



Office of the City Manager

CONSENT CALENDAR
September 10, 2013

To: Honorable Mayor and Members of the City Council
From:  Christine Daniel, City Manager
Submitted by: William Rogers, Deputy City Manager
Gregory Daniel, Supervisor Code Enforcement
Subject: Sidewalk Vending Ordinance, Amending BMC Chapter 9.48

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 9.48.045.B.1 to correct an inadvertent error.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Amendments to the Sidewalk Vending Ordinance in June 2013 inadvertently referenced thirty-six feet (36') rather than the intended thirty-six inches in Section 9.48.045.B.1. Although the law's intent is clear, it could potentially create confusion and it, therefore, requires an amendment to correct the error.

BACKGROUND

Since 1975, BMC Chapter 9.48 Sidewalk Vending has regulated the sale of arts and crafts on Telegraph Avenue. In March 2012, the City Council directed staff to develop a pilot program that would allow fixed location merchants on Telegraph Avenue to use the sidewalk for display and sale of retail items. In June 2013, the Council adopted a number of amendments authorizing the pilot program. One of those amendments was BMC Section 9.48.045 which intended to prohibit merchants from placing display items more than thirty-six inches from the front of their building. Inadvertently, thirty-six feet was referenced in this Section instead.

RATIONALE FOR RECOMMENDATION

See preceding discussion.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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Gregory Daniel, Supervisor Code Enforcement	981-2492

Attachment:
1: Ordinance

ORDINANCE - N.S.

AMENDING SECTION 9.48.045 OF THE BERKELEY MUNICIPAL CODE
CONCERNING SIDEWALK VENDING ON TELEGRAPH AVENUE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 9.48.045 of the Berkeley Municipal Code is amended to read as follows:

9.48.045 Vending associated with fixed location businesses on Telegraph Avenue.

A. The following provisions shall apply on Telegraph Avenue between Bancroft Way and Dwight Way.

B. A fixed-location business may vend goods from a location on the sidewalk in front of its fixed location provided that it complies with the requirements of Sections 9.48.080 through 9.48.110, except as follows.

1. Vending equipment shall not extend more than ~~36~~thirty-six inches towards the street from the front of the building.

2. Vending equipment shall have a maximum height of four feet, six inches and a maximum length of nine feet. In no case may the vending equipment extend beyond the established store front.

3. In no case may vending equipment permitted pursuant to this section reduce the width of the sidewalk available for pedestrian use to less than 6 feet, after taking into account any other vending equipment permitted pursuant to this Chapter.

C. Application for and issuance of vending permits under this Section shall be subject to Sections 9.48.050 and 9.48.060.

D. In no case may an existing vendor permitted pursuant to this Chapter be displaced in order to provide an opportunity for vending pursuant to this Section.

E. For purposes of this Section, the following types of goods may not be displayed or sold at a sidewalk location:

1. food products of any sort;
2. alcoholic beverages;
3. drug paraphernalia;
4. tobacco products; and
5. firearms or ammunition.

F. The provisions of Section 9.48.045 shall expire and shall be repealed in its entirety on July 31, 2015, unless such date of repeal is further extended by resolution of the City Council.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.