

**ORDINANCE NO. 840-C.S.**

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA ENACTING A  
SIDEWALK VENDING PROGRAM UNDER TITLE 4, CHAPTER 18 OF THE PACIFICA  
MUNICIPAL CODE AND AMENDING TITLE 1, CHAPTER 6 AND TITLE 4, CHAPTER 7,  
CHAPTER 9, AND CHAPTER 10 OF THE PACIFICA MUNICIPAL CODE.**

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**WHEREAS**, Senate Bill 946 requires local governments to regulate sidewalk vending activities in accordance with provisions of applicable state law; and

**WHEREAS**, state law authorizes local governments to implement regulations on sidewalk vending to protect natural resources and recreational opportunities, prevent undue concentration of commercial activity at parks and beaches, and address the public health, safety, and welfare; and

**WHEREAS**, beaches within the city create valued recreational opportunities, and are important natural resources, and serve as habitat for threatened species such as the western snowy plover; and

**WHEREAS**, without appropriate local regulations, sidewalk vending activities have the potential to create an undue concentration of commercial activity at parks and beaches within the city, and unreasonably interfere with the scenic and natural character of such parks and beaches; and

**WHEREAS**, without appropriate regulations, sidewalk vending activities are likely to adversely affect natural resources and recreational opportunities enjoyed by the public; and

**WHEREAS**, without appropriate regulations, sidewalk vending has the potential for negatively impacting the public health, safety, and welfare, by impeding access on pedestrian pathways, compounding pedestrian safety hazards in locations that may experience significant crowding, including but not limited to municipal piers, parades, outdoor concerts and other certain events that may be permitted or sponsored by the city, and encouraging congestion and exacerbating traffic safety problems on roadways if vending occurs on or too near those portions of the roadway ordinarily intended for driving;

**NOW, THEREFORE**, the City Council of the City of Pacifica does ordain as follows:

**Section 1. Recitals.** The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

**Section 2. Enacted.** Title 4, Chapter 18 of the Pacifica Municipal Code is hereby enacted to read in its entirety as follows:

**Sec. 4-18.01 - Definitions.**

In this chapter:

*Administrator* means the Assistant City Manager or designee, or any other City officer charged with administration of the provisions of this chapter.

*Business license* means the business license issued by the city pursuant to Title 3, Chapter 1 of the code, which is required to conduct business in the city.

*Cart* means any pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, and includes a stationary cart or a roaming cart.

*California Retail Food Code* means Part 7 of Division 104 of the California Health and Safety Code (commencing at Section 113700).

*County Health Permit* means any and all licenses, permits, certifications, and courses required and issued by San Mateo County Environmental Health Services Division to vend food within the city in accordance with this chapter.

*Food* means any type of edible substance or beverage.

*Goods or merchandise* means any item that is not food.

*Health department* means the San Mateo County Environmental Health Services Division.

*Person or persons* means one or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.

*Roaming vending cart* means a pushcart, pedal-driven cart, wagon, or other non-motorized conveyance used by a roaming sidewalk vendor, to be moved from place to place, and with stops only to complete a transaction.

*Roaming sidewalk vendor* has the same meaning as set forth in Government Code section 51036(b), and includes a sidewalk vendor who moves from place to place and stops only to complete a transaction.

*Rules and regulations* means the rules and regulations established by the Administrator and adopted by city council resolution, concerning the sidewalk vending program that are intended to clarify and aid in the administration and enforcement of this chapter.

*Sidewalk* means any paved surface in the public right-of-way provided for the use of pedestrians and includes pedestrian paths.

*Sidewalk vending* means the sale of food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

*Sidewalk vending program* means the program established by this chapter that is applicable to sidewalk vending-related activities.

*Sidewalk vendor* has the same meaning as set forth in Government Code section 51036(a), and includes a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

*State seller's permit* means a permit issued by the California Department of Tax and Fee Administration.

*Stationary vending cart* means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, that is intended to be operated from a fixed location by a stationary sidewalk vendor.

*Stationary sidewalk vendor* has the same meaning as set forth in Government Code section 51036(c), and includes a sidewalk vendor who vends from a fixed location.

*Vending permit* means a permit issued by the Administrator to undertake sidewalk vending within the city in accordance with this chapter.

**Sec. 4-18.02 - Purpose.**

The purpose of this chapter is to establish a sidewalk vending program within the city while maintaining objective regulations that are directly related to public health, safety, and welfare. This chapter does not regulate commercial activity on private property.

**Sec. 4-18.03 - Vending permit required.**

No sidewalk vendor may undertake sidewalk vending within the city without first obtaining a vending permit issued by the Administrator. Sidewalk vendors must comply with the terms and conditions set forth in the vending permit.

**Sec. 4-18.04 - Application requirements.**

(a) To obtain or to renew a vending permit, a sidewalk vendor must provide the following as part of the application:

- (1) Valid identification, such as a State of California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number, or any other government-issued identification card.
- (2) The name, address and telephone number of the sidewalk vendor.
- (3) Proposed hours and days of operation.
- (4) Whether the sidewalk vendor intends to operate a stationary vending cart or a roaming vending cart.
- (5) Proposed location of operation.
  - (i) An application for placement of a stationary vending cart in a commercial or industrial area of the city must contain the proposed location, marked by major cross streets, and a photo or sketch of such location.
  - (ii) An application for a roaming vending cart in a residential area of the city must contain a sketch or description of the route the sidewalk vendor will travel.
  - (iii) If a cart will be used, a description of the cart including dimensions.
- (6) The type of merchandise or food offered for sale or exchange.
- (7) Proof of a valid business license issued pursuant to Title 3, Chapter 1.
- (8) The application or renewal fee, in an amount established by resolution of the City Council.

- (9) A valid state seller's permit and any additional licenses from state or local agencies to the extent required by law.
  - (10) A County Health Permit for food-related vending, if applicable.
  - (11) A certificate of completion of a food handler course, if applicable.
  - (12) A declaration that the information provided to the city is true and correct.
  - (13) Any other information as may be required by the Administrator.
- (b) Vending permits will expire one year after the date of issuance.
  - (c) Vending permits are not transferable.
  - (d) A person whose vending permit is revoked may not renew their vending permit for one year.
  - (e) In accordance with Government Code section 51038(c)(4), identification numbers, including social security numbers, will be confidential and will not be disclosed.
  - (f) The Administrator may require inspection of the cart as a condition of permit issuance.
  - (g) If there is any prior history of violations under this Chapter, the Administrator may review any such violations in its review of renewal requests and consider those violations when imposing conditions on a renewal permit.

**Sec. 4-18.05 - General Operational requirements.**

- (a) Every cart used to vend food must be approved by the Health Department. A cart may only vend the types of food that are listed and approved by the Health Department under the County Health Permit.
- (b) A cart used for sidewalk vending must obtain, possess, and prominently display a valid vending permit and all other required permits that are issued by other public agencies, such as a County Health Permit.
- (c) A cart used for sidewalk vending must be placed and used at all times in compliance with the terms and conditions of the vending permit and all other applicable laws and regulations, including the California Retail Food Code if food is sold.
- (d) No cart that is used for sidewalk vending may exceed a length of 72 inches, a width of 54 inches, or a height, including roof or awning, of 78 inches, exclusive of a separate condiment table no larger than 48 inches long and 24 inches wide and a trash receptacle no larger than 20 gallons in capacity.
- (e) A sidewalk vendor must operate according to the approved hours of operation included in the vending permit. The Administrator may impose reasonable hours of operation for sidewalk vendors. For sidewalk vending in nonresidential areas, the Administrator may limit the hours of operation in a manner consistent with other businesses or uses on the same street(s) in those nonresidential areas.
- (f) No vending cart, condiment table or trash receptacle may be left on the sidewalk after the sidewalk vendor's stated closing time.

- (g) A sidewalk vendor must maintain a clean and trash-free 20-foot radius from the sidewalk vendor's stationary cart during hours of operation and must leave the area clean by the approved closing time.
- (h) Sidewalk vendors that vend food items must provide a trash receptacle for customers and must ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resorting to existing trash receptacles located on any block for use by the general public.
- (i) A stationary vending cart that vends food must be operated within 200 feet of an approved and readily available toilet and handwashing facility. If the toilet and handwashing facility is located on private property, the sidewalk vendor must possess a copy of an enforceable contract between the private property owner and the sidewalk vendor allowing the vendor to utilize such facilities, including the days and hours of operation.
- (j) Sidewalk vendors must comply with all applicable federal, state, and local laws, regulations, and ordinances.
- (k) No signs that are not attached to the vending cart may be used or displayed.
- (l) Sidewalk vendors may not set up tables, chairs, or other structures, unless otherwise approved by the city.
- (m) Sidewalk vendors may not access a city power source without authorization from the city, nor a private power source without authorization from such private property owner or agent.
- (n) No sidewalk vendor or vending cart may use any device that produces a loud noise, nor may the vendor use or operate any loud speaker, public address system, radio, sound amplifier, or other similar device.
- (o) Vending of services is prohibited.
- (p) Sidewalk vendors shall comply with all requirements relating to food service ware, plastic cutlery, plastic stirrers, and plastic beverage straws set forth in Title 6, Chapter 5, Article 4 – Sustainable Food Service Ware and Prohibited Plastic Products.
- (q) Sidewalk vendors shall not vend, set up a vending cart, or otherwise operate, within any marked parking space or stall in any public parking lot, as may be designated with paint or other markings to indicate where parking is permitted.

**Sec. 4-18.06 - Vending in residential areas.**

- (a) No stationary vending cart may be used to vend within a residential zoned area.
- (b) A roaming sidewalk vendor may use a roaming vending cart within a residential zone, and must move continuously except when necessary to complete a sale.

**Sec. 4-18.07 - Prohibitions on placement of stationary or roaming carts.**

- (a) No sidewalk vendor may place or leave any vending cart:
  - (1) Within 10 feet of a marked crosswalk or ADA access ramp.
  - (2) Within 10 feet of the curb return of an unmarked crosswalk.
  - (3) Within 5 feet of any fire hydrant.

- (4) Within 5 feet ahead and 45 feet to the rear of a sign designating a bus stop.
  - (5) Within a marked bus zone.
  - (6) Within 10 feet of a bench or shelter used for public transit.
  - (7) Within 5 feet of a driveway or driveway apron.
  - (8) Within 18 inches from the edge of the curb.
  - (9) Within 5 feet of a public bench.
  - (10) Where placement impedes the flow of vehicular traffic such as on public streets or public highways.
- (b) No vending cart may be chained or fastened to any utility pole, sign, tree, or other object in the public right-of-way or left unattended at any time.
- (c) No vending cart may impede the flow of pedestrian traffic by reducing the path of travel to less than 4 feet, or impede access to or restrict the use of abutting property, including, but not limited to, residences and places of business, in accordance with the Americans with Disabilities Act (ADA).
- (d) No person shall vend from a human-powered or non-motorized conveyance, such as a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or from one's person, on any roadway (as defined by Vehicle Code section 530) in the city.
- (e) Notwithstanding any specific regulations in this chapter, no sidewalk vendor may install, use or maintain a vending cart where placement endangers the safety of persons or property.

**Sec. 4-18.08 - Sidewalk vending in parks, beaches, and related facilities.**

- (a) Sidewalk vending in city parks, mini-parks, and beaches, as designated pursuant to Section 4-10.102, shall be prohibited except for on paved surfaces and decomposed granite pathways designated for pedestrian uses. The city council may by resolution adopt additional requirements consistent with Government Code section 51038(b)(2)(B) for city-owned or operated parks and beaches, effective after signs are posted giving notice of such additional requirements.
- (b) No vendor may vend within 25 feet of another vendor at any city park, mini-park, beach, or beach parking area, as designated pursuant to Section 4-10.102.
- (c) Sidewalk vending shall be prohibited on any sand surface on any beach as designated pursuant to Section 4-10.102. No stationary sidewalk vendor shall set up a stationary sidewalk cart within 20 feet of any sand surface.
- (d) Vendors are prohibited from sidewalk vending in parks, beaches, and other city facilities that have exclusive, signed concession agreements.
- (e) Sidewalk vendors may not possess, sell, or provide to any person any bottle, cup, dish, tumbler, jar or container having an exterior made of glass within any city park, mini-park, or beach.
- (f) Sidewalk vending is prohibited on any municipal pier or within 50 feet of the entrance of such pier in any direction.

**Sec. 4-18.09 - Sidewalk vending prohibited near special events.**

- (a) No sidewalk vending is allowed within 300 feet of all borders of a city-sponsored or city-permitted temporary or special event, within the time period commencing one hour before until one hour after the event. Such events include any event that requires an encroachment permit or special event permit, or any other permit or authorization issued by the city, including filming events, parades, outdoor concerts, and public gatherings sponsored by the city.
- (b) No sidewalk vending is allowed within 300 feet of all borders of a certified farmers' market (operating pursuant to Chapter 10.5 of Division 17 of the Food and Agricultural Code, commencing with Section 47000) or a swap meet (operating pursuant to Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, commencing with Section 21660) during the hours of operation.
- (c) For the purpose of determining the geographical restrictions set forth in this section, the applicable borders of any temporary or special event, certified farmers' market, or swap meet shall be based on the area of use set forth or otherwise described in the permit or other authorization issued by the city. The Administrator or designee shall maintain a copy of such permits or other authorizations on file, unless expired or revoked, and shall make available such permits or authorizations to sidewalk vendors for inspection upon request. The Administrator or designee shall also provide sidewalk vendors with notice regarding the issuance of temporary or special event permits if such notice is required to be provided to affected business owners or property owners.

**Sec. 4-18.10 - Administration.**

- (a) The Administrator is authorized to issue vending permits in accordance with this chapter. The Administrator shall maintain a list of parks and facilities with an exclusive concession agreement and provide a copy of such list with the issuance of any vending permit.
- (b) The Administrator is authorized to develop, and enforce, the rules and regulations regarding the licensing, permitting, and operation of sidewalk vending, in accordance with this chapter.

**Sec. 4-18.11 - Enforcement.**

- (a) Sidewalk vending in violation of this chapter will not be punishable as a criminal infraction or misdemeanor, but will be subject to an administrative citation as follows:
  - (1) For vending without a valid vending permit:
    - (i) An administrative fine of \$250 for a first violation.
    - (ii) An administrative fine of \$500 for a second violation within one year of the first violation.
    - (iii) An administrative fine of \$1,000 for a third violation and each subsequent violation, within one year of the first violation.Upon proof of a valid permit issued by the city before such fines are due, the city will reduce the amount of the fines to \$100 for the first violation, \$200 for the second violation, and \$500 for each violation thereafter.
  - (2) For all violations of this chapter other than vending without a valid vending permit as outlined in subsection A above:
    - (i) An administrative fine of \$100 for a first violation.
    - (ii) An administrative fine of \$200 for a second violation within one year of the first violation.

- (iii) An administrative fine of \$500 for a third violation within one year of the first violation.
  - (iv) An administrative fine of \$500 for a fourth and each subsequent violation, and revocation of the vending permit. Revocation proceedings will be conducted in accordance with the rules and regulations established by the city.
- (b) Administrative citations shall be in the format set forth in Sec. 1-6.04(e) of this code. In conjunction with the issuance of an administrative citation, the city will provide the person subject to administrative citation notice of his or her right to request an ability-to-pay determination and will make available instructions or other materials for requesting an ability-to-pay determination.
- (c) All administrative citations issued for violations of this chapter and the rules and regulations are subject to the administrative hearing and appeal process set forth under Sections 1-6.07 through Section 1-6.09 of this code, except that late charges shall not be imposed under Sections 1-6.07(g)(ii). Citations shall be served using a method set forth in Section 1-6.05.
- (d) Fines assessed pursuant to this section shall be reduced to 20 percent of the original fine amount upon submission of proof of inability to pay at the administrative hearing if requested by the person pursuant to Government Code section 51038(f). Additionally, the hearing officer 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.
- (e) All administrative fines imposed shall be subject to the city's authority to use any civil remedy available to collect any unpaid administrative fine, including but not limited to a collections program. No interest charges, late charges, or other fees shall be imposed under Section 1-6.06 for an administrative citation issued as a result of a violation of this chapter.

**Sec. 4-18.12 - Removal of cart.**

The city may request a sidewalk vendor remove any cart that is in violation of this chapter. If the sidewalk vendor refuses to remove the cart, or if a cart has been abandoned, the city may cause the cart to be removed and may, after adequate notice, subsequently dispose of the cart (including any associated merchandise and food) if not claimed by the vendor in accordance with the rules and regulations.

**Section 3. Amended.** Section 4-7.1113 of Title 4, Chapter 7 of the Pacifica Municipal Code is hereby amended to read in its entirety as follows:

**Sec. 4-7.1113 - Vehicles for Vending and Transportation for Hire.**

- (a) Permits required. Except as set forth in this section, no person shall use a vehicle to vend on any roadway without first obtaining a written permit to do so from the Traffic Engineer, which permit shall designate the specific location in which such cart or other vehicle shall stand. No person shall park or stand any vehicle used, or intended to be used, in the transportation of property for hire on any street while awaiting patronage for such vehicle without first obtaining a written permit to do so from the Traffic Engineer, which permit shall designate the specific location where such vehicle may stand. This section shall not apply to sidewalk vending, which shall be permitted and regulated in accordance with Title 4, Chapter 18 of the code.
- (b) Exceptions. A permit under this section shall not be required to:
- (1) Vend on a roadway from any vehicle in a manner that does not involve the parking or stopping the vehicle in one place for a period of time that exceeds ten (10) minutes.



- (2) Deliver articles upon the order of, or by agreement with, a customer from a store or other fixed place of business or distribution; or
  - (3) Use any commercial vehicle, or trailer component thereof, for making pickups or deliveries of goods, wares, and merchandise from or to any building or structure in a residential area for the purpose of delivering materials to be used in the repair, alteration, remodeling, or construction of any building or structure for which a building permit has been issued.
- (c) Location. Whenever any permit is granted pursuant to the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle in any location other than as designated in such permit.
- (d) Violations. Violations may be enforced as an infraction under Title 1, Chapter 2, or by civil penalty issued via administrative citation under Title 1, Chapter 6. In addition, the Traffic Engineer may revoke a permit for violations of this section.

**Section 4. Amended.** Subsection (m) of Section 4-9.02 of Title 4, Chapter 9 of the Pacifica Municipal Code is hereby amended to read as follows:

**Sec. 4-9.02 - Regulations.**

...

- (m) To sell or offer for sale goods, wares, merchandise, or services of any kind or description on a pier or within 50 feet of a pier in any direction, but notwithstanding section 4-9.901.1, where such activity constitutes sidewalk vending it shall be enforced solely by administrative citation in accordance Title 4, Chapter 18;

**Section 5. Amended.** Subsection (m) of Section 4-10.101 of Title 4, Chapter 10 of the Pacifica Municipal Code is hereby amended to read as follows:

**Sec. 4-10.101 – Definitions**

...

- (m) "Vehicle" means any wheeled conveyance or device, whether motor-powered, animal-drawn or self-propelled. "Vehicle" shall include any trailer in tow of any size, kind or description. "Vehicle" shall not include baby carriages, wheelchairs, motorized or nonmotorized transport devices for handicapped persons, unicycles or bicycles and vehicles in service of the City or any other governmental entity while in use for official business. "Vehicle" shall not include a stationary vending cart or roaming vending cart, as those terms are used in Title 4, Chapter 18.

**Section 5. Amended.** Subsection (a)(9) of Section 4-10.118 of Title 4, Chapter 10 of the Pacifica Municipal Code is hereby amended to read as follows:

**Sec. 4-10.118 – Prohibited actions**

(a) . . .

- (9) Business activities as defined in Title 3, Chapter 1, Article 1 of this Code, unless such activities are sidewalk vending conducted in accordance with all requirements set forth in Title 4, Chapter 18;

**Section 6. Amended.** Subsection (f) of Section 1-6.04 of Title 1, Chapter 6 of the Pacifica Municipal Code is hereby added to read as follows:

**Sec. 1-6.04 – Issuance of administrative citation—Contents thereof.**

(g) *Citations for sidewalk vending.* Administrative citations related to sidewalk vending activities shall be issued in accordance with Sec. 4-18.11 of Title 4, Chapter 18.

**Section 7. Compliance with CEQA.** The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

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

**Section 9. Publication.** The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

**Section 10. Effective Date.** This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

**PASSED AND ADOPTED** this 8<sup>th</sup> day of April, 2019, by the following vote:

AYES: Vaterlaus, Martin, O'Neill, Beckmeyer, Bier  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
Sue Vaterlaus, Mayor

ATTEST:

  
Sarah Coffey, City Clerk

APPROVED AS TO FORM:

  
For Michelle Marchetta Kenyon, City Attorney