferable.

#### **8.60.090 Operating Standards.**

Outdoor vendors shall comply with the following operating standards:

A. No outdoor vendor shall vend in any of the locations listed below. Any distances identified below shall be measured from the property line.

1. Within fifty (50) feet of any street intersection;
2. Within fifteen (15) feet of any fire hydrant, fire call box, police call box, or other emergency facility;

3. Within twenty five (25) feet of any driveway or driveway apron;
4. Within fifty (50) feet of a transit stop;
5. Upon or within any roadway, median strip, or dividing section;
6. Upon an outdoor area that is unpaved or unimproved (i.e., is not made from concrete, asphalt, or similar material);
7. Within two hundred (200) feet of a permitted certified farmers' market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the farmers' market or swap meet, or the limited duration of the temporary special permit.
8. Within two hundred (200) feet of any property on which a school building or facility is located during the following times:
  - a. an hour before school is in session; and
  - b. an hour before and an hour after school dismissal.
9. Within one hundred (100) feet of any public picnic area, playground area, or playground equipment.
10. Within two hundred (200) feet from the Civic Center building, Civic Quad and Town Square.
11. Outdoor vendors shall not be located at any signalized intersections or in any manner block traffic signal equipment and cabinets.

B. Stationary outdoor vendors are prohibited from operating in the following zoning districts: Hillside Residential District (HR), Rural Residential (RR), Very Low Density Residential (VL), Low Density Residential (L-1 and L-2), Low Medium Density Residential (LM), Medium Density Residential (M), High Density Residential (H), and Hillside Residential-Santa Margarita (HR-SM).

C. Stationary outdoor vendors shall not vend at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.

D. Stationary outdoor vendors shall not be located on utility boxes or in a manner that obstructs access to a utility box.

E. No outdoor vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles. Outdoor vendors must at all times provide a clearance of not less than four (4) feet on all outdoor or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices.

F. Outdoor vending is permitted during the following time periods:

1. From dusk until dawn, in the following zoning districts: Hillside Residential District (HR), Rural Residential (RR), Very Low Density Residential (VL), Low Density Residential (L-1 and L-2), Low Medium Density Residential (LM), Medium Density Residential (M), High Density Residential (H), and Hillside Residential-Santa Margarita (HR-SM).
2. In nonresidential areas, the hours of operation shall be between 7:00 a.m. to 9:00 p.m. daily. In no event shall the limit on hours of operation be more restrictive than the hours of operation of other businesses or uses on the same block.
3. In City parks, outdoor vending shall be permitted during public park hours of operation.

G. Outdoor vendors shall provide a trash receptacle for customers and ensure proper disposal of customer trash. Prior to leaving any vending location, the outdoor vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the outdoor vendor's customers within a fifteen (15) foot radius of the vending location.

1. A stationary outdoor vendor shall maintain a clearly designated trash receptacle in the immediate vicinity of the vending cart marked with a sign requesting use by patrons. The trash receptacle shall be large enough to accommodate customer litter without resort to use of existing trash receptacles located on any block for use by the general public. The outdoor vendor's trash receptacle may not be left on the public right-of-way upon leaving any vending location. The outdoor vendor shall not empty its trash receptacle into a City refuse container.
2. A roaming outdoor vendor shall maintain a trash receptacle attached to the vending cart marked with a sign requesting use by patrons. The trash receptacle shall be large enough to accommodate customer litter without resort to use of existing litter receptacles located on any block for use by the general public. The outdoor vendor shall not empty its litter receptacle into a City refuse container.

H. Outdoor vendors of food or food products shall possess and display in plain view on the vending cart a valid mobile food facility permit from Riverside County Department of Environmental Health.

I. Outdoor vendors shall possess at all times while vending a valid permit issued pursuant to this chapter, as well as any other permit or license required by the City and any other appropriate governmental agency. The permit shall be displayed in plain view on the vending cart.

J. Outdoor vendors shall comply with all applicable state and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and

regulations; noise standards; parking requirements; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).

K. Vending carts shall not be chained, fastened, or affixed at any time to any building or structure, fences and utilities, including, but not limited to lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trash cans, street signs, trees, or other objects within the public right-of-way. No vending cart shall become a permanent fixture on the vending site or be considered an improvement to real property.

L. Autonomous vending is prohibited.

M. Vending carts shall not be left unattended or stored on public property, within the public right-of-way, or on private property visible from the public right-of-way.

N. Outdoor vendors shall possess at all times while vending proof of liability insurance.

O. Outdoor vendors shall not sell any of the following prohibited items:

1. Alcohol;
2. Cannabis;
3. Tobacco products, vapes, e-cigarettes;
4. Adult orientated material;
5. Weapons of any kind; or
6. Starter guns and fake knives.

P. The use of amplified sound is prohibited.

Q. Outdoor vending carts shall be maintained in a clean and neat manner.

R. Vending carts that will be operated in the Old Town Specific Plan area shall not be substantially different in appearance from stationary vending carts that are permitted to operate in the Old Town Specific Plan area.

S. Outdoor vendors must ensure that food and merchandise are securely fastened to the vending cart in such a manner that the food or merchandise does not fall off or extend outside of the frame of the vending cart.

T. All signage and advertising related in any way to the outdoor vendor must be attached to the vending cart or the outdoor vendor's person, and shall not be flashing or animated.

#### **8.60.100 Administrative Citations.**

A. A violation of this chapter by an outdoor vendor who has a valid permit from the City is punishable only by an administrative citation pursuant to Chapter 1.21, in amounts not to exceed the following:

1. One hundred dollars (\$100) for a first violation.
2. Two hundred dollars (\$200) for a second violation within one year of the first violation.
3. Five hundred dollars (\$500) for each additional violation within one year of the first violation.

B. A person engaged in outdoor vending without a valid City outdoor vending permit is punishable by an administrative citation pursuant to Chapter 1.21 in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:

1. Two hundred fifty dollars (\$250) for a first violation.
2. Five hundred dollars (\$500) for a second violation within one year of the first violation.
3. One thousand dollars (\$1,000) for each additional violation within one year of the first violation.
4. Upon proof of a valid outdoor vending permit issued by the City, the administrative citations set forth in this paragraph shall be reduced to amounts set forth in paragraph A.

C. A violation of this Chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.

D. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.

E. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, twenty (20) percent of an administrative citation imposed pursuant to this chapter.

G. The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition."



**Section 5.** Section 12.04.060 (Solicitation prohibited.) of Chapter 12.04 (Park and recreation area use regulations.) of Title 12 (Public services) of the Temecula Municipal Code is hereby amended to read as follows (with additions shown in underline and deletions shown in strikethrough):

“No person shall practice, carry on, conduct or solicit for any commercial occupation, business or profession in any city park, or sell or offer for sale any food, beverage, merchandise, article or anything whatsoever in any city park. This section shall not apply to any person acting pursuant to a contract with the city or the Temecula community services district, or under a permit granted by the commission or director, including any permit issued pursuant to Chapter 8.60.”

**Section 6.** CEQA. The City Council finds and determines that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. Accordingly, this Ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b) (3) and 15378 of Division 6 of Title 14 of the California Code of Regulations.

**Section 7.** Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 8.** Effective Date. This Ordinance shall take effect thirty (30) days after its adoption. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this ordinance to be published and/or posted as required by law.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Temecula this day of \_\_\_\_\_, 2019.

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Michael S. Naggar, Mayor

ATTEST:

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Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA       )  
COUNTY OF RIVERSIDE     ) ss  
CITY OF TEMECULA         )

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Ordinance No. 19-\_\_\_\_\_ was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:                       COUNCIL MEMBERS:

NOES:                      COUNCIL MEMBERS:

ABSTAIN:                  COUNCIL MEMBERS:

ABSENT:                   COUNCIL MEMBERS:

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Randi Johl, City Clerk

**NOTICE OF PUBLIC HEARING**



# Notice of Public Hearing

A PUBLIC HEARING has been scheduled before the City of Temecula PLANNING COMMISSION to consider the matter described below:

**CASE NO:** LR18-1663 **APPLICANT:** City of Temecula

**LOCATION:** Citywide

**PROPOSAL:** In conformance with Senate Bill ("SB") No. 946 Sidewalk Vendors which became effective January 1, 2019, an Ordinance of the City of Temecula to renumber Chapter 5.20 Outdoor Vendors (Private Property) to Chapter 8.60 Outdoor Vendor (Public and Private Property) in the Temecula Municipal Code regulating vendors Citywide. Currently, the City of Temecula Municipal Code prohibits outdoor vending in public parks and public right-of-way, in conflict with SB 946.

**ENVIRONMENTAL:** Pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), the proposed project is exempt from CEQA as there is no possibility that this Ordinance would have a significant impact on the environment pursuant to State CEQA Guideline Section 15061(b)(3). More specifically, this Ordinance merely incorporates State law, allowing applicants to seek an Outdoor Vendor permit consistent with SB 946, pursuant to Government Code Section 65915.

**CASE PLANNER:** Sara Toma, (951) 506-5185

**PLACE OF HEARING:** 41000 Main St., Temecula, CA 92590, City of Temecula, Council Chambers

**DATE OF HEARING:** April 17, 2019 **TIME OF HEARING:** 6:00 p.m.

The complete agenda packet (including **any supplemental materials**) will be available for viewing in the Main Reception area at the Temecula Civic Center (41000 Main Street, Temecula) after 4:00 p.m. the Friday before the Planning Commission Meeting. At that time, the packet may also be accessed on the City's website – [TemeculaCA.gov](http://TemeculaCA.gov) and will be available for public review at the respective meeting. Any writing distributed to a majority of the Commission regarding any item on the Agenda, after the posting of the Agenda, will be available for public review in the Main Reception area at the Temecula Civic Center (41000 Main Street, Temecula), 8:00 a.m. – 5:00 p.m. In addition, such material will be made available on the City's website – [TemeculaCA.gov](http://TemeculaCA.gov) – and will be available for public review at the meeting.

Any petition for judicial review of a decision of the Planning Commission shall be filed within time required by, and controlled by, Sections 1094.5 and 1094.6 of the California Code of Civil Procedure. In any such action or proceeding seeking judicial review of, which attacks or seeks to set aside, or void any decision of the Planning Commission shall be limited to those issues raised at the hearing or in written correspondence delivered to the City Clerk at, or prior to, the public hearing described in this notice.

**Questions?** Please call the Community Development Department at (951) 694-6400.