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Title: INTRODUCTION OF ORDINANCE NO. 18-1828 AMENDING CERTAIN PROVISIONS OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PROGRAM APPLICABLE TO SIDEWALK VENDORS (CITY COUNCIL)

Sponsors:

Indexes:

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Attachments: 1. Ordinance No. 18-1828 Implementing Sidewalk Vending Program

Date	Ver.	Action By	Action	Result
12/4/2018	1	City Council		

Report to Mayor and City Council

Tuesday, December 04, 2018

Consent

SUBJECT:

INTRODUCTION OF ORDINANCE NO. 18-1828 AMENDING CERTAIN PROVISIONS OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PROGRAM APPLICABLE TO SIDEWALK VENDORS (CITY COUNCIL)

I. SUMMARY

The Governor has approved Senate Bill 946 (“SB 946”) which, effective January 1, 2019, will prohibit criminal prosecution of sidewalk vendors (as defined in SB 946), preclude local agencies from broadly prohibiting or limiting the total number of sidewalk vendors, and confer limited authority on local agencies to regulate sidewalk vendors within their jurisdictions. To validly regulate sidewalk vendors, a city must adopt local requirements consistent with SB 946, which can include permit requirements.

The proposed ordinance would repeal a provision of the Carson Municipal Code which constitutes a ban on certain sidewalk vendors, and would adopt specific operating standards and restrictions applicable to all sidewalk vendors. The amendments would bring the Carson Municipal Code into compliance with SB 946 and enable the City to exercise the full scope of its potential regulatory authority under SB 946 to protect and promote public health, safety and welfare.

II. RECOMMENDATION

WAIVE further reading and INTRODUCE, by title only, Ordinance No. 18-1828, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REPEALING SECTION 4126 (SALES FROM NONMOTORIZED VEHICLES ON CITY STREETS PROHIBITED) OF CHAPTER 1 (PROHIBITED CONDUCT - OFFENSES) OF ARTICLE IV (PUBLIC PEACE), ADDING CHAPTER 10 (SIDEWALK VENDING) TO ARTICLE III (PUBLIC SAFETY), AND AMENDING SECTIONS 63143 (PEDDLERS) AND 63150 (STREET VENDORS) OF CHAPTER 3 (BUSINESSES, PROFESSIONS AND TRADES) OF ARTICLE VI (TAXES AND LICENSES) OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PROGRAM APPLICABLE TO SIDEWALK VENDORS”

III. ALTERNATIVES

1. DIRECT staff to make changes to the proposed ordinance and to bring back the revised ordinance for introduction at a future meeting.
2. TAKE another action as the City Council deems appropriate.

IV. BACKGROUND

SB 946 defines “sidewalk vendor” as “a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.” SB 946 makes it unlawful for cities to impose blanket prohibitions or criminal penalties on such vendors.

To comply with SB 946, the proposed ordinance would repeal Carson Municipal Code Section 4126, which prohibits the sale of food and merchandise from nonmotorized vehicles.

SB 946 distinguishes between “stationary sidewalk vendors” (defined as a sidewalk vendor who vends from a fixed location) and “roaming sidewalk vendors” (defined as a sidewalk vendor who moves from place to place and stops only to complete a sale). The scope of cities’ authority to regulate sidewalk vendors under SB 946 differs in certain respects depending on the type of vendor.

In accordance with SB 946, the proposed ordinance would prohibit stationary sidewalk vendors in residential zones. Roaming sidewalk vendors cannot be prohibited in residential zones, but would be subject to specified operating restrictions in such zones, discussed below. Additionally, stationary sidewalk vendors would be prohibited in public parks where the park operator has an exclusive concessionaire agreement in place.

SB 946 authorizes cities to require sidewalk vendors to obtain a valid City business licenses or a permit for sidewalk vending, and to obtain any other permits required by law.

To that end, the proposed ordinance requires sidewalk vendors to obtain a city business license, a city-issued sidewalk vendor's permit, and, for sidewalk vendors who sell food, a county-issued health permit as is required by state law.

Under the proposed ordinance, and consistent with SB 946, a person seeking a City-issued sidewalk vendor's permit must submit an application containing information such as the name of the vendor, a driver's license or other identification number, a description of the food or merchandise to be sold, whether the vendor will operate as a stationary or roaming vendor, a description and photo of the stand to be used, proof of insurance, and any other information deemed necessary by the Finance Director to demonstrate that the sidewalk vendor is willing and able to comply with the operating requirements. No permit may be issued unless a completed application has been submitted. The permit fee is set at the default rate of \$50. The City has established business license fees in the ordinance code.

SB 946 also confers limited authority to cities to impose other regulations on sidewalk vendors, provided the regulations are directly related to objective health safety or welfare concerns. SB 946 expressly states that "perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern."

The proposed ordinance would impose such regulations in the form of operating requirements. The operating requirements are supported by findings justifying the regulations on the basis of objective health, safety and welfare concerns set forth in Section 2 of the proposed ordinance, and include, without limitation:

- Requiring sidewalk vendors to have general liability insurance to provide a source of compensation for any damage to person or property resulting from their operations;
- Prohibiting sidewalk vendors from blocking any public sidewalk or pedestrian walkway such that there is not 4' of clear width remaining on the walkway, and from operating within certain distances of building entrances, driveways, fire hydrants, transit stops, and other vendors;
- Prohibiting loud and unnecessary noises such as sirens, megaphones, and other projected sounds created by sidewalk vendors, to the extent such sounds are prohibited by the City's existing noise regulations set forth in Carson Municipal Code Section 4101;
- Prohibiting sidewalk vendors from operating in any public street or median, or in any area that would interfere ADA accessibility.
- Prohibiting vendors from leaving their stands unattended while operating, or from storing their stands at night in any public place.
- Restricting operating hours to 8:00 a.m. - 8:00 p.m. in residential zones (applicable to roaming vendors only given prohibition on stationary vendors in such zones), and restricting hours in non-residential zones to the hours established by

any City-imposed hours limitation applicable to all other businesses or uses on the street on which the sidewalk vendor is operating.

- Requiring sidewalk vendors to provide litter receptacles and dispose of all litter generated by their operations.

Finally, SB 946 prohibits criminal penalties against sidewalk vendors, and prescribes limited administrative fees that are the sole legal means of penalizing violations of local sidewalk vendor regulations. The permissible fines are higher for vending without a required permit than for violating other local requirements. SB 946 also requires that any ordinance that imposes fines for violations also provide for an ability-to-pay determination. Finally, rescission of permits is permissible for fourth and subsequent violations within a one-year period.

The proposed ordinance establishes penalties for its violations to the full extent permissible under SB 946.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. ORDINANCE 18-1828, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REPEALING SECTION 4126 (SALES FROM NONMOTORIZED VEHICLES ON CITY STREETS PROHIBITED) OF CHAPTER 1 (PROHIBITED CONDUCT - OFFENSES) OF ARTICLE IV (PUBLIC PEACE), ADDING CHAPTER 10 (SIDEWALK VENDING) TO ARTICLE III (PUBLIC SAFETY), AND AMENDING SECTIONS 63143 (PEDDLERS) AND 63150 (STREET VENDORS) OF CHAPTER 3 (BUSINESSES, PROFESSIONS AND TRADES) OF ARTICLE VI (TAXES AND LICENSES) OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PROGRAM APPLICABLE TO SIDEWALK VENDORS

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