

## **CHAPTER 6.20. VENDING FROM A MOBILE VENDING FACILITY ON PUBLIC STREETS, PUBLIC RIGHTS-OF-WAY, AND PRIVATE PROPERTY<sup>1</sup>**

### **Sec. 6.20.010. Findings and purpose.**

A. *Findings.* The City Council finds and declares as follows:

- (1) California Vehicle Code Section 22455 authorizes municipalities to regulate the type of vending from motor vehicles and the time, place and manner of vending from vehicles upon any street in order to promote public safety and Article XI, Section 7 of the California Constitution extends to municipalities the police power authority to regulate in furtherance of the public health and welfare.
- (2) Vending from mobile vending facilities on public streets creates the potential for safety hazards, such as, but not limited to, encouraging pedestrians to cross mid-block to purchase food.
- (3) The act of looking for prospective customers while mobile vending facilities makes vendors less attentive to pedestrian and vehicular traffic. When done on public roadways, this poses traffic and safety risks to the public.
- (4) Vendors who fail to park their mobile vending facilities on public streets correctly during a transaction attract prospective customers onto public roadways, creating a further traffic and public safety hazard.
- (5) Unregulated vending from mobile vending facilities on public streets impairs traffic safety, the safety of pedestrians, contributes to traffic congestion and therefore impedes the orderly movement of pedestrian and motorist traffic.
- (6) Unregulated vending from mobile vending facilities on sidewalks and pedestrian areas of public rights-of-way impairs the health, safety and welfare of pedestrians because it contributes to congestion on sidewalks and pedestrian rights-of-way and impedes the orderly movement of pedestrians around unregulated vendors.
- (7) The regulations set forth in this chapter for sidewalk vendors are specifically designed and intended to protect the health, safety and welfare of the public and sidewalk vendors upon a public sidewalk, parkway, pedestrian path, or other public right-of-way available to pedestrians.

B. *Purpose and intent.* The purpose and intent of this chapter is to regulate the sale of food, food products, ice cream, goods or merchandise from motor vehicles or push carts on public and private property and to protect the health, safety and welfare of people within the City and the vendors. This chapter is not intended to repeal or amend the provisions of this Code that provide for licensing or permit procedures for the conduct of certain business activities. Further, this chapter is not intended to prohibit, prevent or hinder activities of political, economic, religious or sociological ideas when such activities are noncommercial.

(Ord. No. 2017-02, § 1, 10-19-2017; Ord. No. 2018-11, § 1, 11-15-2018)

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<sup>1</sup>Editor's note(s)—Ord. No. 2017-02, § 1, adopted October 19, 2017, renumbered former Chapter 6.20Editor's note(s)—, §§ 6.20.010Editor's note(s)—6.20.140 as Chapter 6.90Editor's note(s)—, §§ 6.90.010Editor's note(s)—6.90.140 and added a new Chapter 6.20Editor's note(s)— as set out herein.

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## Sec. 6.20.020. Definitions.

As used in this chapter, the following words, terms and phrases shall have the following meanings, unless a different meaning is apparent from the context or is specified elsewhere in this chapter:

*Certified farmers' market* means a location operated in accordance with California Food and Agricultural Code Chapter 10.5, Division 17, Section 47000 et seq., and any regulations adopted pursuant to that chapter.

*City Manager* shall mean the City Manager of the City or his or her designee.

*Commissary* means a food facility that services mobile food facilities or mobile support units where any of the following occur:

- (1) Food, containers, or supplies are stored;
- (2) Food is prepared or prepackaged for sale or service at other locations;
- (3) Utensils are cleaned; or
- (4) Liquid and solid wastes are disposed, or potable water is obtained.

*Food or food products* mean any type of human edible substance or beverage.

*Food preparation* as defined in California Health and Safety Code Section 113791, as now adopted or hereafter amended.

*Goods or merchandise* means any items that are not food or a food product.

*Ice cream truck* means any self-propelled vehicle used primarily to vend ice cream, candy or other confectionary items, and in which the predominant product for sale is ice cream, candy and other confectionary items.

*Limited food preparation* as defined in California Health and Safety Code Section 113818, as now adopted or hereafter amended.

*Mobile food preparation unit* means a mobile food facility that engages in food preparation, beyond the scope of limited food preparation.

*Mobile food vending facility* means a motor vehicle, trailer attached to a vehicle, push cart used for the sale, retail distribution of food, or other distribution of food. There are five (5) categories of mobile food facilities that may be permitted in the City:

- (1) Produce vehicle;
- (2) Prepackaged food push cart;
- (3) Prepackaged food vehicle;
- (4) Non-prepackaged food vehicle and mobile support unit; and
- (5) Mobile food preparation unit.

*Mobile support unit* means a vehicle used in conjunction with a commissary or other permanent food facility that travels to, and services, mobile food facilities as needed to replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

*Mobile vending facility* means a motor vehicle, a trailer attached to a vehicle, or a push cart used for the sale, retail distribution or other distribution of goods or food, including without limitation, a mobile food vending facility.

*Motor vehicle* means any self-propelled vehicle used to vend, including food trucks and ice cream trucks.

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*Non-prepackaged food* means any food which is removed from its original packaging material for the purpose of preparation or service to the customer.

*Non-prepackaged food vehicle* means a mobile food facility that engages in limited food preparation.

*Person* includes any natural person, business, firm, company, corporation, public corporation, club, trust, partnership, association and similar organization.

*Prepackaged food* means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, food facility, or other source approved by the Riverside County Department of Environmental Health.

*Prepackaged food push cart* means a mobile food facility limited to the sale of one hundred (100) percent prepackaged foods from a push cart.

*Produce vehicle* means a mobile food facility limited to the sale of whole, uncut produce obtained from a source approved by the Riverside County Department of Environmental Health.

*Push cart* means any wagon, cart, stand, display, pedal-driven cart, showcase, rack, or similar wheeled container, not a vehicle as defined in the Vehicle Code of the State of California, used in conjunction with vending.

*Riverside County Department of Environmental Health* means the Department of Environmental Health within the County of Riverside or such other department of the County of Riverside responsible for licensing of food vendors and the enforcement of food health laws.

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

*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 not a vehicle as defined in the Vehicle Code of the State of California, or from one's person, upon a public sidewalk, parkway, pedestrian path, or other public right-of-way available to pedestrians.

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

*Swap meet* means a location operated in accordance with California Business and Professions Code Division 8, Article 6, Chapter 9, Section 21660 et seq., and any regulations adopted pursuant to that article.

*Vend* or *vending* shall mean to sell, offer for sale, expose for sale, solicit offers to purchase or to barter food, food products, ice cream, goods or merchandise from a motor vehicle or push cart while parked, stopped or standing upon any public street, alley, parkway, sidewalk or other public property or private property in the City with or without use of a motor vehicle.

*Vendor* means a person who vends, including an employee or agent of another.

(Ord. No. 2017-02, § 1, 10-19-2017; Ord. No. 2018-11, § 2, 11-15-2018)

#### **Sec. 6.20.030. Business registration certificate required.**

All vendors that operate or conduct any business from a mobile vending facility in the city shall obtain and maintain a valid business registration certificate issued by the city in accordance with Chapter 5.01 of Title 5 of this Code.

(Ord. No. 2017-02, § 1, 10-19-2017)

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#### **Sec. 6.20.040. Vending permit required—Application.**

In addition to procuring a business registration certificate, as set forth in Section 6.20.030 of this chapter, all persons desiring to vend from a mobile vending facility or vend food in the city on public or private property, shall first obtain a permit to operate or conduct the business in the city. Except as otherwise provided in this chapter, vending on any public street, alley, parkway, sidewalk or other public property or private property in the city by means of any portable, movable, semi-permanent or temporary structures or equipment, non-motorized vehicle, trailer, modular building, table, counters, stands or other similar structures is prohibited. The permit shall be known as a "vending permit". The vending permit shall be valid for a period of twelve (12) months from the date of issuance. The vending permit application shall be filed with the City Manager, on a form approved by the City Manager, and shall set forth the following:

- (1) The applicant's name and permanent home address;
- (2) The name and permanent address of each owner and operator of the motor vehicle(s) or push cart(s) to be used to vend;
- (3) If the applicant is employed by another to vend, the name and address of the employer or the person for whom the applicant is conducting commercial business;
- (4) If the applicant will use a motor vehicle to vend, a description of the type of motor vehicle to be used, its registration number and its license number;
- (5) If the applicant will operate a mobile food vending facility, proof of issuance of food manager and food handler certifications, pursuant to Riverside County Ordinance No. 567 and California Health and Safety Code Sections 113947—113947.6, as now adopted or hereafter amended;
- (6) A photograph of the motor vehicle or push cart;
- (7) If the applicant will use a push cart to vend, a valid California driver's license number of the applicant and vendor or a valid California identification card number of the applicant and vendor;
- (8) If the applicant will use a motor vehicle to vend, a valid California driver's license number of the applicant and vendor;
- (9) If the applicant will use a motor vehicle to vend on public streets or rights-of-way, proof of business automobile liability insurance, with minimum combined single limits coverage of one million dollars (\$1,000,000) in a form approved by the City Manager;
- (10) In addition to any proof of automobile liability insurance that may be required by subsection (9), all applicants shall provide proof of general liability insurance with minimum combined single limits coverage of one million dollars (\$1,000,000) and naming the city as an "additional insured" in a form approved by the City Manager;
- (11) A description of the type of food, food products, ice cream, goods or merchandise to be sold; and
- (12) A description of the streets and rights-of-way the applicant intends to use.

(Ord. No. 2017-02, § 1, 10-19-2017)

#### **Sec. 6.20.050. Vending permit application fees.**

The fee for filing an application for a vending permit and inspections required by the provisions of this chapter shall be set forth in a resolution adopted by the City Council. The application fee shall be nonrefundable.

(Ord. No. 2017-02, § 1, 10-19-2017)

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**Sec. 6.20.060. Vending permit investigation; denial; granting.**

- A. *Investigation.* Upon receipt of a completed application, the City Manager shall cause to have the information in the application investigated and verified.
- B. *Review period.* The City Manager shall approve, conditionally approve or deny the vending permit within thirty (30) calendar days of the filing of the application.
- C. *Denial—Standards.* The City Manager shall have the right to deny a vending permit required by the provisions of this chapter if he or she makes one (1) of the following findings:
  - (1) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the city in the application process.
  - (2) The application does not contain the information required by this chapter.
  - (3) The applicant has not satisfied the requirements of this chapter.
  - (4) The granting of the vending permit or the conduct of the business will be contrary to the preservation of the public health, safety or welfare of the city or its inhabitants.
- D. *Denial—No refund of license fees.* If a vending permit is denied, the permit fee shall not be refundable.
- E. *Granting—Conditions.* In granting a vending permit, the City Manager, in the application of the standards and principles set forth in subsection C. and in order to protect the public health, safety and welfare, may impose reasonable conditions or regulations, not in conflict with any law, pertaining to the conduct of the business or the occupancy or use of any land in connection therewith in addition to, but not limited by, those regulations set forth in this chapter. These conditions may include, but are not limited to, the streets and locations where the applicant is permitted to vend.

(Ord. No. 2017-02, § 1, 10-19-2017)

**Sec. 6.20.070. Appeal of conditional approval of denial of vending permit.**

Any applicant conditionally approved or denied a vending permit by the City Manager pursuant to the provisions of this chapter shall have the right to appeal the decision pursuant to the provisions of Chapter 2.40, Hearings and Appeals (Jurupa Valley Ordinance No. 2014-04). The appeal shall be filed within ten (10) days of the mailing of the notice of the City Manager's decision to the applicant.

(Ord. No. 2017-02, § 1, 10-19-2017)

**Sec. 6.20.080. Suspension and revocation of vending permits.**

- A. Any vending permit issued pursuant to the provisions of this chapter may be suspended or revoked by the City Manager for the following reasons:
  - (1) Where the City Manager finds and determines that the preservation of the public peace, health, safety or welfare demand the revocation of such vending permit;
  - (2) Where the permittee has violated any provision of this chapter, or any other provision of this Code, or any other provision of law;
  - (3) Where a vending permit has been granted on false, misleading or fraudulent evidence, testimony, or application; or
  - (4) Where the permittee has violated the terms, provisions or conditions of the vending permit.

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- B. Prior to the suspension or revocation of a vending permit, the City Manager shall provide the permittee with notice of the basis for the suspension or revocation of the vending permit and an opportunity to discuss the allegations with the City Manager. City Manager shall provide the permittee with not less than ten (10) days' notice of the allegations and the permittee's opportunity to be heard.
  - C. The City Manager may immediately suspend any vending permit where the City Manager determines that the suspension of the vending permit is necessary for the immediate protection of the public health, safety, and welfare. While the immediate suspension is in effect, the City Manager shall provide the permittee with the notice and opportunity to be heard pursuant to subsection B. of this section.
  - D. Any permittee whose vending permit has been revoked by the City Manager pursuant to the provisions of this chapter shall have the right to appeal the decision pursuant to the provisions of Chapter 2.40, Hearings and Appeals (Jurupa Valley Ordinance No. 2014-04). The appeal shall be filed within ten (10) days of the mailing of the notice of the City Manager's decision.

(Ord. No. 2017-02, § 1, 10-19-2017)

#### **Sec. 6.20.090. Vending permit; nontransferable; display.**

- A. No vending permit issued pursuant to the provisions of this chapter shall be transferable.
- B. Each permittee under this chapter shall possess and at all times make available for inspection a business registration certificate issued by the city in accordance with Chapter 5.01 of Title 5 of this Code, and, when applicable, a copy of the unexpired and unrevoked mobile food facilities permit issued by the Riverside County Department of Environmental Health required by this chapter.
- C. Each permittee under this chapter shall possess and at all times display upon his or her motor vehicle or push cart an unexpired and unrevoked mobile facility vending permit that shall be:
  - (1) Displayed on the left side, right side and rear of the mobile vending facility;
  - (2) Displayed in such a manner that it is clearly visible to Enforcement Officials and members of the public;
  - (3) Not less than six (6) inches by six (6) inches, reflective, and light blue in color.
- D. The size, color and location of the displayed permit on the mobile vending facility shall be approved by the City Manager. The City Manager shall have authority to modify these requirements in order to ensure that the copy of the permit is clearly visible to Enforcement Officials and members of the public and does not unduly interfere with the operation of the mobile vending facility.

(Ord. No. 2017-02, § 1, 10-19-2017; Ord. No. 2019-06, § 1, 2-21-2019)

#### **Sec. 6.20.100. Mobile food vending facilities permit required.**

In addition to procuring a business registration certificate and vending permit, as set forth in this chapter, all persons desiring to operate a mobile food vending facility in the city shall first obtain an annual mobile food facilities permit issued by the Riverside County Department of Environmental Health and shall maintain such mobile food facilities permit in good standing at all times. Upon the issuance of an annual mobile food facilities permit, the permittee shall comply with all laws, regulations, and policies applicable to mobile food facilities operating in Riverside County, including, but not limited to, the following:

- (1) All mobile food vending facilities shall post a notice provided by the Riverside County Department of Environmental Health ("Department") advising consumers that a copy of the most recent routine inspection report is available for review by any interested party. The most recent inspection report must be kept with the mobile food facility at all times;

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- (2) All mobile food vending facilities shall operate from a permitted commissary, or other Department approved facility. All approved facilities must be located within Riverside County unless otherwise approved by the Department;
  - (3) If the permittee operates a mobile food preparation unit, the card/decal bearing the unit's inspection grade shall be posted in a conspicuous place near the ordering window; and
  - (4) If the permittee operates any mobile food vending facility except a mobile food preparation unit, servicing of water and wastewater tanks shall take place at the commissary or by an approved mobile support unit.

(Ord. No. 2017-02, § 1, 10-19-2017)

#### **Sec. 6.20.110. Regulations for vending on public street or right-of-way.**

All vendors operating or conducting any business from a mobile vending facility in the public street or public right-of-way in accordance with the provisions of this chapter shall:

- (1) Vend only between the hours of 7:00 a.m. and 10:00 p.m., except that in nonresidential areas, the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street;
- (2) Not vend within five (5) feet of any other vendor;
- (3) Not vend within fifty (50) feet of any street intersection;
- (4) Not vend on any street median;
- (5) Not vend upon any public street within three hundred (300) feet of the nearest property line of any property on which a school building is located between the hours of 7:00 a.m. and 5:00 p.m. of any school day;
- (6) Not place tables, chairs or other seating for customers on the public right-of-way, including any sidewalk;
- (7) Not vend from a motor vehicle parked on any public street, alley or highway when:
  - (a) The motor vehicle is not in full compliance with all parking and vehicle code provisions that apply to the location at which the motor vehicle is parked;
  - (b) Any part of the motor vehicle or any other equipment or furniture related to the operation of the business encroaches onto a public sidewalk;
  - (c) Any part of the motor vehicle is open to prospective customers other than from the rear of the motor vehicle or from the side of the motor vehicle facing away from the street; or
  - (d) The food, food products, goods or merchandise provided are sold to persons within other vehicles or standing in the portion of the roadway open to other vehicles;
- (8) Not vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles;
- (9) When vending on sidewalks or pedestrian areas, vendor shall maintain at all times a clearance of not less than five (5) feet on all sidewalks and pedestrian areas so as to enable persons to freely pass while walking, running or using mobility assistance devices;
- (10) Not use any devices for heating food or other device using a flame when vending except pursuant to the terms of a mobile food facilities permit issued by the Riverside County Department of Environmental Health.

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- (11) Charge, collect and transmit sales tax for all taxable sales in the City and possess a valid California Department of Tax and Fee Administration seller's permit;
  - (12) Upon request by a buyer, give a receipt to the buyer that shall list the following:
    - (a) The vendor's name;
    - (b) The vendor's City vending permit number;
    - (c) The vendor's address and telephone number;
    - (d) The items sold;
    - (e) The price of each item sold; and
    - (f) The total price of all items sold;
  - (13) If the vendor is a mobile food vending facility, vendor shall possess at all times while vending:
    - (a) An unexpired and unrevoked annual mobile food facility permit issued by the Riverside County Department of Environmental Health; and
    - (b) An unexpired and unrevoked food manager and food handler certification issued by the Riverside County Department of Environmental Health;
  - (14) Possess at all times while vending an unexpired and unrevoked vending permit issued pursuant to this chapter;
  - (15) Possess at all times while vending any other permit as required by any other appropriate governmental agency;
  - (16) Comply with all applicable state and local laws, ordinances and regulations including, without limitation, state food labeling and preparation requirements, fire codes and regulations, and Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards (both state and federal);
  - (17) Maintain a clearly designated waste receptacle in the immediate vicinity of the motor vehicle and vending that is marked with a sign requesting use by customers. Prior to leaving the vending location, the vendor shall pick up, remove and dispose of all trash generated by the vendor's operation located within a twenty-five (25) foot radius of the vending location;
  - (18) Not vend from a non-motorized vehicle parked on a public street;
  - (19) Roaming sidewalk vendors may vend in a park or in areas zoned for residential uses, but stationary sidewalk vendors are prohibited in parks and areas zoned for residential uses;
  - (20) Vendors are prohibited from vending in areas located within two hundred (200) feet of the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet; and
  - (21) Vendors are prohibited from vending within two hundred (200) feet of an area designated for a temporary special permit issued by the city, provided that any notice, business interruption mitigation, or other rights 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. For purposes of this paragraph, a temporary special permit is 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. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.



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(Ord. No. 2017-02, § 1, 10-19-2017; Ord. No. 2018-11, § 3, 11-15-2018; Ord. No. 2019-06, § 2, 2-21-2019)

**Sec. 6.20.120. Regulations for vending from mobile vending facility on private property.**

All vendors operating or conducting any business from a mobile vending facility on private property in accordance with the provisions of this chapter shall:

- (1) Comply with the zoning ordinances applicable to the private property and all land use entitlements for the private property;
- (2) Unless vending from a mobile vending facility [that] is otherwise authorized by the land use entitlements for the private property, obtain from the Director of Planning a temporary outdoor event permit or site development permit. A temporary outdoor event permit shall be obtained if the vending on private property will occur on five (5) or fewer days during a twelve (12) month period. A site development permit shall be obtained if the vending will occur on six (6) or more days within a twelve (12) month period. The application for any such permit shall require the consent of the property owner for such a use and the Director of Planning shall verify such consent. Such permits shall include such conditions as are necessary to insure compliance with this chapter and compatibility with the surrounding uses.
- (3) Not vend within five (5) feet of any other vendor on the property;
- (4) Not vend upon any private property within three hundred (300) feet of the nearest property line of any property on which a school building is located between the hours of 7:00 a.m. and 5:00 p.m. of any school day;
- (5) If the applicant is a mobile food vending facility, possess at all times while vending:
  - (a) An unexpired and unrevoked annual mobile food facility permit issued by the Riverside County Department of Environmental Health; and
  - (b) An unexpired and unrevoked food manager and food handler certification issued by the Riverside County Department of Environmental Health;
- (6) Possess at all times while vending an unexpired and unrevoked vending permit issued pursuant to this chapter;
- (7) Possess at all times while vending any other permit as required by any other appropriate governmental agency;
- (8) Comply with all applicable state and local laws, ordinances and regulations including, without limitation, state food labeling and preparation requirements, fire codes and regulations, and Americans with Disabilities Act and regulations (state and federal); and
- (9) Maintain a clearly designated waste receptacle in the immediate vicinity of the motor vehicle and vending that is marked with a sign requesting use by customers. Prior to leaving the vending location, the vendor shall pick up, remove and dispose of all trash generated by the vendor's operation located within a twenty-five (25) foot radius of the vending location.

(Ord. No. 2017-02, § 1, 10-19-2017)

**Sec. 6.20.130. Vending in public parks prohibited; exceptions.**

- A. *Prohibition.* Except for roaming sidewalk vendors and except as provided in subsection B. of this section, all vending in public parks or recreation areas is prohibited.

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- B. *Exceptions.* Except for roaming sidewalk vendors, no vendor permit shall be issued to any person for the vending of food, food products, goods or merchandise in public parks, open space, or recreation areas in the City without the prior written consent of the Jurupa Area Recreation and Park District or other governmental agency with jurisdiction over the park, open space or recreation area on file with the City Manager. Nothing in this section shall prohibit vending in public parks or recreation areas provided the vending is a part of a City sponsored or co-sponsored event or an event approved by the City or the Jurupa Area Recreation and Park District for parks, open space or recreation areas within their respective jurisdictions.

(Ord. No. 2017-02, § 1, 10-19-2017; Ord. No. 2018-11, § 4, 11-15-2018)

#### **Sec. 6.20.140. Signage—Ice cream truck vendors.**

In addition to the requirements of this chapter and this Code, the owner or operator of an ice cream truck, shall permanently maintain on the ice cream truck at least one (1) of each of the two (2) signs as are described below.

- (1) *Sign no. 1.*



- (a) *Minimum sign dimensions.* Eighteen (18) inches by twelve (12) inches.
- (b) The sign shall be high density reflectorized sheeting placed on aluminum with black lettering on yellow backing.

- (2) *Sign no. 2.*

**ICE CREAM TRUCK**

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(a) *Letter height.* At least five (5) inches.

(b) The lettering shall be placed on rear of vehicle.

(Ord. No. 2017-02, § 1, 10-19-2017)

### **Sec. 6.20.150. Exemptions.**

The provisions of this chapter, excluding Section 6.20.030, shall not apply to:

- (1) Any approved participant in a community event authorized in writing by the city;
- (2) Any individual vending without the use of a mobile vending facility or without the use of portable, movable, semi-permanent or temporary structures or equipment, non-motorized vehicle, trailer, modular building, table, counters, stands or other similar structures; and
- (3) Any individual or organization that vends the following items that are:
  - (a) Inherently communicative;
  - (b) Have nominal utility apart from their communication; and
  - (c) Have been created, written or composed by the vendor: books; recorded music; poetry; prose; sculptures; paintings; prints; photographs or similar items.

(Ord. No. 2017-02, § 1, 10-19-2017)

### **Sec. 6.20.160. Penalties.**

- A. It shall be unlawful for any person to violate any provision of this chapter or to fail to comply with any provision of this chapter.
- B. Except for sidewalk vendors, any person violating any such provisions or failing to comply with any of the mandatory requirements of this chapter, shall be guilty of a misdemeanor unless the City Attorney elects to prosecute the violation as an infraction. In addition, any person violating the provisions of this chapter shall be subject to the penalties and remedies of Title 1 of this Code, including, without limitation, administrative citations and public nuisance abatement injunctions.
- C. A violation of this chapter by a sidewalk vendor who has a valid City vending permit is punishable only by the following:
  - (1) An administrative fine issued pursuant to Chapter 1.20 not exceeding one hundred dollars (\$100) for a first violation.
  - (2) An administrative fine issued pursuant to Chapter 1.20 not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation.
  - (3) An administrative fine issued pursuant to Chapter 1.20 not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.
  - (4) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.
- D. Any person engaged in sidewalk vending without a valid City vending permit sidewalk vending permit is punishable by the following in lieu of the administrative fines set forth in paragraph C.:
  - (1) An administrative fine issued pursuant to Chapter 1.20 not exceeding two hundred fifty dollars (\$250) for a first violation.

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- (2) An administrative fine issued pursuant to Chapter 1.20 not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation.
  - (3) An administrative fine issued pursuant to Chapter 1.20 not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.
  - (4) Upon proof of a valid permit issued by the City, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph E., respectively.
- E. Failure to pay an administrative fine pursuant to subdivision C. or D. shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision B. or C. shall not be assessed.
- F. (1) When assessing an administrative fine pursuant to subdivisions C. and D., the hearing officer shall take into consideration the person's ability to pay the fine. The City Manager or his or her designee, 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.
- (2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to subdivision B. or C.
  - (3) 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.
- G. In the event the Legislature amends California Government Code Section 51039, or its successor statute, to increase the fines for violations of sidewalk vending ordinance, the City Council may revise the fines set forth in subsections C. and D. in accordance with the new law.

(Ord. No. 2017-02, § 1, 10-19-2017; Ord. No. 2018-10, § 1, 11-15-2018)