

RESOLUTION NO. 19-5195

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING THE MASTER FEE RESOLUTIONS FOR FISCAL YEARS 2018-19 AND 2019-20 TO INCLUDE ADMINISTRATIVE FINES FOR SIDEWALK VENDING VIOLATIONS CONSISTENT WITH SENATE BILL NO. 946

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals.

1. Ordinance No. 19-1070U codifies the City's sidewalk vending program in Chapter 5.122 of the West Hollywood Municipal Code and provides that administrative fines will be assessed according to a fee schedule consistent with Senate Bill No. 946.
2. Senate Bill 946 mandates the following schedule of penalties for specified sidewalk vending violations:
 - A. Vending without a sidewalk vending permit shall be punished by an administrative fine not to exceed the following amounts:
 1. \$250 for a first violation.
 2. \$500 for a second violation within one year of the first violation.
 3. \$1,000 for each additional violation within one year of the first violation.
 4. Upon proof of a valid permit issued by the City, the administrative fine assessed under this paragraph will be reduced to the corresponding administrative fine set forth in paragraph (B).
 - B. Any other violations of the City's sidewalk vending ordinance shall be punished by an administrative fine not to exceed the following amounts:
 1. \$100 for a first violation.
 2. \$200 for a second violation within one year of the first violation.
 3. \$500 for each additional violation within one year of the first violation.
 4. The City may revoke a sidewalk vending permit for the remainder of the permit's term upon the fourth or subsequent violations.
3. Resolution 18-5049 establishes fees and charges for certain services provided by the City of West Hollywood for fiscal year 2018-2019, and Resolution 19-5166 establishes the corresponding fees and charges for fiscal year 2019-2020 (commencing July 1, 2019).

4. Section 10 of Resolution 18-5049 and Resolution 19- 5166 incorporates by reference the fee schedule for the Code Compliance Division of the Public Works Department and the schedule of fees and charges for the Division’s Administrative Citation Program.

Section 2. The Administrative Citation Fee Schedule adopted by Section 10 of Resolution 18-5049 is hereby amended to add Schedule I and to amend Schedule C’s provision for Title 5 violations and the provision for late penalties to read as follows:

DEPARTMENT OF PUBLIC WORKS CODE COMPLIANCE/ADMINISTRATIVE CITATION FEES FEE SCHEDULE FY 18-19	BASE FEE FY 17-18	Increase Decrease Same or New	ADOPTED FEE FY 18-19
MUNICIPAL CODE VIOLATIONS - Schedule C <i>Fee based on payment within 21 Days - For Late Penalties see below</i> <i>Fees and Late Penalties are adopted annually by the City Council at a Public hearing and are charged uniformly to ensure fairness.</i>			
Administrative Fees	\$50	Same	\$50
First Offense	\$200	Same	\$200
Second Offense	\$400	Same	\$400
Third Offense	\$800	Same	\$800
<u>Schedule C Violations</u> Title 5 BUSINESS LICENSE REGULATIONS AND PERMITS			
[except: Section 5.70.070 (Charged as a misdemeanor)]			
[except: Section 5.92.050(1)(j) (Charged as a misdemeanor)]		Updated	
[except: Section 5.92.050(2)(d) (Charged as a misdemeanor)]		Updated	
[except: Section 5.108.040(a) (Charged as an infraction or misdemeanor)]			
[except: Section 5.108.040(h) (Charged as an infraction or misdemeanor)]			
[except: Section 5.108.110(a) (Charged as an infraction or misdemeanor)]			
[except: Chapter 5.122 SIDEWALK VENDORS—only violations of Section 5.122.020 (License Required) are subject to Schedule C, all other violations of Chapter 5.122 are subject to Schedule I.]			NEW

MUNICIPAL CODE VIOLATIONS - Schedule I <i>Fees are adopted by the City Council pursuant to Government Code section 51039 and subject to ability-to-pay determinations.</i>			
Administrative Fees	N/A	NEW	\$50
First Offense	N/A	NEW	\$50
Second Offense	N/A	NEW	\$150

Third Offense	N/A	NEW	\$450
Schedule I Violations			
Chapter 5.122 SIDEWALK VENDORS [except: Section 5.122.020 (Schedule C)]		NEW	
MUNICIPAL CODE VIOLATIONS - LATE PENALTIES* - Schedules A, B, C, D, E, F, G, H <i>Late Penalty Charges Apply Strictly to Fines, not to Administrative Fees.</i>			
% Additional Charge if paid within 22 to 55 days	50%	Same	50%
% Additional Charge if paid after 55 days	100%	Same	100%
* Late penalties are not assessed for violations of Chapter 5.122 SIDEWALK VENDORS [Section 5.122.110(C)]		NEW	
* <i>Late Penalties Implemented per City Council Action of February 22, 2000, Resolution 00-2246</i>			

Section 3. The Fee Schedule for the Code Compliance Division adopted by Section 10 of Resolution 18-5049 is hereby amended to add a provision for Food Vendor Registration Decals in the schedule of Miscellaneous Fees.

DEPARTMENT OF PUBLIC WORKS CODE COMPLIANCE FEE SCHEDULE FY 18-19	ORIGINAL FEE FY 17-18	Increase Decrease Same or New	REVISED FEE FY 18-19
MISCELLANEOUS FEES			
Special Event Monitoring (Per Hour)	\$100	Same	\$100
Food Truck Encroachment Permit Fee	\$20	Same	\$20
Valet Sign Encroachment Fee	\$250	Same	\$250
Drone Registration Fee	\$5	Same	\$5
New or Replacement Food Vendor Registration Decal	N/A	NEW	\$5

Section 4. The Administrative Citation Fee Schedule adopted by Section 10 of Resolution 19- 5166 is hereby amended to add Schedule I and to amend Schedule C's provision for Title 5 violations and the provision for late penalties to read as follows:

DEPARTMENT OF PUBLIC WORKS CODE COMPLIANCE/ADMINISTRATIVE CITATION FEES FEE SCHEDULE FY 2019-2020	BASE FEE FY 18-19	Increase Decrease Same or New	ADOPTED FEE FY 19-20
MUNICIPAL CODE VIOLATIONS - Schedule C <i>Fee based on payment within 21 Days - For Late Penalties see below</i> <i>Fees and Late Penalties are adopted annually by the City Council at a Public hearing and are charged uniformly</i>			

<i>to ensure fairness.</i>			
Administrative Fees	\$50	Same	\$50
First Offense	\$200	Same	\$200
Second Offense	\$400	Same	\$400
Third Offense	\$800	Same	\$800
<p><u>Schedule C Violations</u> Title 5 BUSINESS LICENSE REGULATIONS AND PERMITS</p> <p>[except: Section 5.70.070 (Charged as a misdemeanor)] [except: Section 5.92.050(1)(j) (Charged as a misdemeanor)] [except: Section 5.92.050(2)(d) (Charged as a misdemeanor)] [except: Section 5.108.040(a) (Charged as an infraction or misdemeanor)] [except: Section 5.108.040(h) (Charged as an infraction or misdemeanor)] [except: Section 5.108.110(a) (Charged as an infraction or misdemeanor)] [except: Chapter 5.122 SIDEWALK VENDORS—only violations of Section 5.122.020 (License Required) are subject to Schedule C, all other violations of Chapter 5.122 are subject to Schedule I.]</p>			
			Updated

MUNICIPAL CODE VIOLATIONS - Schedule I <i>Fees are adopted by the City Council pursuant to Government Code section 51039 and subject to ability-to-pay determinations.</i>			
Administrative Fees	\$50	Same	\$50
First Offense	\$50	Same	\$50
Second Offense	\$150	Same	\$150
Third Offense	\$450	Same	\$450
<p><u>Schedule I Violations</u> Chapter 5.122 SIDEWALK VENDORS [except: Section 5.122.020 (Schedule C)]</p>			
			Updated
MUNICIPAL CODE VIOLATIONS - LATE PENALTIES* - Schedules A, B, C, D, E, F, G, H <i>Late Penalty Charges Apply Strictly to Fines, not to Administrative Fees.</i>			
% Additional Charge if paid within 22 to 55 days	50%	Same	50%
% Additional Charge if paid after 55 days	100%	Same	100%
* Late penalties are not assessed for violations of Chapter 5.122 SIDEWALK VENDORS [Section 5.122.110(C)]		Updated	
* Late Penalties Implemented per City Council Action of February 22, 2000, Resolution 00-2246			

Section 5. The Fee Schedule for the Code Compliance Division adopted by Section 10 of Resolution 19-5166 is hereby amended to add a provision for Food Vendor Registration Decals in the schedule of Miscellaneous Fees.

DEPARTMENT OF PUBLIC WORKS CODE COMPLIANCE FEE SCHEDULE FY 2019-2020	ORIGINAL FEE FY 18-19	Increase Decrease Same or New	REVISED FEE FY 19-20
MISCELLANEOUS FEES			
Special Event Monitoring (Per Hour)	\$100	Same	\$100
Food Truck Encroachment Permit Fee	\$20	Same	\$20
Valet Sign Encroachment Fee	\$250	Same	\$250
Drone Registration Fee	\$5	Same	\$5
New or Replacement Food Vendor Registration Decal	\$5	Updated	\$5

Section 6. The Mayor shall sign and the City Clerk shall attest to the passage and adoption of this Resolution and enter it into the book of original resolutions. This Resolution will become effective immediately upon adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 3rd day of June, 2019 by the following vote:

AYES: Councilmember: Duran, Heilman, Meister, and Mayor D'Amico.
NOES: Councilmember: None.
ABSENT: Councilmember: Mayor Pro Tempore Horvath.
ABSTAIN: Councilmember: None.

JOHN D'AMICO, MAYOR

ATTEST:

YVONNE QUARKER, CITY CLERK

**FEE JUSTIFICATION DOCUMENT
FY 2019-2020**

DEPARTMENT: Public Works

DIVISION: Code Compliance

Submitted by: Daniel Mick

Ext: 6882

Name of fee: Text Changes to Schedule C of the Admin Citation Fee Schedule

This fee is: NEW

INCREASE

DECREASE

FY 2018-19: \$ N/A

FY2019-20: \$ Variable

JUSTIFICATION:

The Administrative Citation Fee Schedule adopted by Section 10 of Resolution 19- 5166 will be amended to reflect a *new* Schedule C provision for Title 5 violations and the provision for late penalties related to engaging in sidewalk vending without a required business license.

The City utilizes administrative fines to enforce specified provisions of the West Hollywood Municipal Code. State law dictates the maximum permissible amounts of fines that a city may assess for violations of its sidewalk vending ordinance.

The City requires prospective sidewalk vendors to obtain a business license before engaging in the activity (WHMC 5.122.020), and California Government Code section 51039 sets forth the permissible schedule of penalties for engaging in sidewalk vending without a locally required license. The fines collected through Schedule C for violations of WHMC 5.122.020 are in compliance with the schedule of fines permitted by state law.

Total Revised Revenue 2018: \$N/A

Total Current Revenue 2019: \$N/A

Net Increase or (Decrease): \$N/A

**FEE JUSTIFICATION DOCUMENT
FY 2019-2020**

DEPARTMENT: Public Works

DIVISION: Code Compliance

Submitted by: Daniel Mick

Ext: 6882

Name of fee: Addition of Schedule I to the Admin Citation Fee Schedule

This fee is: NEW

INCREASE

DECREASE

FY 2018-19: \$ N/A

FY2019-20: \$ Variable

JUSTIFICATION:

The Administrative Citation Fee Schedule adopted by Section 10 of Resolution 18-5049 will be amended to add Schedule I to set forth penalties for violating the City's sidewalk vending program.

The City utilizes administrative fines to enforce specified provisions of the West Hollywood Municipal Code. State law dictates the maximum permissible amounts of fines that a city may assess for violations of its sidewalk vending ordinance.

The City's sidewalk vending ordinance is codified in WHMC Chapter 5.122 and California Government Code section 51039 sets forth the permissible schedule of penalties for violating a local authority's sidewalk vending program (separate from the penalties for engaging in sidewalk vending without a locally required license). The fines collected through Schedule I for violations of WHMC Chapter 5.122 are in compliance with the schedule of fines permitted by state law.

Note that fines for violations of WHMC Section 5.122.020 are collected pursuant to Schedule C, consistent with the higher schedule of penalties permitted under Government Code section 51039.

Total Revised Revenue 2018: \$N/A

Total Current Revenue 2019: \$N/A

Net Increase or (Decrease): \$N/A

**FEE JUSTIFICATION DOCUMENT
FY 2019-2020**

DEPARTMENT: Public Works

DIVISION: Code Compliance

Submitted by: Daniel Mick

Ext: 6882

Name of fee: New or Replacement Food Vendor Registration Decal

This fee is: NEW

INCREASE

DECREASE

FY 2018-19: \$ N/A

FY2019-20: \$ 5.00

JUSTIFICATION:

This fee allows the City to recover the costs of the decals provided to Sidewalk Vendors and Food Peddlers upon becoming licensed or the loss or damage to existing decals. Decals are to be placed on all food truck or equipment used to sell food. Some Sidewalk Vendors may require additional decals if they have separate pieces of equipment that require a decal. Newly licensed Peddlers and Sidewalk Vendors who sell food will be provided one (1) decal, at no charge, as part of their business license. Decals that become faded due to exposure to the sun will also be replaced at no charge to the licensee.

In the case of loss or damage to existing decals, it is estimated that it will take staff 15 minutes, at a maximum of \$50.00, to update the business license files to reflect the updated decals number(s).

Staff recommends a reduced fee of \$5.00 in order to encourage Food Peddlers and Sidewalk Vendors to fully comply with the requirements of the Peddling and Sidewalk Vending ordinances and to keep their decals maintained in a manner that is easily visible to the public and enforcement officers.

Total Revised Revenue 2018: \$N/A

Total Current Revenue 2019: \$N/A

Net Increase or (Decrease): \$N/A