



CITY OF PALMDALE

REPORT to the Mayor and Members of the City Council from the City Manager

DATE: December 11, 2018

SUBJECT: Proposed Ordinance No. 1516, Implementing a Sidewalk Vending Program and Amending Sections 8.24.020, 8.24.210, and 5.04.590 of the Palmdale Municipal Code

ISSUING
DEPARTMENT: Office of the City Attorney

SUMMARY

Issues:

Shall the City Council Approve Proposed Ordinance No. 1516, Implementing a Sidewalk Vending Program and Amending Sections 8.24.020, 8.24.210, and 5.04.590 of the Palmdale Municipal Code?

Recommendation:

Staff recommends that the City Council receive public testimony and adopt Proposed Ordinance 1516.

Fiscal Impact:

None.

DISCUSSION

Background

The city of Palmdale regulates certain businesses operating within the city limits,

including those individuals and businesses that sell food or merchandise on city sidewalks and in city parks. Recently, the state legislature, with the intent to “promote entrepreneurship and support immigrant and low-income communities,” passed SB 946 which prohibits cities from regulating “sidewalk vendors” except as specifically authorized by state law. SB 946 authorizes cities to adopt a “Sidewalk Vending Program” that regulates “sidewalk vendors” so long as those regulations are “directly related to objective health, safety, or welfare concerns.”

Further, cities may not prohibit sidewalk vendors from selling food or merchandise in city parks. However, cities may regulate the time, place and manner of sidewalk vending in parks so long as such regulations (i) directly relate to objective health, safety, or welfare concerns; (ii) are necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities; or (iii) are necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

Finally, SB 946 prohibits the use of most criminal and civil penalties to enforce regulations relating to sidewalk vendors. Instead, cities may only enforce their “sidewalk vending programs” through an administrative fine that is capped by state law.

As a result of SB 946, staff recommends that several changes be made to the Palmdale Municipal Code.

Sidewalks

Proposed Ordinance No. 1516 implements a sidewalk vending program that is consistent with state law by establishing reasonable regulations on sidewalk vendors that are directly related to objective health, safety, or welfare concerns. Specifically, Proposed Ordinance No. 1516 establishes the following regulations related to the identified health, safety, or welfare concerns:

- Limiting peddlers’ hours of operation within residential neighborhoods to daylight hours consistent with a residential atmosphere is necessary to protect the safety of peddlers and residents who would be more vulnerable to criminal activities during evening hours, and to promote the welfare of the residents by prohibiting commercial activities and associated noise and traffic during hours when residents should be able to enjoy peace and quiet.
- Preventing peddlers from peddling or soliciting from residences with “no solicitation” or “Do Not Disturb” signs protects the health and welfare of those who wish to avoid commercial activities while in their residences.
- Preventing peddlers from physical contact without permission, from persistently soliciting a person after the person rejects the offer, and from threatening injury or damage to a person while peddling or soliciting are necessary to protect the safety and health of persons who may feel

threatened or in physical danger if these activities occur.

- Preventing peddlers and solicitors from intentionally obstructing the free movement of people on any street, sidewalk, or other place open to the public is necessary to protect the health, safety, and welfare of those who may be seeking emergency services or who are otherwise uninterested in the goods or services offered and desire to pass through the public area unimpeded.
- Preventing peddling or soliciting from a captive audience is necessary to protect the health, safety, and welfare of those people who are not able to walk away or otherwise retreat from an unwanted solicitation.
- Prohibiting peddling or soliciting within 1,000 feet of schools during the hours when children are present is necessary to protect the health and safety of the school children, because peddlers operating at close proximity to schools may attract unsupervised children to run into traffic in order to reach them and be injured or killed in the process. Such activity would also pose a hazard to motorists who may stop suddenly or swerve to avoid hitting children resulting in injury to those motorists.
- Requiring persons engaged in the business of peddling, selling or delivering liquids or edibles for human consumption to provide a means to collect and properly dispose of trash and recycling materials is necessary to protect the health, safety, and welfare of the community by preventing the dispersion of trash, rubbish and unused food products which contribute to blight and attract rodents and other vermin.
- Prohibiting vending in, or within the immediate vicinity, of any area designated for a special event as authorized by California Government Code 51038(d)(2).
- Prohibiting vending in, or within the immediate vicinity, of any permitted certified farmers' market or permitted swap meet during their operating hours as authorized by California Government Code 51038(d)(1).

Parks

In addition to the general regulations imposed on sidewalk vendors, peddlers and solicitors, Proposed Ordinance 1516 establishes regulations specifically related to vending within city parks. Proposed Ordinance No. 1516 establishes the following regulations on park vending related to the identified community concerns:

- Prohibiting sidewalk vendors from congregating in parks and requiring a 100 foot buffer between sidewalk vendors to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.
- Requiring sidewalk vendors to vend from sidewalks and other paved pathways within city parks reserves the parks' open spaces for recreation, protects the parks' open spaces and turf areas from excessive wear and tear, and is necessary to ensure the public's use and enjoyment of natural resources and

recreational opportunities.

- Prohibiting sidewalk vendors from vending in pool areas to ensure the public's use and enjoyment of the recreational opportunities of the city's pool by reserving the limited space in these areas for pool patrons. Further, prohibiting sidewalk vendors from vending in pool areas preserves the public health, safety, and welfare by ensuring that food and other items sold by vendors are not blown into city pools, and vendors and their carts do not obstruct the view and movement of lifeguards.
- Prohibiting stationary sidewalk vendors from vending in parks that are subject to a concessionaire agreement as authorized by California Government Code 51038(b)(2)(A).
- Prohibiting sidewalk vendors from vending in parks subject to deed restrictions prohibiting private commercial activities within the park to ensure the public's use and enjoyment of the natural resources and recreational opportunities provided by these parks by ensuring that the city retains ownership of these parks.
- Prohibiting sidewalk vendors from vending in city parks before a park opens and after one half hour prior to park closure to protect the safety of patrons seeking to purchase food and merchandise from sidewalk vendors when the park is closed and generally unsupervised. Further, Prohibiting sidewalk vendors from vending during these hours will protect the park facilities, open space, and turf areas from excessive wear and tear, and ensure the public's use and enjoyment of natural resources and recreational opportunities.

The vending prohibitions established by Proposed Ordinance 1516 would not apply to those vendors vending in parks pursuant to a special event or temporary use permit, or a concessionaire agreement with the City.

Enforcement

Proposed Ordinance 1516 provides for enforcement exclusively through the City's administrative citation program. Administrative citation fees may not exceed the limits set forth in state law, and citees may be eligible to pay a reduced fee based upon ability-to-pay. No other civil or criminal remedies may be used to enforce the regulations of the "sidewalk vending program." Specific citation fees are not established by Proposed Ordinance 1561. The City's current administrative fine schedule complies with SB 946 and any changes to the fine schedule would be accomplished by amendment to the City's fee resolution.

CONCLUSION

Staff recommends that the City Council receive public testimony and adopt Proposed Ordinance 1516.

Submitted by:

Reviewed by:



Noel Doran
Assistant City Attorney



James Purtee
City Manager



Wm. Matthew Ditzhazy
City Attorney

Attachment: Proposed Ordinance No. 1516

CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1516

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE
IMPLEMENTING A SIDEWALK VENDING PROGRAM AND AMENDING SECTIONS
8.24.020, 8.24.210, AND 5.04.590 OF THE PALMDALE MUNICIPAL CODE**

WHEREAS, Recent legislation (SB 946) prohibits cities from regulating "sidewalk vendors" except as specifically authorized by state law; and

WHEREAS, Cities may adopt a "Sidewalk Vending Program" that regulates "sidewalk vendors" so long as those regulations are "directly related to objective health, safety, or welfare concerns;" and

WHEREAS, Cities may not prohibit sidewalk vendors from selling food or merchandise in city parks, but may regulate the time, place and manner of sidewalk vending in parks so long as such regulations (i) directly relate to objective health, safety, or welfare concerns; (ii) are necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; or (iii) are necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

WHEREAS, The City intends to adopt a "Sidewalk Vending Program" and establish operational requirements regulating commercial peddling and vending within the City with the intent to protect the public's health, safety, and welfare while also promoting entrepreneurship and supporting individuals who engage in the businesses of commercial peddling and vending; and

WHEREAS, Limiting peddlers' hours of operation within residential neighborhoods to daylight hours consistent with a residential atmosphere is necessary to protect the safety of peddlers and residents who would be more vulnerable to criminal activities during evening hours, and to promote the welfare of the residents by prohibiting commercial activities and associated noise and traffic during hours when residents should be able to enjoy peace and quiet; and

WHEREAS, Preventing peddlers from peddling or soliciting from residences with "no solicitation" or "Do Not Disturb" signs protects the health and welfare of those who wish to avoid commercial activities while in their residences; and

WHEREAS, Preventing peddlers from physical contact without permission, from persistently soliciting a person after the person rejects the offer, and from threatening injury

or damage to a person while peddling or soliciting are necessary to protect the safety and health of persons who may feel threatened or in physical danger if these activities occur; and

WHEREAS, Preventing peddlers and solicitors from intentionally obstructing the free movement of people on any street, sidewalk, or other place open to the public is necessary to protect the health, safety, and welfare of those who may be seeking emergency services or who are otherwise uninterested in the goods or services offered and desire to pass through the public area unimpeded; and

WHEREAS, Preventing peddling or soliciting from a captive audience is necessary to protect the health, safety, and welfare of those people who are not able to walk away or otherwise retreat from an unwanted solicitation; and

WHEREAS, Prohibiting peddling or soliciting within 1,000 feet of schools during the hours when children are present is necessary to protect the health and safety of the school children, because peddlers operating at close proximity to schools may attract unsupervised children to run into traffic in order to reach them and be injured or killed in the process. Such activity would also pose a hazard to motorists who may stop suddenly or swerve to avoid hitting children resulting in injury to those motorists; and

WHEREAS, Requiring persons engaged in the business of peddling, selling or delivering liquids or edibles for human consumption to provide a means to collect and properly dispose of trash and recycling materials is necessary to protect the health, safety, and welfare of the community by preventing the dispersion of trash, rubbish and unused food products which contribute to blight and attract rodents and other vermin; and

WHEREAS, Prohibiting sidewalk vendors from vending in city parks before a park opens and after one half hour prior to park closure is necessary to protect the safety of patrons seeking to purchase food and merchandise from sidewalk vendors when the park is closed and generally unsupervised. Further, Prohibiting sidewalk vendors from vending in city parks before a park opens and after one half hour prior to park closure is necessary to protect the park facilities, open space, and turf areas from excessive wear and tear, to ensure the public's use and enjoyment of natural resources and recreational opportunities; and

WHEREAS, Prohibiting sidewalk vendors from clustering in parks and requiring a 100 foot buffer between sidewalk vendors is necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the parks; and

WHEREAS, Requiring sidewalk vendors to vend from sidewalks and other paved pathways within city parks reserves park open space for recreation, protects the park open space and turf areas from excessive wear and tear, and is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; and

WHEREAS, Prohibiting sidewalk vendors from vending in pool areas is necessary to ensure the public's use and enjoyment of the recreational opportunities of the city's pool by reserving the limited space in these areas for pool patrons. Further, prohibiting sidewalk vendors from vending in pool areas is necessary to preserve the public health, safety, and welfare by ensuring that food and other items sold by vendors are not blown into city pools, and vendors and their carts do not obstruct the view and movement of lifeguards; and

WHEREAS, California Government Code 51038(b)(2)(A) authorizes cities to prohibit stationary sidewalk vendors from vending in parks that are subject to a concessionaire agreement; and

WHEREAS, California Government Code 51038(d)(2) authorizes cities to prohibit sidewalk vending in, or within the immediate vicinity of, any area designated for a special event; and

WHEREAS, California Government Code 51038(d)(1) authorizes cities to prohibit sidewalk vending within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet; and

WHEREAS, Certain parks are, and future parks may be, subject to certain deed restrictions prohibiting private commercial activities within the park. Prohibiting sidewalk vendors from vending in parks subject to such restrictions is necessary to ensure the public's use and enjoyment of the natural resources and recreational opportunities provided by these parks by ensuring that the city retains ownership of these parks.

THE CITY COUNCIL OF THE CITY OF PALMDALE DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 8.24.020 "Definitions" is hereby amended and replaced with the following:

8.24.020 Definitions

(A) "Alcoholic beverages" includes alcohol, spirits, liquor, wine, beer, and every liquid containing more than trace amounts of alcohol and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(B) "Article" means an article of this chapter unless some other ordinance or statute is mentioned.

(C) "City" means the City of Palmdale.

(D) "Director" means the Director of Recreation and Culture, his/her deputy, or other person authorized by him/her, pursuant to law, to act in his stead.

(E) "Motor vehicles" means any multiwheeled, treaded, or sled-type vehicle that is propelled by a motor or engine. "Motor vehicles" include any vehicle commonly known as a "motorized recreation vehicle."

(F) "Narcotics or dangerous drugs" means those narcotics or drugs listed or defined in the Health and Safety Code as now or hereafter amended.

(G) "Park" includes every park, roadside rest area, golf course, reservoir, riding and hiking trail, and every other recreation facility owned, managed, or controlled by the City and under the jurisdiction of the Director.

(H) "Park waters" means any lake, reservoir, pond, or other body of water within a park.

(I) "Person" includes every person, firm or corporation.

(J) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(K) "Section" means a section of this chapter unless some other statute or ordinance is specifically mentioned.

(L) "Sidewalk vendor" means a 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.

(M) "Shall" is mandatory and "may" is permissive.

(N) "Scooter" means any board or flat object which has wheels attached to it by any means whatsoever and which is intended to be propelled by pushing, pulling, or by the forces of gravity and to which there is affixed a device or mechanism for steering.

(O) "Smoke" and "smoking" mean the carrying or holding of a lighted pipe, cigar, cigarette, or any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance. Smoking includes emitting or exhaling the fumes of any pipe, cigar, cigarette, or any other lighted smoking equipment used for burning any tobacco product, weed, plant, or any other combustible substance. Smoking includes the use of an electronic cigarette or any other electronic and/or battery operated device used to deliver an inhaled dose of nicotine or other substance.

(P) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(Q) "Vend" or "Vending" shall mean to sell or offer for sale any goods, food, wares, or merchandise.

(R) "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on water. "Vessel" includes a raft, but does not include a surfboard, paddleboard, or a standard surf mat.

SECTION 2. Section 8.24.210 "Solicitation" is hereby amended and replaced with the following:

8.24.210 Vending.

(A) Vending is allowed in city parks subject to the following regulations:

(1) All sidewalk vendors must comply with the applicable regulations in Palmdale Municipal Code Section 5.04.590.

(2) Vending is prohibited in any park before the park opens or after one half hour prior to park closure;

(3) Vending shall occur only on sidewalks or paved walkways within the parks;

(4) No sidewalk vendor shall vend within 100 feet of another sidewalk vendor;

(5) Vending is prohibited in, or within the immediate vicinity of, any park area subject to a rental agreement or during any special event. For purposes of this section, special event shall mean any city event and any community event subject to a special event permit or temporary use permit pursuant to Chapter 17.27 of the Palmdale Municipal Code. This prohibition shall only be effective for the limited duration of the rental agreement or event.

(6) No vending shall be allowed in any pool area. For purposes of this section, pool area shall mean any pool or water park attraction and any adjacent area circumscribed by a fence or building.

(B) Stationary sidewalk vendors are prohibited in any park subject to a concessionaire agreement.

(C) Vending is prohibited in parks subject to a deed restriction prohibiting private commercial activities. Parks with such restrictions shall be posted with no vending signs.

(D) This section shall not apply to:

(1) Any persons authorized to vend in city parks pursuant to a concessionaire or other agreement with the city; or

(2) Any persons authorized to vend in city parks pursuant to a special event permit or temporary use permit issued in accordance with Chapter 17.27 of the Palmdale Municipal Code.

SECTION 3. Section 5.04.590 is hereby amended and replaced with the following:

5.04.590 Peddlers and commercial solicitors.

(A) Findings: The City has set forth operational requirements regulating commercial peddling within the City in this Chapter 5.04.590 with the intent to protect the public's health, safety, and welfare while also promoting entrepreneurship and supporting individuals who engage in the businesses of commercial peddling. The City Council finds:

(1) Limiting peddlers' hours of operation within residential neighborhoods to daylight hours consistent with a residential atmosphere is necessary to protect the safety of peddlers and residents who would be more vulnerable to criminal activities during evening hours, and to promote the welfare of the residents by prohibiting commercial activities and associated noise and traffic during hours when residents should be able to enjoy peace and quiet.

(2) Preventing peddlers from peddling or soliciting from residences with "no solicitation" or "Do Not Disturb" signs protects the health and welfare of those who wish to avoid commercial activities while in their residences.

(3) Preventing peddlers from physical contact without permission, from persistently soliciting a person after the person rejects the offer, and from threatening injury or damage to a person while peddling or soliciting are necessary to protect the safety and health of persons who may feel threatened or in physical danger if these activities occur.

(4) Preventing peddlers and solicitors from intentionally obstructing the free movement of people on any street, sidewalk, or other place open to the public is necessary to protect the health, safety, and welfare of those who may be seeking emergency services or who are otherwise uninterested in the goods or services offered and desire to pass through the public area unimpeded.

(5) Preventing peddling or soliciting from a captive audience is necessary to protect the health, safety, and welfare of those people who are not able to walk away or otherwise retreat from an unwanted solicitation.

(6) Prohibiting peddling or soliciting within 1,000 feet of schools during the hours when children are present is necessary to protect the health and safety of the school children, because peddlers operating at close proximity to schools may attract unsupervised children to run into traffic in order to reach them and be injured or killed in the process. Such activity would also pose a hazard to motorists who may stop suddenly or swerve to avoid hitting children resulting in injury to those motorists.

(7) Requiring persons engaged in the business of peddling, selling or delivering liquids or edibles for human consumption to provide a means to collect and properly dispose of trash and recycling materials is necessary to protect the health, safety, and welfare of the community by preventing the dispersion of trash, rubbish and unused food products which contribute to blight and attract rodents and other vermin.

(B) Definitions. For purposes of this section, the following terms shall have the following meanings:

(1) "Commercial" means and includes the sale of goods, wares and merchandise for profit, whether or not a profit is made, and not for any charitable purpose.

(2) "Peddle" and "peddling" means hawking or selling any merchandise, including liquids or edibles for human consumption, by traveling or going from place to place, house to house, or business to business, and concurrently taking an order and making a delivery of such merchandise, or by transporting such merchandise upon any vehicle, or by any means whatsoever, when it is intended to be offered for sale and delivery to members of the public. "Peddle" and "peddling" shall include selling food or merchandise from a pushcart, stand, display, peddle-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person upon a public sidewalk or other pedestrian path. "Peddle" and "peddling" shall not mean the sale or delivery of food or merchandise by a person engaged in the business of selling such merchandise at a fixed place of business in the City, or elsewhere, which food or merchandise has been ordered to be so delivered prior to such delivery.

(3) "Solicitation" means a request, directly or indirectly, for money, credit, property, financial assistance or other items of value for the retail sale of goods, wares, or merchandise by taking an order for delivery and promising later delivery of such goods, wares, or merchandise. Individuals engaged in commercial solicitation for future delivery solely as an incident to engaging in a business otherwise permitted under this chapter, and for which the employer has a current, valid permit, shall not be deemed to be engaged in the business of commercial solicitation.

(C) Permit Fee Waivers. Veterans, as defined by Sections 16001 and 16001.5 of the California Business and Professions Code, shall not be required to pay a permit fee to hawk, peddle or sell goods, wares or merchandise owned by them, except alcoholic beverages.

(D) Application Requirements.

(1) Peddlers. In addition to the information required by PMC 5.04.140, an application for a peddler's permit shall include the following information, as applicable:

(a) The applicant's fingerprints and two one-inch by one-inch photographs; and

(b) Evidence of a permit from the County Health Department for the sale of food or beverages.

(2) Solicitors. In addition to the information required by PMC 5.04.140, an application for a commercial solicitor's permit shall include the following information, as applicable:

(a) An outline of the method or methods to be used in conducting the solicitation;

(b) The time when such solicitation will be made, giving the preferred dates and hour of day for the commencement and termination of the solicitation;

(c) If the applicant intends to engage employees to conduct commercial solicitation, the name, address and phone number of each employee, and proof of fingerprinting and photographic identification, as defined in PMC 1.04.100, for each employee;

(d) The names of any other cities in which the applicant has engaged in commercial solicitation within the past two years; provided, however, if the applicant has solicited in more than 10 other cities, the applicant may list the 10 cities in which the most recent solicitations occurred; and

(e) The applicant's fingerprints and two one-inch by one-inch photographs.

(E) Operating Requirements.

(1) Generally.

(a) No person shall peddle or commercially solicit for the sale of any merchandise in any area of the City zoned for residential use under this code, from 8:00 p.m. until 9:00 a.m. of the following day.

(b) No person shall peddle or solicit for commercial purposes at any dwelling, including but not limited to a house, apartment, or condominium, where there is a sign indicating "No Solicitations," "Do Not Disturb," or otherwise indicating that the occupants do not wish to be solicited or in any other way have their privacy disturbed.

(c) No peddler or commercial solicitor shall touch, come into physical contact with, or affix any object to any member of the public, without first receiving express permission therefor from such member of the public.

(d) No peddler or commercial solicitor shall persistently solicit any member of the public after such member of the public expresses his or her desire not to be solicited.

(e) No peddler or commercial solicitor shall intentionally obstruct the free movement of any member of the public on any street, sidewalk or other place open to the public generally.

(f) No peddler or commercial solicitor shall solicit from a captive audience. "Captive audience" shall be defined as purposefully stationary persons, such as persons in line or seated in public areas.

(g) No peddler or commercial solicitor shall threaten any injury or damage to any member of the public who declines to be solicited.

(h) Any sidewalk vendor must allow ample sidewalk space to allow for the safe movement of pedestrian traffic.

(i) Any person engaged in the business of peddling, selling or delivering liquids or edibles for human consumption shall provide a means to collect and properly dispose of all trash and recycling materials, including owning and making available appropriate trash and recycling receptacles. Trash and recyclables collected in this manner shall not be deposited in city-owned trash and recycling receptacles.

(j) No peddler or commercial solicitor shall in, or within the immediate vicinity of, any area designated for a special event. For purposes of this section, special event shall mean any city event and any community event subject to an event permit. This prohibition shall only be effective for the limited duration of the rental agreement or event.

(k) No peddler shall peddle in any area located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(2) Schools. No commercial peddler shall peddle or vend on weekdays between the hours of 8:00 a.m. and 5:00 p.m., within 1,000 feet of any school grounds in the City.

(3) Commercial Solicitors.

(a) Identification Cards.

(i) All commercial solicitors permitted pursuant to this chapter shall obtain an identification card from the City which shall include the permit number, the name and street address of the permittee, a statement describing the permittee's purpose and activity, the signature of the permittee's chief executive officer (if applicable), the signature of the solicitor to whom the card is issued, the specific period of time during which the solicitation is authorized, and a statement printed prominently on the card which shall state: "This identification card is not an endorsement by the city of Palmdale of any solicitation."

(ii) A copy of the proposed identification card shall be filed by the applicant with the Director at the time the application for a permit is filed, and shall be approved by the Director as conforming to the requirements of this section before the permit is issued.

(iii) All agents and employees of the permitted commercial solicitor shall carry an approved identification card at all times when soliciting. No person shall solicit for commercial purposes unless he or she exhibits an identification card in a form approved by the Director. Before commencing the solicitation, the solicitor shall read it to the person solicited, or present it to the person solicited, allowing sufficient time for examination.

(iv) No person shall solicit without a permit and identification card issued pursuant to this section.

(v) No person shall solicit within the City after the permit issued by the City has expired.

(b) Advertising Solicitations. When any solicitation pursuant to this chapter is made by printed matter or published article, or over radio, television, telegraph or by any other means of communication known or hereinafter devised, such publication shall contain the data and information required to be set forth in the identification card approved by the Director.

(F) Enforcement of the Chapter.

(1) Administrative Citations Exclusive Remedy.

Notwithstanding any other provision of the Palmdale Municipal Code, this Chapter 5.04.590 shall be enforced exclusively through the City's administrative citation process, and citation fees shall not exceed the limits set forth in state law (Government Code section 51039 and as may be amended from time to time). No other civil or criminal remedies may be used to enforce the provisions of this Chapter unless allowed by state law.

(2) City's Determination of Violators' Ability to Pay Administrative Fines.

When assessing an administrative fine for a violation of this Chapter, if the citee meets the criteria contained in Government Code Section 68632, subdivision (a) or (b), the City shall accept twenty percent (20%) of the administrative fine imposed in full satisfaction of the fine. The City's Enforcement Officer shall give notice to the citee of his or her right to request an ability-to-pay determination by including the notice and a checklist for eligibility of the reduced fine amount under Government Code Section 68632, together with the administrative citation. If eligible for the reduced fine, the citee must indicate, by signing under penalty of perjury, which criteria he or she meets and return the form together with the payment of the fine to the city. If the citee fails to return the form to the city prior to any hearing requested under Section 1.20.080, he or she may claim eligibility for the reduced fine amount at adjudication or while the judgement remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this

Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective, provided the basic purposes of this Ordinance and the benefits to the City and the public are not substantially impaired.

SECTION 5. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines 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. Alternatively, the City Council finds the approval of this ordinance is not a project under CEQA Regulation Section 15061 (b)(3) because it has no potential for causing a significant effect on the environment.

SECTION 6. The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published or posted as required by law.

PASSED, APPROVED and ADOPTED this 11th day of December, 2018.

Approved as to form:



Wm. Matthew Ditzhazy
City Attorney

Steven D. Hofbauer, Mayor

ATTEST:

Rebecca J. Smith, City Clerk

PROPOSED

I, Rebecca J. Smith, City Clerk of Palmdale, California, do hereby certify that the foregoing Ordinance was duly introduced, passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 11th day of December, 2018 effective on the 11th day of January, 2019 by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____

Rebecca J. Smith, City Clerk

PROPOSED