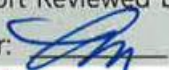


Agenda Report Reviewed by:
City Manager: 

**CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM**

Meeting Date: November 1, 2022
To: Honorable Mayor and City Councilmembers
From: Kari Svanstrom, Planning Director
Subject: Municipal Code Amendment to Section 5.28 “Coin-Operated Devices”
Recommendation: Approve second reading and adopt
Funding: Currently Budgeted: _____ Yes _____ No X N/A

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION/PURPOSE:

At its October 18, 2022, regular meeting, the City Council received the staff report and presentation, held the public hearing and discussed an ordinance to remove language from Chapter 5.58 of the Municipal Code.

The specific amendment will remove a section of Chapter 5.58.100.A.10 of the municipal code which no alcoholic beverages shall be sold or consumed on the premises, except those businesses where minors under the age of 21 are prohibited by law.

DISCUSSION:

The ordinance is now presented for adoption. The ordinance will go into effect in 30 days after adoption.

GOALS:

This action supports the following City Council Goals and General Plan Actions:

- Goal 8 Encourage new and existing businesses to offer living wage to employees as the new operation will be run and operated by a local Sebastopol resident and will provide local food and drink as available.
- Goal 8.1.1 Develop programs & polices to promote, attract and retain local businesses as The Rewind would be a new business to the City of Sebastopol and providing the municipal code change through the proper City policies directly speaks to this goal.

and General Plan Actions:

- Policy EV 1-11: Work with and support local business organizations in order to promote a strong business base through joint business attraction and retention efforts that include marketing and outreach, technical assistance, workforce development, training, and welcome/orientation activities for new businesses.

- Policy EV 1-13: Assist efforts to attract new industries and businesses that develop new products and expand markets, particularly those that involve research and development of agricultural, sustainable, green, medical, and/or technological products.
- Policy EV 2-3: Develop a distinct image and brand for Sebastopol that reflects its unique identity and sets it apart from the region.
- Policy EV 2-4: Encourage businesses and programs that emphasize and promote shopping locally.
- Policy EV 4-3: Encourage amenities needed to support tourism, including hotels, bed-and-breakfasts, eco-lodging, and a variety of restaurants, shopping, and services.
- Policy EV 4-4: Encourage the development of civic amenities, entertainment venues, retail and restaurants, and services that increase visitation, spending, and tourism.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report, such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

No direct impact to the City's budget. However, if this Amendment is approved, it would allow the proposed business, with associated tax revenue, to open within the City.

RECOMMENDATION:

Adopt the ordinance.

Attachments:

Ordinance 1143

City of Sebastopol
Ordinance No. 1143

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL
AMENDING CHAPTER 5.58 "COIN OPERATED PLAY DEVICES

1. Whereas, the City of Sebastopol completed a comprehensive General Plan update with adoption of a new General Plan on November 15, 2016; and
2. Whereas, the new General Plan includes policies and actions; and
 - *Policy EV 1-11: Work with and support local business organizations in order to promote a strong business base through joint business attraction and retention efforts that include marketing and outreach, technical assistance, workforce development, training, and welcome/orientation activities for new businesses.*
 - *Policy EV 1-13: Assist efforts to attract new industries and businesses that develop new products and expand markets, particularly those that involve research and development of agricultural, sustainable, green, medical, and/or technological products.*
 - *Policy EV 2-3: Develop a distinct image and brand for Sebastopol that reflects its unique identity and sets it apart from the region.*
 - *Policy EV 2-4: Encourage businesses and programs that emphasize and promote shopping locally.*
 - *Policy EV 4-3: Encourage amenities needed to support tourism, including hotels, bed-and breakfasts, eco-lodging, and a variety of restaurants, shopping, and services.*
 - *Policy EV 4-4: Encourage the development of civic amenities, entertainment venues, retail and restaurants, and services that increase visitation, spending, and tourism.*
3. Whereas, the Municipal Ordinance amendment to modify Section 5.58.100 to allow coin-operated play devices in a business that serves alcohol, with the approval of a Use Permit; and
4. Whereas, on October 18, 2022, the City Council conducted a duly-noticed Public Hearing, deliberated, and found that as revised, the Municipal Ordinance amendment (the "Project") is compatible with the general objectives of the General Plan, in that it directly implements the General Plan policies, thereby achieving consistency between the General Plan and the Zoning Ordinance; and

5. Whereas, the Municipal Code amendment is, pursuant to CEQA Guidelines Section 15061(b)(3), not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Municipal Code amendment to Section 5.58.100(A) 10 will remove the prohibition of serving alcohol at locations that have more than three coin-operated play devices, however the amendment does not automatically permit such uses, as such uses would still require a conditional use permit, nor does it permit any prevent physical changes to the environment. Therefore, it can be seen with certainty that there is no possibility that the amendment will have a significant effect on the environment; and
6. Whereas, the City Council finds that the amendments will not be detrimental to the public health, safety and general welfare, and will not adversely affect the orderly development of property, in that they will harmonize the General Plan and Municipal Code, while still requiring City review and discretion on a project-by-project basis to allow locations that offer coin-operated play devices to serve alcohol with adequate control to ensure public safety; and;
7. Whereas, the regulation of such uses through a discretionary Use Permit review process will allow the City to promote economic development in balance with public safety and welfare in a way that better express the City's policies.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are hereby declared to be true and correct and represent the findings of the City Council of the City of Sebastopol. Said findings are incorporated by this reference.

Section 2. The Sebastopol Municipal Code (SMC) is hereby amended as follows:

- A. Chapter 5 "Business License and Regulations", Section 5.58.100(A) "Coin-operated Play Devices, Additional conditions – More than three games" is amended to delete the following (5.58.100(A)10:
 10. No alcoholic beverages shall be sold or consumed on the premises, except those businesses where minors under the age of 21 are prohibited by law.
- Chapter 5 "Business License and Regulations", Section 5.58.100(A) "Coin-operated Play Devices, Additional conditions – More than three games" shall be amended to renumber items 11 through 17 to be numbered 10 through 16.

Section 3. The City Council hereby finds that Adoption of this Ordinance will enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect

on the environment because it will not allow for the development of a specific project anywhere other than where they were previously allowed under existing federal, state and local regulations.

The proposed Ordinance also falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

Section 4. Conflicting Laws. During the continuation of the effectiveness of this ordinance, the provisions of this ordinance shall govern. If there is any conflict between the provisions of this ordinance and any provisions of the Sebastopol Municipal Code, or any City ordinance, resolution or policy, the provision of this ordinance shall control. If there are any conflicts between the provisions of this ordinance and any provisions of State or Federal law in effect during the same time as this ordinance, the provisions of this ordinance shall be null and void.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This ordinance shall become effective thirty (30) days after its adoption. This ordinance shall become effective (30) days after the date of adoption.

Approved for First Reading and Introduction on this 18th day of October, 2022.

Scheduled for Second Reading and Approval on the 1st day of November, 2022.

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____

Mayor Patrick Slayter

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Larry McLaughlin, City Attorney