



ITEM NO. 1

STAFF REPORT

DATE: OCTOBER 15, 2019
TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
FROM: BILL SMITH, CITY MANAGER
PREPARED BY: MARK TOMICH, DIRECTOR
SUBJECT: WAIVE FULL READING, READ BY TITLE ONLY AND PASS FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA, AMENDING CHAPTER 5.16 AND ADDING CHAPTER 5.17 TO TITLE 5 AND AMENDING CHAPTER 12.44 AND ADDING CHAPTER 12.44.010 TO TITLE 12 OF THE COLTON MUNICIPAL CODE, IMPOSING REGULATIONS ON SIDEWALK VENDING IN COMPLIANCE WITH SENATE BILL 946, ORDINANCE NO. O-12-19.

RECOMMENDED ACTION

Staff recommends that the City Council take the following action:

Adopt Ordinance No. O-12-19, amending Chapter 5.16 and adding Chapter 5.17 to Title 5 and amending Chapter 12.44 and adding Chapter 12.44.010 to Title 12 of the Colton Municipal Code, imposing regulations on sidewalk vending in compliance with Senate Bill 946.

BACKGROUND

In 2018, the California Legislature passed Senate Bill 946 (SB 946) which prohibits cities from regulating sidewalk vendors, except in accordance with the provisions of SB 946. SB 946 applies to both charter and general law cities. SB 946 prohibits local governments from imposing criminal penalties for sidewalk vending, except SB 946 did not affect the applicability of the California Retail Code, commencing at Health and Safety Code section 113700. SB 946 authorizes the implementation of time, place, and manner regulations that are directly related to objective health, safety, or welfare concerns, and that do not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified.

By definition, a Sidewalk Vendor means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path. SB 946 also takes into consideration a Roaming Sidewalk Vendor which means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

Business License Application requirements proposed are consistent with SB 946, as they are reasonable, related to objective health, safety, and welfare concerns, and are based upon compliance with other generally applicable laws including the Americans with Disabilities Act and the City's general encroachment permit requirements for work and/or activities in the public right of way. The standards imposed on stationary sidewalk vendors requiring a minimum path of accessible travel are necessary to comply with the Americans with Disabilities Act and maintain minimum safe access along public sidewalks.

Standards for maintaining access to building entrances, and not blocking driveways, fire hydrants, parking areas and building storefront windows are necessary to guard the health and safety of patrons, drivers, vendors and existing business owners and promote fire suppression and law enforcement practices that allow the City's safety personnel to observe activities within buildings and maintain access.

ISSUES/ANALYSIS

The proposed Ordinance will ensure that the City's Business License code is compliant with the requirements of SB 946, while protecting public health, safety and welfare. Staff has included recommended findings in the Ordinance that, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection.

The proposed Ordinance, for the most part, is integrated into the Colton Municipal Code as Chapter 5.17 of Title 5, Business Licenses and Regulations. This code amendment will add the following application requirements to the City's standard Business License application:

1. If preparing or selling food, a copy of the County Health Department permit issued to the vendor; and
2. If the vendor proposes to be a stationary sidewalk vendor, a description or site plan map of the proposed location(s) where vending will take place, showing that the sidewalk location maintains a minimum of thirty-six inches (36") of accessible route area, exclusive of the top of the curb, without obstruction, along the public sidewalk or public right-of-way, in compliance with the Americans with Disabilities Act; and

3. If the vendor proposes to be a sidewalk vendor, an encroachment permit pursuant to Chapter 12.45 of the Colton Municipal Code; and
4. A certification by the vendor that to his or her knowledge and belief, the information contained in the application is true; and
5. For both stationary and roaming sidewalk vendors, a description and/or image of any pushcart, including dimensions, or the stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance the vendor proposes using.

The proposed Ordinance also includes appropriate restrictions on locations (e.g. prohibited in certain zones, within City park and recreation facilities), operational restrictions (including hours of operation) and penalties for violation of the Ordinance.

FISCAL IMPACTS

The regulations will place an additional administrative burden on Business License staff to process business license applications for sidewalk vending. However, the additional staff time involved in processing sidewalk vending permits has not been determined at this time. Likewise, the additional staff costs associated with enforcement activities (Police – Code Compliance) have not been determined. Appropriate fee adjustments, if needed, will be determined after tracking costs associated with the permit issuance and enforcement actions during the first year of permitting activity.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENT

1. Ordinance O-12-19