

ORDINANCE NO. 18-1828

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REPEALING SECTION 4126 (SALES FROM NONMOTORIZED VEHICLES ON CITY STREETS PROHIBITED) OF CHAPTER 1 (PROHIBITED CONDUCT - OFFENSES) OF ARTICLE IV (PUBLIC PEACE), ADDING CHAPTER 10 (SIDEWALK VENDING) TO ARTICLE III (PUBLIC SAFETY), AND AMENDING SECTIONS 63143 (PEDDLERS) AND 63150 (STREET VENDORS) OF CHAPTER 3 (BUSINESSES, PROFESSIONS AND TRADES) OF ARTICLE VI (TAXES AND LICENSES) OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PROGRAM APPLICABLE TO SIDEWALK VENDORS

WHEREAS, the Governor has approved Senate Bill 946 ("SB 946") which, effective January 1, 2019, will add a new Chapter 6.2 to the California Government Code to prohibit criminal prosecution of sidewalk vendors (as defined in SB 946), preclude local agencies from broadly prohibiting or limiting the total number of sidewalk vendors, and confer limited authority on local agencies to regulate sidewalk vendors within their jurisdictions; and

WHEREAS, Carson Municipal Code Section 4126 currently prohibits sales of goods from pushcarts, handcarts, and other non-motorized vehicles, an activity which constitutes sidewalk vending within the meaning of SB 946; and

WHEREAS, the City does not currently have a regulatory program in place applicable specifically to sidewalk vendors; and

WHEREAS, to ensure consistency with new state law pursuant to SB 946 and to protect the public health, safety and welfare of the residents of the City, the City Council desires to repeal its ban on sales from non-motorized vehicles, make certain clean-up amendments to distinguish sidewalk vendors from others, and establish regulations applicable specifically to sidewalk vendors within City limits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The forgoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council finds as follows:

- (a) The presence or accumulation of sidewalk vendors in areas that are necessary or reserved for vehicular or pedestrian ingress or egress, including driveways, building entrances and transit stops, or on sidewalks or pedestrian walkways such that adequate space is not reserved for ingress or egress, can cause trip and fall and traffic accidents, create other hazards such as fire hazards relating to the flow of traffic into or out of a building or facility, and inhibit accessibility by individuals with disabilities and others.

- (b) The use of stands or additional tables, crates or other equipment or items by sidewalk vendors can further impede the flow of vehicular or pedestrian traffic and cause or contribute to traffic accidents, and can also cause bodily injury to pedestrians resulting from obstructed visibility.
- (c) Requiring sidewalk vendors to procure and maintain general liability insurance will help to provide a source of compensation for damage to person or property resulting from the operation of sidewalk vendors.
- (d) The operation of stationary sidewalk vendors in residential areas, and the operation of roaming sidewalk vendors at night in residential areas, can increase the incidence of crime in such areas and cause a public nuisance to the residents of such areas.
- (e) The operation of stationary sidewalk vendors in areas of City parks that are within 50 feet of residential dwellings can cause a public nuisance to the residents of such dwellings.
- (f) The operation of sidewalk vendors in non-residential areas at night, or at any time when the other businesses or uses in such areas are closed, can increase the incidence of crime in such areas.
- (g) The transaction of business between sidewalk vendors and persons in motor vehicles can contribute to or facilitate concealment of criminal activities, including but not limited to solicitation and illegal distribution of controlled substances.
- (h) The creation of loud and unnecessary noises by sidewalk vendors, including the projection or amplification of sounds by sirens, megaphones or other devices, whether for the purposes of attracting attention to their operations or otherwise, can cause a public nuisance.
- (i) The presence of sidewalk vendors in streets or on medians increases the risk of vehicular-pedestrian and vehicular-vehicular traffic accidents and the adverse effects caused by transaction of business between sidewalk vendors and persons in motor vehicles.
- (j) The presence of sidewalk vendors near fire hydrants can impede the ability of firefighters to access the hydrants in the most efficient possible manner and thereby threaten public health and safety by slowing the response time in the event of a fire.
- (k) The operation of sidewalk vendors who sell food or beverages generates trash and refuse and can result in littering, particularly if appropriate receptacles are not provided.

- (l) The presence of unattended stands or other equipment or items of sidewalk vendors at any time, and the parking or storage of such stands or items in public areas when not in operation, can attract criminal activities including theft, and can increase the likelihood of trip and fall accidents and bodily injury to pedestrians who do not see or expect the presence of such items in their path.
- (m) The operation of sidewalk vendors in public parks, where the park operator has an exclusive concessionaire agreement with a concessionaire operating in the park, can unreasonably interfere with the business operations of the concessionaire and the agreement between the park operator and the concessionaire.
- (n) The operation of sidewalk vendors in the immediate vicinity of areas designated for temporary special permits issued by the City can unreasonably interfere with the operations of the special event or other activity authorized by the permit.
- (o) The operation of sidewalk vendors in the immediate vicinity of certified farmer's markets or permitted swap meets can unreasonably interfere with the operations of the farmer's market or swap meet.
- (p) The procurement of a permit from the Los Angeles County Public Health Department is required by state law for all sidewalk vendors who sell food.
- (q) Imposing City business license and permit requirements on sidewalk vendors is necessary to ensure that sidewalk vendors in the City operate in a manner that is safe, legal, and conducive to the public health and welfare.
- (r) All of the regulations imposed on sidewalk vendors by this ordinance are time, place and manner requirements pertaining to the operation of sidewalk vendors and are directly related to objective public health, safety or welfare concerns as set forth in this section.

SECTION 3. Section 4125 (Vendors on Streets) of Chapter 1 (Prohibited Conduct – Offenses) of Article IV (Public Peace) of the Carson Municipal Code is hereby amended to read in its entirety as follows (deletions shown in strikethrough, additions shown in ***bold italics***):

"4125 Vendors on Streets.

No person shall sell any product from a ***motorized*** vehicle parked on any public street, alley or highway when:

- A. The posted speed limit on the public street, alley, or highway where the vehicle is parked exceeds thirty-five (35) mph; or
- B. The vehicle from which the products are sold is not lawfully parked; or

- C. Any part of the vehicle from which the products are sold is open to prospective customers other than the side of the vehicle facing away from the street; or
- D. The products are sold to persons within a vehicle or standing in the portion of the roadway open to motor vehicles; or
- E. The vehicle is not parked on the right side of the street; or
- F. There is not a clear view of the vehicle from the street at a distance of two hundred (200) feet in front of and two hundred (200) feet behind the vehicle; or
- G. *Repealed by Ord. 88-825."*

SECTION 4. Section 4126 (Sales from Nonmotorized Vehicles on City Streets Prohibited) of Chapter 1 (Prohibited Conduct – Offenses) of Article IV (Public Peace) of the Carson Municipal Code is hereby repealed in its entirety.

SECTION 5. A new Chapter 10 (Sidewalk Vending) is hereby added to Article III (Public Safety) of the Carson Municipal Code to read in its entirety as follows:

"CHAPTER 10. SIDEWALK VENDING

31000. Purpose. The purpose of this Chapter is to provide for a regulatory program applicable to sidewalk vendors within the City that is consistent with state law and that protects and promotes the public health, safety and welfare.

31001. Definitions.

As used in this Chapter:

- (a) "Operate," when used in reference to a sidewalk vendor, means to vend.
- (b) "Sidewalk vendor" means a person who vends from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person (including from a pack or basket carried by the person), upon a public sidewalk, pedestrian path or walkway, or any other public area in the City.
- (c) "Stand" means any pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used by a sidewalk vendor for purposes of vending.
- (d) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- (e) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

- (f) “Temporary special permit” means any 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.
- (g) “Vend” means to sell, offer for sale, display, barter, exchange, or offer for barter or exchange, food, beverages or merchandise.

31002. Sidewalk Vending Operational Requirements.

- (a) No sidewalk vendor shall operate without first obtaining and maintaining a valid city business license and a sidewalk vendor’s permit issued pursuant to Chapter 3 of Article VI of this Code. Application for the business license shall be made by submitting the information required pursuant to Section 6336 of this Code. Application for the sidewalk vendor’s permit shall be made by submitting the information required pursuant to Section 63143(B) of this Code.
- (b) Each sidewalk vendor shall display the required sidewalk vendor’s permit in a conspicuous location on the sidewalk vendor’s person or stand at all times while the sidewalk vendor is operating.
- (c) Operating Restrictions. It shall be unlawful and a violation of this Chapter for any sidewalk vendor to:
 - (1) Operate outside the hours authorized in the required sidewalk vendor’s permit, which hours shall not exceed: (a) in residential zones, 8:00 a.m. to 8:00 p.m.; and (b) in nonresidential zones, the hours established pursuant to any City-imposed operating hours limitation applicable to all other businesses or uses on the street on which the sidewalk vendor is operating.
 - (2) Operate as a stationary sidewalk vendor at any time in any residential zone;
 - (3) Leave unattended any stand at any time while operating, or store, park or leave unattended any stand at any time outside of operating hours on any public sidewalk, pedestrian walkway, or other public place;
 - (4) Sell food without first obtaining and thereafter maintaining the required permit issued by the Los Angeles County Department of Public Health or any other permit or license required pursuant to Part 7 (commencing with Section 113700) of Division 104 of the Health & Safety Code.
 - (5) Sell food for immediate consumption unless there is a litter receptacle available for patrons’ use;

- (6) Leave any location without first disposing of all trash or refuse generated by operating in such location;
- (7) Allow any items used in connection with the operation to be placed or stored anywhere other than in, on, or under the stand, or on the person of the sidewalk vendor;
- (8) Operate from a stand other than the stand authorized pursuant to the sidewalk vendor's permit.
- (9) Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or displaying capacity of a stand without having obtained express authorization to do so pursuant to the required sidewalk vendor's permit;
- (10) Solicit or conduct business with any person in a motorized vehicle;
- (11) Sell anything other than the specific food, beverages or merchandise authorized as to be sold as part of the operation pursuant to the required sidewalk vendor's permit;
- (12) Create any unnecessary noise in violation of Section 4101 of this Code, including but not limited to subsection (g) thereof, except that such conduct, when engaged in by a sidewalk vendor while operating, shall be punishable only by the administrative fines established pursuant to this chapter;
- (13) Operate within: (a) 50 feet of any fire hydrant; (b) 25 feet of any transit stop; (c) 25 feet of any building entrance; (d) 15 feet of the outer edge of any driveway or vehicular entrance to public or private property; or (e) within 5 feet of any other sidewalk vendor on any public sidewalk, pedestrian path or walkway or other area intended for ingress or egress.
- (14) Operate on any public sidewalk or pedestrian path or walkway in a manner that does not maintain four feet in width of clear space on the sidewalk, path or walkway;
- (15) Operate in any public street (i.e. in the street itself and not on the sidewalk), or on any median;
- (16) Operate as a stationary sidewalk vendor in any park owned or operated by the city, where the city or other park operator has an agreement in place with a concessionaire that exclusively permits the sale of food or merchandise by the concessionaire, during the hours the concessionaire is open in the park;

- (17) Operate as a stationary sidewalk vendor within any area of a city park that is within 50 feet of an abutting residential dwelling;
- (18) Operate within a parking lot, except as expressly authorized pursuant to the required sidewalk vendor's permit based on a finding that such operation will not obstruct vehicular ingress, egress, or parking, or adversely affect public health or safety;
- (19) Operate within 500 feet of a certified farmers' market or a permitted swap meet during the operating hours of that certified farmers' market or swap meet;
- (20) Operate within 500 feet of an area designated for a temporary special permit issued by the City during the duration of the permit, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the temporary special permit are also provided to the sidewalk vendor, if such vendor is specifically permitted to operate in the area pursuant to a sidewalk vendor's permit.
- (21) Operate in any area or manner that would obstruct or interfere with disability access standards or accessibility to any facility or area that is provided pursuant to requirements of or in compliance with the Americans with Disabilities Act of 1990.
- (22) Operate without general liability insurance meeting the minimum policy limits and other criteria established by the City Manager or designee.
- (23) Operate in violation of any applicable law or regulation.

31003. Violation—Penalties.

- (a) Any violation of this chapter or any term of a sidewalk vendor's permit, except a violation for operating without a required sidewalk vendor's permit, is punishable only as follows:
 - (1) An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
 - (2) An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.
 - (3) An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.

- (4) Rescission of the sidewalk vendor's permit for the remaining term of that permit upon the fourth violation or subsequent violations within one year of the first violation.
- (b) A violation for operating without a required sidewalk vendor's permit is punishable only as follows:
 - (1) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
 - (2) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.
 - (3) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.
- (c) Upon proof that a sidewalk vendor possesses the required sidewalk vendor's permit, any administrative fine imposed pursuant to subsection (B) of this section for operating without a required sidewalk vendor's permit shall be reduced to the applicable fine amount set forth in subsection (A) of this section.
- (d) Notwithstanding any other provision of this section, all fines imposed pursuant to this section shall be subject to an ability-to-pay determination as described in Government Code Section 51039(f), and as amended. Concurrent with issuance of any citation for administrative fines pursuant to this section, the citing officer shall provide the sidewalk vendor with notice of his or her right to request an ability-to-pay determination, and shall make available to the sidewalk vendor instructions or other materials for requesting the ability-to-pay determination.
- (e) Notwithstanding any other provision of this Code, no violation of this Chapter shall be punished as a criminal offense."

SECTION 6. Section 63143 ("Peddlers") of Part 5 (Businesses, Professions, Trades and Occupations Requiring a Permit) of Chapter 3 (Businesses, Professions and Trades) of Article VI (Taxes and Licenses) of the Carson Municipal Code is hereby amended to read in its entirety as follows (deletions shown in ~~strike through~~, additions shown in ***bold italics***):

"63143. Peddlers; Sidewalk Vendors.

- (a) Every person engaged in the business of peddling, selling or delivering liquids or edibles for human consumption from ~~packs, baskets, or~~ motorized devices or vehicles, either retail or wholesale, except dairy products and except persons selling or delivering, or both, to retail or wholesale establishments for resale, agricultural products raised by them, shall first procure a permit therefor.
- (b) ***No sidewalk vendor shall operate (as "sidewalk vendor" and "operate" are defined in Section 31001 of this Code) without first procuring and thereafter***

maintaining at all times a sidewalk vendor's permit issued by the Director. The Director shall not issue any sidewalk vendor's permit unless the sidewalk vendor has submitted an application containing all of the following information, demonstrating, to the satisfaction of the Director:

- (1) Payment of the applicable Permit Fee;*
- (2) The full legal name and current mailing address of the sidewalk vendor;*
- (3) A copy of the sidewalk vendor's California driver's license or identification number or individual taxpayer identification number (no social security number shall be required). The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit program or to comply with a state law or state or federal court order;*
- (4) A description of the food, beverages or merchandise to be offered for sale or exchange.*
- (5) The proposed hours of operation of the sidewalk vendor;*
- (6) An explanation of whether the sidewalk vendor will operate as a stationary sidewalk vendor or a roaming sidewalk vendor (as such terms are defined in Section 31001 of this Code), or both, and if stationary, the area(s) where the sidewalk vendor intends to operate (though the sidewalk vendor shall not be bound to operate in such area(s), subject to compliance with the operating requirements set forth in Section 31002 of this Code);*
- (7) A description and photograph (including signage and colors) of any stand (as defined in Section 31001 of this Code), and any additional table, crate, carton, rack, or any other device to increase the selling or displaying capacity of a stand, to be used in the operation of the sidewalk vendor;*
- (8) The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor;*
- (9) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;*
- (10) A copy of any permit required by Part 7 of Division 104 of the Health & Safety Code and any other license, permit or entitlement required by applicable law;*

- (11) *Information on any policy of general liability insurance held by the applicant, including the insurer, the policy limits and a copy of the certificate of insurance.*
- (12) *A certification by the applicant that to his or her knowledge and belief, the information contained in the application is true; and*
- (13) *Any additional information deemed necessary by the Director to explain the proposed use or operation of the sidewalk vendor or to demonstrate that the applicant is prepared to comply with the operating requirements of Section 31002 this Code."*

SECTION 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 8. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 9. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this 22nd day of January, 2019.

APPROVED AS TO FORM:

CITY OF CARSON:

Sunny K. Soltani, City Attorney

Albert Robles, Mayor

ATTEST:

Donesia Gause-Aldana, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing ordinance, being Ordinance 18-1828 passed first reading on the 4th day of December, 2018, adopted by the Carson City Council at its meeting held on the 22nd day of January, 2019, by the following roll call vote:

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

Donesia Gause-Aldana, MMC, City Clerk