



Council Agenda Report

From: Caleb Davis, Police Commander

Subject: Second Reading and Adoption of an Ordinance Amending Section 3.28.390 of the Paso Robles Municipal Code: Business License Tax – Sidewalk Vendor

CEQA Determination: The City finds that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378.

Date: April 2, 2024

Facts

1. In 2018, the California Legislature passed Senate Bill (SB) 946 which prohibits cities from regulating sidewalk vendors, except in accordance with the provisions of SB 946.
2. SB 946 imposes requirements regarding punishments for violation of a locality's sidewalk vending ordinance.
3. SB 946 amended Government Code Section 51038 and 51039. Section 51038 relates to substantive requirements that a locality may impose on sidewalk vending. Section 51039 relates to penalties that a locality may impose for violations of a sidewalk vending ordinance.
4. The Paso Robles Municipal Code Section 3.28.390 is not currently in accordance with the requirements of SB 946. As a result, this action will align the City's municipal code with state law.
5. On March 5, 2024, the City Council introduced the first reading of the ordinance amending section 3.28.390 of the Paso Robles Municipal Code (PRMC). If passed tonight, the ordinance will take effect on May 2, 2024, 30-days after the second reading.

Options

1. Take no action;
2. Approve second reading by title only and adopt an ordinance amending Chapter 3.28.390, Business License Tax – Sidewalk Vendors;
3. Provide alternative direction to staff.

Analysis and Conclusions

The City must follow the enforcement requirement established by California Government Code section 51039. State law limits how the City can enforce violations of PRMC section 3.28.390. Enforcement is limited to certain graduating administrative fines, and it cannot be punished as an infraction or misdemeanor. PRMC section 3.28.410 provides that the penalty for failing to produce a business license tax certificate is a misdemeanor. PRMC Section 3.28.430 states that, "Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the business license tax certificate herein provided for shall be deemed guilty of a misdemeanor." Those sections are inconsistent with the penalties that state law authorizes as to sidewalk vendors under Gov. Code Section 51039. It is recommended to modify the language in PRMC section 3.28.390 to include "Violations of the requirements of this section shall be punished in accordance

with Government Code Section 51039, as amended or renumbered. Any provisions of the Paso Robles Municipal Code Sections 3.28.410-3.28.430 that are inconsistent with Government Code Section 51039 shall not apply.”

The PRMC requires that sidewalk vendors pay a business license tax of ten dollars per day or thirty dollars per year. Historically, sidewalk vendors have been charged \$10 per day for up to 3 days. If a vendor will be vending for more than 3 days, the vendor is required to pay the yearly license tax of \$30 per year. The language in PRMC section 3.28.390 is unclear that the maximum tax is \$30 per year. It is recommended to modify PRMC section 3.28.390 to “Every person carrying on the business of a sidewalk vendor as defined herein, shall pay a business license tax of **the lesser of** ten dollars per day or thirty dollars per year.”

Fiscal Impact

There is no direct fiscal impact by adopting this ordinance.

CEQA

The City finds that this action is not a project under the California Environmental Quality Act pursuant to State Guidelines Section State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378.

Recommendation (Option 2)

Approve second reading by title only and adopt Ordinance 1136 amending Section 3.28.390 of the City of El Paso de Robles Municipal Code, Business License Tax – Sidewalk Vendors.

Attachments

1. Ordinance 1136 – Amending Section 3.28-390 – Business License Tax