

RESOLUTION NO. 2020-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ESTABLISHING INSURANCE REQUIREMENTS FOR SIDEWALK VENDING

WHEREAS, on September 17, 2018, California Governor Edmund Gerald Brown signed Senate Bill 946 ("SB 946") into law, which adds Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the California Government Code to regulate sidewalk vendors throughout the state, including within the City of Fullerton; and

WHEREAS, SB 946 became effective January 1, 2019, and limits the authority of cities and counties in the state to regulate sidewalk vendors, except as otherwise specifically and expressly provided; and

WHEREAS, existing provisions of the Fullerton Municipal Code prohibited or limited the activities of sidewalk vendors in a manner that may be in conflict with the provisions of SB 946; and

WHEREAS, on September 15, 2020 the City Council adopted Ordinance No. 3288 in accordance with the authority granted by SB 946; and

WHEREAS, the City Council declares that the regulations enacted therein are intended to promote and protect the health, safety and welfare of the City's residents, businesses, and visitors and are in furtherance of the City's police powers; and

WHEREAS, the City Council further declares that the provisions therein are intended to regulate the time, place, and manner of sidewalk vending directly relating to public health, safety, and welfare objectives and concerns; and

WHEREAS, requiring sidewalk vendors to obtain insurance is necessary to protect the health and safety of the public and employees of sidewalk vendors, because insurance would cover medical expenses and other liabilities from injuries or damages resulting from sidewalk vendors' activities that may not otherwise be covered. Further, compelling sidewalk vendors to provide commercial general liability with the City named as an additional insured with respect to liability arising out of a vendor's use of City property is necessary to protect the City against claims for bodily and property damage; and

WHEREAS, Ordinance No. 3288 provides that sidewalk vendors shall not be allowed to operate within the City without first having obtained general liability insurance, in a form approved by the City, in an amount established by resolution of the City Council for coverage related to all activities associated with sidewalk vending activities, with the City named as an additional insured under such policy; and

WHEREAS, the City Council hereby desires to set forth these minimum required insurance provisions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON HEREBY RESOLVES AS FOLLOWS:

1. Sidewalk vendors shall obtain, maintain, and keep in full force and effect at all times while engaged in sidewalk vending activities all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:
 - (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00).
2. The commercial general liability insurance policy shall contain or be endorsed to contain the following provisions:
 - (a) Additional insureds: "The City of Fullerton and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the names insured pursuant to its operations within the City."
 - (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
 - (c) Other insurance: "The Sidewalk Vendor's insurance coverage shall be primary insurance as respects the City of Fullerton, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fullerton shall be excess and not contributing with the insurance provided by this policy."
 - (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fullerton, its officers, officials, agents, employees, and volunteers.
 - (e) The Sidewalk Vendor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3. The sidewalk vendor shall provide a certificate of insurance that names the City as an additional insured on said policy.

ADOPTED BY THE FULLERTON CITY COUNCIL ON SEPTEMBER 15, 2020.

Jennifer Fitzgerald
Mayor

ATTEST:

Lucinda Williams, MMC
City Clerk

Date