

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING SECTIONS 14.40.010, "DEFINITIONS," AND 14.40.015,  
"NONAPPLICABILITY," OF ARTICLE IV, "PEDDLERS AND SOLICITORS," OF  
CHAPTER 14, "LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS," OF  
THE TOWN CODE AND REPLACING ARTICLE VII, "PUSHCARTS," OF CHAPTER 14,  
"LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS," WITH A  
NEW ARTICLE VII, "SIDEWALK VENDING" IN THE TOWN CODE**

**WHEREAS**, Town Code Sections 14.40.010 and following currently regulate peddlers and solicitors; and

**WHEREAS**, Town Code Sections 14.70.010 and following currently regulate pushcart vendors; and

**WHEREAS**, Senate Bill 946 amended Government Code Sections 51036, limits the regulation of sidewalk vendors by local jurisdictions; and

**WHEREAS**, the Town Code should be updated to reflect the requirements of Government Code Sections 51036 and following;

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Los Gatos as follows:

**SECTION I.** Section 14.40.010, "Definitions," of Article IV, "Peddlers and Solicitors," of the Town Code is amended to read:

**Sec. 14.40.010. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Peddler.* Any person, who goes from house to house, place to place or to any one (1) house or to any one (1) place, within the Town, selling and making immediate delivery or offering for sale and immediate delivery any goods, wares, merchandise, services or anything of value in the possession of the peddler, to persons other than manufacturers, wholesalers, jobbers or retailers in such commodities or services.

*Solicitor.* Any person, who engages in the business of going from house to house, place to place or to any one (1) house or to any one (1) place, within the Town, selling or taking orders for, or offering to sell or take orders for, goods, wares, merchandise, services or other things of value, for future delivery or for services to be performed in the future, to persons other than manufacturers, wholesalers, jobbers or retailers in such commodities or services.

(Code 1968, § 19-1)

Cross reference(s)—Definitions and rules of construction generally, § 1.10.015.

**SECTION II.** Section 14.40.015, “Nonapplicability,” of Article IV, “Peddlers and Solicitors,” of the Town Code is amended to read:

**Sec. 14.40.015. Nonapplicability.**

The provisions of this article shall not apply to the following:

- (a) Any person peddling or soliciting orders for dairy, bakery, fruit, vegetables, meat, fish or poultry products, or other products intended for human consumption, except ice cream, candy, hot dogs, hamburgers, soft drinks and the like intended for immediate human consumption.
- (b) Any person peddling or soliciting subscriptions for newspapers or religious publications.
- (c) Any person peddling or soliciting on behalf of a religious, charitable or educational organization.
- (d) Any person soliciting for personal services to be performed by the person so soliciting.
- (e) Sidewalk vendors.
- (f) Any other person who files with the Town Clerk an affidavit setting forth the name and address of the affiant and which clearly establishes exemption from the provisions of this article by virtue of the Constitution or Statutes of the United States or of the State.

(Code 1968, § 19-2)

**SECTION III.** Chapter 14, “Licenses and Miscellaneous Business Regulations,” Article VII, “Pushcarts,” of the Town Code is repealed and replaced with the following:

**Sec. 14.70.010. Purpose.**

The Council finds and declares as follows:

- (a) Sidewalk vending on public streets in the Town serves the general welfare, if such operation is properly regulated by offering variety and convenience in shopping.
- (b) Without proper regulation, sidewalk vending causes problems of decreased accessibility for persons with disabilities; a lack of adequate access for first responder and emergency personnel; the monopolization of public spaces for private commercial use; traffic safety concerns for motorists, bicyclists, and pedestrians; and a lack of sales tax being collected.
- (c) It is therefore necessary to regulate sidewalk vending in such a manner as to obtain benefits for the Town while at the same time minimizing problems.

(Code 1968, § 19A.00.010)

**Sec. 14.70.020. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved location.* A site approved for location of a sidewalk vendor pursuant to this article.

*Food* means raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, chewing gum, and any other items defined as food by the California Retail Code.

*Food preparation.* The cooking or processing of food. It does not include assembling precooked or prepared foods or adding condiments.

*Mobile vendor* means any person in charge of or driving any motorized mobile vending vehicle requiring a state driver's license to operate, either as an agent, employee, or otherwise under the direction of the owner.

*No vending or limited vending zone* means an area where sidewalk vending is prohibited or limited due to objective public health, safety, or welfare concerns. The Town Council may establish no vending or limited vending zones by resolution, as set forth in this Chapter.

*Permittee.* Any person holding a valid sidewalk vending permit under this article. For purposes of this article, the act or omission of an agent or employee of any permittee is for all civil purposes the act or omission of the permittee.

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

*Sidewalk vending* means to sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter food, goods, or merchandise on any public sidewalk, paved pedestrian path, park, or other public property, with or without the assistance of a vending device, or to require someone to pay a fee or to set, negotiate, or establish a fee before providing any such food, goods, or merchandise, even if characterized by the sidewalk vendor as a donation.

*Sidewalk vendor* means a person who sells food or merchandise from a vending device or from one's person, upon a public sidewalk, paved pedestrian path, park, or other public property. This term is inclusive of both roaming and stationary sidewalk vendors.

*Stationary sidewalk vendor* means a sidewalk vendor who vends from a fixed location.

*Vending device* means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, nonmotorized conveyance (including trailers), freestanding table, chair, box, stand, or any container, structure, or other object used or capable of being used for holding, selling, advertising, or displaying tangible things, together with any associated seating facilities. Vending device does not include any street furniture such as benches or planters, any other structure permanently installed by the Town of Los Gatos or with the consent of the Town of Los Gatos.

*Enforcement official* means the Town Manager or designee, a Town code enforcement officer, a Parks Service Officer, and any Police Department sworn personnel and community service officers.

(Code 1968, §§ 19A.05.010—19A.05.050)

Cross reference(s)—Definitions and rules of construction generally, § 1.10.015.

**Sec. 14.70.030. Sidewalk Vending Permit Required.**

- (a) Sidewalk vending is not permitted without a sidewalk vending permit issued by the Town.
- (b) A sidewalk vending permit shall only permit the operation of one vending device at any one time.
- (c) No permit granted pursuant to this Chapter shall be transferable.
- (d) An approved stationary sidewalk vending permit grants the permittee the privilege of occupying a particular portion of the public path or sidewalk for the purpose of conducting the approved vending business. An approved stationary vending permit does not grant the permittee any estate or other property right or interest to operate at the location for which the permit is issued and/or to operate at any location in the public street.

**Sec. 14.70.040. Sidewalk vending permit application and fees.**

- (a) To apply for a sidewalk vending permit, the sidewalk vendor applicant must file an application with the Town. The application shall be in a form developed by Town staff and shall contain the following:
  - 1. The legal name and current address, telephone number, and email address of the applicant, who must be a natural person (i.e., an individual human being and not a corporation, firm, partnership, etc.), a copy of the applicant's California driver's license, California identification card, U.S. passport, individual taxpayer identification number, federal identification number, or other identification number or card issued by a foreign government;
  - 2. If sidewalk vending as a representative of a firm, association, or partnership, the name and address thereof and the names and residences of partners or association members. If sidewalk vending as a representative of a corporation, the name and address thereof and the names and residences of officers and a local manager;
  - 3. A Statement of Operations which includes the type of operation (mobile or stationary), description of the food or merchandise offered for sale, hours of operation, and location of operation;
  - 4. Copies of all required licenses and permits, including but not limited to, a Town of Los Gatos business license, California seller's permit, and copies of all permits and approvals needed from the County of Santa Clara Department of

Environmental Health. Each separate concurrently operating vending location requires its own business license and sidewalk vending permit.

5. The following release, indemnification, and acknowledgement requirements:
  - (i) An agreement by the applicant to waive and release the Town and its officials, agents, employees, contractors, and volunteers from and against any and all claims, costs, liabilities, expenses, or judgements (including attorneys' fees and court costs) related to or arising out of the applicant's sidewalk vending activities.
  - (ii) An agreement by the applicant to, to the greatest extent allowed by law, defend, indemnify, and hold harmless the Town, its officials, agents, employees, contractors, and volunteers from and against any and all claim related to or arising out of the applicant's sidewalk vending activities.
  - (iii) An acknowledgement and agreement that the applicant's use of the sidewalk or other Town facilities is at the applicant's own risk, and it is not the Town's responsibility to ensure that the vending location is safe or conducive to the vending activities.
6. Photos, dimensions, and a description of the vending device that will be used. If the vending device is mobile, the application shall also contain all applicable vehicle identification information including VIN, make, model and engine number;
7. An acknowledgement of having read and an agreement to abide by this Chapter; and
8. Commercial general liability, automobile, and workers compensation insurance policies and other such policy as the Town shall require.

(Code 1968, § 19A.15.060)

Cross reference(s)—Health and sanitation generally, Ch. 13; sewers and sewage disposal, Ch. 22.

**Sec. 14.70.050. Sidewalk vending permit approval, conditions, denial, or revocation.**

- (a) A sidewalk vending permit shall be approved unless it is determined that:
  - (1) Information contained in the application, or supplemental information requested from the applicant, is incomplete or false in any material detail; or
  - (2) The proposed operations are contrary to the provisions and operating standards of this Chapter;
  - (3) The applicant has failed to pay or otherwise resolve any previous administrative citations associated with a previous violation of this Chapter;

- (4) The location of the proposed vending operations has already been approved for another use (including other vending operations) at the time the applicant proposes to vend at the subject location; or
- (5) The proposed vending operations are in violation of any federal, state, or local law or ordinance and/or the Town's approval of a sidewalk vending permit would be contrary to legal requirements applicable to the Town.
- (b) Reasonable sidewalk vending permit conditions, regulating the time, place, and manner of sidewalk vending may be added.
- (c) If the permit is denied, written notice of such denial and the reasons therefore will be provided to the applicant.
- (d) A sidewalk vending permit may be revoked for violation of this Chapter. A sidewalk vendor whose permit is revoked may apply for a new sidewalk vending permit upon the expiration of the term of the revoked permit.
- (e) An applicant may appeal the decision to deny, revoke, or condition the application to the Town Manager within ten business days of the decision. An appeal hearing will be held by the Town Manager or their designee within ten business days from the date the appeal is received. At the hearing, both the applicant and the staff member denying the permit shall have the right to appear and to present evidence and arguments relevant to the grounds on which the decision to deny the application is appealed. The burden of proof shall be on the applicant to show that they meet the qualifications for a sidewalk vending permit. The decision of the Town Manager, or their designee, shall be final and conclusive upon the applicant.

(Code 1968, § 19A.15.080)

**Sec. 14.70.060. Sidewalk Vending Permit Expiration and Renewal.**

A sidewalk vending permit shall be valid for twelve months from the date of issuance, except that a sidewalk vending permit shall be deemed null and void upon the revocation or expiration of: a) the related Town-issued business license, b) a required permit from the County of Santa Clara Department of Environmental Health, and/or c) the California seller's permit issued pursuant to Revenue and Taxation Code Section 6067.

**Sec. 14.70.070. Sidewalk Vending Standards.**

Sidewalk vendors shall comply with the following standards in order to preserve Town infrastructure, prevent unreasonable conflicts with pedestrians and vehicular traffic, prevent improper disposal of trash, and to assure that pedestrians (including pedestrians with disabilities) have adequate and accessible thoroughfares, to minimize trip and fall hazards, to

address driver visibility or distraction concerns, and to address other public health, safety, and welfare concerns.

(a) Location.

- (1) Sidewalk vending is only permitted on paved surfaces.
- (2) To maintain accessibility, sidewalk vendors shall not place or allow any obstruction to be placed on the sidewalk or pedestrian pathway that would reduce the width of the sidewalk or pedestrian pathway below five feet or one-half of the sidewalk, whichever is greater, excluding curb, and excluding any sidewalk areas that are made non-passable due to any natural barriers or other existing conditions or obstructions such as posts, parking meters, street trees, planters, or signs that are located on the sidewalk, except for the brief duration of time for a roaming sidewalk vendor to conduct a sale. Sidewalk vendors shall maintain their vending devices at all times in a manner that provides sufficient access to the sidewalk and avoids impeding the flow of pedestrian traffic. At no time may a sidewalk vendor operate in such a fashion that would violate or cause a violation of the Americans with Disabilities Act or state law on accessibility, or cause the sidewalk to narrow in a fashion that violates the accessible path of travel for persons with disabilities, including persons who use wheelchairs or other mobility devices.
- (3) Sidewalk vendors are prohibited within 200 feet of an intersection.
- (4) Sidewalk vendors shall not interfere with access or use of Town infrastructure, including Town benches, bike racks, wheelchair access ramps, stairs, parking meters, trash receptables, or recycling receptables.
- (5) Sidewalk vendors shall maintain a clear distance of 48 inches from any fire hydrant, emergency exit, or other emergency facility; (3) any curb which is designated as white, yellow, green, blue, or red zone, or a bus zone; (4) any entrance or exit to a building, facility, or stairway access point; or (5) any driveway or driveway apron. Vending or operating in a way that violates the accessible path of for persons with disabilities is per se unreasonable.
- (6) Stationary sidewalk vendors shall not locate their vending device over or within fifteen feet of a storm drain.
- (7) Vendors may not operate within twenty-five feet (25') of an automatic teller machine (ATM).
- (8) At locations where on street parking is angled to the curb, the vending device or area shall be set back three feet (3') from the curb face.

(b) Display.

- (1) In no event may a sidewalk vendor's total operational size (including any vending display device) exceed fifteen square feet.

- (2) Vending devices shall be at least 18 inches in height. No person engaged in sidewalk vending may display or sell their wares on the ground, or on a cloth, tarp, or other similar material on the ground.
  - (3) No permittee shall employ or have any movable or permanent stands, tables, chairs or devices other than the permitted stand or pushcart and one (1) chair for the permittee situated at any approved location.
  - (4) No food sidewalk vendor may be accompanied by or in the custody or possession of an animal, except a service animal.
  - (5) Sidewalk vendors shall not use easy-ups, tents, or similar shade structures.
- (c) Operations.
- (1) Sidewalk vendors shall not vend to occupants of motorized vehicles in operation.
  - (2) Sidewalk vendors shall not cause onlookers, customers, or others to obstruct the accessible path of travel for persons with disabilities, or the free flow or view of pedestrian or vehicular traffic.
  - (3) To maintain the free movement of pedestrians and/or vehicles, sidewalk vendors shall not use signs in connection with the sale, display, or offering for sale of items, except for those signs affixed to or painted on a vending device and that are no larger than the vending device itself.
  - (4) Sidewalk vendors must provide a trash receptacle for customers and employ good faith efforts to ensure proper disposal of customer trash. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations and/or the vendor's customers within a twenty-foot radius of the vending location. Sidewalk vendors are responsible for disposing of the trash or any residue associated with their business and may not use Town receptacles for this purpose.
  - (5) At all times while vending, food sidewalk vendors shall possess and display in plain view on the vending device a valid permit from the County of Santa Clara Department of Environmental Health.
  - (6) At all times while vending, sidewalk vendors shall possess and display in plain view on their person or on their vending device a valid sidewalk vending permit issued pursuant to this Chapter and a valid business license issued in accordance with Chapter 14 of the Town Code. A properly permitted sidewalk vendor must remain on site for all vending activities.
  - (7) Vending devices shall not be chained, fastened, or affixed at any time to any building or structure, including, but not limited to, lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trash cans, street signs, trees, or other objects



- within the public right-of-way. No vending devices shall become a permanent fixture on the vending site or be considered an improvement to real property.
- (8) Vending devices shall not be left or stored unattended on public property or within the public right-of-way.
  - (9) Sidewalk vendors shall not vend or distribute: (1) live animals, wildlife, fish, fowl, or insects; or (2) items that are otherwise illegal to sell or distribute under other laws (such as unlawful narcotics, cannabis, weapons, and counterfeit merchandise). Note that the unlawful possession or distribution of items is punishable according to the terms of applicable federal, state, or local law making such possession or distribution illegal.
  - (10) Sidewalk vendors shall not use sidewalks or public property as storage for extra inventory, merchandise, or personal belongings, except for: (1) vending devices, items placed on or in vending devices, and associated seating; and (2) personal belongings wholly contained underneath or inside or a vending device.
  - (11) No person shall use any street furniture, including any bench, planter, utility cabinet, or other street furniture or structure permanently installed on public property, for the display, sale, or distribution of food, goods, or merchandise.
  - (12) Trailers are not permitted on the sidewalk pursuant to California Vehicle Code 22500(f). Violation of this rule is punishable in accordance with the terms of the California Vehicle Code.
  - (13) Sidewalk vendors shall not connect to Town-owned utilities such as, but not limited to, electric boxes, water lines, and gas lines.
  - (14) Vendors shall not allow customers in their queue or encourage customers to interfere with or obstruct public right-of-way, paved pedestrian pathways, or traffic.
  - (15) In order to minimize noise impacts on residential units, in mixed use areas, a vendor may only engage in sidewalk vending between the hours of 9 a.m. and 5 p.m., or during hours of operation of adjacent businesses or uses on the same street, whichever is later.
  - (16) Sidewalk vendors shall be responsible for their own compliance with all applicable federal, state, and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulation; noise standards; alcoholic beverages, tobacco products, cannabis, electronic cigarette, smoking devices and controlled substances regulations; sanitation and health standards and the American with Disabilities Act and other disability access standards (both state and federal).
  - (17) Sidewalk vendors shall not operate or vend in a way that violates the terms of conditions of their sidewalk vending permit.

- (18) No permittee shall use, play or employ any sound, outcry, amplifier, loudspeaker, radio or any other instrument or device for the production of sound in connection with the promotion of a pushcart.
- (19) Food preparation is prohibited. Only ready-to-eat food may be sold.

**Sec. 14.70.080. Restricted vending times and locations.**

- (a) Stationary sidewalk vending is not permitted in the following areas:
  - (1) In any Town park when the park is closed or where the Town has entered into an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
  - (2) In areas that are zoned exclusively residential.
  - (3) Within 300 feet of a permitted certified farmers' market during the limited operating hours of that certified farmers' market or a special event for which a special event permit has been issued during the hours of that special event. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that Chapter.
  - (4) Within 400 feet of a school between the hours of 7:00 a.m. and 4:00 p.m. on school days.
  - (5) Within 600 feet of any entertainment establishment between the hours of 10 p.m. and 2 a.m.
  - (6) Within 200 feet of another sidewalk vendor.
  - (7) Within 50 feet of a location subject to a special event permit.
- (b) Both stationary and roaming sidewalk vending shall not be permitted on a bike path, a street (including within on-street parking spaces), within a driveway, or in a public parking lot.
- (c) In order to vend at Town parks, a park permit is required.
  - (1) A maximum of one vendor is permitted at each Town park.
  - (2) Vendors in parks are limited to two consecutive days within each 30-day period measured on a rolling basis.
  - (3) Vendors in parks are permitted only on paved surfaces within 20 feet of a park entrance.
  - (4) Vendors in parks are subject to the same permit requirements and fees as are imposed for vending permits outside of parks.
- (d) The Town Council may, by resolution, designate no vending or limited vending zones due to objective health, safety, or welfare concerns. In designating a no vending or limited

vending zone, the Town Council shall first determine that vending without limitation in the area would impede or interfere with public health, safety, or welfare.

- (e) This Section shall not be construed as prohibiting events that are conducted pursuant to, and in accordance with, a special event permit issued by the Town.

(Code 1968, § 19A.15.030)

Sec. 14.70.090. (Code 1968, § 19A.15.040)

Cross reference(s)—Food and food establishments generally, Ch. 10.

**Sec. 14.70.100. Compliance with other laws.**

Every permittee shall at all times have a valid business license. If food is being sold, a permit is also required from the County Health Department. Every permittee shall also comply with sections 28640 et seq. of the California Health and Safety Code.

(Code 1968, § 19A.15.050)

**Sec. 14.70.120. Administrative Citations.**

- (a) Unless otherwise provided, a violation of this Chapter by a sidewalk vendor who has a valid sidewalk vending permit from the city is punishable only by an administrative citation, in the amounts not to exceed the following:
- (1) One hundred dollars (\$100) for a first violation
  - (2) Two hundred dollars (\$200) for a second violation within one year of the first violation.
  - (3) Five hundred dollars (\$500) for each additional violation within one year of the first violations.
- (b) Unless otherwise provided, a person engaged in sidewalk vending without a valid town sidewalk vending permit shall be issued an administrative citation in amounts not to exceed the following, in lieu of the amounts set forth in subsection (a):
- (1) Two hundred fifty dollars (\$250) for a first violation.
  - (2) Five hundred dollars (\$500) for a second violation within one year of the first violation.
  - (3) One thousand dollars (\$1,000) for each additional violation within one year of the first violation.
- (c) A person issued an administrative citation pursuant to subsection (b), upon submitting proof of a valid sidewalk vending permit issued by the Town within ten calendar days of the date a citation is issued, may have the amount of their citation reduced to amounts set forth in subsection (a).

- (d) Unless otherwise provided, a violation of this Chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.
- (e) If an individual violated this Chapter and is issued an administrative citation, that person is required to come into reasonably prompt compliance with this Chapter. If a cited individual continues to operate unlawfully and/or fails to come into reasonably prompt compliance with this chapter, the individual may be issued a subsequent administrative citation on the same day, so long as at least one hour has passed between each administrative citation.
- (f) In order to facilitate the administration of this Chapter, Town enforcement staff are authorized to ask sidewalk vendors who are reasonably believed to be vending in violation of this Chapter for their identification card, or other identifying information, and said individuals are required to provide such information to the requestion enforcement staff.
- (g) A person who is issued an administrative citation(s) may contest the citation subject to the requirements and procedures of Chapter 1 of this Code. If the contest of the citation is successful, the hearing officer shall order the Town to return the fee paid for contesting the citation.
- (h) The Town shall also provide a person who receives a citation with a notice of their right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at any time before the assessed fine is paid, including while a judgment remains unpaid, when a case is delinquent, or when a fine has been referred to a comprehensive collection program. There shall be no charge for an ability-to-pay determination.
- (i) If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the Town shall accept, in full satisfaction, twenty percent of the fee assessed for an administrative citation imposed pursuant to this Chapter.
- (j) The Town may develop processes or regulations that would (1) allow for a person to complete community service in lieu of paying the total administrative fine; (2) provide for waivers of the administrative fine; or (3) provide for the offering of alternative dispositions.
- (k) Administrative citations issued under this section shall include the following notice: "You have a right to contest this citation within thirty (30) calendar days by completing a request for hearing form and returning it to the Town Clerk. If you do not contest the citation, you waive your right to contest it. You also have the right to request an ability-to-pay determination at any time before the assessed fine has been paid."

- (l) Failure to pay the assessed fine issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed for failure to pay an administrative citation fine.
- (m) No person shall willfully interfere with or obstruct any Town code enforcement officer, community services officer, or police officer in their enforcement of the provisions of this chapter. Willful (1) failure to properly identify oneself done for the purpose of attempting to evade an administrative citation, and/or (2) interference with or obstruction of an impoundment authorized pursuant to this Chapter shall constitute unlawful interference or obstruction under this subsection. Violation of this subsection is a misdemeanor.

(Code 1968, § 19A.15.100)

**Sec. 14.70.130. Impoundment.**

- (a) The Town may impound vending devices, food, goods, and/or merchandise that:
  - (1) Reasonably appear to be abandoned on public property; or
  - (2) Are displayed, offered, or made available for rent or sale by sidewalk vendor who (A) operates in violation of this chapter; and (B) refuses or fails to provide identification, as required by this Chapter refuses to remove their vending device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a Town enforcement official; or
  - (3) Are displayed, offered, or made available for rent or sale by a sidewalk vendor who (A) does not possess a valid applicable sidewalk vending permit; and (B) also refuses to remove their vending device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a Town enforcement official; or
  - (4) Is (A) creating an imminent and substantial safety or environmental hazard by the location of the vending device or the nature of the goods being offered for sale, and (B) refuses to remove their vending device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a Town enforcement official; Or
  - (5) Are displayed, offered, or made available for rent or sale by a sidewalk vendor who has, within a twenty-four-month period, been found responsible for violating this Chapter four or more times.
- (b) The Town may immediately dispose of impounded materials that are perishable or cannot be safely stored.
- (c) An aggrieved vendor may, within ten days, appeal the impoundment of their property by requesting an administrative hearing before a hearing officer appointed by the Town. and if successful in their appeal, may have their property returned without paying an impound fee. The appeal hearing shall be conducted pursuant to the administrative

enforcement hearing. Any appeal fee paid by the sidewalk vendor shall be returned to the sidewalk vendor if they are successful on appeal.

- (d) An individual may recover impounded materials upon paying applicable impound fees and demonstrating proper proof of ownership.
- (e) The Town Council may by resolution adopt impound fees, which shall reflect the Town's enforcement, investigation, storage, and impound costs.
- (f) Any unclaimed items will be considered abandoned and forfeited to the Town after ninety days following impoundment.

**SECTION IV. Severability.**

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

**SECTION V. CEQA.**

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

**SECTION VI. Publication.**

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

**SECTION VII. Effective Date.**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_ day of \_\_\_\_ 20 , and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the \_\_\_ day of \_\_\_\_ 20 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

\_\_\_\_\_  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

\_\_\_\_\_  
TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA