



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Grant Yates, City Manager
Prepared by: Richard J. MacHott, Planning Manager

Date: May 14, 2019

Subject: Amendments to Title 5 and Title 17 of the Lake Elsinore Municipal Code Regarding Business Licenses and Regulating Sidewalk Vendors

Applicant: City-Initiated

Recommendation

Adopt by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AMENDING TITLE 5 AND TITLE 17 OF THE LAKE ELSINORE MUNICIPAL CODE REGARDING BUSINESS LICENSES AND REGULATING SIDEWALK VENDORS.

Background

In September 2018, the Governor signed Senate Bill (SB) 946 into law. SB 946 requires all cities and counties in California to allow sidewalk vending as a “by right” business. However, it cities and counties are allowed to impose some limited regulations on sidewalk vendors if they adopt a licensing process. The legislation also limits the type and amounts of fines that can be imposed on sidewalk vendors in violation of a city's permitting process or local regulations.

To meet the new regulations mandated by SB 946 (Government Code Sections 51036 through 51039), proposed amendments to Title 5 (Business Taxes, Licenses and Regulation) of the Lake Elsinore Municipal Code (LEMC) have been prepared. The proposed amendments will add a new Chapter 5.31 (Sidewalk Vendors) that will require sidewalk vendors to obtain a business license from the City of Lake Elsinore and to maintain sanitary conditions. There are also regulations that will establish some limits to the time and location of specified vending activities. Additionally, because Title 5 of the LEMC does not currently provide a process for persons to appeal decisions by City officials or agents affecting business licenses; two new sections in Chapter 5.08 (Business Licenses – General Provisions) concerning denial, suspension or revocation of business licenses and establishing an appeal procedure are proposed.

Due to the changes proposed for LEMC Title 5, several changes to Title 17 (Zoning) are required for consistency purposes. LEMC Section 17.188.040 required the Planning Commission to review the proposed amendments to Title 17 and to make a recommendation to the City Council.

Planning Commission Action

On May 7, 2019, the Planning Commission conducted a duly noticed public hearing regarding the proposed amendments to LEMC Title 17, accepted public oral and written testimony, and by a unanimous (5-0) vote recommended City Council approval.

Discussion

At the request of Community Development Director Grant Taylor, draft amendments of Title 5 and Title 17 of the Lake Elsinore Municipal Code were prepared by Matt Silver, Contract City Prosecutor. The purpose of the proposed amendments is to implement regulations concerning sidewalk vendors as authorized by SB 946. Mr. Silver also identified a need to add general provisions concerning the business license process as set forth in LEMC Chapter 5.08. Mr. Silver prepared a draft ordinance for staff and City Attorney review. The attached ordinance contains the following:

Title 5 (Business Taxes, Licenses and Regulation) Amendments

1. Two new sections in Chapter 5.08 (Business Licenses – General Provisions) which:
 - a. Formalize the ability of the City to deny, suspend, revoke, or fail to renew any business license upon any one of several specific findings, including code violations or violations of state law, false information provided in the process of obtaining a business license, or outstanding fines or fees owed to the City.
 - b. Establish an appeal process for any decision by the City with respect to the issuance, denial, suspension, revocation, or failure to renew a business license.
2. Add a new Chapter 5.31 that regulates Sidewalk Vendors within the City of Lake Elsinore, consistent with the requirements of SB 946. Chapter 5.31 includes the following sections:
 - a. **Purpose.** The purpose and intent of this Chapter is to regulate Sidewalk Vendors in accordance with State law in order to promote the health, safety, and general welfare of the residents and businesses within the City.
 - b. **Definitions.** This section provides definitions for “Roaming sidewalk vendor”, “Sidewalk vendor”, “Sidewalk vendor license” and “Stationary sidewalk vendor”.
 - c. **License requirement.** Requires that all Sidewalk Vendors within the City obtain and maintain a Sidewalk Vendor License from the City in accordance with the criteria and process set forth in Chapter 5.31 and the LEMC.
 - d. **Sidewalk vendor license.** This section establishes the information that must be submitted as part of the application for a Sidewalk Vendor License.
 - e. **Sidewalk Vendor standards.** This section establishes the standards that must be complied with by Sidewalk Vendors. These standards include compliance with all applicable laws and regulations and the prohibition of stationary sidewalk vendors in areas exclusively zoned for residential uses and in City parks where the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire. Sidewalk vendors are also prohibited from operating in a City park in a manner that interferes with the public’s use and

enjoyment of the park's amenities. Sidewalk vendors that sell food are required to maintain a current and valid permit from the Riverside County Department of Environmental Health.

- f. **Enforcement.** Establishes that any sidewalk vending activity within the City in violation of Chapter 5.31 is unlawful and a public nuisance. This section also specified potential penalties and remedies including fines and the rescission of Sidewalk Vendor Licenses.

3. Chapter 5.32 (Peddlers, Solicitors, and Mobile Vendors) will be amended to clarify the definitions of "Business by vehicle" and "Peddler" to specify that these terms refer only when motorized vehicles are used. A new section will be added to Chapter 5.32 and to Chapter 5.33 (Mobile Food Trucks) to specify that those two chapters do not apply to Sidewalk vendors as defined in the new Chapter 5.31, as described above.

Title 17 (Zoning) Amendments

1. Change the term and definition of "Street vendor" set forth in Section 17.08.190 ("S" definitions) to "Sidewalk vendor" with a definition identical to that set forth by SB 946 in Government Code Section 51036.
2. Delete the prohibition of "Street vendor/pushcart sales" in the Table of Mixed Use Land Uses that is in both Section 17.86.020 (RMU) and Section 17.134.020 (CMU), and adding "Sidewalk vendors" as permitted in both districts subject to compliance with Chapter 5.31 LEMC. The definition of "Street vendor" in both tables will be replaced with one for "Sidewalk vendor".
3. A clean-up amendment of the RMU and CMU Table of Mixed Use Land Uses is also included. This "clean-up" amendment deletes the paragraph found near the beginning of each table referencing the RMU and CMU uses found in the Downtown Master Plan. With the Downtown Elsinore Specific Plan and related "SP" zoning replacing the Downtown Master Plan on September 25, 2018, this language is no longer needed.

Environmental Determination

The proposed amendments to the Lake Elsinore Municipal Code are exempt from the California Environmental Quality Act (Cal. Publ. Res. Code §§21000 et seq. "CEQA") and the State CEQA Guidelines (14. Cal. Code Regs §§15000 et seq.), specifically pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a "project" as that term is defined in Section 15378 of the State CEQA Guidelines.

Exhibits:

- A. Sidewalk Vendors - CC Resolution
- B. Sidewalk Vendors - SB 946