

ORDINANCE NO. 3851

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, AMENDING THE TORRANCE MUNICIPAL CODE TO ADD A NEW CHAPTER 14 OF DIVISION 4 REGARDING SIDEWALK VENDORS

WHEREAS, Senate Bill ("SB") 946 was signed into law on September 17, 2018, and became effective January 1, 2019;

WHEREAS, SB 946 limits the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Sections 51038 and 51039;

WHEREAS, the City Council finds that the establishment of sidewalk vending regulations will benefit the City;

WHEREAS, the City Council finds that the act of vending on sidewalks and other areas of the public right-of-way also creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

WHEREAS, the City Council finds that restrictions on sidewalk vending are needed to accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian movement on sidewalks and in the public right-of-way, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services;

WHEREAS, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that sidewalk vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning;

WHEREAS, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, City parks, including the City's public beach, sidewalks, pathways, gutters, storm drains, or upon public or private lots, so that the same might be or become a pollutant;

WHEREAS, the City Council finds that restrictions on sidewalk vending in public parks, including the City's public beach, are necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;

WHEREAS, the City Council finds that restrictions on sidewalk vending in residential areas are necessary to ensure that such areas are protected from excessive noise and traffic impacts while allowing economic opportunities for sidewalk vendors; and

WHEREAS, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City's purpose of protecting the health, safety, and welfare of its residents, businesses and visitors.

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1

A new Chapter 14 of Division 4 of the Torrance Municipal Code is hereby added to read in its entirety as follows:

"Chapter 14 – Sidewalk Vendors

Section 414.1.010 Definitions

The following words and phrases, whenever used in this Chapter, shall mean as follows:

"Certified farmers' market" means a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

"Director" means the Torrance Finance Director.

"Immediate vicinity" means the streets abutting an activity or event (and any contiguous parking areas) and the sidewalks on either side of such streets, and includes any open or unoccupied space between the activity or event and the abutting streets and sidewalks.

"Person" shall mean one or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnerships, 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 sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

"Sidewalk" means a public sidewalk or paved pedestrian path or walkway specifically designed for pedestrian travel.

"Sidewalk vendor" means a person who vends from a vending cart 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.

"Strand" means the paved public right-of-way between the beach and the westerly property line of the properties nearest the Pacific Ocean.

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

"Temporary special permit" means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or any 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 concerns.

"Vend" or "vending" means to sell, offer for sale, display for sale, or solicit offers to purchase, food, food products, beverages, goods, or merchandise.

"Vending cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

Section 414.1.020 Permit Required

No person, either for themselves or any other person, shall conduct or engage in sidewalk vending within the City without first obtaining a sidewalk vending permit pursuant to this Chapter.

Section 414.1.030 Permit Application

To apply for a sidewalk vending permit, a person must file an application with the Director, or his or her designee, accompanied by a nonrefundable application fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. Valid identification, such as a California Driver's License number, California Identification Card number, an individual taxpayer identification number, or social security number
- B. The legal name and current address and telephone number of the applicant;
- C. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- D. The name and contact information of all persons that will be employed as roaming sidewalk vendors or at a sidewalk vending cart
- E. A description of the food or merchandise offered for sale;
- F. The dimensions of the vending cart including a picture of the vending cart and any signs that will be affixed to the vending cart;
- G. A description of the location(s) or area(s) the applicant wishes to operate;
- H. The hours per day and the days per week during which the sidewalk vendor proposes to operate at the location(s) or area(s);
- I. Whether the applicant intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor and, if roaming, the intended path of travel;
- J. Whether the sidewalk vendor will be selling food, merchandise or both;
- K. If the sidewalk vendor is selling merchandise, a description of the merchandise to be sold. If the sidewalk vendor is selling food, a description of the food to be sold.
- L. A copy of a valid business license issued pursuant to the Torrance Municipal Code;
- M. A copy of a valid California's seller's permit pursuant to Revenue and Taxation Code Section 6067;
- N. Certification by the applicant, under penalty of perjury that the information contained in the application is true to his or her knowledge and belief;
- O. If a vendor of food or food products, certification of completion of a food handler course;
- P. If a vendor of food or food products, proof of all required approvals from the Los Angeles County Department of Public Health

- Q. Any applicable discharge permits, in compliance with Article 1 of Chapter 10 of Division 4 of the Torrance Municipal Code
- R. An acknowledgement that the sidewalk vendor will comply with all other generally applicable local, state, and federal laws;
- S. Any additional licenses from other state or local agencies to the extent required by law;
- T. A certification by the sidewalk vendor that, to their knowledge and belief, the information contained within the application is true;
- U. An acknowledgement that the sidewalk vendor will obtain and maintain any insurance required by the Director throughout the duration of any permit issued under this Chapter;
- V. An agreement by the sidewalk vendor to defend, indemnify, release and hold harmless the city, its city council, boards, commissions, officers, and employees from and against any and all claims, demands, obligations, damages, actions, causes of actions, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the city, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the sidewalk vendor, city, and/or the parties initiating or bringing such proceeding;
- W. An acknowledgement that use of public property is at the sidewalk vendor's own risk, the City does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at their own risk;
- X. Any other relevant information required by the Director; and
- Y. Any other reasonable information regarding the time, place, and manner of the proposed vending.

Section 414.1.040 Criteria for Approval or Denial of Permit

The Director, or his or her designee, shall approve the issuance of a permit unless he or she determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is materially false, misleading, or fraudulent;
- B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or
- C. The applicant has failed to demonstrate an ability to conform to the prohibitions, restrictions, and operating standards set forth in sections 414.1.100, 414.1.110, and 414.1.120.
- D. The applicant has failed to pay any previous administrative fines, complete any community service, and/or complete any other alternative disposition associated with a previous violation of this chapter; or
- E. The applicant has been convicted of a felony or misdemeanor involving moral turpitude, and has not subsequently demonstrated rehabilitative characteristics.

If the permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

Section 414.1.050 Permit Expiration and Renewal

A sidewalk vending permit shall be valid for 12 months, or fraction thereof, from the date of issuance. The permit period shall coincide and expire concurrently with the City issued business license and become null and void if the vendor fails to renew each year. Renewal forms will be mailed to the address provided by the applicant prior to the expiration of his or her active sidewalk vending permit. The annual permit is not subject to proration.

Section 414.1.060 Permit Rescission

The Director may rescind a permit issued to a sidewalk vendor for a fourth violation or subsequent violation of this chapter. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending permit upon the expiration of the term of the rescinded permit.

Section 414.1.070 Appeals

Any person aggrieved by the decision of the Director to issue, deny issuance, or rescind a sidewalk vending permit may appeal the decision to the License Review Board. The appeal shall be filed with the City Clerk within 15 days following the date of the Director's decision.

Section 414.1.080 Permits Nontransferable

No permit granted pursuant to this Chapter shall be transferable. Any change in ownership or operation of a sidewalk vendor or vending cart requires a new permit under this Chapter.

Section 414.1.090 Permits Temporary

Permits shall be considered temporary and nonpermanent in nature and permittees shall have neither property interest in, nor any entitlement to, the granting or continuation of any such permit.

Section 414.1.100 Areas Where Vending Prohibited

- A. Vending Prohibited in Certain Parks. Stationary sidewalk vendors are prohibited from vending in parks or open spaces where the city has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
- B. Vending Prohibited Near Farmers' Markets. Sidewalk vendors are prohibited within the immediate vicinity of a permitted certified farmers' market during the limited operating hours of that certified farmers' market. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, as may be amended, and any regulations adopted pursuant to that chapter.
- C. Vending Prohibited Near Swap Meets. Sidewalk vendors are prohibited within the immediate vicinity of a permitted swap meet during the limited operating hours of that swap meet. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, as may be amended, and any regulations adopted pursuant to that article.
- D. Vending Prohibited Near Temporary Special Events. Sidewalk vendors are prohibited within the immediate vicinity of an area designated for a temporary special event for the limited duration of the temporary special permit. Any notice, business interruption mitigation, or other rights provided to affected businesses or property owners will also be provided to any sidewalk vendors specifically permitted to operate in the area, if applicable.

A "temporary special event" is a permit issued by the City of Torrance, or the City's agent, 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, temporary event permit, contract, license agreement, temporary use permit, or any similar approval for purposes including, but not limited to, filming, parades, sporting events, festivals, carnivals, or outdoor concerts.

Section 414.1.110 Restrictions on Sidewalk Vendors in Certain Areas

- A. Stationary sidewalk vendors are prohibited in areas that are zoned exclusively residential. This prohibition does not extend to roaming sidewalk vendors.
- B. Sidewalk vending is prohibited in areas with no sidewalks or with extremely narrow sidewalks (6 feet wide or less) since it unreasonably interferes with the flow of pedestrians and disrupts access for persons with disabilities.
- C. Sidewalk vendors will not engage in sidewalk vending activities at the following locations:
 - 1. Any public property other than a sidewalk including, but not limited to streets, alleys, street ends, parkways, medians, parking spaces, squares, plazas, grass areas, lawns, and parking structures and parking lots owned or operated by the City, County of Los Angeles, or State of California.
 - 2. On any bike path, bike lane, sharrow, or bike trail, including, but not limited to, the bike bath on or adjacent to the Strand.
 - 3. Stationary sidewalk vendors shall not operate on the Strand
 - 4. On any portion of the public beach
 - 5. Torrance Civic Center

Section 414.1.120 Operating Requirements

- A. No sidewalk vendor shall vend in any of the following locations
 - 1. Within 500 feet of
 - a. a permitted certified farmers' market during the operating hours of the farmers' market
 - b. a permitted swap meet during the operating hours of the swap meet
 - c. an area designated for a temporary special permit during the duration of the temporary special permit
 - 2. Within 200 feet of
 - a. a police station
 - b. a fire station
 - c. a hospital
 - d. a regional transit center
 - e. educational institutions, religious institutions, child day care centers
 - f. another sidewalk vendor
 - 3. Within 100 feet of
 - a. A police officer, firefighter, lifeguard, or emergency service personnel who are actively performing their duties or providing services to the public
 - b. A freeway onramp or a freeway offramp

4. Within 25 feet of
 - a. A street corner, controlled intersection, marked crosswalk, or the curb return of any unmarked crosswalk
 - b. A traffic signal, traffic signal controller, or other emergency facility
 - c. A fire hydrant or fire call box
 - d. A curb that has been painted white, yellow, green, blue, or red
 - e. A bus stop, bus shelter, or bus bench
 - f. The entrance, exit, or emergency exit to a building, structure, or facility
 - g. Trash receptacle, bike rack, public restroom, park bench, or similar public use items
 - h. An automated teller machine
 5. Within 10 feet of
 - a. A driveway, driveway apron, or alley approach
 - b. A utility meter, manhole, service box, street light pole, power pole telecommunications pole, or other utility
- B. Sidewalk vending shall be limited to the following hours
1. In residential areas, sidewalk vending shall be permitted between 9:00 a.m. and 9:00 p.m.
 2. In nonresidential areas, sidewalk vending shall be permitted between 8:00 a.m. and 10:00 p.m. but these hours shall not be more restrictive than the hours of operation of other businesses or uses on the same street.
- C. No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles. Sidewalk vendors must at all times provide a clearance of not less than 3 feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices and to comply with the Americans with Disabilities Act.
- D. All food and merchandise shall be stored either inside or affixed to the sidewalk vending cart or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on public property. If affixed to the sidewalk vendor cart, the overall space taken up by the sidewalk vendor cart shall not exceed the size requirements provided in this Chapter.
- E. Sidewalk vendors shall provide a trash receptacle for customers in or on their sidewalk vending cart and shall ensure proper disposal of customer trash. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash or refuse generated by the vending operations or the vendor's customers within a 15-foot radius of the vending location.
- F. Sidewalk vendors shall immediately clean up any food, grease, or other fluid or item related to sidewalk vending activities that falls on public property
- G. Sidewalk vendors of food or food products shall possess and display in plain view on the vending cart a valid Public Health Permit from the Los Angeles County Department of Public Health.
- H. Sidewalk vendors shall possess and display in plain view on the vending cart or on the sidewalk vendor's person at all times while vending a valid permit issued pursuant to this Chapter, as well as any other permit or license required by the City and any other appropriate governmental agency.

- I. All signage and advertising related to the sidewalk vendor shall be attached to the sidewalk vending cart or the sidewalk vendor's person. No signs or displays may be placed on public property.
- J. Sidewalk vendors shall possess at all times while vending, current liability insurance.
- K. Sidewalk vendors shall comply with all applicable federal, state and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulations; noise standards; alcoholic beverages, tobacco products, cannabis, electronic cigarettes, smoking devices and controlled substances regulations; sanitation and health standards set forth in Division 4 of the Torrance Municipal Code; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).
- L. All sidewalk vendors shall allow a police officer, firefighter, fire prevention specialist, code enforcement officer, health inspector, or other government official charged with enforcing laws related to the sidewalk vendor's activities, at any time, to inspect their sidewalk vending cart.
- M. Vending carts shall not be chained, fastened, or affixed at any time to any building or structure, including, but not limited to, lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trash cans, street signs, trees, or other objects within the public right-of-way. No vending cart shall become a permanent fixture on the vending site or be considered an improvement to real property.
- N. Vending carts shall not be left unattended or stored on public property or within the public right-of-way. Vending carts shall be removed from public property when not in active use by a sidewalk vendor.
- O. No vending cart shall contain or use explosive or hazardous materials with the exception of propane.
- P. Sidewalk vendors may not place any type of fencing or other dividers around the vending cart.
- Q. Sidewalk vendors may not place tables, chairs, shade structures, or other furniture around the vending cart.
- R. Sidewalk vendors shall not vend alcohol, cannabis, adult oriented material, tobacco products, products that contain nicotine, any product or device used to smoke/vape nicotine or cannabis, or any weapons.
- S. Sidewalk vendors shall not vend live animals, wildlife, fish, fowl, or insects.
- T. Sidewalk vendors shall not block, obstruct, or impede the free movement of any person on the sidewalk or other public right-of-way.
- U. Sidewalk vendors shall not vend to customers in vehicles.
- V. Sidewalk vendors may not rent merchandise.
- W. Sidewalk vendors may not use an electrical outlet owned by the City or any other person. Sidewalk vendors may not run power cords or extension cords across the sidewalk or other public right-of-way.

- X. Vending carts may not be placed on and sidewalk vendors may not stand on areas improved with lawns, flowers, shrubs, street trees, or other landscaping.
- Y. Sidewalk vendors may not attach or use water lines, electrical lines, or gas lines while vending.
- Z. Roaming vendors vending in residential areas shall move continuously, except when conducting a sale, which must last no more than fifteen (15) minutes. In no event shall a roaming vendor conduct its operations in a residential area in such a manner to constitute operating in a fixed location.
- AA. Stationary sidewalk vendors who operate after daylight hours shall provide adequate lighting that may be necessary to ensure customer safety. Lighting shall be directed downwards and away from adjacent properties.
- BB. Sidewalk vendors may not vend out of a parked vehicle.

Section 414.1.130 Violations – Penalties

- A. A violation of this Chapter by a sidewalk vendor who has a valid sidewalk vending permit from the City is punishable only by an administrative fine in amounts not to exceed the following:
 - 1. \$100.00 for the first violation.
 - 2. \$200.00 for a second violation within 1 year of the first violation.
 - 3. \$500.00 for each additional violation within 1 year of the first violation.
 - 4. The City may rescind a permit issued to a sidewalk vendor upon the fourth or any subsequent violation
- B. A person engaged in sidewalk vending without a valid City sidewalk vending permit is punishable by an administrative fine in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:
 - 1. \$250.00 for the first violation.
 - 2. \$500.00 for a second violation within 1 year of the first violation.
 - 3. \$1,000.00 for each additional violation within 1 year of the first violation.
 - 4. Upon proof of a valid sidewalk vending permit issued by the City, the administrative fines set forth in this paragraph shall be reduced to amounts set forth in paragraph A.
- C. A violation of this Chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.
- D. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
- E. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

- F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, 20% of an administrative citation imposed pursuant to this Chapter.
- G. The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.

Section 414.1.4140 Sidewalk Vending Regulations

Sidewalk vending regulations are the implementation standards and specifications to assure compliance with state law, the Torrance Municipal Code, and the preservation of public health, safety, and welfare of sidewalk vending in the city. The sidewalk vending regulations, and any revision thereto, may be promulgated by the City Manager. Violations of the sidewalk vending regulations shall constitute a violation of this Chapter. All published regulations shall be filed with the City Clerk, be linked to the official website of the City, and be available in hard copy to any person upon request."

SECTION 2

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

SECTION 3

CEQA. The City Council finds and determines that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. Accordingly, this Ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15378 of Division 6 of Title 14 of the California Code of Regulations

SECTION 4


This ordinance shall take effect 30 days after the date of its adoption. Within 15 days following adoption, this ordinance or a summary of this ordinance if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED this 15th day of October, 2019.

ADOPTED this 22nd day of October, 2019.

APPROVED AS TO FORM:
PATRICK Q. SULLIVAN, City Attorney


Tatia Y. Strader, Assistant City Attorney


Mayor Patrick J. Furey

ATTEST:

Rebecca Poirier, MMC, City Clerk

TORRANCE CITY COUNCIL ORDINANCE NO. 3851

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF TORRANCE)

I, Rebecca Poirier, City Clerk of the City of Torrance, California, do hereby certify that the foregoing Ordinance was duly introduced at an adjourned regular meeting of the City Council held on the 15th day of October, 2019 and was duly adopted at a regular meeting of said Council held on the 22nd day of October, 2019 by the following roll call vote:

AYES: COUNCILMEMBERS Chen, Goodrich, Griffiths, Herring, Mattucci, Rizzo, and Mayor Furey.

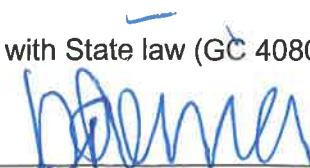
NOES: COUNCILMEMBERS: None.

ABSTAIN: COUNCILMEMBERS: None.

ABSENT: COUNCILMEMBERS: None.

This ordinance was duly published in accordance with State law (GC 40806).

Date: 10/22/19


Rebecca Poirier, MMC
City Clerk of the City of Torrance