

ATTACHMENT B

Ordinance No. 2449

ORDINANCE NO. 2449

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE APPROVING AMENDMENT CASE PLAN23-00012, AN AMENDMENT TO THE VICTORVILLE MUNICIPAL CODE WITH AN ENVIRONMENTAL EXEMPTION MAKING VARIOUS CHANGES TO TITLE 16, INCLUDING BUT NOT LIMITED TO: PROVIDING UPDATED REGULATIONS, REQUIREMENTS, AND STANDARDS FOR SIDEWALK VENDORS, SOLICITORS, AND OTHER MOBILE VENDORS AND BUSINESSES; REVISING BUSINESS LICENSE PROCESSES, PROCEDURES, AND REQUIREMENTS; AND ADDING AND MODIFYING CERTAIN DEFINITIONS CITYWIDE.

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of Victorville (“**City**”) is authorized to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, pursuant to Title 7, Division 1, Chapter 4, Article 2, Section 65850 of the California Government Code, the City may adopt by ordinance regulations affecting: the use of buildings, structures and land; and

WHEREAS, pursuant to Title 7, Division 1, Chapter 4, Article 2, Section 65850 of the California Government Code, the City has adopted Title 16, Chapter 2, Article 1, Section 16-2.01.010 of the Victorville Municipal Code, providing the authority to amend Title 16 of the Victorville Municipal Code and the various regulations, requirements, exceptions and guidelines located therein; and

WHEREAS, pursuant to Section 16-2.01.020 of the Victorville Municipal Code, the City of Victorville has initiated amendments to Title 16 of the Victorville Municipal Code; and

WHEREAS, pursuant to Section Title 7, Division 1, Chapter 4, Article 2 of the California Government Code and Section 16-2.01.040 of the Victorville Municipal Code, the Victorville Planning Commission held a public hearing on December 13, 2023, to hear arguments for and against the proposed amendments to the Victorville Municipal Code; and

WHEREAS, after hearing all testimony offered at said public hearing, the Victorville Planning Commission adopted Resolution No. P-23-029, which recommended that the City Council of the City of Victorville (the “**City Council**”) adopt the Municipal Code amendments specified in Planning Case No. PLAN23-00012 (hereinafter the “**Code Amendments**”) with a stipulation that an educational/informational outreach component be provided in both English and Spanish languages during the implementation and enforcement of the proposed amendments; and

WHEREAS, the City Council finds that the State of California has passed Senate Bill 946, which prohibits local authorities from banning sidewalk vending but authorizes the adoption of additional requirements directly related to objective health and safety or welfare concerns; and

WHEREAS, the City Council finds that the State of California has passed Senate Bill 972, which modifies the California Retail Food Code and authorizes cottage food operations or microenterprise home kitchen operations to serve as a commissary or mobile support unit for up to two compact mobile food operations, and provides that a local enforcement agency continues to have oversight to ensure additional specified requirements imposed by the San Bernardino County Department of Environmental Health are regulated under a valid permit; and

WHEREAS, the City Council finds that the City of Victorville has experienced an increase in the operation of unlicensed sidewalk vendors without required State and local permits; and

WHEREAS, the City Council finds that unlicensed sidewalk vendors have generally located in areas that contribute to vehicle collision hazards, obstruct mandated ADA accessibility, and/or locate on private property without owner consent; and

WHEREAS, the City Council finds that unlicensed sidewalk vendors vending food in the City are not reviewed for compliance with San Bernardino County Department of Environmental Health regulations, which has the potential to lead to adverse impacts to public health; and

WHEREAS, the City Council finds that the proposed Code Amendments are intended to address the proliferation of unlicensed sidewalk vendors by introducing regulations and standards in accordance with State and local law in order to address health, safety and welfare concerns related to vehicle collision hazards, obstruction of mandated ADA accessibility, private property rights, and public health; and

WHEREAS, the City Council finds on their own independent judgment that this project is exempt from the California Environmental Quality Act (CEQA) based upon CEQA Guidelines Section 15061(b)(3), as there is no possibility that the proposed Code Amendments will have a significant effect on the environment inasmuch as the proposed amendment will regulate street vending allowances provided by State law, which does not modify existing codes in a manner that will negatively affect the environment; and

WHEREAS, Pursuant to Title 7, Division I, Chapter 4, Article 2 of the California Government Code and Section 16-2.01.060 of the Victorville Municipal Code, a duly noticed Public Hearing was held by the City Council on the 20th day of February, 2024 to hear arguments for and against the Code Amendments, and after hearing all verbal and written testimony offered, including the Planning Commission's recommendation and minutes, and after thoroughly

reviewing and considering the code amendments, the City Council approved the recommendation of the Planning Commission; and

WHEREAS, the City Council wishes to adopt the specified Code Amendments set forth in this Ordinance to encourage small business activities by removing certain prohibitions on portable food stands and certain forms of vending while still permitting regulation and enforcement of sidewalk vending and other similar activities to protect the public's health, safety, and welfare.

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

Section 1. Recitals

The recitals set forth above are true and correct, and are hereby incorporated by this reference as if set forth in their entirety.

Section 2. Additions, Deletions, and Revisions of Various Sections of Title 16 to the Victorville Municipal Code

Title 16 of the Victorville Municipal Code is hereby amended as described within the attached Exhibit "A" (with included legend defining editing notes as well as existing, new, and deleted text by means of underscores, strikethroughs, and italicization for reference only), which Exhibit "A" is made a part of and incorporated into this Ordinance.

Section 3. Educational/Informational Outreach

The Code Enforcement Department and the Business License Division shall conduct an educational/informational outreach program in both English and Spanish languages during the implementation and enforcement of this Ordinance with the specific outreach program measures to be determined by the City Manager or his/her designee.

Section 4. California Environmental Quality Act.

The City Council finds that the adoption of this Ordinance will not have a significant effect on the environment and is exempt from CEQA under CEQA Guidelines sections Section 15061(b)(3) for the reasons described in the recitals of this Ordinance.

Section 5. Repeal of Conflicting Provisions.

All ordinances of the City Council, or parts thereof that are inconsistent or otherwise conflict with any provision of this Ordinance are hereby repealed, but only to the extent of such inconsistency.

Section 6. Severability.

Should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 7. Effective Date.

This Ordinance shall take effect thirty (30) days after its final passage.

Section 8. Certification.

The City Clerk of the City of Victorville is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.

Exhibit "A"

Legend
Existing Text
Deleted Text
<i>Revised Text</i>
<u>New Text</u>
{Editing Notes}

Chapter 1, Article 3, Title 16

Sec. 16-1.03.010: - Definitions

Change

For the purpose of the Development Code, hereinafter "the Code" or "this Code", unless otherwise apparent from the context, certain words, terms and phrases used in this ~~Chapter~~ Title are defined in this Section.

Words used in the present tense include the future, words used in the singular number also include the plural, and words used in the plural number include the singular, unless the natural construction of wording indicates otherwise. The word "shall" indicates a mandatory requirement, except as when used in connection with an action or decision of the Council or any City commission, board, or official, in which case the word "shall" shall be directory only. Whenever used in this ~~Chapter~~ Title, the word "day" shall mean a calendar day.

<u>Certified Farmers' Market</u>	<u>means a farmers' market certified as operating 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.</u>
<u>Charity</u>	<u>includes any nonprofit organization, trust or other person which solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes. Charitable purposes include but are not limited to the improvement and advancement of public safety, education, religion, the prevention of cruelty to children and animals, any environmental protection and other benevolent purposes. Any Charity described herein must be exempt from taxation pursuant to California Revenue and Taxation Code Section 23701(d) or Internal Revenue Code Section 501(c)(3).</u>

<u>City Facilities</u>	<u>means the public parks, public buildings, and public community facilities/centers owned and operated by the City, including the City Library, City Hall, and the various community, activity, and sports centers in the City.</u>
<u>Established Place of Business</u>	<u>is a fixed place, location, or building, owned or leased by the person who uses such place, location, or building as his/her permanent place of business.</u>
<u>Food</u>	<u>means any item provided in Health and Safety Code Section 113781, or any successor section, and includes any type of raw, cooked, or processed edible substance, including any food product or beverage.</u>
<u>Food Truck</u>	<u>means a Mobile Vending Vehicle or motor vehicle-towed trailer located upon a street and going from place to place or that is operating on private property from a fixed location with an approved a Temporary Use Permit, which is engaged in vending where Food is cooked and/or prepared to order and is served to walk-up customers.</u>
<u>Health Department</u>	<u>means the San Bernardino County Department of Environmental Health.</u>
<u>Ice Cream Truck</u>	<u>a Mobile Vending Vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under twelve (12) years of age as described in California Vehicle Code Section 22456.</u>
<u>Mobile Vehicle Vendor</u>	<u>means any individual or entity who sells and makes immediate delivery, or offers for sale and immediate delivery, any food, beverages, goods, wares, or merchandise from a Mobile Vending Vehicle, including employees of Mobile Vehicle Vendors.</u>
<u>Mobile Vehicle Vendor License</u>	<u>means the City business license required to be obtained by Mobile Vehicle Vendors as set forth in this Title.</u>
<u>Mobile Vending Vehicle</u>	<u>any vehicle or motor vehicle, as those terms are defined in California Vehicle Code Sections 670 and 415 respectively, upon which food, beverages, goods, wares, or merchandise are sold, offered for sale, or distributed on any public street, alley, or private property. The term includes, without limitation, catering trucks, certain mobile food facilities and temporary food facilities, as well as Ice Cream Trucks and Food</u>

	<u>Trucks as defined in this Section; however, additional specific regulations apply to Ice Cream Trucks and Food Trucks as set forth in this Title.</u>
Peddler	every person not having fixed place of business in the City who travels from place to place or has a stand upon any public street, alley or other public place, doorway of any building, unenclosed or vacant lot or parcel of land, who sells or offers for sale at retail any goods, wares or merchandise in his possession.
<u>Pedestrian Path</u>	<u>means a paved path or paved walkway, other than a sidewalk, that is owned by the City or another public entity and is specifically designed for pedestrian travel. The term Pedestrian Path shall not include any private property or areas not traditionally used or designated for pedestrian travel, such as bike-paths, streets, driveways, and public parking lots.</u>
<u>Police Department and Chief of Police</u>	<u>shall mean respectively, the agency which performs the appropriate law enforcement function for the City and the head of the agency or division thereof which at the time involved has responsibility for performing the police function for, or within, the City.</u>
<u>Residential</u>	<u>means any area zoned as residential within the City, including without limitation all Residential Districts outlined in Section 16-3.06.010 in Title 16 of this Code and the residentially designated areas of specific plan zoning districts within the City.</u>
<u>Roaming Sidewalk Vendor</u>	<u>means a Sidewalk Vendor who moves from place to place and stops only to complete a transaction.</u>
<u>Sidewalk</u>	<u>means that paved portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation specifically designed for pedestrian travel and that is owned by the City or other public entity.</u>
<u>Sidewalk Vendor</u>	<u>means a person who sells tangible goods such as 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 a Pedestrian Path. The term Sidewalk Vendor includes both a Roaming Sidewalk Vendor and a Stationary Sidewalk Vendor.</u>
<u>Sidewalk Vendor Activity or Sidewalk Vending Activity</u>	<u>means actions that qualify a person as a Sidewalk Vendor or actions done in anticipation of becoming a sidewalk vendor such as, but not limited to, placement or maintenance of any Sidewalk Vendor Cart.</u>

<u>Sidewalk Vendor License</u>	<u>means the City business license required to be obtained by all Sidewalk Vendors as set forth in this Title.</u>
<u>Seller's Permit</u>	<u>means a permit issued by the California Department of Tax and Fee Administration.</u>
<u>Stationary Sidewalk Vendor</u>	<u>means a Sidewalk Vendor who Vends from a fixed location.</u>
<u>Solicitor</u>	<p><u>means any person who goes from house to house, from business to business, or otherwise goes upon any private property in the City for the purpose of:</u></p> <ul style="list-style-type: none"> <u>(1) taking or attempting to take orders for the sale of goods, merchandise, wares, magazines, or other personal or intangible property of any nature for future delivery, or for services to be performed in the future; or</u> <u>(2) selling or offering to sell and making immediate delivery of any goods, merchandise, wares, magazines, or other personal property of any nature or services of any kind or description; or</u> <u>(3) requesting money, credit, funds, contributions, personal property or anything of value for a Charity for charitable purposes as defined herein.</u> <p><u>The term "Solicitor" does not include a licensed Sidewalk Vendor or a licensed Mobile Vehicle Vendor as defined elsewhere in this Title. Sidewalk Vendors are regulated by Chapter 7, Article 12 of this Title and Mobile Vehicle Vendors are regulated by Chapter 7, Article 13 of this Title.</u></p> <p>any person who does not have a place of business within this city, who goes from house to house or from place to place in the City, selling or taking orders for, or offering to sell or take orders for, goods, wares, or merchandise or any article for future delivery, or for service to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery.</p>
<u>Swap Meet</u>	<p><u>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 Chapter, or any successor Chapter.</u></p> <p><u>a-Also means</u> a grouping of vendor spaces located outside or within a permanent structure. The vendor spaces within a swap meet are typically smaller than 350 square feet in size and lack permanent enclosure walls.</p>

<u>Temporary Special Permit</u>	<u>means a permit, other than a Sidewalk Vendor License, issued by the City for the temporary use of or encroachment on, the Sidewalk or other public area, including without limitation, an encroachment permit, a special event permit, a temporary event or similar permit, for purposes such as commercial filming, and City or privately sponsored parades, street fairs, outdoor concerts, festivals, and carnivals.</u>
<u>Vend or Vending</u>	<u>means to sell, offer to sell, expose for sale, solicit offers to purchase, or barter food, goods, or merchandise for present delivery. Vending includes offering samples of products that are also for sale, negotiating fees for goods, and/or requesting donations in exchange for merchandise for present delivery.</u> <u>Also means selling, offering for sale, or displaying or dispensing any food, beverages, goods, wares, or merchandise from any Mobile Vending Vehicle.</u>
<u>Vending Cart</u>	<u>means any pushcart, stand, booth, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used to conduct Sidewalk Vendor Activities that is not a vehicle or motor vehicle as defined in Sections 670 and 415 the California Vehicle Code.</u>

Chapter 7, Title 16 – Business License Ordinance

Article 1 - Administration and Enforcement

Sec. 16-7.01.160: - Violation of Chapter

Change

(a) Criminal penalties. With the exception of Sidewalk Vendors as set forth in Article 12 of this Chapter. Any person violating any of the provisions of this ~~Title~~ Chapter or knowingly or intentionally misrepresenting to any authorized officer of the City, any material fact in procuring the license or permit herein provided for, is guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalty provisions in Chapter 1.04 ~~or 1.05~~ of the Victorville Municipal Code.

(b) Administrative citations. In addition to any remedy provided at law or equity, and with the exception of Sidewalk Vendors as set forth in Article 12 of this Chapter, violations of any of the provisions of this Chapter may be subject to administrative citations and penalties in accordance with Chapter 1.05 of the Victorville Municipal Code.

Chapter 7, Title 16 – Business License Ordinance

Article 6: - Business Classifications

Sec. 16-7.06.110: - Vehicles for Hire, Service and Sales

Change

(a) Vehicles for hire transport passengers who direct the route to be traveled over the streets, and do not operate over a fixed route, for compensation, including vehicles commonly known as taxicabs, limousines, shuttle services or sightseeing buses. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and ~~16-7.08~~ Article 7 of this Chapter.

(b) Vehicles for service are non-emergency medical transportation businesses whose vehicles are privately or publicly owned and specifically designed, constructed, modified, equipped, arranged, maintained and operated for the sole purpose of transporting those persons with special medical needs who require pre-arranged transportation for purposes prescribed by a health care provider. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and ~~16-7.09~~ Article 8 of this Chapter.

(c) Vehicles for sales are ~~mobile businesses~~ Mobile Vehicle Vendors such as an Ice Cream sales Trucks or food trucks ~~who's~~ whose primary operation is selling at retail or soliciting order of any goods, wares, or merchandise of any kind or nature. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and (c), Section 16-3.07.050, and ~~16-7.10~~ Article 13 of this Chapter.

Sec. 16-7.06.115: - Sidewalk and Mobile Vehicle Vendors

Addition

(a) Sidewalk Vendors must obtain a business license and comply with the provisions of Section 16-7.04.020(b) and Article 12 of this Chapter.

(b) Mobile Vehicle Vendors must obtain a business license and comply with the provisions of Sections 16-7.04.020(b) and (c) and Article 13 of this Chapter.

Sec. 16-7.06.120: - Solicitors / ~~Peddlers~~

Change

(a) Persons meeting the definition of a Solicitor (as set forth in Section 16-1.03.010 of this Title) are businesses that are required to comply with the provisions of Section 16-7.04.020(b) and Article 9 of this Chapter. The foregoing definition of a Solicitor shall be exclusive and controlling, and the fact that a Solicitor may have had previous contacts with the customer through the media of telephone, correspondence, advertising, or by person to person conversation, shall not affect his/her status as a Solicitor.

(b) "Solicitor" shall not include a person engaging in any of the following activities so long as the person is not requesting money, credit, funds, contributions, personal property or anything of value:

- (1) communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious, or charitable nature;
- (2) seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;
- (3) a person seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter;
- (4) a person conducting a poll, survey, or petition drive in regard to any political matter; or
- (5) a person carrying, conveying, delivering or transporting newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same.

(c) Persons engaging in the activities described in Section 16-7.06.120(b)(1) – (4) shall comply with the provisions of Section 16-7.09.020.

~~Any person who does not have a regular established place of business and goes from place to place in the City, selling or taking orders for, or offering to sell or take orders for, goods, wares, or merchandise or who travels from place to place or has a stand upon any public street, alley or other public place, doorway of any building, unenclosed or vacant lot or parcel of land, who sells or offers for sale at retail any goods, wares or merchandise in his possession. These businesses shall be required to comply with the provisions of Section 16-7.04.020(b) and 16-7.10.~~

Sec. 16-7.06.130: - Firearms, pawnshops, junk dealers, secondhand stores, etc. *Change*

(a) ~~Retail sales~~ sellers of firearms and (b) ~~junk dealers, secondhand dealers, automobile and truck wrecking or dismantling businesses, pawnbrokers~~ (or similar businesses where money is loaned on personal property for compensation) are ~~These businesses~~ that shall be required to comply with the provisions of Article 10 of this Chapter.

Sec. 16-7.06.140: - Massage

Change

Any business using state licensed message technicians that administers to another person a massage, bath or health treatment involving massage or baths as the major function. These businesses shall be required to comply with the provisions of ~~Section 16-7-11~~ Article 11 of this Chapter.

Sec. 16-7.06.150: - Exempt Businesses

Change

(a) Nothing in this Chapter shall be deemed or construed to impose a fee or tax on any person transacting and carrying on any business exempt therefrom by virtue of the Constitution or applicable statutes of the United States or of the state of California. Any person claiming exemption pursuant to this Section shall file a sworn statement with the ~~Code Enforcement Official~~ Business License Division stating the facts upon which exemption is claimed, ~~and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the~~

~~fees imposed by this chapter. including documentation of registration with the California Attorney General for charitable organizations/institutions.~~ The ~~Code Enforcement Official~~ City Manager or his/her designee shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the City of the business license fee required by this Chapter. The ~~Code Enforcement Official~~ City Manager or his/her designee, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein:

- (1) Any institution or organization which is conducted, managed or carried on wholly for the benefit charitable purposes and from which profit is not derived, either directly or indirectly, by an individual; provided, that the applicant shall furnish proof to the ~~Code Enforcement Official~~ City Manager or his/her designee that such is the case;
- (2) Any enterprise or entertainment when the receipts derived therefrom are to be apportioned to any church or school or to any religious, benevolent or charitable purpose;
- (3) Any person not having a fixed place of business within the City who is called upon to come to the City to render services to a department of the City; provided, that the applicant shall furnish proof to the ~~Code Enforcement Official~~ City Manager or his/her designee that such is the case; and that the proof can be verified by the requesting department;
- (4) Every honorably discharged or honorably relieved soldier, sailor or marine of the United States who is physically unable to obtain a livelihood by manual labor, may distribute circulars, and hawk, peddle and vend any goods, wares or merchandise owned by him, except alcoholic beverages and or liquor, without payment of any license fee whatsoever, providing proof of such physical disability is furnished to the ~~Code Enforcement Official~~ City Manager or his/her designee.

~~(b) Nothing in this Section 46-8.07.120 16-7.06.150 or any subsection hereof shall exempt any person applicant from complying with any of the regulatory measures or provisions of this Chapter save and exempt the payment of license fees required hereby. additional local, state, and federal regulatory requirements, approvals, provisions, and/or fees except for the payment of the business license fee.~~

~~(b) (c) Bingo. Nothing in this Chapter shall prohibit the holding of any bingo game, provided that the game is operated in compliance with the requirements of the Victorville Municipal Code, Chapter 13.15. Upon ascertaining compliance with Chapter 13.15, the City shall issue a business license to the organization. The city shall, upon compliance with Chapter 13.15 of the Victorville Municipal Code, issue a business license.~~

(d) Interstate commerce. None of the license fees provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee to place an undue burden upon such commerce, the licensee ~~he~~ may apply to the ~~Code Enforcement Official~~ City Manager or his/her designee for an adjustment of the fee upon completion of conducting business in the City or within six months thereafter. ~~The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume of business transacted within the City. The Code Enforcement Official or his/her designee, after obtaining approval of the City Attorney with regard to the qualification of the business as interstate commerce, shall compute the actual fee due based on that portion of the applicant's gross receipts resulting from business within the City and shall initiate a refund of~~

~~any portion of the original license fee paid after subtracting the actual fee due based upon gross receipts. The computation shall be based upon five tenths percent of the total gross receipts resulting from business within the City. A minimum fee of five dollars shall be required and said fee shall not exceed the fee for similar businesses not engaged in interstate commerce.~~

Chapter 7, Title 16 – Business License Ordinance

Article 9: - Specially Regulated Business—Solicitors/Peddlers

Change

Sec. 16-7.09.010: - Requirement of registration

Change

(a) Except as may be set forth otherwise in this Article, every Solicitor must register with the Police Department of the City, apply for and obtain a business license, and pay the required business license fee pursuant to Section 16-7.06.020 prior to doing business in the City.

(b) Each applicant for registration hereunder shall be fingerprinted by City's the Police Department or submit fingerprints through a live scan vendor for purposes of conducting a background check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in Section 16-7.02.030(c). The Chief of Police, or his/her designee, shall furnish each applicant with a live scan request form for use at any live scan vendor location. Each applicant shall also furnish two photographs of himself/herself of a size and format satisfactory to the Police Department and the City's Business License Division. One such photograph shall be attached at all times to the applicant's identification and registration card and the other shall be retained by the Business License Division. The identification and registration card shall bear the name of the applicant, the company or companies which he/she represents, and his/her photograph. It shall be carried on the person of the Solicitor and shall be displayed to all residents or businesses at the beginning of the period of solicitation.

(c) An Established Place of Business operating in the City may seek business using Solicitors who continuously comply with each of the following requirements:

- (1) The Established Place of Business must be open to the public at least eight hours a day, five days a week;
- (2) A floor salesperson or manager of said business of the company shall be present at all times when the place of business is open;
- (3) Said business or company shall have and maintain at said place a sign of not less than three square feet bearing the name of the business or company either on the front of the building or the side of building facing the street;
- (4) Each new Solicitor employed by the business shall be fingerprinted and furnish photographs to the City as set forth in subdivision (b) of this Section. Applicants or their Solicitor employees renewing a business license may be required to be fingerprinted prior to the renewal of their licenses.

~~Each solicitor and peddler who goes from house to house or from place to place, selling or taking orders for, or offering to sell or take orders for, goods, wares, merchandise or magazines, periodicals or publications or subscriptions for the same, or any article, right or privilege of value, for future delivery, or for service to be performed in the future, or for the making, manufacturing, or repairing of any article or thing whatsoever for future delivery (religious material and regularly~~

~~published newspapers excepted) or donations of any nature within the City is required to register with the police department of the City and to obtain a permit.~~

~~Each applicant for registration hereunder shall be fingerprinted by an employee of the police department. One photograph shall be attached at all times to the applicant's identification and registration card and another photograph shall be retained by the police department. The identification and registration card shall bear the name of the applicant, the company or companies which he represents, and his photograph and right thumbprint. It shall be carried on the person of the applicant and shall be displayed to all residents at the beginning of the period of solicitation.~~

Sec. 16-7.09.020 – Solicitors and peddlers Other Restrictions on Solicitors *Change*

(a) No Solicitor shall ring the bell or knock on the door of any residence, dwelling, apartment, or business establishment or attempt to gain admittance thereto, whereon a sign is posted bearing the words "No Solicitors", or words of similar import indicating that Solicitors are not desired.

(b) Solicitation in residential areas shall be prohibited between the hours of seven p.m. and eight a.m. Solicitation in non-residential areas shall be during business hours of solicited establishments.

(c) All orders taken by Solicitors shall be in writing in duplicate, stating the terms thereof, and the amount paid in advance, and one copy shall be given to the purchaser.

~~(a) — Peddlers. Every person engaging in the business of peddling any goods, wares, merchandise, fruits or vegetables shall procure a license and pay the business license tax in accordance with Section 7.06.020. Each such person shall furthermore register in accordance with Section 7.9.010 and comply with all of the regulations of said section. Peddling shall be prohibited between the hours of seven p.m. and eight a.m.~~

~~For the purpose of this section, "peddling" means and includes traveling or going from place to place, or from house to house, within the City, and peddling, hawking, vending or selling any goods, wares or merchandise, carried or caused to be carried or conveyed by or with the person peddling, hawking, vending or selling the same.~~

~~(b) — Solicitors Not Having Regular Place of Business. Every person engaging in the business of soliciting shall procure a license and pay the business license tax in accordance with Section 7.06.020.~~

~~A "solicitor" within the meaning of this section means any person who does not have a regular established place of business within this city as hereinafter defined, who goes from house to house, or from place to place, in the City, selling or taking orders for, or offering to sell or take orders for, goods, wares or merchandise or any article for future delivery, or for service to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery. The foregoing definition of a solicitor shall be exclusive and controlling, and the fact that a solicitor may have had previous contacts with the customer through the media of telephone, correspondence, advertising or by person to person~~

~~conversation, or that he may have been invited to the house or place, shall not be a defense to, or excuse for, a violation of any provision of this code, nor affect his status as a solicitor.~~

~~Application for the license provided for in this section shall be accompanied by a bond in the penal sum of five hundred dollars, executed by a surety company, or in lieu thereof, a cash bond of equal value, conditioned upon the making of final delivery of the goods, wares or service to be performed in accordance with the terms of such order. Any person aggrieved by the action of any such solicitor shall have a right of action on the bond for the recovery of money or damages or both. Such bond shall remain in full force and effect, and in case of a cash deposit, such deposit shall be retained by the City for a period of ninety days after the expiration of any such license. All orders taken by licensed solicitors shall be in writing in duplicate, stating the terms thereof, and the amount paid in advance, and one copy shall be given to the purchaser. Each solicitor shall be fingerprinted by the police department and furnish photos satisfactory to the department. Solicitation shall be prohibited between the hours of seven p.m. and eight a.m.~~

~~(c) Ice Cream Trucks. Mobile Ice Cream businesses do not have an established place of business and go from place to place selling packaged ice cream and other consumable packed goods via a vehicle or a push cart.~~

~~1. It is unlawful for any person to conduct mobile Ice cream sales from a vehicle or a mobile cart in the City without having first obtained a solicitors permit issued by the Police department. The police department may refuse to issue a driver's permit for any of the following reasons:~~

~~a. If the applicant is under twenty one years of age;~~

~~b. If the applicant does not possess a valid drivers license~~

~~c. If the applicant is convicted or has been convicted of reckless driving or a crime involving moral turpitude, or of driving under the influence of intoxicating liquors or narcotics;~~

~~d. If the applicant violated any of the provisions of this chapter;~~

~~e. If the applicant has been convicted of three or more moving violations constituting unsafe driving within a period of twelve months immediately preceding such action of the police department;~~

~~f. If the applicant does not test negative for each of the controlled substances specified in Title 49 of the Code of Federal Regulations, before employment or upon permit renewal, or at such other times as the City shall designate. All costs for testing shall be borne by the applicant or the employer.~~

~~g. The applicant has been convicted of or is under investigation of crimes that in the option of Chief of Police or his/ her designee posses a threat or create a substantial concern to the residents of the City.~~

~~2. Mobile Ice cream businesses shall not display, sale, transfer or offer any imitation firearms such as BB or pellet guns as stated in penal code section 12550-12556.~~

~~3. Mobile Ice Cream businesses shall remain mobile and moving from place to place until the business has been solicited by a patron seeking to purchase merchandise from the mobile ice cream business. It is unlawful for a mobile ice cream business to park or stop for an extended~~

~~amount of time for any reason other than to complete a transaction with a patron who has solicited such a service.~~

Sec. 16-7.09.030: - Solicitor Exemptions

Change

With the exception of the restrictions set out in Section 16-7.09.020, ~~the~~ the provisions of this section Article shall not apply to:

(a) A Solicitor who represents a bona fide Charity, fraternal, or religious organization which is exempt under the following provisions of this section: Section 16-7.06.150(a)(1) of this Chapter.

(b) A disabled veteran who is exempt under the provisions of Section 16-7.06.150(a)(4) of this Chapter.

~~(c) Any bona fide nonprofit charitable, fraternal or religious institution or organization where the proceeds of the activity covered by the exemption are to be used for the lawful purposes of said organization; provided, however, that no exemption hereunder shall be valid unless application therefor has been made in writing to the City Clerk which certificate shall cover a period of not more than one year from date thereof, and shall be displayed or available for presentment to any enforcement officer of the City on request, on the premises covered by the certificate; provided further, that no exemption shall be granted hereunder to any person, firm, concern or organization who receives any financial share or interest in the activity proposed to be covered by the exemption, or the proceeds or income therefrom.~~

~~(d) A bona fide resident, as defined by the California Elections Code, shall be exempt from the fingerprinting requirement providing that all solicitors shall be required to wear and display an identification badge which is uniform in size, color and content and which has been approved by the City Clerk at the time of issuance of the certificate of exemption.~~

~~(e) "Charity" includes any nonprofit organization, trust or other person which solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes. Charitable purposes include but are not limited to the improvement and advancement of public safety, education, religion, the prevention of cruelty to children and animals, any environmental protection and other benevolent purposes. Any charity described herein must be exempt from taxation pursuant to California Revenue and Taxation Code Section 23701(d) or Internal Revenue Code Section 501(c)(3).~~

Chapter 7, Title 16 – Business License Ordinance

{Entire Article 12 is a new addition to Chapter 7 of Title 16}

Article 12: Specially Regulated Business – Sidewalk Vendors

Addition

Sec. 16-7.12.010: - Purpose and Findings

(a) Purpose. The purpose of this Article is to establish Sidewalk Vendor business licensing and regulatory standards that comply with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this Article allow the City to encourage small business activities by removing certain prohibitions on portable food stands and certain forms of vending while still permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety, and welfare.

(b) Findings. The City Council finds that:

- (1) Prohibiting Sidewalk Vending in streets/roadways and on medians is necessary to protect the health and safety of Sidewalk Vendors, because they are at risk of being struck by vehicles and/or causing vehicular accidents if they vend in streets/roadways or on medians.
- (2) Preventing Sidewalk Vendors from vending to persons in cars and other motorized vehicles, or from vending from the street or alley facing sides of their Vending Carts is necessary to protect the health and safety of Sidewalk Vendors, because they are at risk of being struck by vehicles and/or causing vehicular accidents when Sidewalk Vending Activities cause vehicles to suddenly stop or park illegally on City streets and disrupt the normal flow of traffic.
- (3) Preventing sidewalk vendors from using sound amplifying devices is necessary to protect the welfare of residents and visitors to the City by preventing excessive noise from disturbing the peace and quiet of residential areas or from an accumulation of excessive noise in commercial and other areas. Amplified sound devices may also cause traffic hazards by distracting drivers resulting in automobile accidents and harm to pedestrians, so prohibiting their use is necessary for the health and safety of motorists and pedestrians.
- (4) The regulations specified in this Article, including, but not limited to those governing sidewalk Vending Cart sizes, distance requirements, and food and merchandise storage, are intended and necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.
- (5) To protect the safety of children traveling to and from and in and around schools from potentially adverse safety impacts of traffic and sidewalk congestion, it is necessary to restrict sidewalk vendor activities during certain hours in such areas.
- (6) Restricting Sidewalk Vending Activities on Sidewalks or Pedestrian Paths that are immediately adjacent to portions of streets or highways that are designated by signs or red curb markings as "no stopping" or "no parking" zones and near certain public facilities is needed to prevent interference with the flow of pedestrian or vehicular traffic, including

ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles.

- (7) Regulating Sidewalk Vending Activities is necessary to preserve reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, and mailboxes, as well as access to locations used for public transportation services.
- (8) The City further finds that the circumstances of Sidewalk Vending, where Sidewalk Vendors set up stands or move from place to place as Roaming Sidewalk Vendors, has the potential for Sidewalk Vendors to engage in illegal activities, including but not limited to the sale of illegal substances or merchandise or the sale of counterfeit products. To ensure the safety of residents and the merchantability of products sold by vendors without a fixed place of business, all Sidewalk Vendor License applicants, including all employees or Vending Cart operators, are required to undergo a fingerprinting background check to be conducted by the Police Department prior to being licensed.

Sec. 16-7.12.020 - Business License Required

No Sidewalk Vendor may Vend or operate anywhere within the City without first obtaining a Sidewalk Vendor License from the City. Each Sidewalk Vendor must comply with the terms and conditions set forth in his/her Sidewalk Vendor License issued by the City and those specified in this Article. Stationary Sidewalk Vendors may operate within the approved areas as stated in their City-issued Sidewalk Vendor Licenses.

Sec. 16-7.12.030: - Sidewalk Vendor License Application

(a) All business license applications must be completed online through the City's designated business license application system ("License System"). To receive a Sidewalk Vendor License, applicants must provide the following to the City through the License System:

- (1) A declaration that the information provided to the City in connection with the business license application is true and correct, to the best of the applicant's knowledge and belief;
- (2) The applicant's agreement to indemnify, hold harmless, and defend the City, its officials, employees, and agents from and against all liability, damage, loss or injury arising from the Sidewalk Vendor's conduct of Sidewalk Vending Activity;
- (3) An acknowledgement that use of public property is at the Sidewalk Vendor's own risk, and that the City does not take any steps to ensure public property is safe or conducive to Sidewalk Vending Activity;
- (4) The applicant's agreement to comply with the provisions of this Article and all applicable provisions of the City's Municipal Code;
- (5) All applicable documents described in Chapter 7, Article 3 of this Title (provided that a Sidewalk Vendor may submit a California driver's license or identification number, an individual taxpayer identification number, a Seller's Permit number, or a municipal identification number in lieu of a social security number, and any number so collected

shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the licensure program or comply with a state law or state or federal court order);

- (6) A list of all applicable employees or Vending Cart operators;
- (7) A detailed description of the Food and/or merchandise to be sold;
- (8) 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 or a Roaming Sidewalk Vendor;
- (9) Roaming Sidewalk Vendors shall specify the roaming route and proposed areas within which Sidewalk Vendor Activity will be conducted;
- (10) A description (including dimensions) of all Vending Carts to be used when vending, to include photos of the sides, front and rear of each Vending Cart;
- (11) If the applicant will Vend food, copies of applicable permits issued by the Health Department (unless applicant is exempt from a Health Permit pursuant to California Health & Safety Code Section 114368. 1(a)) and certification that the Sidewalk Vendor will comply with all applicable laws regarding food vending;
- (12) Proof of general liability and other insurance coverages as deemed reasonably necessary to adequately protect the City in the types and amounts specified by the City's Risk Manager;
- (13) A copy of the Sidewalk Vendor's current and valid Seller's Permit;
- (14) Full payment of the applicable business license fees, as established by resolution of the City Council.

(b) In addition, prior to the issuance of a Sidewalk Vendor License, the applicant and each of applicant's employees and/or Vending Cart operators shall cause to be filed with the Chief of Police, or his/her designee, a live scan background check conducted by the California Department of Justice within the previous six months of the application date. The Chief of Police, or his/her designee, shall furnish each applicant with a live scan request form for use at any live scan vendor location. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in Section 16-7.12.040.

(c) The items listed in subdivisions (a) and (b) of this Section, together with the Sidewalk Vendor License renewal fee (as established by resolution of the City Council) must thereafter be provided annually to the City prior to the date the Sidewalk Vendor's current Sidewalk Vendor License expires.

Sec. 16-7.12.040 - Criteria for Approval or Denial of License

(a) The City Manager, or his or her designee, shall approve the application for issuance of a Sidewalk Vendor License unless he or she determines that:

- (1) Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
 - (2) The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;
 - (3) The applicant has failed to demonstrate an ability to conform to the operating conditions and standards set forth in Sections 16-7.12.070 through 16-7.12.100 of this Article;
 - (4) The applicant has failed to pay any previous administrative fines levied in accordance with Government Code Section 51039(a);
 - (5) The Chief of Police, after conducting a preliminary investigation to determine compliance with this Chapter, has found any of the following as a result of the live scan background check performed on the applicant and its employees:
 - (A) A conviction in a court of competent jurisdiction or a plea of nolo contendere to any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058 within three (3) years of the date of application; or
 - (B) Active probation or parole status for any offenses set forth in this Section that was committed within three (3) years of the date of application; or
 - (C) A conviction of a felony or misdemeanor involving a crime of moral turpitude within three (3) years of the date of the application; or
 - (D) Registration under the provisions of California Penal Code section 290 (or an equivalent section in any other state) is required.
- (b) If an application is denied, the basis for the denial shall be mailed to or delivered in writing to the applicant setting forth the reasons for the denial. If the denial is not appealed within ten (10) days as provided in Section 16-02.02.050 of this Title, the determination of denial shall become final and conclusive.

Sec. 16-7.12.050 License Rescission

The City Manager may rescind a Sidewalk Vendor License issued to a Sidewalk Vendor for the term of said license for a fourth violation or subsequent violation of this Article. A Sidewalk Vendor whose license is rescinded may apply for a new Sidewalk Vendor License upon the expiration of the term of the rescinded license.

Sec. 16-7.12.060 - Appeals

Any person aggrieved by the decision of the City Manager to issue, deny issuance, or rescind a Sidewalk Vendor License may appeal the decision to the Planning Commission in accordance with Sections 16-2.02.010 and 16-2.02.050 of this Title.

Sec. 16-7.12.070 - General Sidewalk Vendor Activity Operating Conditions; Prohibitions

(a) General Operating Conditions.

- (1) Sidewalk Vending Activities are permitted in the City between the hours of 7:00 a.m. and 10:00 p.m. daily, except as follows:

 - (A) In exclusively residential areas, only Roaming Sidewalk Vendors shall be permitted to operate. In such areas, Roaming Sidewalk Vendors may engage in Sidewalk Vending Activities only between the hours of 7:00 a.m. and 10:00 p.m. Roaming Sidewalk Vendors must move continuously except when necessary to complete a sale.
 - (B) In non-residential areas, the limit on hours of vending shall not be more restrictive than the hours of operation of other businesses or uses on the same street.
 - (C) Hours may be expanded when events subject to the terms of a Temporary Special Permit and/or certain City-sponsored events are occurring.
 - (D) During the execution of a Public Works maintenance or public benefit project that requires the sidewalk vendor vacate the area to allow the completion of a public works project.
- (2) Stationary Sidewalk Vendors are prohibited from operating in areas that are zoned exclusively residential.
- (3) Stationary Sidewalk Vendors must operate within the approved areas as stated in the issued Sidewalk Vendor License.
- (4) All Sidewalk Vendors Vending food or any other item requiring a Health Department permit, must possess and display on his/her Vending Cart or on his/her person a valid permit issued by the Health Department.
- (5) At all times, Sidewalk Vendors must possess and display in a conspicuous manner on his/her Vending Cart or on his/her person a valid Sidewalk Vendor License. If multiple Sidewalk Vendors are staffing a Vending Cart or working as Roaming Sidewalk Vendors, each person shall wear his/her license on his/her person in a conspicuous manner.
- (6) No Advertising signs. No signs other than those approved in the Sidewalk Vendor License application (such as signs identifying the name of the products sold, the name of the vendor and/or the prices of products) are allowed. All signs must be attached to the approved Vending Cart with a sign area not to exceed three square feet for every linear foot of Vending Cart length. Signs with intermittent, flashing, moving, blinking lights, or varying intensity of light or color, are not permitted.
- (7) No Vending Cart, including any attachments thereto such as a litter receptacle or an umbrella, shall exceed four (4) feet in width, eight (8) feet in height, or eight (8) feet in length.
- (8) No Vending Cart shall be chained or fastened to any utility pole, sign, tree, or other object in the public right-of-way or left unattended.
- (9) No Vending Cart shall be stored, parked, or left overnight on or in any public street, Sidewalk, or City Facilities.
- (10) All equipment installed in any part of the Vending Cart shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision

or overturn. All utensils shall be securely stored in order to prevent their being thrown from the Vending Cart in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives.

- (11) Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall not create nuisance odors or noise above the allowable decibel level as provided in section 13.01.040 of the Victorville Municipal Code.
- (12) Umbrellas used in connection with vending operations must be securely fastened and not exceed a height of eight (8) feet.

(b) Prohibitions. No Sidewalk Vendor shall:

- (1) Operate within the portion of any public parking lot through which motor vehicles are expected to travel given the frequency of vehicle traffic and the prevention of vehicle on pedestrian traffic collision;
- (2) Operate on or along any street or roadway that does not have a Sidewalk or Pedestrian path;
- (3) Operate within 25 feet of a Sidewalk or Pedestrian Path that is adjacent to a portion of a street or highway and is designated by signs or red curb markings as a "no stopping" or "no parking" zone to prevent vehicle traffic from unlawfully stopping or parking and increasing the risk of traffic collisions;
- (4) Sell food for immediate consumption unless there is a litter receptacle available for patrons' use;
- (5) Operate within 150 feet of the intersection of a street and a sidewalk or in any location that obstructs traffic signals or regulatory signs;
- (6) Leave any location without first disposing of all trash or refuse remaining from sales conducted. Trash and refuse generated by vending activities shall not be disposed of in public trash receptacles;
- (7) Discharge solids or liquids to the street or a storm drain;
- (8) Allow any items or equipment relating to the Sidewalk Vending Activity, including any required litter receptacle, to be placed anywhere other than in, on, or under the Vending Cart;
- (9) Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her Vending Cart where such items have not been described in the Sidewalk Vendor License application;
- (10) Operate upon or within any street or roadway, any street or roadway median strip (whether or not said median strip is landscaped), or any street/roadway dividing strip;
- (11) Operate within five hundred feet of any freeway on-ramp or off-ramp;
- (12) Engage in the vending of alcohol, cannabis, cannabis products, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or cannabis, or adult-oriented material depicting, describing, or relating to sexual activities;
- (13) Sound or permit the sounding of any device that produces a loud and raucous noise or any noise in violation of the City's noise ordinance, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract

- the attention of the public, or use any lighting effect that is intermittent, flashing, moving, blinking or emits a varying intensity of light or color;
- (14) Operate without the insurance coverage specified in this Article;
 - (15) Operate within 50 feet of a fire hydrant or 25 feet of a transit stop;
 - (16) Solicit or conduct business with persons in motor vehicles or Vend from the exposed street or alley and/or traffic side of the Vending Cart;
 - (17) Operate in a manner that does not maintain four (4) feet of clear space on a Sidewalk or Pedestrian Path, including any customer queuing area, or in a manner that impedes access to or restricts the free use of abutting property, including, but not limited to, residences and places of business in accordance with the American with Disabilities Act (ADA);
 - (18) Operate within 50 feet of the outer edge of a driveway or vehicular entrance to public or private property;
 - (19) Operate within 500 feet of a Certified Farmers' Market or Swap Meet during the operating hours of that Certified Farmers' Market or Swap Meet;
 - (20) Operate in any manner or location that blocks any citizen or service entry or exit from any business or residence;
 - (21) Operate in or within 500 feet of an area designated for use by a Temporary Special Permit or an event conducted or sponsored by the City, including but not limited to the annual Fall Festival, Spring Festival, Holiday Parade, Tree Lighting and Veterans' Day Parade; provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the City's Temporary Special Permit or regarding City conducted/sponsored events, shall also be provided to any Sidewalk Vendors specifically permitted to operate in the area. A prohibition of Sidewalk Vendors pursuant to this subsection shall only be effective for the limited duration of the Temporary Special Permit, or the City conducted/sponsored event;
 - (22) Operate within 500 feet of any public or private school grounds between the hours of 7:00 a.m. and 5:00 p.m. on days that the school is open to students;
 - (23) Operate in violation of any other generally applicable law;
 - (24) Use an electrical outlet or power source that is owned by the City or another person other than the Sidewalk Vendor.
 - (25) Engage in the renting of merchandise to customers;
 - (26) Vend services;
 - (27) Use an open flame on or within any Vending Cart;

Sec. 16-7.12.080: - Sidewalk Vending in City Facilities

In addition to the operating conditions and prohibitions set forth in Section 16-7.12.070 and in the interest of ensuring adequate access or use is available to individuals seeking services from City departments, Sidewalk Vendors operating in City Facilities must also comply with the following:

- (a) Sidewalk Vendors shall be permitted to operate only on Sidewalks and Pedestrian Paths in City facilities;
- (b) Sidewalk Vendors shall be permitted to operate only during the hours such City facilities are open to the public;
- (c) Stationary Sidewalk Vendors shall not Vend in any City facilities where the City or facility operator has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- (d) In City facilities, no Sidewalk Vendor may engage in Sidewalk Vending Activities:
 - (1) within 50 feet of any other Sidewalk Vendor;
 - (2) on, or within 25 feet of, any sports field, building, recreation center, bathroom structure or playground equipment area;
 - (3) that utilize any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the City facility any way as part of Sidewalk Vending Activities;
 - (4) within 25 feet of any bench, table, barbeque pit, covered gathering area, statue, monument, art installation, or other publicly-owned structure or amenity in the City facility;
 - (5) in a manner that blocks sidewalks or pedestrian paths or restricts pedestrian and wheelchair/ADA clearance;
 - (6) in a manner where a Vending Cart touches or leans against any lamp post, tree, plant, planter box, rock formation, building, or trash receptacle;
 - (7) in any parking lots, on grass areas, or on bicycling paths;

Sec. 16-7.12.090 - Additional Operating Conditions for Stationary Sidewalk Vendors Vending Food

In addition to the operating conditions and prohibitions specified in Sections 16-7.12.070 and 16-7.12.080, Stationary Sidewalk Vendors vending food must operate within 200 feet of an approved and readily-available toilet and handwashing facility for employees and customers. If the facility is located on private property, the Sidewalk Vendor must possess a copy of an enforceable contract between the private property owner and the Sidewalk Vendor allowing the Vendor to utilize such facilities, including the days and hours of operation. Proof of authorized access to facilities must be provided prior to license issuance.

Section 16-7.12.100 - Adoption of Additional Regulations

The City Council may by resolution or ordinance adopt additional operational conditions or requirements regulating the time, place, and manner of Sidewalk Vending in the City which are consistent with Government Code Section 51038.

Section 16-7.12.110 - Exemptions

The provisions of this Article 12 shall not apply to, nor shall a Sidewalk Vendor License be required for any of the following activities:

- (a) Any vending pushcart or other device owned or operated by any public agency;
- (b) Persons delivering goods, wares, merchandise, fruits, vegetables, or foodstuffs upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution;
- (c) An approved participant in a Certified Farmers' Market;
- (d) Catering for private parties held exclusively on private property and not open to the general public;
- (e) An approved participant in a community event authorized by the City;
- (f) An event at a school facility or an assembly use facility, if the vendor is operating in partnership with the organization conducting the event and is located on the site of the event (i.e., not in the public right-of-way);
- (g) An individual or organization vending items that are inherently communicative and have nominal utility apart from its communication (e.g., newspapers, leaflets, pamphlets, buttons, etc.).

Sec. 16-7.12.120 - Violations and Penalties

(a) Violations of this Article that occur within the public right-of-way shall not be prosecuted as infractions or misdemeanors and shall only be subject to the issuance of Notices of Violation and Administrative Citations pursuant to Chapter 1.05 of the Victorville Municipal Code, except that notwithstanding Section 1.05.110 of said Code, the administrative fines and other penalties for violations of this Article (other than failure to obtain/maintain a valid Sidewalk Vendor License as set forth in subdivision (b) below) shall be as follows:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation.
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.
- (4) Rescission of a Sidewalk Vendor License for the term of said license upon a fourth violation or subsequent violations.

(b) If a Sidewalk Vendor violates any portion of this Article and cannot present the citing officer with a proof of a valid Sidewalk Vendor License, the Sidewalk Vendor shall instead be assessed administrative fines in the following amounts:

- (1) A fine not exceeding two hundred fifty dollars (\$250) for a first violation.
- (2) A fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation.
- (3) A fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.

- (c) Upon proof of a valid Sidewalk Vendor License issued by the City, the administrative fines set forth in Subsection 16-7.12.120(b) shall be reduced to the administrative fines set forth in Subsection 16-7.12.120(a).
- (d) All fines imposed on a Sidewalk Vendor pursuant to this Section 16-7.12.120 shall be subject to an ability-to-pay determination as described in California Government Code section 51039(f). Concurrently with issuing an administrative citation for such fines to a Sidewalk Vendor, the City shall provide the Sidewalk Vendor with notice of his/her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination.
- (e) Administrative citations may be appealed pursuant to the procedures set forth in Section 1.05.090 of the Victorville Municipal Code, except that the following additional provisions shall apply with respect to the assessment of an administrative fine upon a Sidewalk Vendor:
- (1) The Hearing Officer has the power to reduce the fine based upon the person's ability to pay the fine.
 - (2) If the Hearing Officer finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the Hearing Officer, shall order the City to accept, in full satisfaction, twenty percent (20%) of the administrative fine imposed pursuant to this Section.
 - (3) The Hearing Officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

Chapter 7, Title 16 – Business License Ordinance

{Entire Article 13 is a new addition to Chapter 7 of Title 16}

Article 13: Specially Regulated Business – Mobile Vehicle Vendors

Addition

Sec. 16-7.13.010: - Purposes and Intent

The City finds that the vending of produce, prepared or prepackaged foods, goods, and/or wares from motor vehicles temporarily parked on public streets or alleys and on private property may pose unsafe conditions and special dangers to the public health, safety and welfare of the residents of the City. It is the purpose of this Article to provide clear and concise regulations governing these types of motor vehicular mobile vending operations to prevent safety, traffic, and health hazards, and to preserve the peace, safety and welfare of the City and its residents.

Sec. 16-7.13.020 – Mobile Vehicle Vendor License Required

No Mobile Vehicle Vendor may vend or operate anywhere within the City without first obtaining a Mobile Vehicle Vendor License from the City. Mobile Vehicle Vendors must comply with the terms and conditions set forth in the Mobile Vehicle Vendor License and within this Article.

Sec. 16-7.13.030 - Mobile Vehicle Vendor Business License Application

(a) All business license applications must be completed online through the City's designated business license application system ("License System"). To receive a Mobile Vehicle Vendor License, each prospective Mobile Vehicle Vendor must provide the following items to the City through the License System:

- (1) All applicable documents described in Chapter 7, Article 3 of this Title;
- (2) A list of all applicable employees and/or Mobile Vending Vehicle licensed drivers;
- (3) A description of the food and/or merchandise to be sold;
- (4) Intended locations, days, and hours of operation;
- (5) A description of all Mobile Vending Vehicles to be used when vending, to include color photos of the sides, front and rear of the vehicles, and license plate numbers;
- (6) If the applicant will Vend Food, copies of applicable permits issued by the Health Department and certification that the Mobile Vehicle Vendor will comply with all applicable laws regarding Food Vending;
- (7) Proof of general liability, automobile liability, and such other insurance coverages in the amounts and types specified by the City's Risk Manager;
- (8) Proof that each Mobile Vending Vehicle is properly registered with California Department of Motor Vehicles;
- (9) A copy of the Mobile Vehicle Vendor's current and valid Seller's Permit;
- (10) A declaration that the information provided to the City in connection with the Mobile Vehicle Vendor License application is true and correct;
- (11) Full payment of the applicable Mobile Vehicle Vendor License fees, as set by Resolution of the City Council.

(b) Mobile Vehicle Vendors intending to operate on private property must also provide the following:

- (1) a copy of the property owner's written authorization to vend in the specified location and approval of land use entitlements as prescribed in Chapter 3 of this Title;
- (2) A site plan, drawn to scale and with dimensions, indicating the location of all existing buildings, structures, driveways, parking spaces, traffic controls, and improvements and the location where the proposed vending activity will be located on site, and demonstrating that there will be adequate ingress and egress to the site and that the mobile vending activity will have adequate parking and not utilize parking otherwise required for any business located at the site;

(c) In addition, prior to the issuance of a Mobile Vehicle Vendor License, the applicant and each of applicant's employees and/or operators of Mobile Vending Vehicles shall cause to be filed with the Chief of Police, or his/her designee, a live scan background check conducted by the California Department of Justice within the previous six months of the application date. The Chief of Police, or his/her designee, shall furnish each applicant with a live scan request form for use at any live scan vendor location. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), the City Council explicitly authorizes the Chief of Police to obtain such information as it relates to disqualifying convictions or conduct related to the crimes or offenses described in Section 16-7.13.040.

(d) The above information and the Mobile Vehicle Vendor License renewal fee (as established by resolution of the City Council) must thereafter be provided annually to the City prior to the date the Mobile Vehicle Vendor's current Mobile Vehicle Vendor License expires.

Sec. 16-7.13.040 - Criteria for Approval or Denial of License

(a) The City Manager, or his or her designee, may deny the application for issuance of a Sidewalk Vendor License if he or she determines that:

- (1) Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
- (2) The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;
- (3) The applicant has failed to demonstrate an ability to conform to the operating conditions and standards applicable to the particular type of Mobile Vehicle Vendor License for which vendor has applied, as set forth in Sections 16-7.13.050 through 16-7.13.080 of this Article;
- (4) The applicant has previously violated any provisions of this Article or this Chapter;
- (5) The Chief of Police, after conducting a preliminary investigation to determine compliance with this Chapter, has found any of the following as a result of the live scan background check performed on the applicant or its employees:

- (A) A conviction in a court of competent jurisdiction or a plea of nolo contendere to any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058 within three (3) years of the date of application; or
- (B) Active probation or parole status for any offenses set forth in this Section that was committed within three (3) years of the date of application; or
- (C) A conviction of a felony or misdemeanor involving crime of moral turpitude within three (3) years of the date of the application; or
- (D) If the application is for a driver/operator of a Mobile Vending Vehicle, conviction of alcohol or drug related traffic offenses;
- (E) Registration under the provisions of California Penal Code section 290 (or an equivalent section in any other State) is required.

(b) If an application is denied, the basis for the denial shall be mailed to or delivered in writing to the applicant setting forth the reasons for the denial. If the denial is not appealed within ten (10) days as provided in Section 16-02.02.050 of this Title, the determination of denial shall become final and conclusive.

Sec 16-7.13.050 - Mobile Vehicle Vendor Operational Regulations and Requirements

(a) No Mobile Vehicle Vendor shall:

- (1) Vend when the Mobile Vending Vehicle is in motion. Vending can only take place when the vehicle is lawfully parked or stopped.
- (2) Vend from the side of the Mobile Vending Vehicle towards moving traffic. Vending can only take place from the side of the vehicle away from moving traffic and as near as possible to the curb or edge of the right-of-way.
- (3) Vend to a person standing in the street or roadway.
- (4) Vend on a street or roadway unless there is a clear view from the Mobile Vending Vehicle for a distance of at least 200 feet in each direction.
- (5) Stop on the left side of a one-way street to vend.
- (6) Back up the Mobile Vending Vehicle on a public street or roadway to make or attempt a sale.
- (7) Vend from any street parking space other than a space parallel to the curb.
- (8) Operate from any vehicle not licensed by the Department of Motor Vehicles.

(b) Unauthorized riders on Mobile Vending Vehicles prohibited:

- (1) The Mobile Vehicle Vendor must not permit any unauthorized person to ride in or on the Mobile Vending Vehicle.
- (2) No person shall ride in or on a Mobile Vending Vehicle unless such person:
 - (A) is employed by the owner of the Mobile Vending Vehicle business,
 - (B) is authorized in writing to do so by the owner of the Mobile Vending Vehicle business; or
 - (C) has received permission through the application process in this Article.

(D) All persons licensed by the City to operate a Mobile Vending Vehicle must be at least 18 years of age and possess a valid, unexpired California Driver's License.

Sec 16-7.13.060 – Mobile Vehicle Vendor Standards, Conditions and Requirements

All Mobile Vehicle Vendors shall comply with the following standards, conditions and requirements:

(a) Location:

- (1) No Vending shall occur within ten (10) feet of a fire hydrant, fire escape, building entrance, bus stop, loading zone, handicapped parking space or access ramp, or driveway. A greater distance or separation from other uses may be required under the conditions imposed on a Mobile Vehicle Vendor License, in order to preserve line-of-sight, or for other safety reasons;
- (2) No vending shall occur within three hundred (300) feet of the grounds of any elementary or junior high school;
- (3) No vending shall occur within five hundred (500) feet of a freeway entrance or exit;
- (4) Vendors shall not stop in any single location for more than one and one-half hours in any twenty-four-hour period;
- (5) Vending at any City park, recreational facility, or sports complex is permitted only upon the prior written authorization from the City's Director of Community Services or pursuant to a Temporary Special Permit in accordance with Victorville Municipal Code Section 14.04.040(n).

(b) Design and Operating Standards, condition/appearance of site and Mobile Vending Vehicle:

- (1) The Mobile Vehicle Vendor shall maintain the area within which vending activities occur in a clean, safe and sanitary condition;
- (2) No tables, chairs, fences, shade structures, other site furniture, or any freestanding signs shall be permitted in conjunction with the vending operation;
- (3) Should any site improvements be needed for ongoing vending operations, the Mobile Vehicle Vendor shall be required to apply for appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations;
- (4) The Mobile Vehicle Vendor shall not attach or use any water lines, electrical lines or gas lines during vending operations; and
- (5) Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the Mobile Vending Vehicle is prohibited;
- (6) Mobile Vehicle Vendors shall display, in plain view and at all times, current permits and licenses in or on their Mobile Vending Vehicles;
- (7) All Mobile Vending Vehicles shall be clean and in good repair;
- (8) Mobile Vehicle Vendors shall not discharge items from any Mobile Vending Vehicle onto the sidewalk, gutter, storm inlets or drains, or streets; and

- (9) The width, length, and height of all Mobile Vending Vehicles and devices shall be subject to review as part of consideration of the Mobile Vehicle Vendor License.
- (c) Hours of operation: Mobile Vehicle Vending shall be conducted between the hours of 7:00 a.m. and 10:00 p.m. All Vending operations shall comply with the City's noise ordinance.
- (d) Lighting: The Mobile Vehicle Vendor shall provide adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.
- (e) Obstructions, hazards: No Mobile Vehicle Vendor shall obstruct vehicular traffic, bicycle traffic, sidewalk pedestrian traffic, or accessibility to vehicles parked adjacent to a curb, and shall not create public health or safety hazards.
- (f) Parking: Prior to issuance of the Mobile Vehicle Vendor License, the City shall confirm that an acceptable area for customer parking exists or shall specifically exempt the Mobile Vehicle Vendor from this requirement due to the nature and/or location of the use. If the Vending will occur on private property, the City shall determine that there will be adequate ingress and egress to the site, and that the vending operation will have adequate parking and not utilize parking otherwise required for any business located on the site. Parking for the Mobile Vehicle Vendor shall be specified in compliance with the Mobile Vehicle Vendor License. The vendor shall not indicate exclusive roadway parking or reserve any public parking area for the vendor's customer parking.
- (g) Exceptions: Exceptions to increase length of time for Vending in a single location or daytime hours for special events are to be filed with the Zoning Administrator as part of the business's Temporary Use Permit and considered on an individual basis.
- (h) Other applicable regulations: Each Mobile Vehicle Vendor shall comply at all times with all applicable federal, state, county, City, and other local laws and regulations.

Sec. 16-7.13.070 – Special Regulations for Ice Cream Trucks

- (a) All Ice Cream Trucks must be equipped at all times with signs mounted on both the front and the rear and clearly legible from a distance of 100 feet under daylight conditions, incorporating the words "WARNING" and "CHILDREN CROSSING." Each sign shall be at least 12 inches high by 48 inches wide, with letters of a dark color and at least four inches in height, a one-inch solid border and a sharply contrasting background.
- (b) No person shall vend any item other than prepackaged food from an Ice Cream Truck unless applicable health permits have been obtained.

(c) Ice Cream Trucks shall stop and vend only at the request of a customer. Absent an actual customer, Ice Cream Trucks shall not stop and vend.

Sec 16-7.13.080 – Food Truck Operations

Provided a Mobile Vehicle Vendor License has been obtained in accordance with the provisions of this Article, Food Trucks may operate within the City with an approved Temporary Use Permit, issued pursuant to Article 4 of Chapter 3 of this Title and subject to the restrictions on such temporary uses in Section 16-3.07.050.

Sec 16-7.13.090 - Exemptions

A Mobile Vehicle Vendor License is not required for the following activities:

- (1) The sale of agricultural products on the site where the product is grown;
- (2) Catering for private parties held exclusively on private property and not open to the general public;
- (3) Permitted community events such as, but not limited to, Certified Farmers' Markets, crafts fairs, street fairs, and other special events approved and designated by the City (provided a Temporary Use Permit is obtained pursuant to Title 16, Chapter 3, Article 4 of this Code); and
- (4) Delivery activities of any establishment with a fixed place of business, which has a valid City business license for such fixed place of business, and only delivers its products, services, or goods to a specified address in response to a customer request, order, or invoice previously placed through that fixed place of business.

Sec. 16-7.13.100 - Indemnity

As a condition of issuance of a Mobile Vehicle Vendor License, the applicant shall agree to indemnify, hold harmless, and defend the city and its officials, employees, and agents from and against all liability, damage and/or loss arising from the conduct of Mobile Vehicle vending activities by the vendor, its employees, and agents.

Sec. 16-7.13.140 – Violations; Penalties

Any person violating any of the provisions of this Article or knowingly or intentionally misrepresenting to any authorized officer of the City any material fact in procuring the License herein provided for shall be subject to the penalties set forth in Section 16-7.01.160 of Chapter 7.