

**ITEM 10 ATTACHMENT
ORDINANCE NO. 2018-371**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA ADDING CALABASAS MUNICIPAL CODE CHAPTER 9.07 "SIDEWALK VENDING" AND REPEALING CALABASAS MUNICIPAL CODE SECTIONS 9.24.170 "PEDDLING ON HIGHWAYS—LOCATION RESTRICTIONS" AND 9.24.180 "VIOLATION—PENALTY".

WHEREAS, on September 17, 2018, Governor Brown signed Senate Bill No. 946 ("SB 946"), adding sections 51036–51039 to the Government Code; and

WHEREAS, SB 946 decriminalizes sidewalk vending and limits local regulations to those expressly provided for in the bill or are otherwise "directly related to objective health, safety, or welfare concerns"; and

WHEREAS, SB 946 only applies to sidewalk vending in public rights-of-way, and private rights-of-way are still subject to private and local control; and

WHEREAS, although Calabasas' Municipal Code does not regulate "sidewalk vendors", as that term is defined in SB 946, it does regulate "peddling" (CMC 9.24.170), which may include sidewalk vendors; and

WHEREAS, the City desires to adopt a sidewalk vending ordinance and amend its peddling ordinance to ensure compliance with state law, before SB 946 takes effect on January 1, 2019; and

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

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City Council hereby finds and determines that there is no possibility the adoption of a sidewalk vending ordinance and the amendment to its peddling ordinance will have a significant effect on the environment. Accordingly, under the provisions of § 15061(b)(3) and § 15378(b)(5) of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, the adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

SECTION 3. The City Council hereby adds Chapter 9.07 to the Calabasas Municipal Code to read as follows:

“9.07 – Sidewalk Vending

9.07.010 – Definitions

As used in this chapter the following meanings shall apply:

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location.

9.07.020 – Sidewalk Vending Permits

A. Only sidewalk vendors with valid sidewalk vending permits issued by the Public Works Director may vend upon the city’s public right-of-way.

B. To apply for a sidewalk vending permit, the applicant must provide:

1. A completed application form containing:
 - a. Their name and mailing address;
 - b. Description of the merchandise offered for sale or exchange;
 - c. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal and any owners of the company, partnership, or corporation; and
 - d. Certification that the information is true to his or her knowledge and belief.
2. A copy of a California’s driver’s license or identification number, an individual taxpayer identification number, or a social security number. Such information is not a public record and will remain confidential as required by Government Code section 51038(c)(4).
3. A copy of a valid California Department of Tax and Fee Administration seller’s permit, as required.
4. A copy of a valid Mobile Food Permit issued by the Los Angeles County Department of Public Health, as required.

C. To ensure the safety of residents and the merchantability of products sold by vendors without a fixed place of business, the city requires all sidewalk vending applicants to undergo a fingerprinting

background check and to submit the results to the city as an attachment to their application.

- D. The sidewalk vending permit application shall require the applicant to agree, in writing, to comply with all the provisions of this chapter and all applicable provisions of the Calabasas Municipal Code.

9.07.030 – General Regulations

- A. To maintain accessibility standards for the city’s disabled residents, every sidewalk vendor operating on any sidewalk or public right-of-way must ensure that no obstruction is placed in the sidewalk or public right-of-way that would reduce the width of the sidewalk to less than forty-eight (48) inches, exclusive of the top of the curb. No obstruction shall be located in a sidewalk or public right-of-way less than six (6) feet in width when the sidewalk is adjacent to the curb.
- B. To prevent food-borne illness and protect the health and safety of the city’s residents, every sidewalk vendor selling any food or beverage is required to wear a hairnet and food service gloves.
- C. To prevent dangerous distractions and promote the general welfare of the city’s residents, sidewalk vendors emitting any loud, unnecessary and unusual noises must comply with Section 9.25.010 of this Code.
- D. A sidewalk vending permit does not provide an exclusive right to operate within any specific portion of the public right-of-way.
- E. No equipment or objects used for sidewalk vending purposes may be left or maintained in public spaces or in any portion of the public right-of-way from 10:00 p.m. to 8:00 a.m. Any equipment or objects left overnight in public spaces or in any portion of the public right-of-way will be considered discarded and may be seized or disposed of by the city.
- F. To facilitate the enforcement of this chapter, every sidewalk vendor must display their city-issued sidewalk vending permit on the street-side portion of their pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance when operating in the public right-of-way.
- G. To prevent unintended rolling or slipping, a sidewalk vendor is prohibited from operating a pushcart, pedal-driven cart, wagon, or other non-motorized conveyance on a public-right-of-way with a slope greater than five percent.

9.07.040 – Specific Regulations

- A. Sidewalk vending hours' limitations in areas zoned for nonresidential use will be as restrictive as any limitations on hours of operation

imposed on other businesses or uses on the same street, excluding those permitted to operate 24 hours.

- B. Sidewalk vending is limited to the hours of 9:00 a.m. through 5:00 p.m. for areas that are exclusively residential.
- C. Stationary sidewalk vendors are prohibited from operating in areas that are exclusively residential.
- D. A stationary sidewalk vendor is prohibited from operating in a city park if the City has entered into exclusive agreements for the sale of food or merchandise by one or more concessionaires for that city park.
- E. A sidewalk vendor is prohibited from operating within five-hundred (500) feet of a permitted certified farmers' market, a permitted swap meet, or any area subject to a temporary use permit for the duration of the permit.

9.07.050 – Violation—Penalty

- A. Every person vending without a sidewalk vending permit is guilty of an administrative violation punishable by an administrative fine not to exceed:
 - 1. Two hundred fifty dollars (\$250.00) for a first violation; or
 - 2. Five hundred dollars (\$500.00) for a second violation within one year of the first violation; or
 - 3. One thousand dollars (\$1,000.00) for each additional violation within one year of the first violation.
 - 4. Upon proof of a valid permit issued by the Public Works Department, the administrative fine in Section 9.07.050(A) will be reduced to the corresponding administrative fine in Section 9.07.050(B).
- B. Every person violating any other provision of this chapter is guilty of an administrative violation punishable by an administrative fine not to exceed:
 - 1. One hundred dollars (\$100.00) for a first violation; or
 - 2. Two hundred dollars (\$200.00) for a second violation within one year of the first violation; or
 - 3. Five hundred dollars (\$500.00) for each additional violation within one year of the first violation.
 - 4. The Public Works Director may rescind a sidewalk vendor permit for the remaining term of the permit upon a fourth or subsequent violation of this chapter.
- C. Failure to pay an administrative fine is not punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized will not be assessed.

However, the City may levy a lien on the violator's real or personal property, including the vehicle used for vending purposes.

- D. An administrative violation constitutes a separate and distinct violation for each day that it exists and each such violation may be subject to the maximum fine permitted under this chapter.

9.07.060 – Ability-to-Pay Determination

- A. Any fine issued under Section 9.08.050 will be accompanied with a notice of and instruction regarding the right to request an ability-to-pay determination.
- B. If the requestor is receiving public benefits under Government Code section 68632, subdivision (a), or has a monthly income which is 125 percent or less than the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services, the Public Works Director will limit the total amount of the requestor's administrative fine to 20 percent of the total and may:
 - 1. Allow the person to complete community service in lieu of paying the total administrative fine; or
 - 2. Waive the administrative fine; or
 - 3. Offer an alternative disposition."

SECTION 4. The City Council hereby repeals Section 9.24.170 of the Calabasas Municipal Code.

SECTION 5. The City Council hereby repeals Section 9.24.180 of the Calabasas Municipal Code.

SECTION 6. Severability Clause:

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

SECTION 7. Effective Date:

This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any City of Calabasas ordinance.

SECTION 8. Certification:

The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2018.

Fred Gaines, Mayor

ATTEST:

Maricela Hernandez, MMC
City Clerk

APPROVED AS TO FORM:

Matthew T. Summers
Colantuono, Highsmith & Whatley, PC
Assistant City Attorney