

ORDINANCE NO. 18-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS ESTABLISHING A SIDEWALK VENDOR PROGRAM, AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ADD ARTICLE 22 TO CHAPTER 2 OF TITLE 4, AND MAKING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings.

(a) Senate Bill 946 was signed into law on September 17, 2018, and takes effect on January 1, 2019.

(b) Senate Bill 946, which is codified at Chapter 6.2 (commencing with Section 51036) of Part 1 of Division 1 of Title 5 of the California Government Code, limits the authority of cities and counties to regulate sidewalk vendors except in accordance with the provisions of California Government Code Sections 51038 and 51039.

(c) The City's Municipal Code currently regulates sidewalk vendors in a manner that is inconsistent with Senate Bill 946.

(d) The City desires to adopt a sidewalk vending program and amend its Municipal Code to ensure compliance with Senate Bill 946 before Senate Bill 946 takes effect on January 1, 2019.

(e) Regulation of sidewalk vending will benefit the City as a whole as it will lead to orderly commerce while encouraging entrepreneurship and providing economic opportunity for people to support themselves and their families.

(f) The act of vending on public sidewalks, pedestrian paths or pedestrian walkways creates the potential for safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food and merchandise; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic.

(g) Regulations of sidewalk vendors are needed to accommodate sidewalk vendors' equipment while safeguarding pedestrian movement on public sidewalks, parkways, pedestrian paths or walkways, and other public rights-of-way.

(h) Regulations of sidewalk vendors engaged in the sale of food and food products are needed to protect the public health and safety by ensuring that sidewalk

vendors prepare food safely and in accordance with the requirements of the Los Angeles County Department of Public Health.

(i) Regulations of sidewalk vendors are needed to prevent hazardous or unsanitary conditions and to ensure that trash and debris are removed by sidewalk vendors and do not become a pollutant.

(j) The City Council adopts this Ordinance under the authority provided in Senate Bill 946 and Government Code Sections 51036 through 51039 and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City's purpose of protecting the health, safety and welfare of its residents, businesses and visitors, including ensuring compliance with the American with Disabilities Act of 1990 (Public Law 101-336) and other disability standards; ensuring the public's use and enjoyment of natural resources and recreational opportunities; and preventing an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of City parks.

Section 2. CEQA. The City Council hereby finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a "project" as that term is defined in Section 15378 of the State CEQA Guidelines.

Section 3. Addition of New Article 22. The City Council hereby adds a new Article 22 to Chapter 2 ("Regulatory Business Permits") of Title 4 ("Regulation of Certain Types of Businesses and Activities") of the Beverly Hills Municipal Code to read as follows:

"Article 22. Sidewalk Vending

4-2-2201: Definitions

4-2-2202: Permit Required

4-2-2203: Permit Application

4-2-2204: Criteria For Issuance Or Denial Of Permit

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4-2-2206: Conditions Imposed On Permit

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4-2-2217: Administrative Citations

4-2-2201: DEFINITIONS:

A. For purposes of this article, the following definitions apply unless the context in which they are used clearly requires otherwise:

BUSINESS TRIANGLE: That real property within the City that is circumscribed by the centerline of Wilshire Boulevard, the centerline of Santa Monica Boulevard North Roadway, and the centerline of Crescent Drive.

CERTIFIED FARMERS' MARKET: A location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code and any regulations adopted pursuant to that chapter.

CIVIC CENTER: The grounds, buildings, structures and open areas bounded by Crescent Drive to the west, Civic Center Drive to the east, North Santa Monica Boulevard to the north, and Burton Way/South Santa Monica to the south.

DIRECTOR: The Director of Finance of the City or his or her designee.

FIRE STATION: Any facility where fire engines and other equipment of the City's Fire Department are housed.

FOOD: Any type of raw, cooked, or processed edible substance, including any food product or beverage.

MERCHANDISE: Any tangible goods or items that are not food.

PARK: A public park designated in section 8-1-101 of this code.

POLICE STATION: Any facility where police vehicles and other equipment of the City's Police Department are housed.

ROAMING SIDEWALK VENDOR: A sidewalk vendor who moves from place to place and stops only to complete a transaction.

SIDEWALK: A public sidewalk or paved pedestrian path or walkway specifically designed for pedestrian travel.

SIDEWALK VENDOR: A person who vends from a vending cart or from one's person, upon a sidewalk.

STATIONARY SIDEWALK VENDOR: A sidewalk vendor who vends from a fixed location.

SWAP MEET: A location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the California Business and Professions Code, and any regulations adopted pursuant to that article.

TEMPORARY SPECIAL PERMIT: A permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public area, including but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, outdoor concerts, festivals, carnivals, and street fairs.

VEND OR VENDING: To barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase, food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

VENDING CART: A pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

4-2-2202: PERMIT REQUIRED:

No person shall engage in, conduct, or carry on the business of vending on a sidewalk without a permit issued under the provisions of this article.

4-2-2203: PERMIT APPLICATION:

Every person, prior to engaging in, conducting, or carrying on the business of vending on a sidewalk, shall file an application for a permit with the Director, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name, current mailing address and telephone number of the applicant;
- B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- C. A copy of a California's driver's license or identification number, an individual taxpayer identification number, or a social security number. The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order;

- D. A description of the food and/or merchandise for vending;
- E. A description, map, or drawing of the areas in which the sidewalk vendor proposes to operate;
- F. The dimensions of the vending cart;
- G. The hours per day and the days per week during which the sidewalk vendor proposes to operate, and whether the sidewalk vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
- H. A current valid business tax registration certificate issued pursuant to title 3, chapter 1, article 2 of this code;
- I. A current valid California seller's permit number pursuant to Section 6067 of the California Revenue and Taxation Code;
- J. Proof of a policy or policies of comprehensive general liability insurance with minimum limits of one million dollars (\$1,000,000) per occurrence, combined single limit coverage and two million dollars (\$2,000,000) in the aggregate against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee, with an endorsement naming the city as an additional insured. In addition, the permittee is required to carry workers' compensation and automobile coverage sufficient to meet requirements of the State of California. The insurance shall comply with the provisions of title 3, chapter 4 of this code;
- K. If a vendor of food, certification of completion of a food handler course and proof of all required approvals from the Los Angeles County Department of Public Health, including a current Mobile Food Facility permit;
- L. An agreement by the applicant to indemnify and hold harmless the City, its officers and employees, for any damage or injury caused to the City as a result of the sidewalk vending conduct or activity. The form of indemnification shall conform to the rules and regulations issued pursuant to section 3-4-5 of this code;
- M. Certification by the applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and
- N. Any other reasonable information regarding the time, place, and manner of the proposed sidewalk vending activities.

Applications for permits shall be filed a minimum of thirty (30) days prior to the date requested for issuance of the permit. Renewal permit applications shall be filed a minimum of thirty (30) days prior to the expiration of any existing permit.

4-2-2204: CRITERIA FOR ISSUANCE OR DENIAL OF PERMIT:

In lieu of the criteria for issuance or denial of a permit under provisions of section 4-1-103 of this code, the Director shall approve the issuance of a permit unless he or she determines that:

- A. The applicant has been convicted of a felony or misdemeanor involving moral turpitude, and has not subsequently demonstrated rehabilitative characteristics;
- B. The applicant has made a material misrepresentation in the application;
- C. The applicant has failed to demonstrate an ability to conform to the operating requirements set forth in section 4-2-2215 of this article;
- D. The applicant has failed to provide a complete application, after having been notified of the requirement to produce supplemental information or documents;
- E. The conduct of the sidewalk vendor will unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property;
- F. If the application is for the renewal of a permit or a subsequent permit, the applicant has failed to pay all previous administrative fines, completed all community service or completed any other alternative disposition associated in any way with a previous violation of this article; or
- G. If the application is for the renewal of a permit or a subsequent permit, the applicant has had a permit issued under this article rescinded within the last twelve (12) months.

4-2-2205: DENIAL OF PERMIT:

Where the permit is denied, the applicant shall be notified in writing in accordance with title 1, chapter 5, article 1 of this code, of the denial and the reasons therefor.

4-2-2206: CONDITIONS IMPOSED ON PERMIT:

Any person issued a permit pursuant to this article shall comply with all operating requirements that are imposed as part of the permit pursuant to sections 4-2-2215 and 4-2-2216 of this article.

4-2-2207: PERMIT EXPIRATION:

A permit issued pursuant to this article shall be effective for a period of one year from the date of issuance.

4-2-2208: PERMITS NONTRANSFERABLE:

No permit issued pursuant to this article shall be transferable.

4-2-2209: RESCISSION OF PERMIT:

The Director may rescind a permit issued under this article for any of the following reasons:

- A. The sidewalk vendor has made a material misrepresentation in the application;
- B. The sidewalk vendor has committed violations of this article on four (4) or more separate days;
- C. The sidewalk vendor has failed to maintain the insurance required by this article;
- D. The sidewalk vendor has failed to comply with federal, state or local laws and regulations; or
- E. The sidewalk vendor has conducted the vending in a manner which endangers the public health or safety.

4-2-2210: NOTICE OF HEARING AND GROUNDS FOR RESCISSION:

Prior to the rescission of a permit issued under this article, the permittee shall be notified in writing of the grounds for the rescission of the permit and a hearing shall be held thereon. Notice of the hearing shall be given in accordance with section 1-5-101 of this code to the permittee at least ten (10) days prior to the hearing.

4-2-2211: EMERGENCY TEMPORARY SUSPENSION OF PERMIT:

Where the conduct or the activity of the permittee creates an imminent peril to the public health or safety, a permit issued pursuant to this article may be summarily suspended upon notice to the permittee, provided that the permittee shall be entitled to a hearing within three (3) days thereafter and any emergency suspension shall not exceed fifteen (15) days pending a hearing under section 4-2-2210.

4-2-2212: CONDUCT OF HEARING ON SUSPENSION OR RESCISSION:

The Director shall promulgate rules of procedure for such hearings, which shall recognize the right of the permittee to be heard and to call witnesses on the permittee's behalf.

4-2-2213: DECISION OF HEARING ON SUSPENSION OR RESCISSION:

The decision of the Director shall be rendered within five (5) days of the close of the hearing. The decision shall be in writing and shall set forth the findings and reasons for the decision, and the permittee shall be notified in writing in accordance with title 1, chapter 5, article 1 of this code.

4-2-2214: APPEAL TO COUNCIL:

Any final decision of the Director to issue, deny, rescind or suspend a permit pursuant to this article may be appealed to the City Council in accordance with title 1, chapter 4, article 1 of this code.

4-2-2215: OPERATING REQUIREMENTS:

- A. Except as otherwise permitted in this article or this Code, no sidewalk vendor shall vend in the following locations:
 - 1. Any public property other than a sidewalk, including, without limitation, streets, alleys, plazas, and City-owned parking structures, as defined in subsection 5-6-1308 B of chapter 6 of title 5 of this code;
 - 2. Within two hundred (200) feet of any other sidewalk vendor;
 - 3. Within five hundred (500) feet of the nearest property line of any property on which a place of worship or a large or general child day care facility is located while the same is in use;
 - 4. Within five hundred (500) feet of the nearest property line of any property on which a school building or facility, including an athletic field, is located while the same is in use, including for afterschool child care, enrichment classes and sports;
 - 5. Within one hundred (100) feet of a public picnic area, playground area or playground equipment while the same is in use;
 - 6. Within one hundred (100) feet of a public community center, athletic field, softball/baseball diamond, basketball court, handball court, pickle ball court, tennis court, soccer field, or volleyball court while the same is in use;
 - 7. Within one hundred (100) feet of a police officer, firefighter, or emergency medical personnel who is actively performing his or her duties or providing services to the public;
 - 8. If a stationary sidewalk vendor, within any sidewalk that is not a minimum width of eight (8) feet, exclusive of curb width;
 - 9. Within one hundred (100) feet of a street intersection or traffic signal;
 - 10. Within one hundred (100) feet of any entrance to a park or Beverly Canon Gardens Park (241 N. Canon Drive in the City);
 - 11. Within one hundred (100) feet of the portion of any City facility that is renting merchandise to the public or where rental merchandise is stored;
 - 12. Within twenty-five (25) feet of a litter receptacle, bike rack, or restroom;

13. Within fifteen (15) feet of a fire hydrant, fire call box, police call box, traffic signal controller, or streetlight controller;
14. Within twenty-five (25) feet of a door or emergency exit of any business during the hours that the business is open to the public or to persons having or conducting lawful business within the premises;
15. Within twenty-five (25) feet of a pedestrian entrance/exit or elevator lobby of a City-owned parking structure;
16. Within five (5) feet of metered parking along a curb;
17. With four (4) feet of non-metered parking along a curb;
18. Within three (3) feet of a red curb if not adjacent to a parking meter or loading zone or a curb if posted for permanent no parking;
19. Within one hundred (100) feet of an alley, parking lot or parking garage vehicle entrance/exit;
20. Within ten (10) feet of any driveway or driveway approach;
21. Within ten (10) feet of a marked crosswalk;
22. Within ten (10) feet of the curb return of an unmarked crosswalk;
23. Within any median strip or dividing section;
24. Within forty (40) feet of a tour bus loading zone or staging zone during the time posted;
25. Within twenty-five (25) feet of a limousine staging zone during the time period posted;
26. Within twenty-five (25) feet of a bus stop, trolley stop, taxi stand, bus bench, or bus shelter;
27. Within twenty-five (25) feet of a space lawfully used by an automobile parking service pursuant to a valid valet parking permit issued pursuant to title 4, chapter 2, article 15 of this code during any time when such automobile parking service is authorized to operate valet parking operations;
28. Within two hundred (200) feet of a police station or fire station;
29. Within two hundred (200) feet of a subway station entrance or exit;

30. Within fifteen (15) feet of an automated teller machine or parking pay station;
31. If a stationary sidewalk vendor, within a park owned or operated by the City if the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire;
32. Within two hundred (200) feet of the Civic Center;
33. Within two hundred (200) feet of a backup City Emergency Operations Center, identified in the City's Emergency Operations Plan, during the operational period;
34. Along Rodeo Drive between North Santa Monica Boulevard and Wilshire Boulevard beginning May 15th of each calendar year and ending the following September 15th and beginning the third Thursday of November of each calendar year and ending the following January 7th;
35. Along North Beverly Drive between North Santa Monica Boulevard and Wilshire Boulevard; along North Canon Drive between North Santa Monica Boulevard and Wilshire Boulevard; and along South Beverly Drive between Wilshire Boulevard and Olympic Boulevard beginning May 15th of each calendar year and ending the following September 15th and beginning the third Thursday of November of each calendar year and ending the following January 7th;
36. Within the Business Triangle and along South Beverly Drive between Wilshire Boulevard and Olympic Boulevard for the duration of the special event permit for the annual car show hosted on Rodeo Drive, provided that any notice provided by the City to affected businesses or property owners under such special event permit is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this article;
37. Within the Business Triangle and along South Beverly Drive between Wilshire Boulevard and Olympic Boulevard for the duration of the special event permits for each of the Spring and Fall Beverly Hills Art Shows, provided that any notice provided by the City to affected businesses or property owners under such special event permits is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this article;
38. Within the Business Triangle and along South Beverly Drive between Wilshire Boulevard and Olympic Boulevard for the duration of the special event permit for each of the Summer BOLD Kickoff, Holiday Lighting Celebration, and the Next Night Block Party, provided that any notice provided by the City to affected businesses or property owners under such special event permits is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this article;

39. Within the Business Triangle and along South Beverly Drive between Wilshire Boulevard and Olympic Boulevard for the duration of the special event permit for any large scale special event which includes a street closure, provided that any notice provided by the City to affected businesses or property owners under such special event permit is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this article;
40. Along the route of, or within five hundred (500) feet of the route of, the Los Angeles Marathon until 5:00 p.m. on the day of such marathon, provided that any notice provided by the City to affected businesses or property owners under the special event permit for the marathon is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this article;
41. Within Beverly Canon Gardens Park (241 N. Canon Drive in the City) beginning May 15th of each calendar year and ending the following September 15th and beginning the third Thursday of November of each calendar year and ending the following January 7th;
42. Within Greystone Mansion & Gardens: The Doheny Estate (905 Loma Vista Drive in the City);
43. Within the Lilly Pond located in Beverly Gardens Park, just north of Santa Monica Boulevard North Roadway between North Canon Drive and North Beverly Drive;
44. If a stationary sidewalk vendor, within areas zoned exclusively for residential use or within one hundred seventy (170) feet of any areas zoned exclusively for residential use;
45. Within five hundred (500) feet of a permitted certified farmers' market or a permitted swap meet within the hours of operation;
46. Within five hundred (500) feet of an area designated for a temporary special event permit for the duration of the temporary special permit, provided that any notice provided by the City to affected businesses or property owners under such special event permit is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this article;
47. Within fifty (50) feet of a public art installation; or
48. Within one hundred (100) feet of an open air dining area.

B. Sidewalk vendors shall ensure that all required insurance is maintained for the duration of the permit, and shall show proof of insurance to a City official upon request.

- C. Sidewalk vendors must at all times maintain a clearance of not less than forty-eight (48) inches on all sidewalks so as to enable persons to freely pass while walking, running, or using mobility assistance devices.
- D. In areas not zoned exclusively for residential use, sidewalk vending is permitted only between the hours of 7:00 a.m. and 10:00 p.m., except that the hours of operation shall not be more restrictive than the hours of operation imposed on other businesses or uses on the same street.
- E. In areas zoned exclusively for residential use or within one hundred seventy (170) feet of any areas zoned exclusively for residential use, sidewalk vending is permitted only between the hours of 8:00 a.m. and 6:00 p.m.
- F. If a sidewalk vendor of food other than solely prepacked food, the vendor shall possess hand sanitizer for use by the sidewalk vendor and patrons.
- G. If a stationary sidewalk vendor, the vendor shall maintain a clearly designated litter receptacle in the immediate vicinity, marked with a sign requesting use by patrons. The litter receptacle must be large enough to accommodate customer litter without resort to existing litter receptacles located on any block for use by the general public. The vendor's litter receptacle may not be left on the sidewalk upon leaving any vending location. The vendor shall not empty its litter receptacle into a City refuse container.
- H. If a roaming sidewalk vendor vending from a vending cart, the vendor shall maintain a litter receptacle attached to the vending cart large enough to accommodate customer litter without resort to existing litter receptacles located on any block for use by the general public and marked with a sign requesting use by patrons. The vendor shall not empty its litter receptacle into a City refuse container.
- I. Sidewalk vendors shall maintain a neat, sanitary, hazard and trash-free ten (10) foot radius of the vending location during hours of operation, and prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all litter generated by the vending operations within a ten (10) foot radius of the vending location in the sidewalk vendor's litter receptacle. Sidewalk vendors shall not throw, deposit, or leave, or permit to be thrown, deposited, or left, any litter, food, or other discarded or abandoned objects, in or upon any street, sidewalk, gutter, storm drain, inlet, catch basin, or other drainage structure, or upon any public or private land in the City, so that the same might be or become a pollutant.
- J. Sidewalk vendors shall immediately clean up any food, grease or other fluid or item related to sidewalk vending activities that falls on public property.
- K. If a stationary sidewalk vendor remains in place for one (1) hour or longer, the sidewalk vendor must be located within one hundred (100) feet of a publicly-accessible restroom.

- L. Sidewalk vendors must ensure that food and merchandise are securely fastened to the vending cart in such a manner that the food or merchandise does not fall off or extend outside of the frame of the vending cart.
- M. All food and merchandise shall be stored either inside or affixed to the vending cart or carried by the sidewalk vendor.
- N. Vending carts shall not be placed on any public property other than a sidewalk.
- O. Vending carts shall not touch, lean against or be affixed at any time to any building or structure including, but not limited to poles, signs, trees, lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans or traffic barriers, or other objects on public property or in the public right-of-way.
- P. All signage and advertising related in any way to the sidewalk vendor must be attached to the vending cart or the sidewalk vendor's person, and shall not be electrical, flashing, wind-powered or animated.
- Q. A vending cart approved by the Los Angeles County Department of Health to vend one type or types of food may not be used to vend a different type of food.
- R. Sidewalk vendors shall possess at all times, while vending, a copy of a valid current permit issued pursuant to this article, as well as any other permit required by any other appropriate governmental agency. The sidewalk vendor permit shall be displayed conspicuously at all times on the vending cart or the sidewalk vendor's person. If multiple sidewalk vendors are staffing a vending cart or working as roaming sidewalk vendors, each person shall wear their permit on their person in a conspicuous manner. With respect to all other required permits, the sidewalk vendor shall display a copy of the permit upon request by authorized City employees.
- S. If a sidewalk vendor of food, the vendor shall possess and display in plain view on the vending cart a valid current Mobile Food Facility permit from Los Angeles County Department of Public Health and, if issued by the Los Angeles County Department of Health, a grade.
- T. Sidewalk vendors shall comply with all applicable state and local laws, as amended from time to time, including without limitation, title 5, chapter 1 of this code (Noise Regulations), title 5, chapter 3, article 14 of this this code (Aggressive Solicitation), division 1 of title 11 (County Health Code) and division 1 of title 8 (Public Health Licenses) of the Los Angeles County Code, state food labeling and preparation requirements, fire codes and regulations, and the Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards (both state and federal).
- U. Not including an attached litter receptacle, vending carts shall not exceed a length of four (4) feet, a width of four (4) feet, or a height, including a roof, umbrella, or

awning, of ten (10) feet provided that any umbrella or awning shall be no less than seven (7) feet above the surface of the sidewalk.

- V. Vending carts shall not be accompanied by accessories, including, but not limited to, tables, chairs, benches and umbrellas except that one chair and one umbrella may be provided for the purpose of allowing the vendor or an employee to be seated in shade.
- W. Vending carts for merchandise, if stored in the City, shall be fully enclosed by a structure with walls and a roof when not in use for sidewalk vending.
- X. Vending carts for food shall be stored in accordance with all requirements of the Los Angeles County Department of Public Health.
- Y. Vending carts shall have locking wheels to prevent uncontrolled movement.
- Z. Vending carts shall not be left unattended.
- AA. Vending carts shall not be left overnight on any public property or rights-of-way.
- BB. Sidewalk vendors shall not engage in any of the following activities:
 - 1. Using verbal or physical conduct that would cause a reasonable person to fear for his or her safety;
 - 2. Intentionally causing physical contact with any member of the public;
 - 3. Following a person who walks away after expressing a desire to not be vended to;
 - 4. Approaching a person on a bicycle or occupying a motor vehicle other than a commercial vehicle or emergency vehicle offering services to the public;
 - 5. Approaching a person standing in line, seated in an outdoor dining area, or similarly stationary for a specific purpose, so that to a reasonable person, it is apparent that the purpose would be frustrated by relocation to avoid the sidewalk vendor;
 - 6. Intentionally blocking the path of the person being vended to or who has expressed a desire to not be vended to;
 - 7. Impeding or obstructing ingress to or egress from any private property or any structure, parking space or loading facility;
 - 8. Renting merchandise to customers;
 - 9. Vending lottery tickets, alcohol, cannabis, adult oriented material, or tobacco or electronic cigarette products;

10. Knowingly making false statements or misrepresentations during the course of vending;
11. Vending illegal or counterfeit merchandise;
12. Bartering, exchanging, selling, offering for sale, displaying for sale, or soliciting offers to purchase services;
13. In parks, interfering in any way with anyone engaged in a physical activity or approaching spectators who are watching a sporting activity to vend;
14. To prevent dangerous distractions, making any outcry, blowing a horn, ringing a bell, or using any sound devices or musical instrument for the purpose of attracting the attention of potential patrons;
15. Damaging public or private property, including trees, shrubs, grass, flowers, plants or vegetation;
16. Causing vehicles to stop in traffic lanes or persons to stand in traffic lanes or parking spaces; or
17. Vending in a manner that blocks or obstructs the free movement of vehicles, including parked vehicles.

4-2-2216: IDENTIFICATION CARD:

Every sidewalk vendor shall obtain an identification card issued under chapter 1, article 2 of this title, and shall have a valid and current identification card in their possession at all times when engaged in sidewalk vending. Such card shall be displayed to any police officer or other authorized City employee upon request of such police officer or authorized City employee.

4-2-2217: ADMINISTRATIVE CITATIONS:

- A. A violation of this article by a sidewalk vendor who has a valid current permit issued by the City pursuant to this article is punishable only by an administrative citation pursuant to article 3 of chapter 3 of title 1, in amounts not to exceed the following:
 1. One hundred dollars (\$100) for a first violation.
 2. Two hundred dollars (\$200) for a second violation within one year of the first violation.
 3. Five hundred dollars (\$500) for each additional violation within one year of the first violation.
 4. The City may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

- B. An person engaged in sidewalk vending without a valid current permit issued pursuant to this article is punishable only by an administrative citation pursuant to article 3 of chapter 3 of title 1, in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:
1. Two hundred fifty dollars (\$250) for a first violation.
 2. Five hundred dollars (\$500) for a second violation within one year of the first violation.
 3. One thousand dollars (\$1,000) for each additional violation within one year of the first violation.
 4. Upon proof of a valid permit issued by the City pursuant to this article, the administrative citations set forth in this paragraph shall be reduced to the amounts set forth in paragraph A.
- C. It shall constitute a new and separate offense for each and every hour during any portion of which a violation of, or failure to comply with, any provision or requirement of this article is committed, continued, or permitted by any person.
- D. A violation of this article shall not be punishable as an infraction or misdemeanor and a person alleged to have violated any provision of this article shall not be subject to arrest except when permitted under law. Further, failure to pay an administrative citation issued pursuant to this article shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
- E. When assessing administrative citations pursuant to this article, the administrative hearing officer shall take into consideration the person's ability to pay the fine. The administrative hearing officer shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
- F. If the person meets the criteria described in subdivision (a) or (b) of California Government Code Section 68632, the City shall accept, in full satisfaction, twenty percent (20%) of an administrative citation imposed pursuant to this article.
- G. The administrative hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition."

Section 4. Amendment of Section 4-2-702. The City Council hereby amends Section 4-2-702 ("Definition") of Chapter 2 ("Regulatory Business Permits") of Title 4

("Regulation of Certain Types of Businesses and Activities") of the Beverly Hills Municipal Code to read as follows:

"4-2-702: DEFINITION:

'Peddler' shall mean any person, traveling by foot, automotive vehicle, or any other type of conveyance from place to place, house to house, or from street to street carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or prepared foods and offering and exposing the same for sale, or making sales and delivering articles to purchasers, or to any person who traveling from place to place, shall sell or offer for sale such merchandise from an automotive vehicle, or other vehicle or conveyance; or any person who solicits orders and as a separate transaction makes deliveries to purchaser. 'Peddler' shall not include a person engaged in, conducting or carrying on the business of vending on a sidewalk, pursuant to a valid permit issued pursuant to article 22 of this chapter."

Section 5. Amendment of Section 4-2-802. The City Council hereby amends Section 4-2-802 ("Definition") of Chapter 2 ("Regulatory Business Permits") of Title 4 ("Regulation of Certain Types of Businesses and Activities") of the Beverly Hills Municipal Code to read as follows:

"4-2-802: DEFINITION:

Solicitor' or 'canvasser' shall mean any individual, whether a resident of the city or not, traveling by foot, automobile, motor truck, or any type of conveyance from place to place, house to house, or from street to street, conducting any survey or poll for public opinion or statistical data or taking, or attempting to take, orders for the sale of goods or personal property of any nature for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes a sample of the subject of such sale or whether collecting advance payments on such sales; and also includes any person who, through invitation or suggestion, advertises the availability of goods, property, or services on a personal basis while traveling from place to place, house to house, or street to street, or who hires, leases, uses or occupies any building, structure, tent, hotel room, shop, automotive vehicle, or any other place within the city for the purpose of exhibiting samples or taking orders for future delivery. This definition excludes the sale of goods, wares, or merchandise at wholesale or soliciting orders at wholesale in a nonresidential zone. 'Solicitor' or 'canvasser' shall not include a person engaged in, conducting or carrying on the business of vending on a sidewalk pursuant to a valid permit issued pursuant to article 22 of this chapter."

Section 6. Amendment of Section 8-3-2. The City Council hereby amends Section 8-3-2 ("Exceptions") of Chapter 3 ("Encroachments in Streets, Alleys, and Other Public Property") of Title 8 ("Parks, Streets and Other Public Property") of the Beverly Hills Municipal Code to add subsection F to read as follows:

"F. Activities for which a permit is issued under article 22 of chapter 2 of title 4 of this Code."

Section 7. Amendment of Section 4-2-1901. The City Council hereby amends Section 4--1901 ("Permit Required") of Chapter 2 ("Regulatory Business Permits") of Title 4 ("Regulation of Certain Types of Businesses and Activities") of the Beverly Hills Municipal Code to read as follows:

"4-2-1901: PERMIT REQUIRED:

No person shall conduct or carry on any outdoor vending business except in compliance with the provisions of this article and as authorized by a permit issued by the director of planning and community development pursuant to chapter 1, article 1 of this title. The permit shall specify any conditions imposed upon the outdoor vending business pursuant to section 4-1-105 of this title. Pursuant to section 4-1-102 of this title, applications for an outdoor vending permit shall be submitted to the director of planning and community development in a form satisfactory to the director. Article 19 shall not apply to a person engaged in, conducting or carrying on the business of vending on a sidewalk pursuant to a valid permit issued pursuant to article 22 of this chapter."

Section 8. Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Ordinance.

Section 9. Publication and Certification. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 10. Effective Date. This Ordinance shall take effect thirty-one days after its adoption.

Section 11. This Ordinance supersedes Ordinance No. ____, adopted by the City Council on _____.

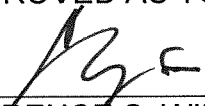
Adopted:
Effective:

JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills,
California

ATTEST:

LOURDES SY-RODRIGUEZ
Assistant City Clerk

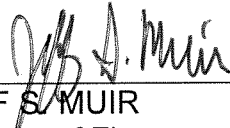
APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager



JEFF S. MUIR
Director of Finance