

REPORT TO THE CITY COUNCIL



DATE: October 1, 2019

TITLE: An Ordinance Amending the Desert Hot Springs Municipal Code Regarding Sidewalk Vendors and Peddlers

Prepared by: Jennifer Mizrahi, City Attorney

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain questions of Staff from the City Council;
- 3) Open the Public Hearing;
- 4) Take public testimony from those in favor;
- 5) Take public testimony from those opposed;
- 6) Take public testimony from those in a neutral position;
- 7) Close the Public Hearing;
- 8) City Council discussion and questions to Staff; and
- 9) Introduce and read by title only, "An Ordinance of the City Council of the City of Desert Hot Springs, California, amending Section 5.28.010 "Purpose" and Section 5.28.085 "Sidewalk Vendor General Regulations" of Chapter 5.28 "Sidewalk Vendors and Peddlers" of Title 5 "Business Licenses and Regulations" of the Desert Hot Springs Municipal Code.

BACKGROUND

Chapter 5.28 of the Desert Hot Springs Municipal Code ("DHSMC") regulates sidewalk vendors and peddlers.

On September 17, 2018, California passed Senate Bill 946 ("SB 946"). SB 946 (Government Code Sections 51036-51039) took effect on January 1, 2019, and limits the ability of local jurisdictions, including charter cities, to regulate sidewalk vending except as outlined in the bill. However, local jurisdictions may still enact vending restrictions on parts of the public right-of-way and require permits before commencing operations.

Under SB 946, sidewalk vendors are defined as any 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." (Government Code Sect. 51036(a)). SB 946 further allows sidewalk vendors to sell their food or merchandise on public sidewalks, pedestrian paths, and city parks. Local authorities cannot "cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards" of SB 946. (Government Code Sect. 51039(e)). Most notably, SB 946 states that a "local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns." (Government Code Sect. 51038(b)(1)).

Currently, Chapter 5.28 regulates sidewalk vendors and provides several restrictions for operating on the public right-of-way. Most significantly, Section 5.28.085 prohibits sidewalk vendors from operating on Palm Drive between Park Drive and Camino Aventura. The rationale is explained in Section 5.28.010, which references studies about traffic safety and collisions along the Palm Drive corridor, and the City Council's previous designation of certain parts of Palm Drive as a safety enhancement zone.

Further, as sidewalk vendors continue to operate within the City, the issue of regulating business signs erected by sidewalk vendors in the public right-of-way is currently unaddressed. While the DHSMC has existing sign regulations, there are no regulations specific to sidewalk vendors.

The proposed ordinance seeks to amend parts of Chapter 5.28 of the DHSMC to extend the prohibition against sidewalk vending along Palm Drive, and to introduce standards for business signs. The goal is to protect the health and safety of the public and to preserve the community appearance.

DISCUSSION

The proposed ordinance seeks to extend the restriction against sidewalk vending on Palm Drive, from between Park Drive and Camino Aventura to between Pierson Boulevard and Camino Aventura.

The City previously designated portions of Palm Drive a “safety corridor” in light of the unique circumstances of this street. Due to frequent speeding, fewer crosswalks, and other conditions, this corridor has seen many fatal collisions. In order to mitigate traffic hazards, the safety corridor designation allows the doubling of fines for traffic violations. The City has also deployed a traffic officer to monitor this corridor. While these efforts are producing positive results, allowing sidewalk vendors to congregate along this corridor may interfere with the City’s goal of promoting pedestrian and traffic safety. The congestion of sidewalk vendors in the busiest corridor of the City would also distract drivers and pedestrians. However, the current restriction of sidewalk vending between Park Drive and Camino Aventura is too limited in scope and does not include the busiest sections of Palm Drive. As such, to provide meaningful protections for the public safety, the restriction should be extended to between Pierson Boulevard and Camino Aventura.

The proposed ordinance would also regulate the use of signs by sidewalk vendors. Signs will be limited to those affixed to a vendor’s canopy cover, cart, or other conveyance. The sign must be professionally designed. These regulations are not tied to the content of the signs. Rather, the purpose of the regulation is simply to eliminate traffic and pedestrian hazards caused by signs erected on the public right-of-way. A secondary purpose is to preserve the community aesthetics and appearance. If no restrictions are in place, then there could be a proliferation of large or distracting signs placed on the right-of-way. Although the public right-of-way is a traditional public forum for speech, the regulations in the proposed ordinance are narrow in scope and seek only to advance the interest of public safety and community aesthetics.

FISCAL IMPACT

None.

EXHIBIT

1) Proposed Ordinance