



**CITY OF HEMET  
Hemet, California  
ORDINANCE NO. 1952**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF HEMET, CALIFORNIA, ADDING ARTICLE  
XV "SIDEWALK VENDORS" TO CHAPTER 18 OF THE  
HEMET MUNICIPAL CODE AUTHORIZING THE  
IMPLEMENTATION OF A SIDEWALK VENDOR PERMIT  
PROGRAM IN COMPLIANCE WITH SENATE BILL 946**

**WHEREAS**, existing law authorizes the City of Hemet to regulate any type of vending and the time, place, and manner of vending from a vehicle upon a street; and

**WHEREAS**, Senate Bill 946 was approved by the Governor in September, 2018, prohibiting a local authority from regulating sidewalk vendors, except in accordance with the provisions of the bill; and

**WHEREAS**, Senate Bill 946 authorizes the City Council to adopt by Ordinance additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety or welfare concerns; and

**WHEREAS**, Senate Bill 946 goes into effect January 1, 2019; and

**WHEREAS**, Government Code section 36934 authorizes ordinances to take effect immediately if they are for the immediate preservation of the public peace, health or safety, contain a declaration of the facts constituting the urgency, and are passed by a four-fifths vote of the City Council.

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

**SECTION 1: FINDINGS AND DECLARATION OF URGENCY.**

- (a) The City of Hemet generally prohibits sidewalk vendors subject to certain exceptions.

- 1 (b) Senate Bill 946 (California Government Code section 51036 et seq.;  
2 hereinafter referred to as the "Bill") authorizes any California city or county,  
3 whose governing body so elects, to adopt a sidewalk vending program in  
4 accordance with the provisions of the Bill.
- 5 (c) The Bill will go into effect on January 1, 2019 and will allow street vendors  
6 to invalidate the City's general prohibition.
- 7 (d) The Bill expressly authorizes the City to adopt by ordinance additional  
8 requirements regulating the time, place, and manner of sidewalk vending if  
9 the requirements are directly related to objective health, safety or welfare  
10 concerns.
- 11 (e) Without an ordinance regulating sidewalk vending in effect immediately,  
12 City finds that it will not be able to adequately address objective health,  
13 safety or welfare concerns of the general public including, but not limited  
14 to:
- 15 i. Limiting hours of operation in a manner consistent with other  
16 businesses or uses;
  - 17 ii. Requiring sanitary conditions for food related vending, including  
18 proper permits from the Riverside County Department of  
19 Environmental Health; and
  - 20 iii. Ensuring no sidewalk vendor may place any cart or display in a  
21 manner that obstructs vehicular or pedestrian traffic.
- 22 (f) With the exception of an urgency ordinance, two readings are required to  
23 adopt an ordinance: one to introduce and the second to adopt. Council's  
24 schedule will result in the ordinance not being effective until February  
25 2019.
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1 (g) Therefore, in order to protect the safety and welfare of the general public,  
2 the City of Hemet has an urgent need for this ordinance to be effective  
3 January 8, 2019.

4 (h) Government Code § 36937 authorizes ordinances to take immediate effect  
5 when they are “[f]or the immediate preservation of the public peace, health  
6 or safety, containing a declaration of the facts constituting the urgency, and  
7 [are] passed by a four-fifths [4/5] vote of the City Council.”

8 (i) For the reasons set forth in the above findings, the City Council of the City  
9 of Hemet finds and declares that this proposed ordinance is necessary for  
10 immediate preservation of the public's health, safety and general welfare.

11 **SECTION 2: ADDITION OF ARTICLE XV TO CHAPTER 18.**

12 Article XV “SIDEWALK VENDORS” is hereby added to Chapter 18 of the Hemet  
13 Municipal Code to read as set forth in the attached Exhibit A.

14 **SECTION 3: SEVERABILITY.**

15 If any section, subsection, sentence, clause, phrase or portion of this ordinance is  
16 held for any reason to be invalid or unconstitutional by a decision of any court of  
17 competent jurisdiction, such decision shall not affect the validity of the remaining portions  
18 of this ordinance. The City Council hereby declares that it would have adopted this  
19 ordinance and each section, subsection, clause, phrase or portion thereof, irrespective  
20 of the fact that any one or more sections, subsections, sentences, clauses, phrases or  
21 portions be declared invalid or unconstitutional.

22 **SECTION 4: CEQA.**

23 This ordinance is exempt from the requirements of the California Environmental  
24 Quality Act (“CEQA”) pursuant to State CEQA Guidelines, as it is not a “project” and has  
25 no potential to result in a direct or reasonably foreseeable indirect physical change to the  
26 environment because it is merely the formation of an organization. 14 Cal. Code Regs.  
27 § 15378(a). The ordinance is also exempt from CEQA because it is an organizational or  
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administrative activity of governments that will not result in direct or indirect physical change in the environment. 14 Cal. Code Regs. § 15378(b)(5). The ordinance is also exempt from CEQA because it is merely a change in organization of local agencies. 14 Cal. Code Regs. § 15320. The City Clerk shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

**SECTION 5: EFFECTIVE DATE.**

This Ordinance shall take effect January 8, 2019.

**SECTION 6: PUBLICATION.**

The City Clerk is authorized and directed to cause this ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and posting procedure authorized under Government Code Section 39633(c).

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of January, 2019.

\_\_\_\_\_  
**Bonnie Wright, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Sarah McComas, City Clerk**

\_\_\_\_\_  
**Eric S. Vail, City Attorney**

1 State of California )  
County of Riverside )  
2 City of Hemet )  
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4 I, Sarah McComas, City Clerk of the City of Hemet, do hereby certify that the  
5 foregoing Urgency Ordinance was passed, approved and adopted on the 8<sup>th</sup> day of  
6 January, 2019, by the following vote:  
7

8 **AYES: Council Members Krupa and Perciful, Mayor Pro Tem Brown and**  
9 **Mayor Wright**

10 **NOES:**

11 **ABSTAIN:**

12 **ABSENT:**  
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14 Sarah McComas, City Clerk  
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## **EXHIBIT A**

### **Chapter 18, Article XV**

#### **18-475 – Purpose.**

The purpose of this article is to establish a sidewalk vending program within the boundaries of the City while maintaining regulations that are directly related to the objective health, safety, and welfare of the City.

#### **18-476 – Definitions.**

The following definitions apply to this article:

“Cart” means any pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, and includes a stationary cart or a mobile cart.

“Director” means the City Manager or his or her designee.

“Food” means any type of edible substance or beverage.

“Goods” or “merchandise” means any item that is not food.

“Health Department” means the Riverside County Department of Environmental Health.

“License” means a business license issued in accordance with the Hemet Municipal Code.

“Mobile cart” means a pushcart, pedal-driven cart, wagon, or other nonmotorized conveyance used by a roaming sidewalk vendor.

“Permit” means a permit related to sidewalk vending that is issued in accordance with this article.

“Permit fee” means the fee charged for issuance of the permit related to sidewalk vending that is issued in accordance with this article.

“Person” or “persons” means one or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnerships, entities, associations, clubs or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.

“Roaming sidewalk vendor” has the same meaning as set forth in Government Code section 51036(b), and includes a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Rules and regulations” means the rules and regulations established by the Director concerning the sidewalk vending program that is intended to clarify and aid in the administration and enforcement of this article.

“Sidewalk” means any surface in the public right-of-way provided for the use of pedestrians.

“Sidewalk vending program” means the program established by this article that is applicable to sidewalk vending-related activities.

“Sidewalk vendor” has the same meaning as set forth in Government Code section 51036(a), and includes a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Stationary cart” means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, that is intended to be operated from a fixed location by a stationary sidewalk vendor instead of being moved from place to place, where stops are limited to completing a transaction.

“Stationary sidewalk vendor” has the same meaning as set forth in Government Code section 51036(c), and includes a sidewalk vendor who vends from a fixed location.

#### **18-477 – Administration.**

The Director is authorized to develop, and enforce, the rules and regulations regarding the licensing, permitting, and operation of sidewalk vending, in accordance with this article.

#### **18-478 – Licenses required.**

No sidewalk vendor may operate anywhere within the City without first obtaining a business license. Sidewalk vendors must comply with the terms and conditions set forth in the business license.

#### **18-479 – Permits required.**

- A. No sidewalk vendor may vend anywhere within the City without first obtaining a sidewalk vending permit.
- B. No permit will confer entitlement or exclusive right to vend at a specified location within the City.
- C. A permit is required for each cart, stationary cart, or stationary sidewalk vendor display at a fixed location.

## **18-480 – Application requirements.**

- A. To obtain a sidewalk vending permit, a sidewalk vendor must provide the following as part of their application:
- i. Valid identification, such as a State of California identification, or any other government-issued identification card;
  - ii. The name, address and telephone number of the sidewalk vendor;
  - iii. The name, address, and telephone number of all persons that will be employed as roaming sidewalk vendors or at a stationary sidewalk vending cart;
  - iv. Proposed hours of operation;
  - v. Proposed location of operation;
  - vi. Whether the sidewalk vendor intends to operate a stationary cart or a mobile cart;
  - vii. The type of merchandise offered for sale or exchange;
  - viii. Proof of a valid business license;
  - ix. Proof of liability insurance;
  - x. An application fee as set forth by resolution of the City Council;
  - xi. A valid California Department of Tax and Fee Administration seller's permit and additional licenses from state or local agencies to the extent required by law;
  - xii. Proof of completion of a food handler course and present a copy of the course completion certificate, if applicable;
  - xiii. A permit from the Health Department for food-related vending, if applicable;
  - xiv. A declaration that the information provided to the City is true and correct; and
  - xv. Any other information or applicable permits, including operations-related information, as may be required by the Hemet Municipal Code.
- B. Each application for a permit shall be accompanied by a non-refundable permit fee of \$44.00. The permit fee may be adjusted by resolution of City Council from time to time.



- C. Permits will expire six months after the date of issuance.
- D. Permits are not transferrable.

**18-481 – Renewal.**

- A. To renew a sidewalk vending permit, a sidewalk vendor must provide all the information as set forth in Section 18-480.
- B. A person whose license or permit is revoked may not renew their license or permit for one year.

**18-482 – Denial, revocation, or suspension of permits.**

- A. In addition to any other reason provided for in this article, a permit may be denied, suspended or revoked when it has been determined that the sidewalk vendor:
  - i. Has not complied with the applicable provisions of this article for the fourth time;
  - ii. Has knowingly made a false statement of fact in an application for such permit; or
  - iii. Has payment of any administrative fine that remains outstanding.
- B. From the time of the revocation or suspension of a sidewalk vendor permit granted under the provisions of this article, it is unlawful for any person whose permit has been suspended or revoked to operate within City boundaries until a new permit has been procured or the period of suspension has expired. It is also unlawful for any person to operate within the City during the period of time that a permit has been revoked, terminated or suspended.

**18-483 – Appeal hearings.**

- A. Any person aggrieved by any determination under the provisions of this article shall be entitled to appeal that decision as provided herein.
- B. Any recipient of an administrative citation may contest that there was a regulatory violation or that he or she is the responsible party.
- C. Any interested person may appeal a decision of the director regarding an application for or revocation of a sidewalk vendor permit by filing with the City Clerk a complete notice of appeal within 15 days from the date notice of such decision is mailed. To be deemed complete, the appeal must be in writing, state the grounds for disagreement with the director's stated decision, include the address to which notice is to be mailed, be signed under penalty of perjury, and be accompanied by the filing fee established by City Council resolution.

- D. If an appeal is timely filed, the City Clerk will cause to be set a date for the hearing of the appeal not more than 30 days from the date the appeal is received. The hearing will be a de novo hearing on the action appealed from. At the hearing, the appellant will have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues. The hearing officer will not be bound by the formal rules of evidence. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness.
- E. The hearing officer will issue written findings and a decision within ten days of the conclusion of the hearing, and send notice of the decision by certified mail to the appellant. The notice of the decision must include reference to the appellant's right to prompt judicial review under California Code of Civil Procedure section 1094.8.
- F. The action by the hearing officer will be final unless timely judicial review is sought pursuant to California Code of Civil Procedure section 1094.8.

**18-484 – Operational requirements.**

- A. A cart used for sidewalk vending must obtain and prominently display a valid permit and all other permits issued by other public agencies.
- B. A cart used for sidewalk vending must be placed and used at all times in compliance with the terms and conditions of the permit and all other applicable laws and regulations, including the California Retail Food Code if food is sold.
- C. A cart must operate according to its approved hours of operations. The director may impose reasonable hours of operation for sidewalk vendors. For sidewalk vending in nonresidential areas, the director may limit the hours of operation in a manner consistent with other businesses or uses on the same street(s) in those nonresidential areas.
- D. No cart, condiment table or trash receptacle may be left on the sidewalk after the sidewalk vendor's stated closing time.
- E. A sidewalk vendor must maintain a clean and trash-free 10-foot radius from a stationary cart during hours of operation and must leave the area clean by the approved closing time.
- F. Sidewalk vendors that vend food items must provide a trash receptacle for customers and must ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash.
- G. Sidewalk vendors must not operate upon any public roadways or streets where no paved sidewalk is available.
- H. Sidewalk vendors must not operate in a public parking lot occupying a designated parking space with markings to indicate where authorized parking is

permitted.

**18-485 – Vending in residential areas.**

- A. No stationary cart may be used to vend within a residential zoned area. However, a sidewalk vendor may use a mobile cart within a residential zone, and must move continuously except when necessary to complete a sale.

**18-486 – Prohibitions on placement of stationary or mobile carts.**

- A. No sidewalk vendor may place or leave any cart, canopy, merchandise displays, perishables, or other items relating to vendor's business in a manner that obstructs vehicular or pedestrian traffic, or the visibility of such, and includes the following:
- i. Within 10 feet of a marked crosswalk;
  - ii. Within 10 feet of the curb return of an unmarked crosswalk;
  - iii. Within 10 feet of any fire hydrant, fire-call box or other emergency facility, as defined in the rules and regulations;
  - iv. Within 10 feet of a driveway or driveway apron;
  - v. Within 3 feet from the edge of the curb;
  - vi. Within 25 feet of an entrance or exit to a building, structure or facility;
  - vii. Within two hundred (200) feet of
    - a. A police station;
    - b. A fire station;
    - c. Hemet City hall; or
    - d. Hemet Public Library.
  - viii. Within one hundred feet (100) of:
    - a. Another sidewalk vendor; or
    - b. A public or private school.
  - ix. Where placement impedes the flow of vehicular traffic such as on public streets or public highways
  - x. Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than 4 feet, or impedes access to or the use of abutting

property, including, but not limited to, residences and places of business, in accordance with the Americans with Disabilities Act (ADA); and

- B. No cart may be chained or fastened to any pole, sign, tree, or other object in the public right-of-way or left unattended, unless as permitted by the rules and regulations.
- C. Notwithstanding any specific prohibitions in this section, no sidewalk vendor may install, use or maintain a cart where placement endangers the safety of persons or property.

**18-487 – Sidewalk vending related to parks, special events, or locations that are subject to special permits.**

- A. No sidewalk vending is allowed within 300 feet of a permitted event during the duration or operating hours of such an event. Permitted events include certified farmers' markets, swap meets, and any event that requires 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 permits.
- B. No stationary sidewalk vendors may vend in any park subject to a signed exclusive concessionaire's agreement.
- C. The City may by resolution adopt additional requirements consistent with Government Code section 51038(b)(2)(B) for city-owned or operated parks, effective after signs are posted giving notice of such additional requirements.

**18-488 – Fines.**

Sidewalk vending in violation of this article will not be punishable as a criminal infraction or misdemeanor, but will be subject to an administrative citation as follows:

- A. For vending without a valid license or permit:
  - i. An administrative fine of \$250 for a first violation;
  - ii. An administrative fine of \$500 for a second violation within one year of the first violation;
  - iii. An administrative fine of \$1,000 for a third violation and each subsequent violation, within one year of the first violation;
  - iv. Upon proof of a valid permit issued by the City before such fines are due, the City will reduce the amount of the fines to \$100 for the first violation, \$200 for the second violation, and \$500 for each violation thereafter.
- B. For all violations of this article other than vending without a valid license or permit as outlined in subsection A above:

- i. An administrative fine of \$100 for a first violation;
  - ii. An administrative fine of \$200 for a second violation within one year of the first violation;
  - iii. An administrative fine of \$500 for a third violation within one year of the first violation;
  - iv. An administration fine of \$500 for a fourth and each subsequent violation and revocation of the license or permit.
- C. The City will provide the person subject to the fine notice of his or her right to request an ability-to-pay determination and will make available instructions or other materials for requesting an ability-to-pay determination.
- D. Fines assessed pursuant this section may be reduced to 20 percent of the original fine amount upon submission of proof of inability to pay at an adjudication hearing if requested by the person pursuant to Government Code section 51038(f).
- E. Fines collected under this section will be deposited with the City's treasury for general use.

#### **18-489 – Removal of cart.**

The City may request the sidewalk vendor remove any cart if the cart is creating an imminent safety hazard or is placed within a prohibited area as set forth in this article. If the sidewalk vendor refuses to remove the cart, or if the cart has been abandoned, the City may remove the cart and/or dispose of the cart in accordance with the rules and regulations, after providing at least 30 days' notice of redemption to the address associated with the cart, if any.