



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: October 15, 2024

Agenda Item: 9A

Submitted By: Community Development

Prepared By: Danielle Sorahan, Code Compliance Manager

Subject:

UPDATE ON SIDEWALK VENDING ENFORCEMENT

Fiscal Impact:

None to receive and file this report.

Summary:

On August 20, 2024, staff presented a report to the City Council regarding sidewalk vending enforcement and impoundment practices in other Southern California cities. A copy of that report is provided as Attachment 1. Following that presentation, the City Council requested staff to actively monitor sidewalk vending-related complaints and return in two months with an update on findings and actions taken. This report outlines the data collected and enforcement actions conducted by the Park Rangers and Code Compliance Division from August to September 2024.

Background:

Due to the growing number of complaints regarding sidewalk vending, the City Council sought a comprehensive review of current enforcement practices. This report details the measures taken by the Park Rangers and Code Compliance Division to address sidewalk vending issues during the monitoring period. It highlights enforcement actions and complaint data to provide an overview of the City's efforts in ensuring compliance with local regulations between August and September of 2024.

Total Complaints submitted to Code Compliance:

- **August:** 6 complaints were received. A few of these complaints related to the same political merchandise vendor who holds a valid permit.
- **September:** 5 complaints were received, reflecting a slight decrease. This decrease may be attributed to seasonal trends or increased proactive monitoring efforts by Park Rangers and Code Enforcement staff.

Code Enforcement Cases Resulting from Complaints Received:

The Code Compliance Division processed five cases related to sidewalk vending during the reporting period. The table below summarizes the details of these cases:

Date	Case Number	Location	Incident Type	Outcome
08/05/2024	CE2024-0431	638 Camino De Los Mares	Sidewalk Vending	Compliant/Closed
08/11/2024	CE2024-0445	638 Camino De Los Mares A	Sidewalk Vending	Compliant/Closed
08/18/2024	CE2024-0462	638 Camino De Los Mares A	Sidewalk Vending	Administrative Citation
09/08/2024	CE2024-0521	625 Avenida Del Mar	Sidewalk Vending	Compliant/Closed
09/29/2024	CE2024-0584	1802 N El Camino Real	Street Vending	Compliant/Closed

Park Ranger Enforcement Actions:

The Park Rangers were involved in 10 enforcement actions during the reporting period. These actions either stemmed from violations encountered while on patrol, or occurred as a result of assisting Code Enforcement staff with sidewalk vending matters. The table below outlines these enforcement activities:

Date	Location	Incident Type	Outcome
08/03/2024	Jim Johnson Park	Food Vendor	Warned
08/16/2024	Post Office on Pico	Assisted Code with Food Vendor	Assisted Code Enforcement
08/24/2024	Pier	Political Merch. Vendor	Warned
09/01/2024	Vista Hermosa Sports Park	Food Vendor	Warned
09/04/2024	Pier	Political Merch. Vendor	Warned
09/07/2024	Pier	Political Merch. Vendor	Warned
09/15/2024	Max Berg Park	El Cariso Village Collecting Donations	Correction Notice
09/23/2024	North Beach	Taco Truck	Warned
09/24/2024	North Beach	Taco Truck	Assisted Code Enforcement with Citation issuance
09/29/2024	Vista Hermosa Sports Park	Food Vendor	Warned

Discussion:

Staff has had success with the existing regulations and will continue to monitor the situation. If more illegal sidewalk vending occurs or staff is no longer successful, staff will return to the City Council with more enforcement options, up to and including a new program and municipal code amendment for confiscation of carts.

Council Options:

- Receive and file this report.
- Continue the Item with direction to provide additional information.
- Provide specific direction to City staff for further action.

Environmental Review/Analysis:

This is not a “project” as defined by the California Environmental Quality Act.

Recommended Actions:

Staff recommends that the City Council receive and file this informational report.

Attachments:

1. Agenda Report Entitled, “Sidewalk Vending Enforcement and Impoundment Practices Review,” dated August 20, 2024.

Notification:

None.



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

Meeting Date: August 20, 2024

Agenda Item: 10A

Submitted By: Code Compliance Division

Prepared By: Danielle Sorahan, Code Compliance Manager

Subject:

SIDEWALK VENDING ENFORCEMENT AND IMPOUNDMENT PRACTICES REVIEW

Fiscal Impact:

None to receive and file this report.

Summary:

At its meeting on July 24, 2024, the City Council directed staff to review and provide information on the enforcement and impoundment practices related to sidewalk vending in other Southern California cities. This report highlights key findings from Anaheim, Long Beach, Fontana, Orange, and Lake Forest, providing insights to guide San Clemente in addressing public health and safety concerns related to sidewalk vending.

Background:

Due to an increase in complaints and challenges related to sidewalk vending, the City Council initiated this review to identify effective enforcement practices that safeguard public health and safety while addressing community concerns and maintaining compliance with state law. The City currently enforces sidewalk vending operations under San Clemente Municipal Code (SCMC) Chapter 5.50, Sidewalk Vending. A copy of this Chapter is provided as Attachment 6 to this report.

The SCMC provides robust regulations on sidewalk vending in terms of permits required, locations for where vending is allowed, and administrative fines ranging from \$100 to \$500 per violation of SCMC Chapter 5.50. However, existing regulations do not provide a mechanism for impoundment of vending equipment. Additionally, current resources do not provide the necessary staffing or equipment needs to accommodate the creation of such a program.

Discussion:

The analysis for this report involved examining ordinances and enforcement practices across selected municipalities whose sidewalk vending ordinances contain impoundment procedures. Staff focused on how these cities address challenges related to fines, impoundment, retrieval processes, and appeals. A common strategy observed was collaboration with County Health Departments to bolster enforcement efforts.

Conversations with enforcement officers from various cities provided insights into operational challenges and considerations. Attachment 1 includes a comprehensive comparison matrix that highlights key enforcement practices, which could serve as a potential framework for adaptation in San Clemente.

Attachments 2 through 5 provide the municipal codes related to sidewalk vending from the other jurisdictions reviewed in this analysis. The following points summarize issues for City Council consideration:

A. Fines and Penalties:

Each city employs a tiered fine system for violations. Fines start at \$100 for the first violation with a valid permit and escalate to \$500 for subsequent offenses. For vending without a permit, fines begin at \$250, increasing to \$1,000 for repeated violations. This system is intended to encourage compliance and deter persistent violations.

B. Impoundment Procedures

Impoundment is generally triggered by safety violations, lack of proper permits, or non-compliance after warnings. Anaheim and Fontana implement immediate impoundment for items posing health or safety hazards, whereas Long Beach focuses on educational enforcement and has not yet begun impounding carts.

C. Retrieval Processes

Vendors are required to provide proof of ownership and pay fees to retrieve impounded items, with retrieval periods ranging from 30 to 90 days. Perishable goods are disposed of immediately if they cannot be stored safely.

D. Appeals Mechanisms

Each city provides an appeals process for contesting fines or impoundments. Appeals must be filed within a specific timeframe, typically ranging from 10 to 30 days. Hearings allow adjustments to issued fines based on factors such as the vendor's ability to pay.

E. Operational Considerations

Effective enforcement requires dedicated personnel, typically involving at least two officers on-site for cart retrieval and loading. The use of trucks equipped with lifts is essential for safely handling carts, and flatbed trucks may also be necessary for transportation. Secure storage facilities must accommodate both perishable and non-perishable goods, utilizing organic bins for perishables and dismantlers for processing unclaimed carts.

F. Enforcement Challenges

One of the primary challenges is vendors returning to their previous locations shortly after impoundment, making enforcement efforts more complex. This cycle of re-establishing operations quickly undermines enforcement actions. Additionally, the lack of proper identification among vendors hinders the ability to issue administrative citations effectively. These issues are consistent with challenges faced by other Southern California cities, where enforcement agencies often encounter similar patterns of non-compliance and difficulty in sustaining enforcement measures over time.

Council Options:

- Receive and file this report.
- Continue the Item with direction to provide additional information.
- Provide specific direction to City staff for further action.

Environmental Review/Analysis:

This is not a “project” as defined by the California Environmental Quality Act.

Recommended Actions:

Staff recommends that the City Council receive and file this informational report.

Attachment:

1. Matrix-Sidewalk Vendor Cart Impoundment and Enforcement Practices Comparison
2. City of Fontana Municipal Code- Sidewalk Vending Sec. 15-818
3. City of Long Beach Municipal Code- Chapter 5.73 Sidewalk Vendors
4. City of Anaheim Municipal Code-Chapter 4.52 Solicitors and Sidewalk Vendors
5. City of Lake Forest 2024 Ordinance Sidewalk Vending Impoundment
6. SCMC Chapter 5.50, Sidewalk Vending

Notification:

None

Matrix – Sidewalk Vending Enforcement and Impoundment Comparison

City	Enforcement Authority	Storage Duration	Retrieval Process	Fines and Appeals	Miscellaneous
Anaheim	Code Enforcement Officers, Police Officers	90 days for non-perishable items; perishables disposed of immediately	Vendors must claim items within 90 days, providing proof of ownership and payment of fees	Fines: \$100-\$500 for violations with a permit; \$250-\$1,000 for vending without a permit. Appeals: Must be filed within 10 days of impoundment. Administrative hearing available for disputes.	Vendors frequently operate in resort areas, where over 200 carts have been impounded in the last three months. Enforcement hours 7:30 am-2:00am.
Long Beach	Code Enforcement Officer	90 days	Vendors must present proof of ownership and pay removal and storage costs within 90 days	Fines: \$100-\$500 for violations with a permit; \$250-\$1,000 for vending without a permit. Appeals: Must be submitted within 30 days. No deposit required for administrative hearings.	Long Beach's sidewalk vending enforcement is under the Business Licensing Department, which has a dedicated officer for enforcement. Currently focused on educational enforcement and compliance.
Fontana	Code Enforcement Officers, Police Officers, and private contractors	30 days	Vendors need to provide proof of ownership and pay applicable fees within 30 days to retrieve items	Fines: \$100-\$500 for violations with a permit; \$250-\$1,000 for vending without a permit. Appeals: Must be filed within 15 days. Additional \$232 hearing fee applicable.	Fontana uses private contractors for enforcement, providing flexibility and additional resources to manage vending activities.

City	Enforcement Authority	Storage Duration	Retrieval Process	Fines and Appeals	Miscellaneous
Orange	Code Enforcement Officers, Police Officers, Firefighters	30-60 days for non-perishable items; perishables disposed of immediately	Items must be claimed within 30-60 days, with written authorization required for third-party retrieval	Fines: \$100-\$500 for violations with a permit; \$250-\$1,000 for vending without a permit. Appeals: Must be requested within 21 days. Successful appeals may result in a refund of fees.	Vendors must pay \$710.00 to retrieve impounded items after the holding period.
Lake Forest	Code Enforcement Officers	30 days	Vendors must claim items within 30 days, providing proof of ownership and fee payment	Fines: \$100-\$500 for violations with a permit; \$250-\$1,000 for vending without a permit. Appeals: Must be filed within 15 days. Hearings set within 60 days of filing.	Lake Forest is hiring security officers to patrol high-traffic areas, serving as a deterrent for illegal vending.

Sec. 15-818. Purpose.

The city finds that the vending of prepared or pre-packaged foods, goods, and/or wares at semi-permanent locations on public sidewalks and rights-of-way may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors. The purpose of this article is to implement regulations on both roaming and stationary sidewalk vending that protect the public health, safety, and welfare of the community while complying with the requirements of general state law, as amended from time to time, to promote safe vending practices, prevent safety, traffic, and health hazards, and preserve the public peace, safety, and welfare of the community.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-819 Definitions.

For purposes of this article the following definitions apply:

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.

City means the City of Fontana.

Director means the management services director or his or her designee.

Fixed location means any location at which a sidewalk vendor is located for more time than is necessary to complete a transaction.

Immediate vicinity means the lot on which the subject activity is occurring, or with respect to activities occurring within the public right of way, the area within 100 feet from the outer border of the subject right of way.

Other pedestrian path means a paved path owned by the city and held open for pedestrian travel that provides public access between two points and contains a minimum of 14 feet of width that is other than a sidewalk.

Park means a public park owned or operated by the city.

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

Sidewalk means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation, specifically designed for pedestrian travel that is owned in fee or held as an easement by the city or other public entity.

Sidewalk vendor means a person who sells, offers to sell, operates, engages in or carries on a food or merchandise vending business 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 public pedestrian path.

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

Swap meet means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

Temporary special permit means a permit issued by the city for 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 permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. Without limiting the nature of the foregoing, the following permits shall be deemed to be temporary special permits, when issued for such any of the foregoing locations: food truck event permit (section 15-928) and temporary use permit (section 30-89).

(Ord. No. 1789, § 5, 2-12-19; Ord. No. 1822, § 2, 2-25-20)

Sec. 15-820. Permits required.

- (a) All sidewalk vendors shall obtain a sidewalk vending permit from the city's business license department prior to engaging in any sidewalk vending activities. All of the following information shall be required:
- (1) Name, current mailing address, and phone number of the vendor, any person(s) who will be in charge of any sidewalk vending and/or be responsible for the person(s) working at the sidewalk vending location, and any person(s) that will be employed as roaming sidewalk vendors.
 - (2) A description of the merchandise/goods to be offered for sale or exchange.
 - (3) The days and hours of operation.
 - (4) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.
 - (5) A copy of the California seller's permit with the sales tax number issued by the California Department of Tax and Fee Administration to the vendor, which notes that the city is a location or sub-location, which permit shall be maintained for the duration of the vendor's permit.
 - (6) If the vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.
 - (7) Any one of the following: the vendor's social security card with the number, the vendor's California driver's license number, California identification number, or the vendor's taxpayer identification number. Any such identification number(s) collected shall not be available to the public for inspection and shall remain confidential and not be disclosed except as required to administer the permit program or comply with a state law or state or federal court order.
 - (8) If preparing or selling food, a copy of the county health department health permit issued to the vendor and, if applicable, to the transport vehicle.
 - (9) For stationary sidewalk vendors, a site plan map of the proposed location(s) where vending will take place, showing that the sidewalk location maintains a minimum of 36 inches of accessible route area, in compliance with the Americans with Disabilities Act, which site plan shall be approved by the planning division in consultation with the engineering department.
 - (10) For stationary sidewalk vendors, a public liability policy, including products liability insurance, issued by an insurance company approved by the city with limits of \$1,000,000.00 each person, \$2,000,000.00 each occurrence for personal and \$1,000,000.00 each occurrence for property damage, or equivalent cash, certified check or cashier's check, in favor of the city, to insure the city against any and all liability of every nature whatsoever connected directly or indirectly with the applicant's activities. All insurance companies affording coverage shall be required to add the city as an additional insured under their insurance policy. A copy of the policy endorsement shall be provided to the city. A certificate of insurance, providing evidence of coverage in compliance with this article shall be supplied to the city prior to issuance of the permit.

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- (11) If the sidewalk vendor will be selling food, a statement as to whether the food will be prepared on site, whether such food will require a heating element inside or on the sidewalk vending receptacle for food preparation, and the type of heating element.
 - (12) An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, state and federal laws.
 - (13) A certification that, to the applicant's knowledge and belief, the information contained in the application is true.
 - (14) An agreement by the vendor to defend, indemnify, release, and hold harmless the city, its city council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever that may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the city, any costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action or proceeding whether incurred by the permittee, city and/or the parties initiating or bringing such proceeding.
 - (15) An acknowledgment by the vendor that the use of public property is at the vendor's own risk, that the city does not undertake any steps to ensure public property is safe or conducive to sidewalk vending activities, and the sidewalk vendor uses public property at his/her own risk.
 - (16) An acknowledgement by the vendor that the vendor will obtain and maintain throughout the duration of any permit issued under this chapter any insurance required by this chapter.
 - (17) Proof of payment of the applicable business license tax.
 - (18) Any other relevant information required by the director.
- (b) Prior to the issuance of a sidewalk vendor permit, the applicant shall cause to be filed with the director a LiveScan background check conducted by the California Department of Justice within the previous six months of the application date. The director shall furnish each applicant with a LiveScan request form for use at any LiveScan vendor location.
 - (c) At the time the application or renewal application is filed, the applicant shall pay a nonrefundable permit processing fee, which fee may be established and amended from time to time by resolution or motion of the city council.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-821. Review of permit application; decision.

- (a) Upon receipt of a properly completed and filed sidewalk vendor permit application, receipt of an acceptable LiveScan report issued by the department of justice, and payment of the applicable permit processing fee, the director shall conduct a preliminary investigation to determine compliance with this article and shall make such determination within no more than 30 days following such receipt to approve or deny the application. The director shall provide the applicant with written notice of his or her decision to the address indicated in the application.
- (b) The director may deny an application for a permit if he or she makes any of the following findings:
 - (1) The applicant has failed to pay the application permit fee.
 - (2) The applicant has made one or more material misstatements in the application for a permit.

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- (3) The applicant does not have a valid social security card, valid California driver's license, California identification number, or valid individual taxpayer identification number, or municipal identification number.
 - (4) The applicant's vending operation, as described in the application, is inconsistent with the standards, conditions, and requirements of this article.
 - (5) The applicant is required to register under the provisions of California Penal Code Section 290.
 - (6) Within three years of the date of the application, the applicant has been convicted in a court of competent jurisdiction or pled nolo contendere to any felony offense involving the sale of a controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057 or 11058, or at the time of application is on probation or parole for any offenses set forth in this section for an offense that was committed within three years of the date of the application.
 - (7) It is determined that the applicant does not possess all federal, state, and local permits and licenses necessary to engage in the activity in which he or she seeks to engage.
- (c) If the application is denied, the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his or her application is denied and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form.
 - (d) If the director approves the applicant's permit, he or she shall endorse his or her approval on the application and shall, upon payment of the prescribed fee, deliver the permit to the applicant.
 - (e) *Exemptions.* A sidewalk vending permit shall not be required for the following activities:
 - (1) The sale of agriculture products on the site where the product is grown.
 - (2) Catering for private parties held exclusively on private property and not open to the general public.
 - (3) Events permitted pursuant to a lawfully issued temporary event permit including but not limited to a certified farmers' market, swap meet, street fairs, outdoor concerts, sport league opening day, and business sidewalk sales.
 - (f) *Term of permit.* A sidewalk vending permit issued pursuant to this chapter shall automatically expire one year from the date issued, unless an earlier expiration date is noted on the permit. Renewal applications must be submitted 30 days prior to expiration of the permit.
 - (g) *Transferability.* A sidewalk vending permit shall not be transferable to any other entity or person and is valid only as to the original applicant for the term stated.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-822. Stationary sidewalk vending locations and standards.

- (a) Stationary sidewalk vendors shall be prohibited from operating or establishing in any residential zone of the city, including, the residential estates (R-E), single-family residential (R-1), medium-density residential (R-2), multiple-family residential (R-3), multiple-family medium/high density residential (R-4), multiple-family high density residential (R-5), residential planned community (R-PC), and any zone within any specific plan that permits residential uses.
- (b) Stationary sidewalk vendors may operate in non-residential zones of the city, including mixed use zones, provided they meet all of the following:
 - (1) The sidewalk vendor is duly licensed and meets all requirements of section 15-820; and

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- (2) The sidewalk vendor can set up their vending operation while still leaving a minimum of 36 inches of accessible path of travel, without obstruction, along the public sidewalk or public pathway; and
 - (3) Sidewalk vending hours shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m. of every day; and
 - (4) The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and
 - (5) The sidewalk vendor location does not block any entrance to any building, driveway, parking space or building window; and
 - (6) No vending shall occur within ten feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space or access ramp, fire station driveway, or police station driveway; and
 - (7) The sidewalk vendor shall not solicit in violation of section 15-819 of this Code; and
 - (8) No fences, balloons, flags, banners, or any freestanding signs shall be permitted in conjunction with the vendor's vending activities; and
 - (9) The vendor shall not attach or use any water line, electrical line, or gas line during vending operations; and
 - (10) Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the vendor is prohibited; and
 - (11) No vending shall occur within the immediate vicinity of an event held pursuant to a temporary special permit for the duration of the special event, and within one-half hour before and one-half hour after the time such event is taking place; and
 - (12) No sound amplification equipment, music or live entertainment may be used in conjunction with any sidewalk vendor sales.
 - (13) One canopy with a maximum size of four feet by four feet is permitted; however; in no case may the canopy block the required 36-inch path of travel. One table not to exceed six feet in width may be permitted along with two chairs.

(Ord. No. 1789, § 5, 2-12-19; Ord. No. 1822, § 2, 2-25-20)

Sec. 15-823. Sidewalk vending—Parks and certified farmer's markets.

- (a) Sidewalk vending of food or merchandise by roaming or stationary vendors shall be prohibited in any city park when the city or operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire or within the immediate vicinity of a permitted certified farmer's market or a permitted swap meet during the operating hours of that certified farmer's market or swap meet.
- (b) Subject to the standards contained in section 15-822(b), sidewalk vendors may operate in city parks provided they meet the following:
 - (1) The sidewalk vendor is duly licensed and meets all requirements of section 15-820; and
 - (2) For stationary sidewalk vending, the sidewalk vendor can set up their vending operation while still leaving a minimum of 36 inches of accessible path of travel, without obstruction, along the public sidewalk or public pathway; and
 - (3) The sidewalk vendor shall cease operations one hour prior to the close of the park. City parks are closed between the hours of 10:00 p.m. and 7:00 a.m.; and
 - (4) The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and

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- (5) The sidewalk vendor location does not block entrances to buildings, driveways, parking spaces, or building windows; and
 - (6) No vending shall occur within the immediate vicinity of an event held pursuant to a temporary event permit; and
 - (7) Only roaming sidewalk vendors shall be allowed in city parks with no concession stand operated by a vendor under exclusive contract with the city; and
 - (8) No sound amplification equipment, music or live entertainment may be used in conjunction with any sidewalk vendor sales in or near city parks and certified farmers' markets; and
 - (9) No fences, balloons, flags, banners, or any freestanding signs shall be permitted in conjunction with the vendor's vending activities; and
 - (10) No sidewalk vending shall be allowed in, on or along the Pacific Electric Trail; and
 - (11) One canopy with a maximum size of four feet by four feet is permitted; however; in no case may the canopy block the required 36-inch path of travel. One table not to exceed six feet in width may be permitted along with two chairs.

(Ord. No. 1789, § 5, 2-12-19; Ord. No. 1822, § 2, 2-25-20)

Sec. 15-824. Roaming sidewalk vending.

- (a) Roaming sidewalk vendors shall meet all of the following requirements:
 - (1) The sidewalk vendor is duly licensed and meets all requirements of section 15-820; and
 - (2) Sidewalk vending hours for residential zones shall be conducted between the hours of 9:00 a.m. and 8:00 p.m.; and
 - (3) In nonresidential zones, sidewalk vending shall be conducted at any time during which any other business or use on the same street may lawfully operate. For purposes of the foregoing, "the same street" shall mean that portion of the street on which the sidewalk vending is occurring, and extending in both directions to the nearest intersections in each direction; and
 - (4) The sidewalk vendor maintains the temporary vending area in a clean, orderly, and sanitary condition; and
 - (5) The sidewalk vendor does not block any entrance to any building, driveway, parking space, or building window; and
 - (6) The sidewalk vendor does not conduct sales from a public street, including the median portion of any street; and
 - (7) The sidewalk vendor does not solicit in violation of section 15-819 of this Code; and
 - (8) No vending shall occur within the immediate vicinity of a certified farmers' market, a swap meet, or an event held pursuant to a temporary event permit; and
 - (9) No sound amplification equipment, music or live entertainment may be used in conjunction with any sidewalk vendor activity;
 - (10) No tables, chairs, fences, shade structures, balloons, flags, banners, on-site furniture, or any freestanding signs shall be permitted in conjunction with the vendor's vending activities.
 - (11) The sidewalk vendor must not violate any county health requirements (i.e., may not sell food prepared on site, food requiring refrigeration, or unpackaged and/or opened food; all food and drinks must

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come from an approved source or from a facility permitted with the county environmental health services).

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-825. Suspension; rescission.

- (a) A sidewalk vendor permit issued under this article may be temporarily suspended or permanently rescinded, at the director's discretion, by the director after two or more violations of this article at the director's discretion, for any of the following causes:
 - (1) Fraud or misrepresentation in the course of vending;
 - (2) Fraud or misrepresentation in the application for the permit;
 - (3) Vending in violation of any one or more of the provisions of this article;
 - (4) Vending in a manner that creates a public nuisance or constitutes a danger to the public; or
 - (5) Failure to pay the applicable business license tax.
- (b) Notice of the suspension or rescission of a sidewalk vendor permit issued under this chapter shall be mailed, postage prepaid, to the holder of the sidewalk vendor permit at his or her last known address.
- (c) No person whose sidewalk vending permit has been rescinded pursuant to this article shall be issued a sidewalk vending permit for a period of two years following the date revocation becomes final.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-826. Appeals to city manager.

In the event that any applicant or permittee desires to appeal from any decision, suspension, rescission, or other action of the director made under the provisions of this article, such applicant or any other person aggrieved shall have the right to appeal such action or decision to the city manager within 15 days after the notice of the action or decision has been mailed to the person's address as shown on the permit application. An appeal shall be taken by filing with the city clerk a written appeal statement setting forth the grounds for the appeal, along with the city's appeal fee, which shall be established by city council resolution. The filing of the appeal shall stay the enforcement of any decision suspending or rescinding the permit. The city clerk shall transmit the written statement to the city manager within ten days following its filing and payment of the appeal fee, and the city manager shall set a time and place for a hearing on appeal. A hearing shall be set not later than 60 days from the date of filing of the applicant's written appeal statement with the police department. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of suspension or rescission at least five days prior to the date set for the hearing. At the hearing, the permittee and the city shall be entitled to legal representation and may present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The city manager shall not be bound by the traditional rules of evidence in a hearing, except that hearsay evidence may not be the sole basis for the decision of the city manager. The city manager may continue the hearing as deemed necessary. The decision of the city manager, or his or her designee, on the appeal shall be final and binding on all parties concerned.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-827. Penalties.

- (a) It is unlawful for any person to violate any provision or fail to comply with any requirements of this article. A violation of this article shall be punished by:
 - (1) An administrative fine not exceeding \$100.00 for a first violation.
 - (2) An administrative fine not exceeding \$200.00 for a second violation within one year of the first violation.
 - (3) An administrative fine not exceeding \$500.00 for each additional violation within one year of the first violation.
- (b) A violation of vending without a sidewalk vending permit, may, in lieu of the penalties set forth in subsection (a), set forth above, be punished by:
 - (1) An administrative fine not exceeding \$250.00 for a first violation.
 - (2) An administrative fine not exceeding \$500.00 for a second violation within one year of the first violation.
 - (3) An administrative fine not exceeding \$1,000.00 for each additional violation within one year of the first violation.
- (c) If an individual is subject to subsection (b), set forth above, for vending without a sidewalk vending permit, upon the individual providing proof of a valid permit issued by the city, the administrative fines set forth in this article shall be reduced to the administrative fines set forth in subsection (a), respectively.
- (d) The proceeds of any administrative fines assessed pursuant to this article shall be deposited in the treasury of the city.
- (e) Failure to pay an administrative fine assessed under this article shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in this article shall not be assessed.
- (f) Any violation of this article shall not be punishable as an infraction or misdemeanor, and any person alleged to have violated any provisions of this article shall not be subject to arrest except when otherwise permitted under law.
- (g) When assessing an administrative fine pursuant to this article, the adjudicator shall take into consideration the person's ability to pay the fine. The city shall provide the person with notice of his or her 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 adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
 - (1) If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the city shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to this section.
 - (2) The city may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.
- (h) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under Senate Bill 946 had Senate Bill 946 been in effect at the time of the offense, may petition the court for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

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- (i) Nothing contained herein shall be construed to impede the county's or city's ability to enforce county health department codes and regulations.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-828. Seizure of evidence.

In accordance with applicable rules and regulations, any peace officer or code enforcement officer is authorized to seize as evidence any item used in the commission of a violation of any provision of this article. Seized items shall be removed and stored in accordance with law.

(Ord. No. 1789, § 5, 2-12-19)

Sec. 15-829. Impoundment.

- (a) *Impound* means to seize or take custody of a sidewalk vending cart, equipment, food, utensils, goods, flowers, toys, furniture, or merchandise (collectively "Items") because of a violation of any applicable law or regulation.
- (b) *Impoundment authorization*. Any city official, including a code compliance officer or inspector, police officer, firefighter, fire prevention specialist, or examiner may impound a sidewalk vendor's vending cart, equipment, food, utensils, goods, flowers, toys, furniture, or merchandise (collectively "items") used in violation of this article pursuant to the provisions of Section 2080.10 of the California Civil Code, Section 114393 of the California Health and Safety Code, and/or any other applicable city, county, or state law for any of the following reasons:
 - (1) Food displayed, offered, or made available for sale, including equipment or utensils used by a sidewalk vendor, without holding a valid and displayed health permit from the San Bernardino County Health Department in violation of county or state law.
 - (2) Items reasonably appear to be unattended or abandoned on public or private property for more than 30 consecutive minutes without moving from the exact spot it was located and reasonable attempts were made to locate the owner or responsible person(s) within the first 50 feet of the items.
 - (3) Items displayed, offered, or made available for sale by a sidewalk vendor who does not possess a valid applicable sidewalk vending permit and a city business license.
 - (4) Items displayed, offered, or made available for sale by a sidewalk vendor who operates in violation of this article; and refuses or fails to provide identification.
 - (5) Operation in violation of this article and refusal or failure by a sidewalk vendor to remove items from public or private property within 30 consecutive minutes after being instructed to do so by a city official.
 - (6) Items displayed, offered, or made available for sale by a sidewalk vendor who vends in a manner that blocks or obstructs the free movement of pedestrians on sidewalks and fails to maintain a minimum of 48 inches of accessible path of travel, without obstruction, along the sidewalk upon which the vendor is vending so as to enable persons to freely pass while walking, running, or using mobility assistance devices, and/or in violation of the Federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.
 - (7) Items displayed, offered, or made available for sale in violation of any applicable federal, state, county, or city laws, ordinances, and regulations, including, but not limited to, illegal or counterfeit

(Supp. No. 59)

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- merchandise, alcohol, tobacco, cannabis, smoke or vaping products, adult-oriented material, live animals, weapons, and/or pharmaceuticals.
- (8) Items creating an imminent and substantial danger or environmental hazard to the health, safety, or general welfare of the public or property at the location of the vending cart such as, but not limited to, discharge of oil, grease, or other slippery substances on the street or sidewalk without any effort to maintain best management practices; using unapproved portable cooking equipment, heating element, gas-fueled appliance, generator, or any open flame; during an urgent or emergency public safety event or incident; lack of a fire extinguisher; using any luminaire, flashing lights, or any other animated devices or sign; or using, operating, or permitting any radio, loudspeaker, or other machine or device for the producing or reproducing of sound.
 - (9) Items displayed, offered, or made available for sale by a sidewalk vendor who has, within a 24-month period, been issued three or more administrative citations for violations of this article.
 - (10) Items impounded as evidence of a crime or booked as property after an arrest of any sidewalk vendor involving any city, county, state, or federal law or regulation excluding this article. Such items shall be stored and released in accordance with the procedures set forth in the California Penal Code and any other applicable state law.
- (c) *Forfeiture impoundment authorization for repeat offenders.* The city may immediately conduct a forfeiture impoundment of items from a sidewalk vendor who has been found responsible for engaging in sidewalk vending activities in violation of this article two or more times within a 24-month period (herein identified as a repeat offender) after being contacted by a city official who issued a notice of violation. An aggrieved repeat offender may appeal a city forfeiture impoundment action pursuant to the procedures set forth in this section.
 - (d) *Disposal authorization.* The city may immediately dispose of impounded items that are perishable and/or cannot be safely stored.
 - (e) *Impoundment period of items held by city.* The impoundment of any sidewalk vendor's items, excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored, may be held by the city for not less than 30, nor more than 60, calendar days from the date of impoundment.
 - (f) *Impoundment notification.* Upon impoundment of items under this section, the director or designee shall do all the following:
 - (1) Take responsibility for the storage, documentation, and disposition of the items excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored.
 - (2) Provide the person from whom the items were taken with a receipt and instructions for the retrieval of the items excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored. The receipt and instructions shall either be given to the person from whom the items were taken at the time the city official obtained the items or mailed on the next business day, by first class mail, to the person from whom the items were taken.
 - (3) If the city official has knowledge that the person from whom the items were taken is not the owner, the director or designee shall make reasonable efforts to identify the owner. If the owner is identified, the director or designee shall mail, by first class mail, a receipt and instructions for the retrieval of the items excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored.
 - a. The receipt and instructions shall notify the person from whom the items were taken that the items must be claimed either within (A) 30 calendar days of impoundment pursuant to Section 114393 of the California Health and Safety Code and/or (B) 60 calendar days of impoundment

pursuant to Section 2080.10 of the California Civil Code, and that if the items are not claimed within the applicable time, the items will be disposed of in accordance with the disposal provisions of this section or any other applicable county or state law. Within the applicable 30 or 60 calendar days, the person may do one of the following.

1. Retrieve the items, excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored.
 2. Authorize in writing another person to retrieve the items, excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored.
 3. Notify the city in writing that they are unable to retrieve the items because they are in custody (e.g., jail or prison) and request the city to hold the items, excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored. If a person notifies the city that they are unable to either retrieve the items within the applicable 30 or 60 calendar days, or have an authorized person retrieve the items, the city shall hold the items for not longer than ten additional months, after which time the city may dispose of the items in accordance with the disposal provisions of this Code or any other applicable county or state law.
- b. Pursuant to state law, the city shall not be liable for damages caused by any official action performed with due care regarding the disposition of items pursuant to this section and the disposal provisions of this article.
- (g) *Appeal of impoundment.* An aggrieved sidewalk vendor may, within 15 calendar days of the impoundment, appeal the impoundment of their items by requesting an administrative hearing before the city manager or the city manager's designee pursuant to the procedures described in section 15-826 of this article and, if successful in their appeal, may have their items returned, excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored and shall not be required to pay the impound fee(s). If the sidewalk vendor is successful on appeal, any appeal fee paid by the sidewalk vendor shall be refunded.
- (h) *Recovery of impounded items and payment of impound fees.* A sidewalk vendor may recover impounded items, excluding any items that were immediately disposed of because they were perishable and/or could not be safely stored, upon paying applicable impound fees and demonstrating proper proof of ownership of the items.
- (i) The city council may by resolution adopt impound fees, which shall reflect the city's personnel, enforcement, investigation, storage, disposal, and impound costs.
- (j) *Unclaimed items.* Any unclaimed items will be considered abandoned and forfeited to the city after (A) 30 calendar days of impoundment pursuant to Section 114393 of the California Health and Safety Code and/or (B) 60 calendar days of impoundment pursuant to Section 2080.10 of the California Civil Code, or any other applicable city, county, or state law.
- (k) The director is further authorized to develop additional regulations for the storage and release of impounded items not in conflict with this article.

(Ord. No. 1925, § 3, 10-24-23)

Title 5 - REGULATION OF BUSINESSES, TRADES AND PROFESSIONS
CHAPTER 5.73 SIDEWALK VENDORS

CHAPTER 5.73 SIDEWALK VENDORS

DIVISION I. PURPOSE AND DEFINITIONS

5.73.010 Purpose.

The purpose of this Chapter is to establish a sidewalk vendor regulatory program. The provisions of this Chapter allow the City to encourage entrepreneurship and economic development opportunities to low-income and immigrant communities while protecting the public's health, safety and welfare; the City's natural resources and recreational opportunities; and the natural character of areas zoned as parks.

(ORD-24-0002 § 1, 2024)

5.73.020 Definitions.

If a term or phrase is not defined in this Chapter, or elsewhere in this Code, the most common dictionary definition is presumed to be correct. For the purposes of this Chapter, the following terms and phrases shall have the meanings respectively ascribed to them in this Section unless, from the particular context, it clearly appears that some other meaning is intended.

- A. "Above ground structure" means any structure permanently affixed to a public sidewalk or other pedestrian path, including, but not limited to, public benches, bicycle racks, fences, fire hydrants, gates, mailboxes, parking meters, sign poles, street lights, traffic signal poles, tree wells, utility boxes, and utility poles.
- B. "Beach access point" means those identified in the coastal access inventory prepared and updated pursuant to Section 30531 of the Public Resources Code.
- C. "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code.
- D. "Curb" means the edge where a raised sidewalk or other pedestrian path meets a street or other roadway.
- E. "City" means the City of Long Beach.
- F. "Food" means a 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, and chewing gum.
- G. "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.
- H. "Merchandise" means any personal property, other than food, capable of manual delivery, displayed, held, or offered for retail sale by a vendor.
- I. "Park" or "area zoned as a park" means any publicly owned natural and open areas for active and passive public use for recreational, cultural and community service activities, including but not limited to, spaces dedicated or designated as parks in Table 35-2 or any successor table or amendments to said table as set forth in Chapter 21.35 of this Code.

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- J. "Parklet" means a small area open to public use, utilizing one or more on-street parking spaces and may include adjacent public walkways or other right-of-way, that may combine elements including dining, entertainment, seating, planting, landscaping, lighting, shade, bicycle parking, and/or artwork, as permitted pursuant to Chapter 14.15 of this Code.
 - K. "Parkway" means the area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. "Parkway" also includes any area within a roadway which is not open to vehicular travel. "Parkway" does not include street medians.
 - L. "Pedestrian path" means a path or walkway, including a sidewalk specifically designed for pedestrian travel. It does not include shared-use paths (e.g., paths designated for both bicycle and pedestrian travel).
 - M. "Person" means a natural person as well as an entity, company, partnership, corporation, association, organization, or any other legal entity or group, and includes the plural as well as the singular number.
 - N. "Private property" means any real property, parcel of land, or lot that has a separate certificate of title which is in private ownership or the subject of a lease or agreement with a person enabling its use for private purposes and includes any building or structure thereon. "Private property" includes real property owned by City that is leased to a private person.
 - O. "Residential" means any area zoned as a residential district in Title 21 of this Code.
 - P. "Sidewalk" means that portion of a highway, other than the roadway, set apart by curbs, barriers, concrete, markings or other delineation for pedestrian travel.
 - Q. "Sidewalk vending" means selling 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, and all associated activities, including, but not limited to, set up or break down of equipment, and display or exposure of food or merchandise for immediate sale.
 - R. "Sidewalk vendor" means 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.
 - 1. "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
 - 2. "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.
 - S. "Swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the California Business and Professions Code, and any regulations adopted pursuant to that article.
 - T. "Temporary special permit" means a permit issued by the City for 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 permit, for purposes including, but not limited to, filming, parades, or outdoor concerts.

(ORD-24-0002 § 1, 2024)

DIVISION II. ADMINISTRATION

5.73.030 License and permits required.

- A. It is unlawful for any person to engage in, operate, conduct, carry on, or allow to be carried on, or otherwise engage in any sidewalk vending without having first met the following requirements:
 - 1. The person has a valid business license pursuant to Chapter 3.80 of this Code;
 - 2. The person has a valid sidewalk vendor business permit pursuant to the requirements of Title 5 of this Code, including the requirements in this Chapter; and
 - 3. The person has a valid seller's permit applicable to sidewalk vending issued by the California Department of Tax and Fee Administration (CDTFA), to the extent required by law.
- B. Additionally, it is unlawful to engage in, operate, conduct, carry on, or allow to be carried on, or otherwise engage in the sidewalk vending of food without also having first obtained a health permit from the City Department of Health and Human Services.
 - 1. Exception: A sidewalk vendor with twenty-five (25) square feet or less of display area from which only prepackaged non-potentially hazardous food and whole uncooked produce is sold is not required to obtain a health permit.
- C. Sidewalk vendor business and health permits are non-transferable. Any change in ownership or operation requires new permits.

(ORD-24-0002 § 1, 2024)

5.73.040 Sidewalk vendor business license.

Each sidewalk vendor is subject to and must comply with the provisions of Chapter 3.80 of this Code related to the City's business license tax. Notwithstanding the foregoing, every person who applies for a sidewalk vendor business license/permit within the first year of the effective date of this Chapter 5.73 of this Code shall not be subject to the business license tax imposed by Section 3.80.253 of this Code for the first year of the applicant's operation as a sidewalk vendor.

(ORD-24-0002 § 1, 2024)

5.73.050 Sidewalk vendor business permit - application and fees.

- A. Each sidewalk vendor is subject to and must comply with Chapter 5.04 of this Code related to the administration of City business permits.
- B. An application for a sidewalk vendor business permit shall be filed in compliance with Chapter 5.04 of this Code, using a form approved by the City for that purpose, and which shall be certified by the applicant that to the best of the applicant's knowledge, the information contained on the form is true. Applications shall contain, at a minimum, the following information:
 - 1. Name and current mailing address of the applicant;
 - 2. Description of the merchandise or food offered for sale;
 - 3. CDTFA seller's permit number, to the extent required by law; and
 - 4. If the applicant is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

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- C. The applicant for a sidewalk vendor business permit is required to produce a social security number or alternative form of identification. Acceptable alternative forms of identification include a California driver's license or identification number, or an individual taxpayer identification number. The collected identification number shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit and licensure program, to comply with a state law, or to comply with state or federal court order.
 - D. Payment of the sidewalk vendor business license tax shall satisfy the fee for a sidewalk vendor business permit under Section 5.04.040 of this Code.

A sidewalk vendor business permit shall not be issued for sidewalk vending of food unless the vendor first obtains a valid City-issued health permit. Applicants intending to sell food must produce a valid City-issued health permit upon application for a sidewalk vendor business permit.

(ORD-24-0002 § 1, 2024)

5.73.060 Sidewalk vendor business permit - investigation.

Every sidewalk vendor shall be subject to inspections to ensure compliance with this Code and any other applicable law.

(ORD-24-0002 § 1, 2024)

5.73.070 Sidewalk vendor business permit - term and renewal.

A sidewalk vendor business permit issued under the provisions of this Chapter shall be effective for a one (1) year period after issuance, and shall be automatically renewed every year upon payment of the required business license tax, provided the Director of Financial Management determines that the permittee has complied with the provisions of this Chapter and all applicable laws during the preceding permit term.

(ORD-24-0002 § 1, 2024)

5.73.080 Sidewalk vendor business permit - cancellations, suspensions, revocations, denials, and appeals.

- A. The cancellation, suspension, revocation, denial and appeal of a sidewalk vendor business permit shall be governed by the provisions of Chapter 5.06 of this Code.
- B. No person shall conduct any sidewalk vending during the pendency of a related business permit application, during the time such a permit has been suspended, or at any time after such a permit has been denied, cancelled, or revoked, unless the permit is later granted or reinstated.
- C. In the event the sidewalk vendor license and/or permit is canceled, suspended, denied or revoked, any associated business permit and/or license is simultaneously and automatically deemed canceled, suspended, denied or revoked.

(ORD-24-0002 § 1, 2024)

5.73.090 Health permit for sidewalk vending of food.

Each sidewalk vendor vending food must also obtain a City-issued health permit pursuant to Section 5.04.050 and Title 8 of this Code, and the California Health and Safety Code. Notwithstanding the foregoing, every person

who applies for or renews a health permit to operate as a sidewalk vendor of food within the first year of the effective date of this Chapter 5.73 of this Code shall not be subject to any City health permit and/or plan check fee for the first year of the applicant's operation as a sidewalk vendor.

(ORD-24-0002 § 1, 2024)

5.73.100 Insurance.

- A. Every sidewalk vendor shall, as a condition precedent to the operation of sidewalk vending, obtain insurance as prescribed in regulations issued by the City Manager pursuant to Section 2.84.040. Every sidewalk vendor shall file such insurance with the Director of Financial Management.
- B. Every sidewalk vendor shall maintain the insurance in full force and effect when conducting sidewalk vending. Failure to maintain such insurance shall be cause for suspension or revocation of a sidewalk vendor business permit.
- C. Prior to the issuance or renewal of a sidewalk vendor business permit, each sidewalk vendor shall execute an indemnity agreement on a form provided by the City which provides that, by the acceptance or use of the sidewalk vendor permit, the sidewalk vendor shall indemnify, defend, protect and hold harmless the City, its Boards, Commissions, and their officials, employees, and agents from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with the vendor's sidewalk vending (collectively "claims") and that the sidewalk vendor shall notify the City of any claim within ten (10) days.
- D. City will comply with the California Values Act, Chapter 17.25 (commencing with Section 7284) of Division 7 of Title 1 of the Government Code, and City of Long Beach Administrative Regulation 33: Procedures Regarding the Requesting, Collecting, and Maintaining of Sensitive Information and the Enforcement of Federal Immigration Law in relation to the collection of information of sidewalk vendors.

(ORD-24-0002 § 1, 2024)

DIVISION III. GENERAL OPERATING CONDITIONS AND LOCATIONS

5.73.110 Sidewalk vending - general operating conditions.

- A. All sidewalk vendors must comply with all applicable provisions of the Long Beach Municipal Code, including, but not limited to:
 - 1. Chapter 8.63 - Polystyrene Food Packaging;
 - 2. Chapter 8.80 - Noise;
 - 3. Section 16.08.420 - Disposal of refuse;
 - 4. Section 16.12.260 - Sanitation (Pacific Ocean Areas); and
 - 5. Section 16.16.140. - Park Playgrounds - Adults not accompanying children ages 12 and under prohibited.
- B. All sidewalk vendors vending food must comply with and are subject to:
 - 1. Title 8 of this Code; and
 - 2. The California Health and Safety Code.

(Supp. No. 46, Update 1)

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- C. Hours of operation. Sidewalk vending may only be conducted during the following hours of operation:
1. Permissible roaming sidewalk vending in residential areas may occur between the hours of 8:00 a.m. and 8:00 p.m., or between 8:00 a.m. and sunset, whichever is later.
 2. Permissible sidewalk vending in non-residential areas, excluding areas zoned as parks, may occur between the hours of 6:00 a.m. and 10:00 p.m. or during the operating hours imposed on other businesses on the same block, whichever is least restrictive.
 3. Permissible sidewalk vending in areas zoned as parks may occur between the hours of 8:00 a.m. and the closing time of the park or, if there is no designated closing time, at sunset.
 4. Notwithstanding the aforementioned operating hours, no sidewalk vendor may vend within one (1) block of any school grounds from Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m. of said days.
- D. All sidewalk vendors must operate in a space no larger than one hundred (100) square feet.
- E. All sidewalk vendors must maintain adequate trash containers in or on their sidewalk vending conveyance or self, such that any trash generated by the sidewalk vending and/or the customers of the sidewalk vendor can be properly collected and disposed of by the sidewalk vendor.
- F. All sidewalk vendors must clean up all trash and debris related to their sidewalk vending within a ten (10) foot radius around their vending area. No sidewalk vendor shall use a public trash receptacle to dispose of their trash.
- G. All sidewalk vendors shall immediately clean up any food, grease, fluid, or items related to their sidewalk vending that falls onto public or private property.
- H. Any set up of tables, chairs, canopies, and/or umbrellas must be for the sole use of the sidewalk vendor. Any umbrella must have a minimum height of eight (8) feet and must be secured. Stationary sidewalk vendors may set up one (1) canopy for the sole use of the sidewalk vendor, not to exceed ten (10) feet by ten (10) feet and must abide by the following: the canopy must be properly secured and must have a cane-detectable barrier between each of the legs of the canopy. If using a canopy, a stationary sidewalk vendor shall maintain a minimum four (4) feet of clear, uncovered sidewalk/pedestrian path width as a path of travel, and five (5) feet in areas identified as High Volume or Very High Volume Pedestrian Zones as designated by the City's Traffic Engineer and Director of Public Works. Sidewalk vendors may not set up tables, chairs, umbrellas or canopies for customer use.
- I. All sidewalk vendors must comply with all applicable laws relating to the employment of minors. Any minor assisting with or engaged in sidewalk vending shall be accompanied by a sidewalk vendor with the required valid license and permit(s). Any and all actions of the minor related to sidewalk vending, including any violations committed by the minor, shall be attributable to the sidewalk vendor.
- J. All sidewalk vendors must comply with all posted parking restrictions, including when using motorized vehicles to load or unload sidewalk vending conveyances, equipment, materials, or personnel.
- K. No sidewalk vendors shall drive onto or otherwise stage any motorized vehicle on any curb, parkway or sidewalk to load or unload sidewalk vending conveyances, equipment, materials or personnel. No sidewalk vendors shall use any motorized vehicle to drive onto sidewalks, pedestrian paths, pathways, turf, or sandy areas.
- L. Stationary sidewalk vendors shall not use amplified or non-amplified sound-making devices in conjunction with their sidewalk vending, such as speakers, microphones, public address systems, bells, and chimes.
- M. Roaming sidewalk vendors shall not use amplified or non-amplified sound-making devices in conjunction with their sidewalk vending, with the exception of bells and chimes.

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- N. Sidewalk vendors may not use red and blue flashing signs. Any other flashing sign used in sidewalk vending must not be facing a highway or traffic.
 - O. Sidewalk vendors may use a private property owner's utilities (e.g., water or power) only if the sidewalk vendor has prior authorization from the private property owner and use of the utilities does not present a safety hazard (e.g., tripping hazard) or accessibility challenge.
 - P. All sidewalk vendors shall not:
 - 1. Leave their sidewalk vending conveyance, equipment, food, and/or merchandise unattended.
 - 2. Store their sidewalk vending conveyance, equipment, food, and/or merchandise on public property.
 - 3. Rent merchandise to customers.
 - 4. Solicit sales by travelling door-to-door on private property.
 - 5. Hang or affix any items to above ground structures, fences, gates, trees, or onto public or private buildings.
 - 6. Display merchandise or food that is not available for immediate sale.
 - 7. Vend food or merchandise that requires verification of a minimum age for purchase, such as alcoholic beverages (as defined in Section 9.02.020 of this Code), tobacco, tobacco products, cannabis, or firearms.
 - 8. Vend any controlled substance, drug, or pharmaceutical.
 - 9. Vend vaping or drug paraphernalia.
 - 10. Vend adult-oriented material.
 - 11. Vend animals.
 - 12. Vend counterfeit, stolen, or illegal goods.
 - 13. Vend weapons, including but not limited to, knives, guns, explosive devices, BB devices, or imitation firearms.
 - 14. Dispose of items or materials onto or into the curbs, gutters, streets, drains, storm drain system, or onto any other public or private property. Items include, but are not limited to, food debris, hot coals, ashes, grease, and any water or rinse residue used for sidewalk vending, such as cooler water, ice, or food preparation water.
 - 15. Adversely affect the City's ability to perform municipal functions or furnish City services.
 - 16. Interfere with the performance of police, firefighter, lifeguard and/or emergency medical personnel services.
 - 17. Obstruct the free and easy access to and departure from any portion of any public landing, pier or wharf within the marinas.

(ORD-24-0002 § 1, 2024)

5.73.120 Sidewalk vending - location requirements.

- A. Stationary sidewalk vendors shall maintain a minimum four (4) feet of clear sidewalk/pedestrian path width as a path of travel, and five (5) feet in areas identified as High Volume or Very High Volume Pedestrian Zones as designated by the City's Traffic Engineer and Director of Public Works.
- B. Sidewalk vendors shall not vend:

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1. On any public property that does not meet the definition of a "sidewalk" or "pedestrian pathway," as defined by this Chapter, unless otherwise authorized by this Chapter.
 2. On any private property, unless authorized by the owner of the private property and the vendor has secured an administrative use permit. This includes any City-owned property subject to a lease agreement, including, but not limited to, the Long Beach Convention and Entertainment Center, Shoreline Village, the Pike Outlets, Rainbow Harbor Esplanade, Rancho Los Alamitos, Rancho Los Cerritos, municipal golf courses and community gardens.
 3. At a protected habitat or mitigation areas, including but not limited to, Colorado Lagoon, DeForest Park and Wetlands, El Dorado Nature Center, Golden Shore Marine Reserve, Jack Dunster Marine Reserve, Los Cerritos Wetlands, Sims Pond, and Willow Springs Park and Wetlands.
 4. On any sidewalk or other pedestrian path with a slope greater than five (5) percent or where signage indicates that wheels must be cramped to the curb.
 5. In any location where the sidewalk vending obstructs traffic signals or regulatory signs.
 6. To any customer in an unparked vehicle, including a vehicle that is stopped in traffic.
 7. On any sidewalk, roadway or adjacent shoulder within five hundred (500) feet of a freeway off ramp or on ramp.
 8. Within eighteen (18) inches of the edge of a curb.
 9. Within five (5) feet of an above ground structure.
 10. Within five (5) feet of a bus stop or Metro stop.
 11. Within ten (10) feet of a driveway, alley approach or marked crosswalk.
 12. Within ten (10) feet of an ATM or outlined shared e-scooter or bike parking.
 13. Within fifteen (15) feet of a commercial outdoor dining area, sidewalk dining area, permanent parklet, or location with a valid encroachment permit.
 14. Within fifteen (15) feet of a street intersection.
 15. Within fifteen (15) feet of a loading zone, ADA curb/ramp/curb cut, parking space, or access ramp designed for individuals with disabilities.
 16. Within twenty-five (25) feet of a beach access point.
 17. Within fifty (50) feet of a railroad crossing.
 18. Within twenty-five (25) feet of a Los Angeles County waterway and/or flood control fencing.
 19. Within one hundred (100) feet of the vehicle entrance of any fire station, police department, hospital, lifeguard tower, lifeguard headquarters, or any other emergency response structure or path.
 20. Within one hundred (100) feet of a posted sidewalk or street closure, unless otherwise permitted.
- C. Stationary sidewalk vendors shall not vend:
1. In areas zoned as exclusively residential.
 2. Within twenty (20) feet of any detached or freestanding single-family home located in a mixed-use zone (i.e., area zoned as both residential and commercial).
 3. Within ten (10) feet of an entrance or exit to a building/ structure/facility, fire escape, or emergency exit.

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4. Within fifteen (15) feet of a Fire Department connection, fire hydrant, fire lane or any fire backflow preventer.
 5. Within twenty (20) feet of another stationary sidewalk vendor.
- D. Roaming sidewalk vendors shall not vend:
1. Where they block the entrance or exit to a building/structure/ facility, fire escape, or emergency exit.
 2. Where they block a Fire Department connection, fire hydrant, fire lane or any fire backflow preventer.
- E. Sidewalk vendors vending food shall not vend within fifteen (15) feet of a public restroom.
- F. Sidewalk vendors may vend in a parkway, so long as the vending only occurs on areas where plants are not present, no damage is done to the parkway landscaping, it is safe to vend in the parkway, and all other requirements under this Chapter are met.
- G. For permitted swap meets, permitted certified farmers' markets, and areas designated for a temporary special permit (collectively "events"), the following also applies:
1. For events with less than five thousand (5,000) attendees and where limited venue access/egress is not a factor, sidewalk vendors may not vend within two hundred fifty (250) feet of the event.
 2. For events with more than five thousand (5,000) attendees and where limited venue access/egress is not a factor, sidewalk vendors may not vend within five hundred (500) feet of any entrance or exit to the event or within two hundred fifty (250) feet of the perimeter of the event.
 3. For all other events, sidewalk vendors may not vend within five hundred (500) feet of the event.
 4. The vending restrictions described above in subparagraphs (1) through (3) to paragraph G of this Section, apply as follows:
 - a. For permitted swap meets or permitted certified farmers' markets: during the limited operating hours of the certified farmer's market or swap meet.
 - b. For an area designated for a temporary special permit: during the limited duration of the temporary special use permit.
 5. For areas designated for a temporary special permit, any notice, business interruption mitigation, or other right provided to affected businesses or property owners under the City's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable.
- H. In areas zoned as parks, the following also applies:
1. Stationary sidewalk vendors are not permitted to operate within five hundred (500) feet of any concessionaire that has signed an agreement for concessions with the City that exclusively permits the sale of food or merchandise by the concessionaire.
 2. Sidewalk vendors are not permitted to operate within fifteen (15) feet of any City monument, statue, memorial, or art installation.
 3. Stationary sidewalk vendors may vend within the space ten (10) feet off of a pedestrian, bike, or shared use path, measured perpendicular to the path, so long as it is safe to do so, customers do not queue on the path, the vendor is not within five hundred (500) feet of a concessionaire that has signed an agreement with the City that exclusively permits the sale of food or merchandise by the concessionaire, and all other requirements under this Chapter are met.
 4. Sidewalk vendors shall not use any motorized vehicle to drive onto pathways, turf or sandy areas.

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5. Sidewalk vendors shall take appropriate care to not damage turf, irrigation or any other infrastructure while engaging in sidewalk vending.
 6. Roaming sidewalk vendors may vend on greenspace or sandy areas, but shall not interfere with any sporting events or the free use of any designated sport play areas or open recreation space and shall not approach spectators who are watching a sporting activity to vend food or merchandise.

(ORD-24-0002 § 1, 2024)

5.73.130 Sidewalk vending - exception for minor vendors.

In residential zones only, minors under age of eighteen (18) vending on public sidewalks or other pedestrian paths for a temporary use or selling products for a recognized 501(c)(3) charity for the purpose of fundraising shall be exempt from the requirements of this Chapter. Access and accessibility provisions still apply.

(ORD-24-0002 § 1, 2024)

DIVISION IV. ENFORCEMENT AND PENALTIES

5.73.140 Enforcement.

Violations of this Chapter are enforceable using the administrative citation procedures set forth in Chapter 9.65 of this Code. Fines for violations of this Chapter shall be assessed pursuant to Section 5.73.160 below.

(ORD-24-0002 § 1, 2024)

5.73.150 Impoundment.

- A. Any sidewalk vendor with a valid sidewalk vendor business permit that operates in violation of any provision of this Chapter will first be offered an opportunity to remedy the violation in order to continue vending. If the sidewalk vendor refuses to or cannot come into compliance, an enforcement officer may order the sidewalk vendor to immediately cease and desist any vending and to remove themselves from the vending area. If the sidewalk vendor fails to comply, the sidewalk vendor's equipment, food, and/or merchandise may be impounded or disposed of pursuant to paragraphs B and C of this Section, below.
- B. A sidewalk vendor's vending equipment, food and/or merchandise is subject to summary and immediate impoundment if the vendor:
 1. is vending prohibited items, as described in Section 5.73.110.N, subparagraphs 7 through 13 of this Code;
 2. does not possess a valid sidewalk vendor business permit;
 3. leaves sidewalk vending equipment, food, and/or merchandise unattended; or
 4. is a permitted sidewalk vendor who cannot or refuses to comply with an enforcement officer's request to come into compliance with the Code, and who refuses to cease vending.
- C. Equipment, food and/or merchandise is subject to immediate disposal, rather than impoundment, if the equipment, food and/or merchandise cannot be stored, is perishable, or presents a health or safety concern.
- D. For any impoundment under this Section, the person from whom property was taken shall be provided with a receipt and instructions for the retrieval of the property. The receipt and instructions shall either be given

to the person from whom the property was taken at the time the property is obtained, or mailed, by first-class mail, to the person from whom the property was taken, if the person provides a valid form of identification which includes the person's contact information.

1. The receipt and instructions shall notify the person from whom the property was taken that the property must be claimed within ninety (90) calendar days after City takes possession of the property or the property will be disposed.
 2. If the owner or person responsible for unattended items cannot be identified, or if a person refuses to provide identification for the issuance of an administrative citation, the enforcement officer shall document the date, time period, and location where the impounded property was observed; the circumstances supporting the enforcement officer's finding that the property was unattended, if applicable; any reasonable attempt to locate the owner of the property; any refusal by the owner of the property to provide identification; and a complete description of the property, including any property that was immediately disposed of because it was perishable or presented a health or safety concern. This document shall be maintained by the City with any impounded property.
 3. Impounded property may be recovered within ninety (90) calendar days from the date of impoundment, upon presentation of proof of ownership and full payment of a sum equal to the cost of removing and storing the impounded property.
 4. Any unclaimed impounded property will be considered abandoned and forfeited to the City after ninety (90) calendar days following impoundment.
 5. A person whose property is impounded pursuant to this Section may request an administrative hearing by submitting a written request for hearing form and returning it to the Department of Financial Management within thirty (30) calendar days of impoundment. The administrative hearing shall be conducted in accordance with Chapter 9.65 of this Code and may be held at the same time as the administrative hearing on any related administrative citation issued under this Chapter. No deposit is required to request a hearing on impounded property under this Section.
 6. The City Manager or the Department of Financial Management may develop additional regulations for the storage and release of impounded property.
- E. None of the aforementioned impoundment actions in this Section prevents an enforcement officer from issuing an administrative citation to a person reasonably believed to be in violation of any provision of this Chapter.

(ORD-24-0002 § 1, 2024)

5.73.160 Penalties.

A sidewalk vendor who violates any provision of this Chapter is subject to the penalties enumerated in paragraphs A and B of this Section below, and not of Section 5.08.030.A of this Code.

- A. Violations of this Chapter.
1. Any violation of this Chapter shall be punishable only by the following:
 - a. An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
 - b. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
 - c. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.

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- d. City may revoke a sidewalk vendor business permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.
 2. The owner, manager, or operator of any sidewalk vending activity is responsible for any violation by an employee of any provision of this Chapter. Any violation of this Chapter by an employee shall be deemed a violation for which the owner, manager or operator of each sidewalk vending activity is responsible.
- B. Sidewalk vending without a valid sidewalk vendor business permit.
1. Sidewalk vending without a valid sidewalk vendor business permit shall be punishable by the following:
 - a. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
 - b. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation.
 - c. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.
 2. Upon proof of a valid sidewalk vendor permit issued by the City, the administrative fines set forth in subparagraph (B)(1) shall be reduced to the administrative fines set forth in subparagraph (A)(1) of this Section, respectively.
- C. Failure to pay an administrative fine 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 in this Section shall not be assessed.
- D. Sidewalk vending of food without a valid City health permit shall be punishable pursuant to the California Health and Safety Code.
- E. Violations of any rule, regulation, or statute outside of this Chapter may be independently enforced and penalized as prescribed by law.

(ORD-24-0002 § 1, 2024)

5.73.170 Ability-to-pay determination.

- A. Any fine issued under this Chapter will be accompanied with a notice of the right to request an ability-to-pay determination with instructions or other materials for requesting an ability-to-pay determination.
- B. At any time before the citation is paid, the cited party may request an ability-to-pay determination.
- C. When assessing an administrative fine pursuant to this Chapter, the adjudicator shall take into consideration the person's ability to pay the fine. The adjudicator shall have the power to reduce the fine based upon the person's ability to pay the fine.
 1. If the adjudicator finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this Chapter.
 2. The adjudicator may waive the administrative fine or may offer an alternative disposition.

(ORD-24-0002 § 1, 2024)

5.73.180 Severability.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provision or application; and to this end, the provisions or applications of this Chapter are severable.

(ORD-24-0002 § 1, 2024)

Chapter 4.52

SOLICITORS AND SIDEWALK VENDORS*

Sections:

- 4.52.010 Solicitor's permit required.**
- 4.52.020 Solicitor's permit application.**
- 4.52.030 Revocation of solicitor's permit.**
- 4.52.040 Unlawful conduct by solicitors.**
- 4.52.050 Sidewalk vendors.**
- 4.52.060 Sidewalk vending prohibited in designated areas.**
- 4.52.070 Operational standards for sidewalk vendors.**
- 4.52.080 Sidewalk vendor enforcement.**

*Licensing of peddlers and solicitors — See Section 3.32.060.

4.52.010 SOLICITOR'S PERMIT REQUIRED.

Every person, whether or not a resident of the City of Anaheim, traveling by foot, vehicle, or other type of conveyance, from place to place or from door to door or at any temporary, stationary location on public property, and carrying, displaying, conveying, transporting or offering for sale any goods, wares, merchandise, fresh or frozen food products, fruit, farm produce or any services, or making sales and delivering articles thus sold to a purchaser thereof, is a "solicitor." No person not otherwise excepted by law shall engage in the business of being a solicitor without first obtaining a permit therefor. (Ord. 5810 § 34 (part); April 23, 2002; Ord. 5949 § 2; November 16, 2004.)

4.52.020 SOLICITOR'S PERMIT APPLICATION.

.010 No permit to engage in the business of being a solicitor shall be issued except upon the satisfactory completion of an application therefor on forms supplied by the Revenue Manager. Said application shall include the name and address of the applicant, a passport size photograph of the applicant, a description of the goods, wares or services to be offered for sale, the applicant's social security number or federal or state employer's identification number or tax identification number, the applicant's former residence or places of business for a period of five years preceding the date of the application, and a list of any convictions of applicant for a felony or misdemeanor involving moral turpitude for the previous five years. The application shall be signed by the applicant under penalty of perjury and shall be accompanied by a fee in an amount established by the Revenue Manager. The Revenue Manager shall utilize the service of the Anaheim Police Department to investigate and verify the facts set forth in the application.

.020 Following the investigation of the application by the Police Department, the Revenue Manager shall issue said permit if the Revenue Manager finds that the information contained in the application is true and correct and that the applicant has not been convicted of a crime of moral turpitude or any violation of this chapter for a period of three years prior to the date of application. A solicitor's permit shall be issued if the application therefor has remained pending or under investigation for more than fifteen (15) days after a fully completed application has been filed. A solicitor's permit shall be valid for a period of one year from the date of its issuance unless sooner revoked under the terms of this Chapter.

.030 The requirement of a solicitor's permit under this chapter shall be in addition to the requirement for a business license from the City of Anaheim. (Ord. 5810 § 34 (part); April 23, 2002.)

4.52.030 REVOCATION OF SOLICITOR'S PERMIT.

.010 The Revenue Manager may revoke the solicitor's permit granted to any person upon a finding that such person has violated any provision of this chapter, made material misrepresentation upon such solicitor's permit application or has been convicted of a crime of moral turpitude or a violation of this chapter within a period of three years prior to the date of the permit application.

.020 No permit shall be revoked until after a hearing shall have been held before the City Manager or designee to determine good cause for such revocation. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. The notice shall state the ground for the proposed revocation and shall state the time and place where such hearing will be held.

.030 Said notice shall be served upon the permit holder by delivering the same to such person or by leaving such notice at the place of business of the permit holder during usual business hours, with the person who is apparently in charge thereof, or the residence of the permit holder, in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found and the service of such notice cannot be made in the manner herein provided, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at his place of business or residence at least ten days prior to the date of such hearing.

.040 After said hearing, the City Manager or his or her designee shall render a written decision within ten working days from the date the matter is submitted for decision. The action of the City Manager or his or her designee shall be final and conclusive. (Ord. 5810 § 34 (part); April 23, 2002.)

4.52.040 UNLAWFUL CONDUCT BY SOLICITORS.

.010 It shall be unlawful for any person to engage in soliciting as defined in this chapter in or upon the grounds of any stadium, convention center, government office building, police station, fire station library or other public facility owned or operated by the City of Anaheim except with the prior written consent of the City of Anaheim.

.020 It shall be unlawful for anyone to engage in soliciting as defined in this chapter without having in such solicitor's possession a valid permit issued under the provisions of this chapter and a valid business license issued by the City of Anaheim pursuant to this Code.

.030 It shall be unlawful for any solicitor to make any false statement to any person being solicited by such person for a commercial transaction that relates to the goods, wares, merchandise or services offered for sale by such solicitor.

.040 Any person who shall be convicted of any act defined as unlawful conduct under the provisions of this chapter is guilty of an infraction. (Ord. 5810 § 34 (part); April 23, 2002.)

4.52.050 SIDEWALK VENDORS.

.010 DEFINITIONS.

.0101 "Roaming Sidewalk Vendor" means a Sidewalk Vendor who moves from place to place and stops only to complete a transaction.

.0102 "Sidewalk Vendor" means a person who sells food or merchandise from a Vending Display Device, or from one's person, upon a public sidewalk or other pedestrian path. The term "Sidewalk Vendor" includes both Roaming Sidewalk Vendors and Stationary Sidewalk Vendors.

.0103 "Sidewalk Vendor Permit" means a permit issued by the City authorizing a person to engage in the business of being a Sidewalk Vendor.

.0104 "Stationary Sidewalk Vendor" means a Sidewalk Vendor who vends from a fixed location.

.0105 "Vending Display Device" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, nonmotorized conveyance (including trailers), freestanding table, rack, 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 Display Device" does not include any street furniture such as benches or planters, any other structure permanently installed by the City or with the consent of the City, or newsracks placed in conformity with the provisions of this Code regulating newsracks.

.020 SIDEWALK VENDOR PERMIT REQUIRED. No person not otherwise excepted by law shall engage in the business of being a Sidewalk Vendor without first obtaining a permit therefor.

.030 SIDEWALK VENDOR PERMIT APPLICATION. No permit to engage in the business of being a Sidewalk Vendor shall be issued except upon the satisfactory completion of an application therefor on forms supplied by the License Collector. The application shall include the name of the applicant; the address of the applicant; the address designated and agreed to by the applicant for receipt of notices from the City; a passport size photograph of the applicant; a description of the goods, wares or services to be offered for sale; proof of a valid California Department of Tax and Fee Administration seller's permit; the applicant's social security number or federal or state employer's identification number or tax identification number or California driver's license or California identification number; and any other information deemed necessary by the License Collector. The application shall be signed by the applicant under penalty of perjury and shall be accompanied by a fee in an amount established by the License Collector. The License Collector may utilize the service of the Anaheim Police Department to investigate and verify the facts set forth in the application. Any social security number, California driver's license number or identification number submitted with the permit application shall not be disclosed except as required for administrative purposes or to comply with a state law or state or federal court order.

The requirement of a Sidewalk Vendor Permit under this section shall be in addition to the requirement for a business license from the City and any additional licenses required by other state or local agencies, including but not limited to any permit required by the Orange County Health Care Agency.

.040 DENIAL AND REVOCATION OF A SIDEWALK VENDOR PERMIT.

.0401 An application for a Sidewalk Vendor Permit may be denied for any of the following reasons:

.01 The applicant provides false, misleading, or fraudulent information or omits material information in the application.

.02 The proposed vending operation is contrary to any provision of this Code regulating sidewalk vending.

.03 The applicant failed to provide a complete application after having been asked to provide additional information or documents.

.04 The applicant failed to comply with the operational standards set forth in the provisions of this Chapter.

.05 The applicant failed to pay any administrative citation issued for violating any provision of this Code regulating sidewalk vending.

.06 The proposed vending operation, including the equipment to be used by the applicant, fails to comply with all applicable health, zoning, fire, building, and safety laws of the State of California, the County of Orange, or the City.

.0402 If an application for a Sidewalk Vendor Permit is denied, the applicant shall receive written notice stating the reasons for the denial. If a Sidewalk Vendor Permit is revoked, a Sidewalk Vendor shall receive written notice stating the reasons for the revocation.

.0403 Upon the fourth violation of any provision of this Code regulating sidewalk vending within the term of the Sidewalk Vendor Permit, the License Collector may revoke the Sidewalk Vendor Permit granted to any person upon a finding that such person has violated any provision of this Chapter. The License Collector may also revoke the Sidewalk Vendor Permit granted to any person upon a finding that such person has made a material misrepresentation on his or her Sidewalk Vendor Permit application.

.0404 A person whose application for a Sidewalk Vendor Permit is denied, or a person whose Sidewalk Vendor Permit is revoked, may appeal the decision to the City Manager or his or her designee by filing a written notice of appeal within ten (10) calendar days after receiving the notice of denial or revocation.

.0405 If a written notice of appeal is received within the ten (10) day period, the City Manager or his or her designee shall conduct a hearing within thirty (30) calendar days after receipt of the written request. Notice of such hearing shall be given in writing and served at least ten (10) days prior to the date of the hearing thereon. The notice shall state the ground for the denial or revocation and shall state the time and place where such hearing will be held.

.0406 The notice shall be served upon the applicant or permit holder by delivering the same to such person or by leaving such notice at the place of business of the applicant or permit holder during usual business hours, with the person who is apparently in charge thereof, or at the residence of the applicant or permit holder, in the custody of a person of suitable age and discretion. In the event the applicant or permit holder cannot be found and the service of such notice cannot be made in the manner herein provided, a copy of such notice shall be mailed, postage fully prepaid, addressed to the applicant or permit holder at the address designated by the applicant or permit holder on the Sidewalk Vendor Permit application as the address for receipt of notices from the City at least ten (10) working days prior to the date of such hearing.

.0407 After the hearing, the City Manager or his or her designee shall render a written decision within thirty (30) working days from the date the matter is submitted for decision. The action of the City Manager or his or her designee shall be final and conclusive. (Ord. 6449 § 2; November 20, 2018; Ord. 6568 § 2; February 27, 2024.)

4.52.060 SIDEWALK VENDING PROHIBITED IN DESIGNATED AREAS.

.010 It shall be unlawful for any person to engage in the business of being a Sidewalk Vendor as defined in this Chapter in or upon the grounds of any stadium, convention center, government office building, police station, fire station library or other public facility owned or operated by the City except with the prior written consent of the City.

.020 It shall be unlawful for any person to engage in the business of being a Sidewalk Vendor on any of the following public streets and sidewalks within the City two (2) hours before, during and two (2) hours after events at Angel Stadium of Anaheim, the Honda Center and The City National Grove of Anaheim:

.0201 Orangewood Avenue, from west side of State Route 57 to 300 feet west of State College Boulevard.

.0202 State College Boulevard, from 300 feet south of Orangewood Avenue to the north side of Katella Avenue.

.0203 Katella Avenue, from the west side of State College Boulevard to the Santa Ana River Trail.

.0204 Douglass Road, from the entrance to the Angel Stadium of Anaheim to Cerritos Avenue.

.0205 Dupont Drive.

.0206 Rampart Street from Orangewood Avenue to Dumaine Street.

.0207 Gene Autry Way from South Chris Lane to the entrance of the Angel Stadium of Anaheim.

.030 It shall be unlawful for any person to engage in sidewalk vending in the areas designated in section 4.10.010.010.0101 - .0108 of this Code.

.040 Stationary Sidewalk Vending is prohibited in any location zoned exclusively residential.

.050 Sidewalk vending is prohibited in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited hours of that certified farmers' market or swap meet. 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. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21600) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulation adopted pursuant to that article.

.060 Sidewalk vending is prohibited within the immediate vicinity of an area designated for a temporary special permit, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to

operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority for 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 permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit. (Ord. 6449 § 3; November 20, 2018; Ord. 6568 § 3; February 27, 2024.)

4.52.070 OPERATIONAL STANDARDS FOR SIDEWALK VENDORS.

.010 Sidewalk Vendors shall comply with the following operational standards in order to maintain public health, safety, and welfare:

.0101 Sidewalk Vendors shall comply with the Americans with Disabilities Act of 1990 and other disability access standards, including but not limited to allowing for a minimum width of at least thirty-six (36) inches of accessibility on any sidewalk.

.0102 Sidewalk Vendors shall not use canopies, pop up tents, E-Z UP tents, or similar shade structures that reduce the minimum clear width of a sidewalk to less than thirty-six (36) inches. The use of an umbrella or a similar shade structure that does not reduce the minimum clear width of a sidewalk to less than thirty-six (36) inches may be considered as part of an application for a Sidewalk Vendor Permit. The size of a permitted umbrella or similar shade structure may vary depending on the vending location proposed by a Sidewalk Vendor.

.0103 Sidewalk Vendors shall not vend to occupants of motorized vehicles in operation.

.0104 Sidewalk Vendors may not engage in vending in such a manner as to cause onlookers or customers to obstruct the accessible path of travel for pedestrians and vehicles.

.0105 To maintain the free movement of pedestrians and vehicles, Sidewalk Vendors may 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 Display Device.

.0106 Sidewalk Vendors must provide a trash receptacle for customers to ensure proper disposal of customer trash. Prior to leaving any vending location, a 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-five (25) foot radius of the vending location. Sidewalk Vendors are responsible for disposing of the trash associated with their business and may not use City receptacles for this purpose.

.0107 Sidewalk Vendors must properly dispose of fats, grease, and oil.

.0108 At all times while vending, Sidewalk Vendors that sell food shall possess and display in plain view on their Vending Display Device a valid permit from the Orange County Health Care Agency.

.0109 At all times while vending, Sidewalk Vendors shall display in plain view on their Vending Display Device a Sidewalk Vending Permit issued to the person vending pursuant to section 4.52.050 of this Code.

.0110 Sidewalk Vendors shall be responsible for compliance with all applicable federal, state, and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulations; noise standards; alcoholic beverages, tobacco products, cannabis, electronic cigarette, smoking devices and controlled substances regulations; sanitation and health standards; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).

.0111 Vending Display 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 Display Device shall become a permanent fixture at a vending location or be considered an improvement to real property.

.0112 Vending Display Devices shall not be left or stored unattended on public property or within the public right-of-way.

.0113 Sidewalk Vendors shall not vend or distribute: (a) live animals, wildlife, fish, fowl, or insects; (b) or items that are otherwise illegal to sell or distribute under other laws (such as unlawful narcotics, weapons, and counterfeit merchandise). 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.

.0114 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.

.0115 Sidewalk Vendors shall not unreasonably interfere with access or use of City infrastructure, including City benches, bike racks, wheelchair access ramps, stairs, parking meters, utility boxes, trash receptacles, or recycling receptacles.

.0116 Sidewalk Vendors shall not block access to or create unreasonable congestion at: (a) a corner of any street intersection; (b) any fire hydrant, fire call box, emergency exit, or other emergency facility; (c) any curb which is designated as white, yellow, green, blue, or red zone, or a bus zone; (d) any building entrance or stairway access point; (e) any driveway or driveway apron; (f) upon or within any roadway, median strip, or dividing section; or (g) at any parking pay station. Vending or operating in a way that violates the accessible path of travel for persons with disabilities is per se unreasonable.

.0117 Sidewalk Vendors shall not operate or vend in a way that violates the terms or conditions of their Sidewalk Vendor Permit.

.0118 Sidewalk Vendors shall comply with all other generally applicable laws.

.020 The City Manager or his or her designee may promulgate regulations governing sidewalk vending to effectuate the provisions of this Chapter and to address objective health, safety, and welfare concerns. A violation of such regulations shall constitute a separate violation of this Chapter. (Ord. 6568 § 4; February 27, 2024.)

4.52.080 SIDEWALK VENDOR ENFORCEMENT.

Any violation of sections 4.52.050 - 070 shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this Code, relating to the issuance of citations, imposition of administrative fines, right to appeal, and the right to an administrative hearing, and shall be subject to the imposition and payment of administrative fine(s) as provided below:

Number of Offenses in a One-Year Period	Amount of Administrative Penalty
First	\$100.00
Second	\$200.00
Third	\$500.00

.101 Engaging in the business of being a Sidewalk Vendor without a valid Sidewalk Vendor Permit in violation of Chapters 4.10, 4.52, 12.12, 13.08 or 14.32 of this Code, shall be enforced in accordance with the procedures set forth in Chapter 1.20 (Civil Citations) of this Code, relating to the issuance of citations, imposition of administrative fines, right to appeal, and the right to an administrative hearing, and subject to the imposition and payment of administrative fine(s) as provided below:

Number of Offenses in a One-Year Period	Amount of Administrative Penalty
First	\$250.00
Second	\$500.00
Third	\$1,000.00

.102 If a person issued an administrative citation meets the criteria described in (a) or (b) of Government Code Section 68632, the License Collector shall accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this section.

.103 A notice of a violation of sections 4.52.050 - 070 shall include notification to the person cited that he or she may request an ability-to-pay determination and a corresponding reduction in a fine assessed under this section, including instructions for making such a request. Upon receipt of such an ability to pay request, the License Collector or his or her designee shall hold a hearing in accordance with this section.

.104 To request an ability-to-pay determination, a person issued an administrative citation shall file with the City a signed application in a form prescribed by the License Collector, specifying the citee's ability to pay the assessed fines. The License Collector shall provide notice to the citee of the time, date and place that his/her ability to pay request shall be heard, which hearing date shall not be sooner than ten (10) days following the date notice of such hearing is given to the citee. The citee shall personally appear at the hearing and provide evidence sufficient to establish his or her inability to pay the assessed fine. Failure of the citee to personally appear at the hearing shall constitute an abandonment of the application for an ability-to-pay determination.

.105 Following conclusion of the hearing on the ability to pay request, the License Collector or his or her designee shall issue a written decision and specifying the amount of the fine imposed and the reasons therefore, including the citee's ability to pay. The License Collector may allow the citee to complete community service in lieu of paying the administrative fine, may waive the administrative fine or may offer an alternative disposition.

.020 Impoundment

.0201 The City may impound a Sidewalk Vendor's Vending Display Device, food, equipment, utensils, goods, or merchandise that:

.01 Reasonably appear to be abandoned on public property; or

.02 Are displayed, offered, or made available for rent or sale by a Sidewalk Vendor who (i) operates in violation of Chapters 4.10, 4.52, 12.12, 13.08 or 14.32 of this Code; and (ii) refuses to remove their Vending Display Device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a Community Preservation Officer; or

.03 Are displayed, offered, or made available for rent or sale by a Sidewalk Vendor who (i) does not possess a valid applicable Sidewalk Vendor Permit; and (ii) refuses to remove their Vending Display Device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a Community Preservation Officer; or

.04 Is (i) creating an imminent and substantial safety or environmental hazard by the location of the Vending Display Device or the nature of the goods being offered for sale, and (ii) refuses to remove their Vending Display Device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a Community Preservation Officer.

.0202 The City may immediately dispose of impounded materials that are perishable or cannot be safely stored.

.0203 Administrative Hearing. Any Sidewalk Vendor who has his or her property impounded shall have the right to file a request for an administrative hearing to appeal the impoundment. Any such request shall be made in writing and shall be filed in the office of the Community Preservation Manager within ten (10) calendar days from the date of impoundment of a Sidewalk Vendor's property. If successful in the appeal, a Sidewalk Vendor may have his or her property returned without paying an impound fee.

If a written request for an administrative hearing is received within the ten (10) day period, an Employee Hearing Officer shall conduct a hearing within thirty (30) calendar days after receipt of the written request. Written notice of the hearing shall be mailed to the responsible person who requested the administrative hearing at least ten (10) calendar days in advance of the hearing.

.0204 A Sidewalk Vendor may recover impounded materials upon paying applicable impound fees and demonstrating proper proof of ownership.

.0205 The City Council may by resolution adopt impound fees, which shall reflect the City's enforcement, investigation, storage, and impound costs.

.0206 Any unclaimed items will be considered abandoned and forfeited to the City after ninety (90) days following impoundment. (Ord. 6568 § 5; February 27, 2024.)

ORDINANCE NO. __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST CALIFORNIA AMENDING CHAPTER 5.17 OF TITLE 5 OF THE LAKE FOREST MUNICIPAL CODE, RELATING TO SIDEWALK VENDING AND FINDING THE ACTION TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Lake Forest, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, California Senate Bill 946, also known as the California Safe Sidewalk Vending Act (“SB 946”), which passed into law and became effective on January 1, 2019, decriminalized sidewalk vending and established requirements on cities and counties for the regulation of sidewalk vendors; and

WHEREAS, on March 5, 2019, the City Council adopted Ordinance 313, implementing sidewalk vending regulations in compliance with SB 946; and

WHEREAS, since the adoption of Ordinance 313, the City has attempted to address the objective health, safety, and welfare concerns posed by sidewalk vending carried out in violation of the Lake Forest Municipal Code; and

WHEREAS, pursuant to Cal. Const. Art. XI, Sec. 7 and under the City’s general police powers, the City of Lake Forest (“City”) is empowered and charged with responsibility for the health, safety, and welfare of its citizens; and

WHEREAS, the City Council finds that, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, other safety and environmental hazards, risks to children, and consumer protection; and

WHEREAS, SB 946 allows a local authority to adopt additional requirements regulating the time, place, and manner of sidewalk vending if those regulations are directly related to objective health, safety, and welfare concerns; and

WHEREAS, despite these standards, the City has seen a rise in unpermitted sidewalk vending activities where the vendors set up commercial-style cooking operations at major intersections or in proximity to high-traffic areas and sell food but are unable to meet the health and safety requirements, such as properly heating and cooling food, providing handwashing facilities, washing utensils and equipment, and disposing of used liquids.

WHEREAS, the City Council hereby declares that enacting objective impounding procedures as a regulatory measure for sidewalk vending are necessary to protect the health, safety, and welfare of the public; and

WHEREAS, the impoundment of vendor equipment is neither a punishment of violators of the City's sidewalk vending regulations nor a deterrent for future violators, but rather the application of the well-established "community caretaking function," as first articulated by the United States Supreme Court in *Cady v. Dombrowski* (1973) 413 U.S. 433; and

WHEREAS, law enforcement officers routinely perform community caretaking functions, such as helping stranded motorists, returning lost children to anxious parents, and assisting and protecting citizens in need; and

WHEREAS, the community caretaking function regularly extends to law enforcement removing and impounding vehicles from the road where the driver of the vehicle cannot or will not lawfully operate the vehicle, the vehicle is located in an inappropriate location, and that vehicle poses a risk to public safety; and

WHEREAS, the impoundment of vehicles as part of the community caretaking function does not require obtaining a warrant beforehand, so long as law enforcement has reasonably determined that the vehicle posed a hazard to public safety; and

WHEREAS, the nature of a sidewalk vending operation poses many similar problems as vehicles, as well as posing unique health and safety hazards; and

WHEREAS, the City Council finds that the immediate impoundment of vendor equipment meets the community caretaking exception to requiring a prior warrant as it allows for the reasonable removal of vending equipment that poses a hazard to public safety due to its location or in response to vendors who refuse to comply with the City's sidewalk vending regulations to the detriment of public health, safety, and welfare; and

WHEREAS, this Ordinance provides clear standards in which vending equipment in the public right of way is subject to immediate impoundment as well as procedural safeguards to uphold due process for a warrantless impoundment; and

WHEREAS, this Ordinance balances the City's legitimate interests in preserving public health, safety, and welfare with the private interest in a sidewalk vendor's continued operations;

WHEREAS, private interests are protected by this Ordinance through procedural protections, including the requirement that the City takes steps to locate the owner or operator of the sidewalk vending equipment, the City first issues a verbal warning to sidewalk vendors operating in violation of this Ordinance and allows a reasonable time to comply, and the City provides a sidewalk vendor the option to promptly appeal the impoundment and contest any associated fees; and

WHEREAS, these procedural protections help ensure that impoundment actions are proper while protecting an individual's due process; and

WHEREAS, the City Council finds that the impoundment provisions enacted in this Ordinance do not constitute an infraction, misdemeanor, or other form of citation or penalty; and

WHEREAS, all other legal prerequisites relating to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds and determines that the Recitals above are true and correct and incorporated as findings herein.

SECTION 2. CEQA. The City Council determines that adoption of the Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. (14 Cal. Code Regs., § 15061(b)(3).) The Ordinance does not authorize any development or other activity that could result in a significant effect on the environment. Accordingly, the City Council hereby directs City staff to file a Notice of Exemption within five days of the adoption of this Ordinance.

SECTION 3. Code Amendment. Section 5.17.110, titled "Vending equipment impoundment" is hereby added to Title 5 of the Lake Forest Municipal Code to read as follows:

"5.17.110 Vending Equipment Impoundment

- A. The City may impound a sidewalk vendor's vending cart, food, equipment and any goods therein used in violation of this chapter, pursuant to the provisions of Civil Code Section 2080.10, Health and Safety Code Section 114393, and/or any other applicable City, county, or state law for the following reasons:
1. Food displayed, offered, or made available for sale including equipment, or utensils used by a sidewalk vendor without holding a valid and displayed health permit from the Orange County Health Care Agency's Environmental Health Division in violation of City, county or state law;
 2. Items reasonably appear to be unattended or abandoned on public property for more than thirty 30 consecutive minutes without moving from the exact spot it was located and reasonable attempts were made to locate the owner or responsible person(s) within the first fifty 50 feet of the items;

3. Items displayed, offered, or made available for sale by a sidewalk vendor who does not obtain a sidewalk vending permit from the City Public Works Department as required by Section 5.17.030;
4. Items displayed, offered, or made available for sale by a sidewalk vendor who operates in violation of this chapter, and refuses or fails to provide identification;
5. Operation in violation of this chapter and refusal or failure by a sidewalk vendor to comply within 30 consecutive minutes after being instructed to do so by a City code enforcement officer or other City official;
6. Items displayed, offered, or made available for sale by a sidewalk vendor who vends in a manner that blocks or obstructs the free movement of pedestrians on sidewalks and fails to maintain a minimum of thirty-six inches (36") of accessible path of travel, without obstruction, along the sidewalk upon which the vendor is vending so as to enable persons to freely pass while walking, running, or using mobility assistance devices and/or in violation of the Federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards;
7. Items displayed, offered, or made available for sale in violation of any applicable federal, state, county, or City laws, ordinances, and regulations, including but not limited to illegal or counterfeit merchandise, alcohol, tobacco, cannabis, smoke or vaping products, adult-oriented material, live animals, weapons, and/or pharmaceuticals;
8. Items creating an imminent and substantial danger or environmental hazard to the health, safety, or general welfare of the public or property at the location of the vending cart such as, but not limited to, discharge of oil, grease or other slippery substances on the street or sidewalk without any effort to maintain best management practices; using unapproved portable cooking equipment, heating element, gas-fueled appliance, generator, or any open flame; attaching or using any water lines, electrical lines, or gas lines during vending operations; during an urgent or emergency public safety event or incident; lack of a fire extinguisher; using any luminaire, flashing lights or any other animated devices or sign; or using, operating or permitting any radio, loudspeaker or other machine or device for the producing or reproducing of sound; or

9. Items impounded as evidence of a crime or booked as property after an arrest of any sidewalk vendor involving any City, county, state or federal law or regulation excluding Chapter 5.17. Such items shall be stored and released in accordance with the procedures set forth in the California Penal Code and any other applicable state law.
- B. Prior to commencing an impoundment action under the preceding paragraph A, a City code enforcement officer or other City official will issue a verbal warning to the sidewalk vendor operating in violation of this chapter. An impoundment action will proceed only if the sidewalk vendor fails or refuses to comply with the verbal warning within the time specified or, if no time is specified, within a reasonable time.
 - C. The City may immediately dispose of impounded items that are perishable and/or cannot be safely stored.
 - D. Sidewalk vending items or equipment impounded pursuant to this section, excluding those items that were immediately disposed of according to 5.17.110(C), shall be held by the City for not less than 30 nor more than 60 days from the date of impoundment.
 - E. The City shall provide the person from whom the vending items or equipment were impounded with a receipt and instructions for retrieval of the impounded items, excluding those items that were immediately disposed of according to 5.17.110(C). The receipt and instructions shall be given to the person from whom the items were taken at the time of impound or shall be mailed within two business days of the impound to the address received by the City when the person applied for a sidewalk vending permit.
 - F. Impounded vending equipment and goods, excluding any items that were disposed of according to 5.17.110(B), will be released to the sidewalk vendor or owner provided that proper proof of ownership is presented, and the City receives payment in full of all administrative costs incurred as a result of the violation. Any unclaimed items will be considered abandoned and forfeited to the City after 60 days following impoundment. Pursuant to state law, the City shall not be liable for damages caused by any official action performed with due care regarding the disposition of items pursuant to this section and the disposal provisions of this chapter.

- G. An aggrieved sidewalk vendor may, within 21 calendar days of the impoundment, appeal the impoundment of their items by requesting an administrative hearing before a hearing officer in accordance with 5.17.090 and, if successful in their appeal, may have their items returned, excluding any items that were immediately disposed of according to 5.17.110(C), and shall not be required to pay the impound fee(s). If the sidewalk vendor is successful on appeal, any appeal fee paid by the sidewalk vendor shall be refunded.
- H. A sidewalk vendor may recover impounded items or equipment, excluding any items immediately disposed of according to 5.17.110(C), upon paying applicable impound fees and demonstrating proper proof of ownership of the items.
- I. The City Council may adopt by ordinance or resolution impound fees, which shall reflect the City's personnel, enforcement, investigation, storage, disposal, and impound costs.
- J. The City Manager is authorized to develop additional regulations for the storage and release of impounded items not in conflict with this chapter.

SECTION 4. Effective Date. This Ordinance takes effect 30 days after its adoption.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Certification. The City Clerk shall certify as to the passage, and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

SECTION 7. Record of Proceedings. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at Lake Forest City Hall, 100 Civic Center Drive, Lake Forest, California 92630. The City Clerk is the custodian of the record of proceedings.

PASSED, APPROVED, AND ADOPTED this **XX**th day of _____, 2024.

MARK TETTEMER
MAYOR

ATTEST:

LISA BERGLUND, MPA
CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

I, Lisa Berglund, City Clerk of the City of Lake Forest, do hereby certify that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a regular meeting of the City Council on the ___ day of _____, 2024, and thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ___ day of _____ 2024, by the following vote, to wit:

- AYES: COUNCIL MEMBERS
- NOES: COUNCIL MEMBERS
- ABSENT: COUNCIL MEMBERS
- ABSTAIN: COUNCIL MEMBERS

LISA BERGLUND, MPA
CITY CLERK

Chapter 5.50 SIDEWALK VENDING

5.50.010 Purpose.

The City finds that the vending of prepared or pre-packaged foods, goods, and/or wares at semi-permanent locations on public sidewalks and rights-of-way may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors. The purpose of this Chapter is to implement regulations on both roaming and stationary sidewalk vendors and associated vending operations that protect the public health, safety, and welfare of the community while complying with the requirements of general state law, as amended from time to time, to promote safe vending practices, prevent safety, traffic, and health hazards, and preserve the public peace, safety, and welfare of the community.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.020 Definitions.

As used in this chapter:

- A. "Adult-oriented material" means sexually-oriented merchandise or sexually-oriented material or any other products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts (as those terms are defined in Chapter 17.88 - Definitions, of this Code).
- B. "Cart" means any pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used in conjunction with a sidewalk vending operation.
- C. "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.
- D. "Enforcement Officer" means employees designated by the City Manager as having the authority to enforce this chapter, including but not limited to the License Collector, City Building Inspectors, Code Compliance Officers, Water Quality Inspectors, Police Officers of the City, City Park Rangers, Fire Services Inspectors, and Marine Safety Lifeguards.
- E. "Exclusively residential zone" means the area encompassed by the outer limits of a zoning district shown on the City's official Zoning Map, or Specific Plan land use map within which is zoned or used primarily for residential purposes. The presence of nonconforming nonresidential land uses within an otherwise residential zone shall not deem such zone as not exclusive for residential uses. Where two zones meet, only one of which is an exclusive residential zone, the outer limits of the residential zone shall be deemed to include any public right-of-way between the two zones including the sidewalk adjacent to the nonresidential zone.
- F. "Food and Merchandise" means only tangible items for immediate consumption and in possession of the vendor at the time and point of sale.
- G. "High Level of Service" means any sidewalk (as that term is defined in this chapter) where the volume of pedestrians (including people on human-powered vehicles) is of a sufficient amount to result in pedestrians unnecessarily entering areas of the public right-of-way intended for motor vehicles in

order to circumvent the vendor or their equipment, due to obstruction from the vendor, the vending equipment, or the customer queue, along the public sidewalk or public pathway.

- H. "License Collector" means the License Collector of Finance, or their designee.
- I. "Merchandise," see definition of "Food and Merchandise."
- J. "Park" means a public park owned or operated by the City, and includes, but is not limited to, all grounds associated with the park, such as fields, courts, beach areas, shoreline and ocean, walkways, paths, trails, drive entrances, driveways, drive aisles, parking lots, buildings and structures, landscaped areas, courtyards, amphitheaters, playgrounds, picnic tables, benches and spectator seating areas, waste receptacles, and sidewalks around the park adjacent to public right-of-way and within 20 feet of a vehicular entrance to the park.
- K. "Roaming sidewalk vendor or vending" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- L. "SB 946" means Senate Bill 946 of the 2017-2018 California legislative session, an act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, which was approved by the Governor on September 17, 2018, and became effective on January 1, 2019.
- M. "Sidewalk vendor or vending" means a person who sells food or merchandise from a cart, or from one's person, upon a public sidewalk or other pedestrian path. "Sidewalk vendor or vending" does not include the sales of any services, items for rent, on-line sales, or the sales of products that are not in the possession of the sidewalk vendor at the time of sale.
- N. "Sidewalk" means a portion of a street between the curb line and the adjacent property line, or an easement or right-of-way held by the city across the front of private property, and intended for the use of pedestrians. For purposes of this Chapter, "sidewalk" shall also include a paved path or walkway owned by the City that is specifically designed for pedestrian travel. "Sidewalk," for the purposes of this chapter, does not include landscaped and non-pathway areas, including turf, whether natural or artificial, meant for passive recreation or sporting activities, decorative rock and gravel areas, beach sand, benched viewing areas and adjacent access walkways, and other similar areas not intended specifically for pedestrian travel and access to public or private facilities.
- O. "Special Event Permit" means a City-issued permit to hold a special event, as defined in Section 8.72.020 of this Code. Events covered under a "Special Event Permit" shall also include City or other public agency events that would otherwise qualify as a special event but no permit is required by the City.
- P. "Stationary Sidewalk Vendor or Vending" means a sidewalk vendor who vends from a fixed location.
- Q. "Swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.
- R. "Zone," as in a residential zone, nonresidential zone, or mixed-use zone, means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain development standards are established as set forth and specified in Title 17, Zoning, of this Code or any applicable Specific Plan.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.030 Permit required and exemptions.

- A. Permit required. All sidewalk vendors shall obtain a sidewalk vending permit from the City prior to engaging in any sidewalk vending activities. All persons associated with a sidewalk vending operation, including, but not limited to, employees or independent contractors, are considered sidewalk vendors and are required to obtain separate and individual sidewalk vending permits.
- B. Exemptions. A sidewalk vending permit shall not be required for the following activities:
 - 1. The sale of agriculture products on the site where the product is grown.
 - 2. Catering for private parties held exclusively on private property and not open to the general public.
 - 3. Events permitted pursuant to a lawfully issued Special Events Permit including but not limited to a Certified Farmers' Market, Swap Meet, street fairs, outdoor concerts, sport league opening day, and business sidewalk sales.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.040 Application for sidewalk vending permit.

- A. Application information. Any person wishing to obtain a San Clemente sidewalk vending permit shall submit a completed San Clemente sidewalk vending permit application form to the License Collector. All of the following information is required:
 - 1. Name, current mailing address, and phone number of the vendor; and
 - 2. If the vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal; and
 - 3. If the vendor will have employees, the name(s), current mailing address(es), and phone numbers of the person(s) who will be employed as stationary or roaming sidewalk vendor(s); and
 - 4. The number of sidewalk vending operations the vendor intends to operate within the City; and
 - 5. The days and hours of operation the sidewalk vendor intends to operate; and
 - 6. Whether the vendor intends to operate as a stationary or roaming sidewalk vendor; and
 - 7. If applicable, a description of the type of food proposed to be offered for sale or exchange; and
 - 8. If applicable, a description of the merchandise/goods to be offered for sale or exchange; and
 - 9. A copy of the California seller's permit with the sales tax number issued by the California Department of Tax and Fee Administration to the vendor; and
 - 10. One of the following forms of identification, which, upon collection, shall not be available by the City to the public for inspection and shall remain confidential and not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order:
 - a. A copy of the valid California Driver's License or Identification Card issued to the vendor; or
 - b. A copy of the individual taxpayer identification number issued to the vendor; and
 - 11. If preparing or selling food, a copy of the Orange County Health Department permit issued to the vendor; and
 - 12. A description or site plan map of the proposed location(s) where vending will take place, showing that the sidewalk location maintains a minimum of 48 inches of accessible route area when considering the

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- vendor equipment and anticipated customer queue, in compliance with the Americans with Disabilities Act; and
13. A copy of general liability policy naming the City as additional insured in the amount of \$1,000,000.00; and
 14. An acknowledgement that the vendor will comply with all generally applicable local, state, and federal laws; and
 15. A certification by the vendor that to his or her knowledge and belief, the information contained in the application is true; and
 16. An agreement by the vendor to indemnify, defend (at the vendor's sole cost and expense), and hold the City, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance or failure to issue a sidewalk vending permit, the City's decision to approve or its refusal to approve the sidewalk vending permit, the operation of the sidewalk vending use and activity, and the process used by the City in making its decision. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, City, and/or the parties initiating or bringing such proceeding; and
 17. An acknowledgement that use of public property is at the vendor's own risk, and the City does not take any steps to ensure public property is safe or conducive to sidewalk vending operations; and
 18. A list of all other cities or other jurisdictions in which the vendor has operated a sidewalk vending operation or similar operation within the past 12 months, whether a permit was required to operate, and if so, whether the permit had been revoked in the past 12 months.
- B. Fee. At the time the application or renewal application is filed, the applicant shall pay the permit processing fee established by separate resolution of the City Council.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.050 Review of permit application and determination.

- A. Review authority. Upon acceptance of a properly completed and filed sidewalk vendor permit application and payment of the application fee as required by Section 5.50.040, the License Collector shall conduct a preliminary investigation to determine whether to approve or deny the permit as compliant with chapter.
- B. Findings. The License Collector shall deny an application for a permit if he or she makes any of the following findings:
 1. The applicant has failed to pay the application permit fee.
 2. The applicant has made one or more material misstatements in the application for a permit.
 3. The applicant does not have a valid social security card, valid California Driver's License, California Identification Card, or valid individual taxpayer identification number.
 4. The applicant's vending operation, as described in the application, is inconsistent with the standards, conditions, and requirements of this chapter.
 5. It is determined that the applicant does not possess all federal, state, and local permits and licenses necessary to engage in the activity in which he or she seeks to engage.
 6. The applicant has had a sidewalk vending permit or similar permit revoked within the past 12 months in the City or any other jurisdiction.

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- C. Timing of determination. The License Collector shall make such determination within no more than 30 days of acceptance to approve or deny the application.
 - D. Notice of determination. The License Collector shall provide the applicant with written notice of his or her decision to the address indicated in the application.
 - 1. If the application is approved, the License Collector shall endorse his or her approval on the application and shall, upon payment of the prescribed fee, issue the permit to the applicant.
 - 2. If the application is denied, the License Collector shall include in the written notice the reasons for disapproval shall be noted on the application.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.060 Permit term, transferability, and display.

- A. Term. A sidewalk vending permit issued pursuant to this chapter shall automatically expire one year from the date issued, unless an earlier expiration date is noted on the permit.
- B. Transferability. A sidewalk vending permit shall not be transferable to any other entity or person and is valid only as to the original applicant for the term stated.
- C. Display. Such sidewalk vending permit shall, during the time such permittee is engaged in sidewalk vending, be displayed in a conspicuous fashion attached to the vendor's Cart. Sidewalk vendors shall be required to exhibit their permits and/or licenses at the request of any person. If multiple sidewalk vendors are staffing a sidewalk vending operation, each vendor shall, during the operation of sidewalk vending, conspicuously attach their permit to the vending Cart.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.070 General sidewalk vending operating standards and requirements.

- A. General standards and requirements. All sidewalk vendors shall meet the following standards and requirements:
 - 1. The sidewalk vendor is duly licensed and meets all requirements of Section 5.50.030; and
 - 2. The sidewalk vendor shall only set up their vending operation, or roam, on a sidewalk (as that term is defined in this chapter), whether in the public right-of-way or at an allowed park while still leaving a minimum of 48 inches of accessible path of travel. The reduction of a sidewalk for vending purposes shall not be for a distance greater than eight feet within any 16 foot span along the adjacent sidewalk. No vending shall occur within an area that meets the definition of a "High Level of Service;" and
 - 3. No sidewalk vending is permitted within any portion of public right-of-way, on any sidewalk, or at any park (as those terms are defined in this chapter) located in the general zone boundaries of, or adjacent to any properties within, the Mixed-Use 1 zone, Mixed-Use 3.0 zone, or Pier Bowl Specific Plan Area.
 - 4. The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and
 - 5. The sidewalk vendor shall not use a horn, siren, amplified music, or any other audible device to attract attention to the presence of the vending operations or cart; and
 - 6. Prior to leaving the vending area, the sidewalk vendor shall collect all litter and debris, that was or is, within 10 feet of the vendor that was generated by the vending activities; and

(Supp. No. 61, Update 2)

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7. There shall be no disposal of cooking material or waste, including but not limited to any fats, oils or greases, into the City's trash receptacles, storm drains, plant material, or foliage. Vendors shall immediately clean up any food, grease, or other fluid or item related to the sidewalk vending operation that falls onto public property; and
 8. The sidewalk vendor location shall not block public access to any entrances to private or public buildings, private or public driveways, parking spaces, building windows, utility meters, hook and service panels, or block public visibility of permitted signage located on the building or adjacent property; and
 9. No customer tables, customer chairs, fences, shade structures, other site furniture, or any freestanding signs shall be permitted in conjunction with the vendor's vending activities; and
 10. The sidewalk vendor shall not attach or use any water lines, electrical lines, or gas lines to any buildings, structures, or other private or public facilities not associated with the vendor's equipment, during vending operations; and
 11. Storage or display of refuse, equipment, materials, goods, wares, food, or merchandise associated with the vendor, outside of the vendor's cart, is prohibited. All food and merchandise shall be stored either inside or affixed to the cart, or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the cart, the overall space taken up by the Cart shall not exceed the size requirements provided in this chapter; and
 12. The sidewalk vendor shall not display any signage without first obtaining the appropriate sign permits from the City Planning Division; and
 13. No signage or advertising related to the sidewalk vendor and/or the vending operations shall be electrical, flashing, wind powered, animated; and
 14. The sidewalk vendor shall display any and all required business and health licenses in a conspicuous fashion, attached to the vendor's cart; and
 15. The sidewalk vendor shall remit all required and applicable taxes to the applicable taxing agencies; and
 16. No vending shall occur within 500 feet of a Certified Farmers' Market, a Swap Meet, or an event held pursuant to a Special Events Permit; and
 17. The sidewalk vendor shall not leave his or her sidewalk vending operation unattended; and
 18. The sidewalk vendor shall not leave his or her sidewalk vending operation to solicit business for the vending operation; and
 19. No equipment or objects used for sidewalk vending purposes may be left or maintained in public spaces or in any portion of the public right-of-way beyond the allowed hours of operation. Any equipment or objects left overnight in public spaces or in any portion of the public right-of-way will be considered discarded and may be seized or disposed of by the City, and may be grounds for termination of the sidewalk vending permit.
 20. Sidewalk vendors that sell food shall maintain a trash container in or on their cart and shall not empty their trash into public waste containers, or private waste containers without the permission of the property owner. The size of the sidewalk vendor's trash container counts as part of the size limit of a cart.
 21. The sidewalk vendor shall not contain or use propane, natural gas, batteries, or other explosive or hazardous materials. The vendor shall not use an open flame for the sidewalk vending operation; and

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22. The sidewalk vendor shall not sell alcohol, marijuana, adult-oriented material, tobacco products, products that contain nicotine, or any product used to smoke/vape nicotine and/or marijuana, or any products not permitted to be sold in the zone in which the sidewalk vendor is located; and
 23. No vending shall occur within 50 feet of any street intersection or crosswalk as measured from any point where curbs or edges of pavement meet within the subject intersection or crosswalk; and
 24. No vending shall occur within 500 feet of private or public academic school attended by elementary, junior high, or high school pupils; and
 25. No vending shall occur within 10 feet of any street lights, edges of tree wells, parking meters, or above-ground utility structures; and
 26. No vending shall occur within 10 feet of any existing subsurface utility box, valve, or vault; and
 27. No vending shall occur within 10 feet of another vendor; and
 28. No vending shall occur within 10 feet of any bus stop locations, red curbs, fire hydrant, fire escape, loading zone, handicapped parking space or access ramp, or at locations where there are existing above-ground amenities such as newsstands or street furniture, including, but not limited to benches and bike racks; and
 29. No vending shall occur in roadways, alleyways, medians, pedestrian islands, bikeways, or any other non-vehicular area located between curbs, or where curbs do not exist, road edges, of the area identified as the public right-of-way; and
 30. No vending shall occur within 25 feet of a doorway to any building, store, theater, movie house, house of worship, or place of public assembly; and
 31. No vending shall occur with 200 feet of City Hall, any police station, or any fire station; and
 32. In parks (as that term is defined in this chapter), no vending shall occur within 50 feet of any shade structures, benches, trash receptacles and enclosures, picnic table areas, sports fields and associated fences and spectator seating areas, playground areas, or specialized sport facilities (i.e. skateboarding facilities, pools, tennis and basketball courts, gym equipment, and other similar facilities).
 33. No vending shall occur within 100 feet of any posted park facility rental, whether indoors or outside.
 34. No vendors shall use expanded polystyrene (Styrofoam) food service ware; and
 35. The sidewalk vendor shall not transact business with patrons in vehicles, including, but not limited to vehicles parked on public or private property or public right-of-way, or stopped temporarily in the public right-of-way; and
 36. No vending shall occur within 200 feet of a freeway onramp or off-ramp; and
 37. No vending shall occur within 30 feet of an automated teller machine.
- B. Specific standards and requirements. In addition to the generally applicable standards and requirements in Subdivision A above, sidewalk vendors shall also comply with the specific standards and requirements as applicable in Section 5.50.080.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.080 Specific sidewalk vending standards and requirements.

- A. Stationary sidewalk vending. In addition to the standards and requirements in Section 5.50.070, all stationary sidewalk vendors shall meet the following:

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1. Stationary sidewalk vendors and all aspects of their operations, including but not limited to, any cart, any associated equipment, and any space occupied by the vendor or their employees, shall not occupy a space exceeding horizontal dimensions of a square measuring six feet by six feet. No Cart, or any associated equipment shall exceed a height of four feet; and
 2. Stationary sidewalk vendors shall be prohibited from operating or establishing in any and all exclusively residential zones of the City; and
 3. Stationary sidewalk vendors may operate in nonresidential zones of the City, including mixed use zones, with the exception of the exclusively residential portions of horizontally mixed-use zones, such as MU 5.1; and
 4. Stationary sidewalk vending shall only be conducted no earlier and no later than the hours of operation of "brick-and-mortar" businesses located on the same street and within 200 feet of the stationary sidewalk vendor. If no businesses operate on the same street or are located within 200 feet of the stationary sidewalk vendor, stationary sidewalk vendors operating in nonresidential zones of the City shall only operate between the hours of 8:00 a.m. and sunset of every day.
- B. Roaming sidewalk vending. In addition to the standards and requirements in Section 5.50.070, all roaming sidewalk vending shall meet the following:
1. Roaming sidewalk vendors shall not use any cart which exceeds a total height of four feet, a total width of three feet, and a total length of five feet; and
 2. Roaming sidewalk vending hours for zones with any residential development, conforming or otherwise; shall be conducted between the hours of 8:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 10:00 a.m. and 6:00 p.m. on the weekend; and
 3. Roaming sidewalk vendors for nonresidential zones shall only be conducted no earlier and no later than the hours of operation of businesses on the same street and within 100 feet of the roaming sidewalk vendor. If no businesses operate on the same street or are located within 100 feet of the roaming sidewalk vendor, roaming sidewalk vendors in nonresidential zones of the City shall only operate between the hours of 8:00 a.m. and sunset of every day.
- C. Sidewalk vending in parks. In addition to the standards and requirements in Section 5.50.070 and, as applicable, the standards and requirements in Sections 5.50.080 and 5.50.090, all sidewalk vending in parks shall meet the following:
1. Sidewalk vending of food or merchandise by stationary sidewalk vendors or by roaming sidewalk vendors is prohibited in the following parks:
 - a. Park Semper Fi, Marine Monument
 - b. Richard T. Steed Memorial Park
 - c. Ole Hanson Beach Club
 - d. Trails; Forster Ranch Ridgeline, Sea Summit at Marblehead, Rancho San Clemente, Talega, Beach Trail
 - e. Municipal Golf Course
 - f. Municipal Pier
 2. Sidewalk vending of food or merchandise by stationary vendors shall be prohibited in any park with a concession stand operated by a vendor under exclusive contract with the City selling food or merchandise.

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3. Sidewalk vendors shall not begin operations prior to one hour after the park opens and shall cease operations one hour prior to the close of the park. The term "operations" in the context of this standard includes setting up and taking down carts and other activities associated with vending, even if not explicitly engaged in the act of selling merchandise.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.090 Suspension and revocation of sidewalk vending permit.

- A. Causes for suspension or revocation. A sidewalk vendor permit issued under this chapter may be suspended or revoked by the License Collector after four or more violations of this chapter in accordance with Section 5.50.110, subdivision B.1.d, at their discretion, for any of the following causes:
 1. Fraud or misrepresentation in the course of vending;
 2. Fraud or misrepresentation in the application for the permit; or
 3. Vending in a manner that creates a public nuisance or constitutes a danger to the public.
- B. Notice. Notice of the suspension or rescission of a sidewalk vendor permit issued under this chapter shall be mailed, postage prepaid, to the holder of the sidewalk vendor permit at his or her last known address.
- C. Future permits. No person whose sidewalk vending permit has been revoked pursuant to this chapter shall be issued a sidewalk vending permit for a period of two years from the date revocation becomes final.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.100 Appeal.

A person wishing to appeal a determination of the License Collector, or their designee, or to appeal a citation issued pursuant to this chapter, may file an appeal per Chapter 1.20, Administrative Fines.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.110 Penalties and enforcement.

- A. Violation. It is unlawful for any person to violate any provision or fail to comply with any requirements of this chapter.
- B. Administrative fines.
 1. Any violation of this chapter committed with a valid permit shall be punishable as provided below:
 - a. For the first violation, an administrative fine not exceeding \$100.00,
 - b. For a second violation within one year of the first violation, an administrative fine not exceeding \$200.00.
 - c. For a third or subsequent violation within one year of the first violation, an administrative fine not exceeding \$500.00.
 - d. For a fourth or subsequent violation, the Director may rescind or suspend the permit as provided in Section 5.50.090.
 2. Any violation of this chapter committed without a valid permit shall be punishable as provided below:
 - a. For the first violation, an administrative fine not exceeding \$250.00.

(Supp. No. 61, Update 2)

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- b. For a second violation within one year of the first violation, an administrative fine not exceeding \$500.00.
 - c. For a third or subsequent violation within one year of the first violation, an administrative fine not exceeding \$1,000.00.
 - 3. Upon proof of a valid permit, the administrative fines set forth in Subdivision B.2 (fines without a valid permit) shall be reduced to the fines set forth in Subdivision B.1 (fines with a valid permit.)
 - C. Additional and alternative penalties.
 - 1. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in this section shall not be assessed.
 - 2. The City may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.
 - 3. Failure to pay an administrative fine pursuant to this section shall not be punishable as an infraction or misdemeanor.
 - D. Ability-to-pay determination.
 - 1. When assessing an administrative fine pursuant to Subdivision B, the Enforcement Officer shall take into consideration the person's ability to pay the fine. If deemed appropriate, the Enforcement Officer shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination.
 - 2. The person may request an ability-to-pay determination at an appeal hearing, or make a request by submitting a written request to the City Clerk while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
 - 3. If the person meets the criteria described in Government Code section 68632, subdivision (a) or (b), the City shall accept, in full satisfaction, 20 percent of the administrative fine imposed.
 - E. Violations before SB 946. A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under SB 946 had SB 946 been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.
 - F. Health codes. Nothing contained herein shall be construed to impede the City's or County's ability to enforce County Health Department codes and regulations.

(Ord. No. 1680, § 4, 9-18-2019)

5.50.120 Severability.

If any provision or clause of this chapter or the application thereof is held unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, clauses or applications of this chapter which can be implemented without the invalid provision, clause or application, it being hereby expressly hereby declared that this chapter, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, adopted, and/or ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, and/or phrases be declared invalid or unconstitutional.

(Ord. No. 1680, § 4, 9-18-2019)