

ORDINANCE NO.

AN ORDINANCE REPEALING ARTICLE I OF CHAPTER 21, SECTION 21.1 OF THE MOUNTAIN VIEW CITY CODE RELATED TO LOITERING IN THE MEDIAN STRIP WITHIN A CITY STREET AND AMENDING THE MOUNTAIN VIEW CITY CODE AS FOLLOWS: ARTICLES VI AND XIII OF CHAPTER 2, SECTIONS 2.76, 2.83, 2.204, AND 2.211 RELATED TO THE CENTRALIZED PURCHASING SYSTEM; ARTICLE II OF CHAPTER 15, SECTION 15.15 RELATED TO MOBILE VENDING PERMITS; ARTICLE I OF CHAPTER 21, SECTION 21.28 RELATED TO SOLICITATION PROHIBITED IN THE PUBLIC RIGHT-OF-WAY; AND ARTICLE I OF CHAPTER 27, SECTION 27.17 RELATED TO ENCROACHMENT ON CITY PROPERTY

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

Section 1. Chapter 2, Articles VI, Sections 2.76 and 2.83 of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 2.76. - Powers and duties of purchasing agent.**

The purchasing agent shall have power and be required to:

- a. Procure all supplies, materials, equipment and certain services required by any department, office or agency of the city government; and dispose of all property, real or personal, in accordance with rules and regulations as prescribed by this article and such purchasing procedures as the purchasing agent shall adopt for the internal management and operation of the purchasing section. “Certain services” shall include, but not be limited to, professional and specialized services provided with the acquisition of supplies, materials, and equipment in order to place them into service. Such purchasing procedures adopted by the purchasing agent shall not be effective until approved by the city manager;
- b. Within a specified delivery period, procure for the city supplies, materials, equipment and certain services at the least expense to the city for the quality needed, taking full advantage of trade and cash discounts and all tax exemptions to which the city may be entitled;
- c. Specify proper standard nomenclature for supplies, materials and equipment required by any department, office or agency of the city government;

- d. Prepare and maintain standard suggested specifications for materials, supplies and equipment whenever practicable;
- e. Maintain a record of all sources of supply of goods or services;
- f. Declare vendors who default on their quotations irresponsible bidders and disqualify them from receiving any business from the city for a stated period of time after notification to the city manager;
- g. Prescribe by regulation the procedure under which emergency purchases falling within this article may be made by department heads;
- h. Require when necessary sufficient tests of samples submitted with bids and samples of deliveries when necessary to determine their quality and conformance with the specifications;
- i. At the discretion of the purchasing agent, delegate authority to staff outside of purchasing for the procurement of goods or services up to five thousand (\$5,000) dollars;
- j. Improve the efficiency and effectiveness of the procurement process whenever possible by all available means, including the use of available technology.

(Ord. No. 28.64, 3/30/64; Ord. No. 11.82, 6/22/82; Ord. No. 10.06, 11/28/06.)

#### **SEC. 2.83. - Nonapplicability.**

The provision of this article shall not be applicable to contracts for public works as outlined in City Charter Section 1107, nor shall they apply to the following:

- a. Contracts involving the obtaining of professional or specialized services, including but not limited to services rendered by attorneys, architects, engineers, accountants, and specialized consultants, except contracts for "certain services" as defined in Section 2.76;
- b. Where calling for bids on a competitive basis is, in the opinion of the purchasing agent, undesirable, impossible, unavailing or incongruous;
- c. Where the purchasing agent determines that the requirements can be met solely by a single patented article or process;
- d. Emergency situations;

e. Where, in the sale or exchange of real property by the city, a public purpose is accomplished or the public interest is served by such sale or exchange, and the city council so finds.

(Ord. No. 28.64, 3/30/64; Ord. No. 11.82, 6/22/82.)”

Section 2. Chapter 2, Articles XIII, Sections 2.204 and 2.211 of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 2.204. - Powers and duties of purchasing agent.**

The purchasing agent shall have power and be required to:

a. Procure all supplies, materials, equipment and certain services required by any department, office or agency of the city government; and dispose of all property, real or personal, in accordance with rules and regulations as prescribed by this article and such purchasing procedures as the purchasing agent shall adopt for the internal management and operation of the purchasing section. “Certain services” shall include, but not be limited to, professional and specialized services provided with the acquisition of supplies, materials, and equipment in order to place them into service.

Such purchasing procedures adopted by the purchasing agent shall not be effective until approved by the city manager;

b. Within a specified delivery period, procure for the city supplies, materials, equipment and certain services at the least expense to the city for the quality needed, taking full advantage of trade and cash discounts and all tax exemptions to which the city may be entitled;

c. Specify proper standard nomenclature for supplies, materials and equipment required by any department, office or agency of the city government;

d. Prepare and maintain standard suggested specifications for materials, supplies and equipment whenever practicable;

e. Maintain a record of all sources of supply of goods or services;

f. Declare vendors who default on their quotations irresponsible bidders and disqualify them from receiving any business from the city for a stated period of time after notification to the city manager;

g. Prescribe by regulation the procedure under which emergency purchases falling within this article may be made by department heads;

h. Require when necessary sufficient tests of samples submitted with bids and samples of deliveries when necessary to determine their quality and conformance with the specifications;

i. At the discretion of the purchasing agent, delegate authority to staff outside of purchasing for the procurement of goods or services up to ten thousand dollars (\$10,000);

j. Improve the efficiency and effectiveness of the procurement process whenever possible by all available means, including the use of available technology.

(Ord. No. 7.16, § 1, 5/24/16)

#### **SEC. 2.211. - Nonapplicability.**

The provisions of this article shall not be applicable to contracts for public works as outlined in City Charter Section 1107, nor shall they apply to the following:

a. Contracts involving the obtaining of professional or specialized services, including, but not limited to, services rendered by attorneys, architects, engineers, accountants and specialized consultants, except contracts for "certain services" as defined in Section 2.204;

b. Where calling for bids on a competitive basis is, in the opinion of the purchasing agent, undesirable, impossible, unavailing or incongruous;

c. Where the purchasing agent determines that the requirements can be met solely by a single patented article or process;

d. Emergency situations;

e. Where, in the sale or exchange of real property by the city, a public purpose is accomplished or the public interest is served by such sale or exchange, and the city council so finds.

(Ord. No. 7.16, § 1, 5/24/16)"

Section 3. Chapter 15, Article II, Section 15.15 of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 15.15. - Permit required.**

a. Each mobile vendor shall acquire a mobile vendor permit from the finance director and shall pay to the city an annual mobile vendor fee in the amount established by resolution of the city council before conducting business in the city. Permits shall be issued on a calendar year basis, valid for one (1) year, and in the name of the principal mobile vendor. In cases in which the duration of the permit will be less than one (1) year, the finance director may prorate the amount of the fee based on the period of time during which the permit will remain valid. If the principal mobile vendor chooses to designate agents or employees, he/she must provide all of the information requested in Sec. 15.17. in his/her application for a mobile vendor permit. If a proposed agent or employee is ineligible to vend in the city due to a revocation or suspension of a prior permit, he/she will not be permitted to vend as an agent or employee of the principal mobile vendor. The city may charge an additional fee in the amount established by resolution of council for each agent or employee designated by the principal mobile vendor or business entity and approved by the city.

b. A mobile vendor must obtain all required local, state and/or federal permits to operate, in addition to any required city permits.

c. Exceptions. Mobile vendors vending any of the following are exempt from obtaining a mobile vending permit: (1) leaflets, newspapers, pamphlets, bumper stickers, buttons; and (2) items that have been created, written, composed, or otherwise produced by the vendor which include books, cassettes, tapes, CDs, paintings, photographs, sculptures, or other items that are inherently communicative and have nominal utility apart from its communication. Business license requirements pursuant to City Code Chapter 18, Article I, Section 18.2 are applicable, however.

(Ord. No. 7.13, 6/11/13.)”

Section 4. Chapter 21, Article I, Section 21.1 of the Mountain View City Code is hereby repealed:

**~~“SEC. 21.1. – Loitering in median strip within a city street.~~**

~~—No person shall loiter in a median within a city street or other city-maintained thoroughfare. “Loiter” for the purposes of this section shall mean to linger or remain within the median strip for any purpose other than stopping to allow traffic to pass in order to cross the street. For the purposes of this section, “median strip” means a paved or planted strip of ground dividing a street or highway into lanes according to the~~

~~direction of travel. This section shall not apply to authorized city personnel or contractors who are repairing or maintaining the median strip.~~

(Code 1938, Sec. 472; Ord. No. 6.97, 4/29/97.)”

Section 5. Chapter 21, Article I, Section 21.28 of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 21.28. - Solicitation ~~prohibited in public right-of-way~~from persons entering or exiting vehicles.**

a. **Definitions.** For the purposes of this section only, the following words are defined as follows:

1. “Employment” shall mean and include services, industry or labor performed by a person for wages or other compensation or under any contract of hire, written, oral, express or implied.

~~2. “Median strip” shall mean a paved or planted strip of ground dividing a street or highway into lanes according to the direction of travel.~~

~~3. “Public right of way” shall mean public streets, highways, sidewalks, median strips and public or private driveways adjacent to public streets located in or adjacent to the City of Mountain View. For purposes of this section, “public or private driveways” or “driveway” shall mean the first twenty five feet (25') of the driveway adjacent to the public street or highway, measured from the edge of the public right of way.~~

24. “Solicit” shall mean and include any request, offer, enticement or action which announces the availability for or of employment, the sale of goods or a request for money, food or other item of value; or any request, offer, enticement or action which seeks to purchase or secure goods or employment, or to make a contribution of money or other property. As defined herein, a solicitation shall be deemed complete when made whether or not an actual employment relationship is created, a transaction completed or an exchange of money takes place.

~~b. No person shall solicit or attempt to solicit within any public parking lot or parking structure.~~

be. No person shall solicit or attempt to solicit any person entering or exiting any vehicle, so as to impede that person’s movement, when such vehicle is located within a public street, private driveway leading to a public street, public or private parking lot or structure.

~~d. — Exception. This section shall not apply to activities permitted pursuant to a federal, state, or local license or permit.~~

~~ce. Violations.~~ Violations of ~~subSsections 4(b) and 4(c)~~ shall be charged as infractions.

(Ord. No. 6.97, 4/29/97; Ord. No. 13.00, 6/27/00; Ord. No. 2.02, 2/12/02.)”

Section 6. Chapter 27, Article I, Section 27.17 of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 27.17. - Encroachment on city property unlawful; encroachment permits.**

No person shall encroach on, in over or under any real property, including easements, owned by the city, except as authorized by this code, by any structure or object of any kind or character, temporary or permanent in nature, and whether such encroachment is real, personal or mixed property, without first obtaining a permit to do so from the public works director. Application for a permit to encroach on city-owned property shall be made by and in the name of the owner or person lawfully entitled to use the real property in connection with which the permit is sought to be obtained, and shall be acknowledged by the applicant. The application shall be filed with the public works director. The director, or authorized designee, is hereby empowered, ~~in the exercise of his discretion,~~ to deny or withhold approval of a permit if, ~~in the public works director’s or authorized designee’s sound judgment,~~ exercise of the proposed permit ~~would not be in the best interest of the city or~~ would interfere with public works that are existing or contemplated to be constructed, or if, ~~in his judgment,~~ the proposed permit would cause public property to be or become in a dangerous or defective condition or unreasonably endanger or interfere with public health, ~~safety or~~ convenience. The director, or ~~his~~ designee, may approve the application either as submitted, or subject to such terms and conditions as he/she shall consider necessary for the safeguarding of life, property and city. ~~The As required by the public works director, the~~ applicant shall provide a ~~plat and legal description of the encroachment, suitable for recordation and~~ detailed drawing of the encroachment suitable for recordation and acceptable by the public works director or ~~his~~ designee prior to the issuance of an encroachment permit. The cost of processing an encroachment permit shall be set by resolution or ordinance of the city council and shall be paid by the applicant prior to issuance of the permit.

This section shall not apply to sidewalk café operations licensed pursuant to Chapter 36, Article XV of this Code and the Downtown Mountain View Flexible Zone Guidelines for Sidewalks and Cafe Operations; and encroachments in city parks subject to Chapter 38, Article I, Section 38.9(n) of this Code.

(Ord. No. 28.91, 12/10/91.)”

Section 7. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 8. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 9. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 10. This ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

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NCW/KB/7/ORD  
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