

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, ESTABLISHING NEW FEES RELATED TO SIDEWALK VENDOR PERMITS, PURSUANT TO CHAPTER 5.16 “SIDEWALK VENDING” OF TITLE 5 “BUSINESS REGULATIONS AND LICENSING,” OF THE COMMERCE MUNICIPAL CODE

WHEREAS, the City of Commerce (“City”) is a general law city, incorporated under the laws of the State of California, and has the power to make and enforce within its jurisdictional limits all local, police, sanitary, and other ordinances, resolutions, and regulations not in conflict with general laws of the state;

WHEREAS, on December 18, 2018, the City Council adopted the Sidewalk Vendor Ordinance in response to Senate Bill (“SB”) 946, signed by Governor Brown on September 17, 2018, and effective January 1, 2019, which establishes statewide regulations for vending from non-motorized conveyances and one’s person on sidewalks and in parks, and prohibits the City from citing, fining, or prosecuting a sidewalk vendor for violation of any rule or regulation that is inconsistent with SB 946;

WHEREAS, the City adopted the Sidewalk Vendor Ordinance to establish a regulatory and permitting program that is consistent with SB 946, but also seeks to control its sidewalks and public rights of way to the fullest extent;

WHEREAS, the Sidewalk Vendor Ordinance makes it unlawful for any person to engage in sidewalk vending without first applying for and obtaining a permit from the Director of Finance and, in addition paying the required license tax to the Director of Finance in the manner provided for in Title 5 “Business Regulations and Licensing” to Chapter 5.16 “Sidewalk Vending” of the City Municipal Code;

WHEREAS, the Sidewalk Vendor Ordinance enacts a permitting scheme and at Section 5.16.070 “Permits – Application Fees” of the City Municipal Code, authorizes the City Council to impose fees by the adoption of a Resolution to enable the City’s recovery of costs incurred in enforcing and administering the program, including those costs incurred in processing application for permits, applications for renewals of permits, and appeals for denial or revocation of a permit;

WHEREAS, City staff with the City Attorney’s Office, undertook an analysis and evaluation of the municipal services and activities required to administer and enforce the Sidewalk Vendor Ordinance, and the fee structure necessary to proportionately allocate the costs of executing these required services and activities, which are reflected in Exhibit “A” attached hereto and incorporated by this reference;

WHEREAS, the proposed fees set forth in Exhibit “A” are imposed to recover the cost of preparing the regulations and for a specific municipal benefit or services provided directly to the payer that is not provided to those not charged, and does not exceed the reasonable costs to the City for providing said municipal benefit or service;

WHEREAS, by this Resolution, the City Council desires to set and establish the amounts of the Permit Application Fee, Renewal Permit Application Fee, and Appeal Fee, pursuant to City Municipal Code Sections 5.16.070 and 5.16.110(3).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES HEREBY RESOLVE, DECLARE, AND DETERMINE AS FOLLOWS:

SECTION 1. RECITALS. That based upon staff reports, presentations, public testimony, and all other matters presented during the public hearing on this item, the City Council hereby finds and declares that the foregoing recitals are true and correct and incorporates them herein as a substantive part of this Resolution.

SECTION 2. ADOPTED FEES.

(a) That the City Council hereby adopts the fees, as established in Exhibit “A” attached hereto and incorporated by this reference, by Resolution under its authority pursuant to local and state law, and such fees shall be imposed on any permit, renewal permit, or appeal application as set forth herein, for the reasonable estimated costs the City will incur with respect to accepting, processing reviewing, investigating, and performing certain regulatory activities associated with the enforcement of the program pursuant to the City Council approved Sidewalk Vendor Ordinance:

<u>TYPE OF FEE</u>	<u>AMOUNT OF FEE</u>
Permit Application Fee:	\$405.02
Renewal Permit Application Fee:	\$356.02
Fee to Appeal the Decision of the Director of Finance	\$283.00

(b) That payment of the fee for a permit application, renewal permit application, and an appeal shall be due and payable at the time a permit or renewal permit application, or a request for an appeal, is submitted to the City.

(c) That the City will not begin any review or investigation of a permit or renewal permit application, or the review and processing of a request for an appeal, until and unless the applicable fee has been paid to the City in full.

(d) That the permit application, renewal permit application, and appeal fee shall be non-refundable.

(e) That payment of fees does not guarantee approval of any of the permit or renewal permit applications, or the reversal of a decision of the City.

(f) That the above fees do not include any other fees due for, without limitation, other permits, licenses, inspections, document preparation that may be required by the City such as, but not limited to business license tax.

SECTION 3. CEQA EXEMPTION. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Resolution is not subject to environmental review pursuant to Sections 15060 (c)(2) and 15060 (c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) found in Title 14 of the California Code of Regulations. Sections 15060 (c)(2) and 15060 (c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378.

SECTION 4. SEVERABILITY. If any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Resolution, or its application to any individual, entity, or circumstance, for any reason, is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution, and shall continue in full force and effect. To this end, any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Resolution is severable. The City Council of the City declares that this Resolution would have been adopted by the City Council regardless of the fact that any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion thereof, might be declared to be invalid or unconstitutional.

SECTION 5. PASSAGE AND EFFECTIVE DATE. The City Clerk shall attest and certify to the passage and adoption of this Resolution, and enter it into the book of original resolutions, and it shall become effective immediately upon its approval.

THE FOREGOING RESOLUTION is passed, approved and adopted by the City Council of the City of Commerce this 6th day of October, 2020.

Ivan Altamirano, Mayor

ATTEST:

Lena Shumway
City Clerk

