

ORDINANCE NO. 1161

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO ADOPTING CHAPTER 5.42 OF THE CAMARILLO MUNICIPAL CODE PERTAINING TO SIDEWALK VENDING

The City Council of the City of Camarillo ordains as follows:

SECTION 1. Findings. The City Council of the City of Camarillo finds as follows:

A. On September 18, 2018, Governor Brown signed into law Senate Bill ("SB") 946, which adopts state law that imposes limits on how local authorities, including cities, may regulate sidewalk vending. SB 946 is codified in Government Code 51036 and following.

B. Among other things, SB 946 limits city regulation of sidewalk vending to restrictions that are directly related to objective health, safety, or welfare concerns and prohibits punishment for street vending-related violations unless it is through a civil fine.

C. SB 946 recognizes, however, that "California has an interest in the regulation of traffic ... whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk," and acknowledges that there are regulations that are directly related to objective health, safety, or welfare concerns the city may adopt, which include, but are not limited to, regulations concerning hours of operation, sanitation, sidewalk access, health and vendor permits, compliance with other generally applicable laws, registration requirements, and interference with other special events or permitted activities.

D. As a result, the City desires to update its municipal code to establish a sidewalk vending program which will govern sidewalk vendors operating within the City and impose sidewalk vending regulations that are consistent with state law, while maintaining regulations that are directly related to, and furthers, the objective health, safety, and welfare of the City.

SECTION 2. Environmental Review. The City Council exercises its independent judgment and finds that the proposed ordinance is not subject to the California Environmental Quality Act (CEQA), pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the subject regulations have no potential for resulting in any significant physical change to the environment, either directly or indirectly.

SECTION 3. Adoption of Sidewalk Vending Regulations. Chapter 5.42 (Sidewalk Vending) is added to Title 5 (Business Tax Certificates and Permitting Procedures) of the Camarillo Municipal Code as follows:

"Chapter 5.42

SIDEWALK VENDING

5.42.010 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.

5.42.020 Definitions.

The following definitions apply to this chapter:

"Business tax certificate" means a general license issued by the city to conduct business in the city.

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

"Cart permit" means a permit issued by the city for a cart to vend food or merchandise within the city.

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

"Director" means the director of the department.

"Department" means the city's finance department.

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

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

"Health department" means the Ventura County Resource Management Agency Environmental Health 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 nonmotorized 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, if any, established by the director 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 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 nonmotorized 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 nonmotorized 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.

"Vend" means to sell, offer for sale, expose or display for sale, solicit offers to purchase, barter, or exchange anything of value, even if the transaction is characterized as a donation.

"Vending license" means a license issued by the city to vend food or merchandise within the city in accordance with this chapter.

"Ventura County Environmental Health Division permit" means any and all licenses, permits, certifications, and courses required and issued by the Environmental Health Division of the County of Ventura to vend food within the city in accordance with this chapter.

5.42.030 Administration.

- A. The department is authorized to issue sidewalk vending licenses and vending cart permits in accordance with this chapter.
- B. The director is authorized to develop, and enforce, the rules and regulations regarding the licensing, permitting, and operation of sidewalk vending, in accordance with this chapter.

5.42.040 Vending license required.

No sidewalk vendor may vend or operate anywhere within the city without first obtaining a sidewalk vending license. Sidewalk vendors must comply with the terms and conditions set forth in the sidewalk vending license.

5.42.050 Cart permit required.

No cart may be used for sidewalk vending anywhere within the city without first obtaining a sidewalk vending cart permit for such cart.

5.42.060 Application requirements.

- A. To obtain or to renew a sidewalk vending license or vending cart 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.
 - a. An application for placement of a stationary 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.
 - b. An application for a roaming vending cart must contain a sketch showing the route the sidewalk vendor will travel.
 6. The type of merchandise or food offered for sale or exchange.
 7. Proof of a valid City of Camarillo business tax certificate.
 8. Proof of liability insurance and signed indemnification in favor of the city, in an amount not less than \$500,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business.
 9. The application or renewal fee.
 10. A valid California Department of Tax and Fee Administration seller's permit and additional licenses from state or local agencies to the extent required by law.
 11. A permit from the Health Department for food-related vending, if applicable.
 12. A certificate of completion of a food handler course, if applicable.
 13. Proof of a completed background check.
 14. A declaration that the information provided to the city is true and correct.
 15. Any other information as may be required by the director.
- B. Vending licenses and vending cart permits will expire one year after the date of issuance.
- C. Vending licenses and vending cart permits are not transferable.
- D. A person whose vending license or vending cart permit is revoked may not renew their vending license or vending cart permit for one year.

- E. In accordance with Government Code section 51038(c)(4), identification numbers, such as social security numbers, will be confidential and will not be disclosed.
- F. An applicant may apply for a maximum of three separate vending cart permits.

5.42.070 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 health department permit.
- B. A cart used for sidewalk vending must obtain, possess, and prominently display a valid cart permit and all other required permits that are issued by other public agencies such as a health department 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 cart 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 vending cart must operate according to its approved hours of operation. The director may impose reasonable hours of operation for sidewalk vendors. For sidewalk vending in nonresidential areas, the director 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 10-foot radius from a 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 travel distance of an approved and readily available toilet and handwashing facility. If the facility is located on private property, the vendor must possess a copy of an enforceable contract between the private property owner and the vendor allowing the vendor to utilize such facilities, including the days and hours of operation.
- J. 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. Vending carts must be self-contained, including any power, cooking and heating equipment. Sidewalk vendors may not set up tables, chairs, or other structures, unless otherwise approved by the city. Sidewalk vendors may not access a city or private power source without authorization from the city or such private property owner or agent.
- M. 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.
- N. Before non-electric generators or auxiliary power may be used to power a vending cart, the sidewalk vendor must obtain permission, as applicable, from the Ventura County Air Pollution Control District.
- O. Vending of services is prohibited.

5.42.080 Vending in residential areas.

No stationary vending cart may be used to vend within a residential zoned area. However, 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.

5.42.090 Prohibitions on placement of stationary or roaming carts.

- A. No sidewalk vendor may place or leave any vending cart:
 - 1. Within 5 feet of a marked crosswalk.
 - 2. Within 5 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 20 feet of an outdoor dining or patio dining area.
 - 9. Within 18 inches from the edge of the curb.
 - 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.
- 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. 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.

5.42.100 Sidewalk vending related to parks and special events.

- A. No sidewalk vending is allowed within 300 feet of a city-permitted event within the time period commencing one hour before until one hour after the event. Permitted events include certified farmers' markets, and any event that requires an encroachment permit or special event permit, or any other permit or authorization required by the city.
- B. The city may by resolution adopt additional requirements consistent with Government Code section 51038(b)(2)(B) for city-owned or operated parks, effective after signs are posted giving notice of such additional requirements.

5.42.110 Fines.

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:

- A. For vending without a valid vending license or vending cart permit:
 - 1. An administrative fine of \$250 for a first violation.
 - 2. An administrative fine of \$500 for a second violation within one year of the first violation.
 - 3. An administrative fine of \$1,000 for a third violation and each subsequent violation, within one year of the first violation.
 - 4. 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.
- B. For all violations of this chapter other than vending without a valid vending license or vending permit as outlined in subsection A above:
 - 1. An administrative fine of \$100 for a first violation.
 - 2. An administrative fine of \$200 for a second violation within one year of the first violation.
 - 3. An administrative fine of \$500 for a third violation within one year of the first violation.
 - 4. An administrative fine of \$500 for a fourth and each subsequent violation, and revocation of the license or permit.
- C. The city will provide the person subject to the fine 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.

- D. All citations issued for violations of this chapter are subject to the administrative hearing and appeal process under Chapter 1.13 of this code and the city's authority to use any civil remedy available to collect any unpaid administrative fine.
- E. Fines assessed pursuant this section may be reduced to 20 percent of the original fine amount upon submission of proof of inability to pay at an adjudication hearing if requested by the person pursuant to Government Code section 51038(f).

5.42.120 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 subsequently dispose of the cart (including any associated merchandise and food) if not claimed by the vendor within 30 days of removal by the city, or if an administrative appeal is filed related to the cart removal, then 30 days after a final decision in the administrative appeal (including the payment of any outstanding administrative fine).

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Publication. The City Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED February 13, 2019.

Kevin Kildee
Mayor

Attested to on 2/14/19.
Janmadland
City Clerk

I, Jeffrie Madland, City Clerk of the City of Camarillo, certify Ordinance No. 1161 was introduced by the City Council at a meeting held January 23, 2019, and subsequently passed and adopted by the City Council at a regular meeting held February 13, 2019, by the following vote:

AYES: Councilmembers: Craven, Mulchay, Santangelo, Trembley, Mayor Kildee
 NOES: Councilmembers: None
 ABSENT: Councilmembers: None

Janmadland
City Clerk

