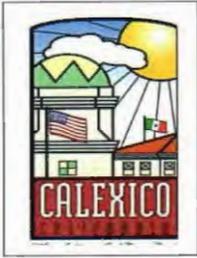


AGENDA
ITEM

7



AGENDA STAFF REPORT

DATE: September 18, 2019

TO: Mayor and City Council

APPROVED BY: David B. Dale, City Manager

PREPARED BY: David B. Dale, City Manager

SUBJECT: Second Reading and Adoption by Title Only of Ordinance No.1204
- An Ordinance Amending Chapter 5.76 of Title 5 (Business Licenses and Regulations) of the Calexico Municipal Code Regarding Swap Meets

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Recommendation:

It is recommended that the City Council conduct second reading by title only and adopt the following Ordinance:

1. Ordinance No. 1204: An Ordinance of the City Council of the City of Calexico, California, Amending Chapter 5.76 of Title 5 (Business Licenses and Regulations) of the Calexico Municipal Code Regarding Swap Meets.

Executive Summary:

Approval of the Ordinance will allow the City of Calexico ("City") to continue to regulate the operation of commercial outdoor Swap Meets within the City's jurisdiction by providing for more comprehensive licensing policies and procedures and stricter minimum standards of operation.

Background:

Ordinance § 695, approved in 1976, is codified under Title 5 of the City's municipal code ("CMC") and governs Swap Meets operating within the City's jurisdiction. The current version of Chapter 5.76 of the CMC provides policies and procedures for the processing of swap meet license applications. This Chapter also sets forth minimum standards of operation for swap meets and grants the City authority to suspend or revoke swap meet licenses, when those minimum standards of



operation are not met. However, the ordinance is now outdated and no longer adequately protects public health and safety.

By amending Chapter 5.76, the City will impose stricter minimum standards of operation that are designed to further curtail the sale of stolen goods and to provide stronger public health and safety protections. The amended Chapter will also provide for more comprehensive policies and procedures in the licensing application process.

Discussion and Analysis:

Swap Meets have developed into large commercial enterprises in the City. Many citizens participate in Swap Meets and the Swap Meets often also attract out-of-county and out-of-state participants. Due to their popularity and their commercial nature, Swap Meets should be subject to the regulatory provisions that apply to all other businesses operating in this City. There are special local and state regulations for pawnshops because they are especially susceptible places to dispose of stolen goods, and similar controls should be applied to Swap Meets, where stolen goods may also be present.

It is the intent of this proposed Amended Chapter to subject Swap Meets to necessary and proper regulations modeled on the regulations applicable to businesses that present similar risks and concerns, to require that Swap Meet owners and operators pay their fair share of the adopted regulatory costs, and to ensure that the citizens, who attend Swap Meets, enjoy necessary protections afforded by appropriate controls of Swap Meet operations. This ordinance is intended to supplement California Business and Professions Code sections 21661, et seq. Therefore, in the event of a conflict between this ordinance and the California Business and Professions Code sections 21661, et seq., the latter shall control.

To these ends, the proposed Amended Chapter will include new minimum standards of operation and licensing policies and procedures. Such provisions include, but are not limited to:

1. Providing additional definitions such as for the terms "Applicant" and "Swap Lot" to further clarify how the succeeding regulations are to be applied;
2. Specifying the information that shall be contained in every Swap Meet license application made to the City's finance department;
3. Adjusting the procedures, by which a Joint Report recommending either approval or denial of a Swap Meet license application is issued. The new Chapter will require that, in addition to the Chief of Police, the Building/Planning Director and the Fire Department investigate the application and contribute to the recommendation of the Joint Report. Additionally, the amended Chapter requires that, in the event an applicant wishes to appeal the Joint Report recommendation, the applicant shall make such appeal to the City Manager and not to the City's finance department;

4. Specifying the conditions, under which the finance department may issue a Swap Meet license to an applicant. The current Chapter does not require that certain minimum conditions be met—such as that the application is complete and that the applicant has not made material misrepresentations in the application—before a license may be issued. The amended Chapter will include these requirements;
5. Providing a separate Subsection specifying the conditions, under which the finance department may deny an application for a Swap Meet license and providing for the procedure, by which an applicant may appeal the denial of an application;
6. Replacing the current license fee structure of “six dollars per booth or a minimum of two hundred forty dollars per year” with a Subsection granting the City authority to set forth the Swap Meet license fee in the City’s fee schedule.
7. Providing a separate Subsection, in which the policies and procedures governing the license renewal application process are set forth;
8. Requiring that all Swap Meet license applicants obtain a business license and making the issuance of a Swap Meet license a condition precedent to the granting of such a business license;
9. Requiring that every Swap Meet license holder report to the finance department any and all changes to information already provided to the City;
10. Requiring that any Swap Meet license holder, who wishes to renew a permit prior to its expiration after the passage of the first calendar year, in which the license was issued, apply to the City for a renewal within the sixty (60) calendar days prior to the license’s expiration date. Under the current Chapter, licenses are automatically renewed every year upon payment of the license fee and provision of a verified statement showing the total gross receipts of the licensee during the preceding calendar year. The amended Chapter requires that, after the first calendar year, the licensee submit a renewal application, which shall be processed and investigated in the same manner as the original application submitted a year prior. After a license application is once renewed in the year following the issuance of the original license, the license thereafter becomes renewable for succeeding calendar years without further application.
11. Providing for additional conditions, under which a Swap Meet license may be suspended or revoked, including, but not limited to, the fact that the Swap Meet is allowing for the sale of stolen property or that the Swap Meet license holder is found to have made material misrepresentations on the Swap Meet license application;
12. Specifying that the term of a Swap Meet license suspension shall not exceed sixty (60) calendar days and that, where conditions are found justifying a third

suspension of a Swap Meet license within a period of two (2) years, the license shall be revoked;

13. Providing policies and procedures governing how notice of a Swap Meet license suspension is to be given and how a licensee may appeal a license suspension or revocation;
14. Specifying that there is a two year period following the denial or revocation of a license, in which an applicant is barred from making a reapplication. This Subsection contains an exception permitting earlier reapplication if a license or renewal application is denied for the sole reason that either application was incomplete.
15. Providing for additional minimum operation standards including, but not limited to, standards regulating the storage of merchandise, standards specifying merchandise that is categorically prohibited and merchandise that may be conditionally approved for sale, standards specifying the need for compliance with all relevant Fire Codes, standards regulating food service and food vendors, and standards requiring compliance with the most recent Imperial County Air Pollution Control District rules and regulations regarding the control of fine particulate matter (fugitive dust);
16. Authorizing representatives of city agencies charged with enforcement of police, fire, building, safety and health regulations to inspect a Swap Meet for compliance with the Chapter and all other applicable laws;
17. Requiring that the Swap Meet owner or operator make available to the Chief of Police additional information regarding each vendor admitted to the Swap Meet including, but not limited to, a copy of each vendors' Driver's License and automobile insurance and a copy of each vendors' valid United States Identification card;
18. Requiring that all Swap Meet vendors display a copy of their license, their California State Board of Equalization Permit, and a copy of their current fire inspection permit in plain view at each Swap Meet stall, and that the Swap Meet owner or operator display the city business license and certificate of insurance for the facility;
19. Specifying that violations of the Chapter may constitute a misdemeanor or an infraction and declaring that violations of the Chapter are public nuisances; and
20. Specifying that enforcement of this title shall be the responsibility of the city manager or the city manager's designee.

City Council at their regular meeting of September 4, 2019 conducted the first reading of the ordinance and approved the ordinance as presented.

Fiscal Impact:

There is no fiscal impact associated with the recommended action.

Coordinated With:

City Attorney.

Attachment(s):

1. Ordinance No. 1204: An Ordinance of the City Council of the City of Calexico, California, Amending Chapter 5.76 of Title 5 (Business Licenses and Regulations) of the Calexico Municipal Code regarding Swap Meets.

ORDINANCE NO. 1204

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING CHAPTER 5.76 OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE CALEXICO MUNICIPAL CODE REGARDING SWAP MEETS.

WHEREAS, pursuant to the authority granted to the City of Calexico (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, pursuant to the authority granted to the City by Cal. Government Code Section 37101, the City has the power to license, for revenue and regulation every kind of lawful business transacted in the City; and

WHEREAS, adoption and enforcement of business licensing regulations therefore lies within the City’s statutory power; and,

WHEREAS, the operation of swap meets has developed into a large commercial enterprise in various cities in the unincorporated area in Imperial County; and,

WHEREAS, many county citizens participate in swap meets within the county and these same swap meets also often attract out-of-county and out-of-state participants; and,

WHEREAS, investigation has shown that both new and use items and stolen merchandise are sold at swap meets, and

WHEREAS, there are special local and state regulations for pawnshops because they are especially susceptible places to dispose of stolen goods, and similar controls should be applied to swap meets, where stolen goods may also be present, and

WHEREAS, due to the popularity and the commercial nature of swap meets, the City finds that swap meets should be subject to the regulatory provisions that apply to all other businesses operating in this county; and,

WHEREAS, the City Council desires to amend the regulations in Chapter 5.76 in order to (i) allow for continued operation of commercial swap meets by the issuance of regulated licenses to approved applicants, and (ii) impose additional licensing procedures and standards on swap meet operators and owners; and,

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

SECTION 1. Incorporation of Recitals. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Amendment to Chapter 5.76 of Title 5 Business Licenses and Regulations. Chapter 5.76 of the Calexico Municipal Code is hereby amended in its entirety:

“Chapter 5.76 – SWAP MEETS”

5.76.010 -- Purpose and Intent.

It is the intent of this chapter to subject Swap Meets to necessary and proper regulations modeled on the regulations applicable to businesses that present similar risks and concerns, to require that Swap Meet owners and operators pay their fair share of the adopted regulatory costs, and to ensure that the citizens, who attend Swap Meets, enjoy necessary protections afforded by appropriate controls of Swap Meet operations. This chapter is intended to supplement California Business and Professions Code sections 21661, et seq. Therefore, in the event of a conflict between this chapter and California Business and Professions Code sections 21661, et seq., the latter shall control.

5.76.030 – Definitions.

For the purposes of this chapter, the following definitions shall apply.

“Applicant” means an applicant for a Swap Meet license.

“City manager” means the city manager of the City of Calexico or the city manager’s designee.

“Owner” or “Operator” of a Swap Lot or Swap Meet means the person who controls the admission, directly or through agents, of persons and merchandise into the swap lot.

“Person” includes any individual, firm, co-partnership, joint venture, association, corporation, Limited Liability Company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Swap Lot” means a building, structure, enclosure, lot or other area into which members of the public at large are invited or allowed to offer for sale, sell, exchange, display, barter or bargain for new or used merchandise.

“Swap Meet” means the activity as defined in California Business and Professions Code section 21661 carried on in a Swap Lot.

“Vendor” means any person, partnership, organization or corporation, who exchanges, sells, or offers for sale or exchange any merchandise at a swap meet.

5.76.040 – License -- Required.

It shall be unlawful for any person to establish, organize, conduct, or operate a Swap Meet in the City without obtaining and possessing a valid license therefore, as provided in this chapter.

5.76.050 – License -- Application.

Any person desiring to own or operate a Swap Meet within the city shall file a Swap Meet license application on forms provided by the finance department, submitted under penalty of perjury and containing all of the following information:

A. General Owner or Operator Information.

1. Name of applicant;
2. A copy of the applicant’s picture identification in the form of a Driver’s License or other Government issued identification card;
3. Permanent address and telephone number of applicant;
4. Local address and telephone number of applicant;
5. Applicant’s date of birth and age, if an individual; and
6. Applicant’s social security number or federal employer’s identification number.

B. Property Owner/Applicant Information.

1. The name and permanent address of the owner of the real property, upon which the applicant intends to locate the swap meet. In the event the applicant is not the owner of record of that property, the application must be accompanied by a notarized statement from the owner of record of the real property acknowledging that a swap meet is or will be located on the property. In addition, the applicant must furnish a copy of the fully executed lease or rental agreement pertaining to the premises, on which the swap meet will be located, as well as the property owner’s applicable California Secretary of State forms specified in this subsection.

2. If the property owner and/or applicant is a corporation, the application shall include a true and correct signed copy of the corporation’s current Statement of Information (Form SI-550), including any attachments thereto, showing filing of the same with the California Secretary of State.

3. If the property owner and/or applicant is a limited liability company, the application shall include a true and correct signed copy of the limited liability company's current Statement of Information (Form LCC-12), including any attachments thereto, showing filing of same with the California Secretary of State. If one or more of the limited liability company's members is a corporation or partnership, the provisions of this subsection pertaining to corporate and partnership property owners shall apply to those members.

4. If the property owner and/or applicant is a general partnership, the application shall include a true and correct signed copy of the partnership's current Statement of Partnership Authority (Form GP-1), including any attachments thereto, showing filing of same with the California Secretary of State. If one or more of a partnership's members is a corporation or limited liability company, the provisions of this subsection pertaining to corporate and limited liability company property owners shall apply to those partners.

5. If the property owner and/or applicant is a domestic limited partnership, the application shall include a true and correct signed copy of the partnership's current Certificate of Limited Partnership (Form LP-1), including any attachments thereto, showing filing of same with the California Secretary of State. If one or more of a partnership's members is a corporation or limited liability company, the provisions of this subsection pertaining to corporate and limited liability company property owners shall apply to those partners.

6. If the property owner and/or applicant is a foreign limited partnership, the application shall include a true and correct signed copy of the partnership's current Application for Registration (Form LP-5), including any attachments thereto, showing filing of same with the California Secretary of State. If one or more of a partnership's members is a corporation or limited liability company, the provisions of this subsection pertaining to corporate and limited liability company property owners shall apply to those partners.

5.76.060 – Investigation and Report.

A. A copy of each application for a license shall be forwarded by the finance department to the Calexico Chief of Police and the Building/Planning Director or their appointees. The police department shall investigate the truth of the matters set forth in the application and operator of the Swap Meet. The Building/Planning Director or his or her designee shall investigate the proposed or existing Swap Meet locations and facilities to determine compliance with this chapter. A fire inspection shall also be completed, and a resulting Fire Permit issued before final approval of the application.

B. The departments designated in subsection A of this section shall file a joint report with the finance department recommending either that the application be granted; that the application be granted with conditions; or that the application be denied. If the joint report recommends the imposition of conditions or denial of the application, all

reasons for the recommendation shall be set forth. The applicant may appeal from the imposition of conditions or the denial of a license by the joint report in the manner provided for in subsection C of this section.

C. Any person aggrieved by the denial of a license by the joint report may appeal in writing to the City Manager. Such appeal shall be made within five (5) calendar days after notice of denial of a license and shall include a concise statement of the reason for the appeal, which may be supplemented by any documents necessary to support the appeal. The City Manager shall set the matter for hearing as soon as practical and shall notify by mail the applicant, the Chief of Police, the Building/Planning Director, and the Fire Inspector of the time and place set for said hearing. Any interested person may appear and present evidence at the public hearing.

5.76.070 – License -- Issuance.

A. The finance department may issue a swap meet license to an applicant who demonstrates all of the following:

1. That the Swap Meet operation, as proposed by the applicant, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, and health and safety regulations.
2. The application is complete.
3. The applicant has not engaged in and was not complicit in, any activity or inactivity that would lead to suspension or revocation of a Swap Meet license as set forth in this chapter within five (5) years preceding the application.
4. That the applicant has not made a material misrepresentation in its application or with respect to any other document or information required by the city with respect to this application or in any other application for a Swap Meet license under applicable law within the five (5) years preceding the application.

5.76.080 – License – Denial

A. A license may be denied for any of the following reasons:

1. The application is incomplete;
2. The applicant failed to provide reasonable supplemental application information requested by the finance department, Chief of Police, or Building/Planning Director;

3. Information submitted by the applicant is materially false;
4. The application is submitted by a person with a suspended license or whose license was revoked within the twelve (12) months preceding the application;
5. The application seeks authorization to operate a swamp meet in a way that is prohibited by this code or that is unlawful under any other local, state, or federal law;
6. The applicant failed its fire inspection; or
7. The applicant's request for a license was denied by the joint report.

B. If the application is denied, the finance department shall promptly give the applicant written notice thereof, which will include the findings for such denial. The applicant may submit a written request for reconsideration with the city manager within ten (10) calendar days of the date of the finance department's written notice of denial. The request for reconsideration shall be accompanied by a fifty-dollar (\$50) filing fee or other amount as established from time to time by city council resolution. Upon receipt of the written request, the city manager shall reconsider the application together with any new records, documents, or information presented by the applicant, or discovered by the city. The city manager's decision on the reconsideration shall be final.

15.76.090 – License – Fee

The fee for issuing a Swap Meet license shall be as set forth in the City of Calexico fee schedule.

15.76.100 – License -- Term

Swap Meet licenses shall be valid for one (1) year from issuance or as extended pursuant to this chapter. The license shall be issued on a calendar year basis. That is, the license shall issue on the first day of January following approval of the Swap Meet license application and will remain valid through December 31st of that year.

5.76.110 – License – Nontransferability

Any license issued under this chapter shall not be transferable.

5.76.120 – Business License

All applicants shall obtain a business license. The issuance of a Swap Meet license is a condition precedent to the granting of such a business license. Upon the issuance of a Swap Meet license pursuant to this chapter, the applicant shall apply for and furnish the

information necessary to obtain a business license as required by the provisions of this code. No business license shall be issued until the Swap Meet license has been issued and the business license fee, as provided in this code, has been paid.

5.76.130 – License – Notification of Changes

Every Swap Meet license holder shall report in writing to the finance department any and all changes to any information provided to the city within thirty (30) calendar days of said change(s).

5.76.140 – License – Expiration and Renewal

A. If a Swap Meet license holder wishes to renew such permit prior to its expiration, the license holder must apply to the city to renew such license within the sixty (60) calendar days prior to the license expiration date. Renewals shall be processed and investigated in the same manner and by the same standards used to process and investigate initial applications. Additionally, the applicant is required to submit all information, which has changed from the last application or renewal to the city finance department.

B. If a renewal application and all required information for the renewal are not received within sixty (60) calendar days prior to the license expiration date or a timely submitted renewal application is not subsequently approved, the Swap Meet license shall be deemed expired on the date of expiration and no privilege to operate a Swap Meet in the city shall exist.

C. If a timely submitted renewal application is approved, such license shall thereafter be renewable for succeeding calendar years without further application. Thereafter, prior to January 31st of each subsequent calendar year, the licensee shall pay to the city the applicable license fee and shall file with the finance department a duly verified statement showing in detail the total gross receipts of the licensee during the preceding calendar year arising from the licensee's Swap Meet operations. Any neglect, omission or refusal of the licensee to file said verified statement or to pay the applicable license fee at the time or in the manner provided for in this subsection shall be grounds for refusing renewal of said license.

D. Each year that a license is renewed, the licensee shall schedule and allow an annual fire inspection to be coordinated with the Fire Chief or his designee.

5.76.150 – License – Suspension or Revocation

A. In addition to the causes for denial of a license set forth in this chapter, any license issued under this chapter may be suspended or revoked at any time after a hearing wherein the city manager finds:

1. The operation of the Swap Meet is contrary to the public interest or does not comport with the public welfare; or
2. The Swap Meet is being operated in an illegal, improper or disorderly manner; or
3. The Swap Meet is being operated in violation of this chapter; or
4. The Swap Meet is allowing the sale of stolen property or allowing the sale of items whose serial numbers have been damaged, altered, or removed; or
5. The Swap Meet license holder has made a material misrepresentation on the application for a Swap Meet license or renewal; or
6. The Swap Meet license holder has engaged in fraud, misrepresentation, or false statements in obtaining or maintaining a Swap Meet license; or
7. There is an emergency situation that requires immediate action to protect the public from injury or harm.

B. The term of a Swap Meet license suspension shall not exceed sixty (60) calendar days. No Swap Meet license holder shall receive more than two suspensions in a period of two (2) years. If a Swap Meet license holder is found to have committed a third violation within a period of two (2) years warranting suspension, the license shall be permanently revoked.

C. It is unlawful for any person to conduct the business of a Swap Meet while the applicable Swap Meet license remains suspended or revoked.

D. If the Swap Meet license is suspended or revoked, the Swap Meet license shall be surrendered.

5.76.160 – License – Suspension or Revocation Notice

Written notice stating the grounds for the proposed revocation or suspension shall be given to the Swap Meet license holder promptly upon determination made by the city manager that good cause exists for the revocation or suspension. Notice shall be given by personal service or certified, registered, or first-class mail of the letter to the address shown on the last application or renewal. The written notice shall state that the Swap Meet license holder may appeal the city manager's determination and shall state the process, by which such appeal may be made.

B. Service shall be deemed complete when personal service is made or when the notice letter is delivered by certified, registered, or first-class mail.

5.76.170 – License – Appeal from Suspension; Revocation

The decision of the city manager to suspend or revoke a Swap Meet license may be appealed by the Swap Meet license holder in accordance with the following procedures:

- A. All appeals shall be in writing and shall contain the following information: (1) name(s) of the person filing the appeal (appellants); (2) a brief statement in ordinary and concise language of the grounds for the appeal; and (3) the signatures of all parties named as appellants and their mailing addresses.
- B. A filing fee for an appeal of one hundred dollars (\$100), or other amount as established from time to time by city council resolution, must be paid to the city at or prior to the time of the filing of the appeal.
- C. Any appeal filed that fails to provide all of the information required by this section and the appropriate filing fee shall be deemed incomplete.
- D. A complete and proper appeal of the suspension or revocation of a Swap Meet license shall be filed with the city clerk within ten (10) calendar days of service of the letter notifying the license holder of revocation or suspension the Swap Meet license or within ten (10) calendar days of any other action that is the subject of appeal.
- E. After receiving the written appeal, the city clerk shall schedule a hearing before the city council. The city council may refer the matter to a hearing officer. The city council may decide the matter based on the recommendations and findings of the hearing officer, if it so chooses.
- F. The decision of the city council or hearing officer shall be final.

5.76.180 – License – Reapplication after Denial or Revocation

- A. No reapplication for a Swap Meet license will be accepted within two (2) years after an application or renewal application is denied or a Swap Meet license is revoked except as provided for in Subsection B.
- B. If the license application or renewal application is denied for the sole reason that the application or renewal application is incomplete, reapplication may occur to complete the application or renewal application within sixty (60) days of the denial. An additional application fee will be charged per application or renewal application submitted under this Subsection.

5.76.190 – Swap Meet Operations – Minimum Standards

The operator of a Swap Meet shall comply with the following minimum standards:

1. Enclosure. Swap Meet activities shall be conducted only in a building, structure or other area enclosed by a permanent fence, which is sufficient to enable the Swap Meet operator to effectively control the ingress and egress of persons and merchandise.
2. Vending Sites. Each vendor shall be provided with a safe, sanitary, and dust-abated stall or vending site. Sufficient California State Fire Marshall (“CSFM”) Fire Extinguishers must be made available to vending sites at all times and must be regularly inspected per the requirements of this code.
3. Toilets. At least one flush-type toilet facility shall be installed for every twenty-five vending sites.
4. Drinking Water. Adequate potable drinking water facilities shall be provided.
5. Structures and Improvements. All structures and improvements shall be in compliance with the most current applicable building regulations and uniform codes.
6. Parking. Parking facilities shall be provided on the swap lot at a ratio of three spaces for every vendor stall, with minimum dimensions of nine feet by twenty feet for each parking space. Parking facilities on permeable surfaces shall be treated with a dust palliative as necessary to abate dust.
7. Refuse Collection and Vector Control. Trash receptacles adequate to meet anticipated daily refuse volume shall be provided and shall be emptied daily. A refuse collection and vector control plan shall be submitted to the Imperial County Public Health Department, Division of Environmental Health (“ICDEH”) for review and approval. Failure to show approvals by the ICPHD shall be cause for revocation or suspension of the license per 5.76.150(A).
8. Storage of Merchandise. During non-operating hours, all vendor merchandise, materials, and property shall be stored in fully enclosed structures intended for that purpose. All structures used for storage shall be approved by the city’s Building Department and Fire Department prior to their use for storage and thereafter regularly inspected by those departments. Permanent storage structures shall have concrete foundations. Acceptable alternatives to permanent storage structures include prefabricated storage units, metal containers, and trucks. All merchandise shall be stored in an orderly manner that allows for proper clearances for entry of public safety personnel. There shall remain a vertical clearance of at least four feet from the roof structure to all stored merchandise structures. Structures that are used for storage shall have 24-hour, seven day a week security.
9. Merchandise Prohibited. Except as may be conditionally allowed in subsection 10, the following merchandise is prohibited for sale at Swap Meets:

animals; automobiles and automobile tires; flammable paints, lacquers, thinners and all other flammable chemicals; firearms and ammunition; drugs and other substances identified as Schedule I, II/IIN or III/IIN Controlled Substances under the United States Controlled Substances Act (21 Fed. Reg. 1308 §§1308.11-1308.13) as may be amended and related drug paraphernalia including, but not limited to, paraphernalia designated in Cal. Health & Safety Code §11364(a)-(b); and propane and gas tanks, fireworks, and any other potentially harmful items as determined by the Fire Chief and the Police Chief.

10. Conditionally Approved Merchandise. The following merchandise may be conditionally permitted by the city to be sold at a Swap Meet on a day-to-day basis: automobiles, provided that the City of Calexico is stated to be the point of sale on all applicable California Department of Motor Vehicle forms; and such other merchandise as the city may conditionally approve for short-term sale.

11. Fire Codes. Except for existing improvements and facilities previously constructed in accordance with approved plans, all improvements and facilities shall comply with the most recent edition of the California Fire Code (24 Cal. Reg. 9), including, but not limited to: installation of “all-weather” surfaces in fire lanes; maintenance of proper fire lane widths; maintenance of required structures and roof coverings; adherence to all regulations restricting electrical and other hazards; and adherence to all regulations restricting ingress and egress for public safety.

12. Food Service. Food service at Swap Meets is regulated by the County of Imperial Public Health Department, Division of Environmental Health (“ICDEH”). All food service vendors shall be approved by the ICDEH prior to providing food service at Swap Meets. Failure to show approval by the ICDEH is cause for revocation or suspension of a Swap Meet license per 5.76.150(A).

13. Temporary Food Vendors. At the end of the Swap Meet’s operating day, temporary food vendors shall remove all food items from the Swap Lot.

14. Control of Fine Particulate Matter (Fugitive Dust). Swap Meets shall comply with the most recent rules and regulations of the Imperial County Air Pollution Control District regarding the control of fine particulate matter (fugitive dust).

B. Issuance or renewal of a Swap Meet license may be conditioned upon the installation of improvements as required by the standards set forth in subsection A of this section.

C. Representatives of city agencies charged with enforcement of police, fire, building, safety and health regulations shall be entitled to pedestrian access to the swap lot at all times to inspect for compliance with this chapter and with other applicable ordinances, laws, uniform codes, California codes, rules and regulations.

5.76.200 – Swap Meet Operation – Admission Records

A. The owner or operator of an enterprise described in this chapter, or his or her employee or agent, shall make available to the Chief of Police, on city-approved forms, the following information for each vendor admitted:

1. Name and address;
2. Date and time of entry;
3. Vehicle description, and license number, if any;
4. A copy of the applicable Drivers' Licenses and valid automobile liability insurance for all vehicles entering the Swap Lot;
4. A general description of property brought into the vendor area, including the property's color, name, make, serial number and other identifying marks;
5. Signature of each vendor; and
6. A copy of each vendors' valid United States Identification card.

B. These forms and admission records shall be available for police inspection during normal business hours.

C. All Swap Meet vendors shall be required to display a copy of their current city license, their current California State Board of Equalization Seller's Permit (unless exempt by the State), and their current fire inspection permit in plain view at each Swap Meet stall. If exempt, a copy of the exemption shall be displayed.

D. The Swap Meet owner or operator shall display in a prominent place, the city business license and certificate of insurance for the facility.

5.76.210 – Violation – Penalties

In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, administrative penalties, administrative citations, license suspension, and license revocation.

B. A violation of this chapter constitutes an infraction or misdemeanor and may be enforced by any applicable law.

C. Violations of this chapter are hereby declared to be public nuisances.

D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

5.76.220 – Violation – Enforcement

Enforcement of this title shall be the responsibility of the city manager.

5.76.230 – Severability

The provisions of this chapter are severable. If any provision or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 10. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

ORDINANCE PASSED AND APPROVED on this 18th day of September, 2019.

Bill Hodge, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

I, Gabriela T. Garcia, City Clerk, City of Calexico, California, certify that the foregoing Ordinance was adopted by the City Council at a regular meeting of the City Council held on the 18th, of September, 2019, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gabriela T. Garcia, City Clerk