

## Chapter 12.38

# SIDEWALK VENDING

Sections:

- 12.38.010 Definitions.
- 12.38.020 Permit required.
- 12.38.030 Restricted vending locations.
- 12.38.040 Application procedure.
- 12.38.050 Grounds for denial.
- 12.38.060 Term and renewal.
- 12.38.070 Permit nontransferable.
- 12.38.080 Exemptions.
- 12.38.090 Operating requirements.
- 12.38.100 Sidewalk vending in parks.
- 12.38.110 Permit revocation.
- 12.38.120 Appeal procedures.
- 12.38.130 Penalties and ability-to-pay determinations.

### 12.38.010 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"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 and any regulations adopted pursuant to that chapter.

"City" means the city of Hermosa Beach.

"Park" means any public park or playground owned or operated by the city.

"Person" means any natural person, firm, association, organization, partnership, joint venture, business trust, corporation, or company.

"Roaming sidewalk vendor" means a sidewalk vendor who operates by traveling from place to place and stopping in a location only to complete a transaction.

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

"Sidewalk vending" refers to commercial activity conducted by a sidewalk vendor.

"Sidewalk vendor" or "vendor" means a person who sells or offers for sale 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 within the city.

"Special event permit" means a permit issued pursuant to Chapter [12.30](#) for the temporary use of, or encroachment on, a sidewalk or other public area.

"Stationary sidewalk vendor" means a sidewalk vendor who operates from a fixed location.

"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, and any regulations adopted pursuant to that article. (Ord. 19-1391 §2 (part), 2019)

**12.38.020 Permit required.**

No person shall engage in sidewalk vending without first obtaining a sidewalk vending permit issued pursuant to this chapter and a business license issued pursuant to Chapter [5.04](#). (Ord. 19-1391 §2 (part), 2019)

**12.38.030 Restricted vending locations.**

Except as otherwise permitted, no sidewalk vendor shall operate in the following locations:

- A. Any public property other than a sidewalk, including, but not limited to, streets, alleys, streets without sidewalks, and city-owned parking structures;
- B. The Strand;
- C. Hermosa Avenue, between 10th and 14th Street;
- D. The beach;
- E. The Municipal Pier;

- F. The Pier Head;
- G. Pier Plaza from Memorial Day to Labor Day, on weekend nights, and on the day of the Hermosa Beach St. Patrick's Day Parade;
- H. Loreto Plaza;
- I. The Hermosa Valley Greenbelt;
- J. Noble Park;
- K. Within one (1) block of a certified farmers' market or a swap meet during the limited operating hours of these events;
- L. Within one (1) block of an area designated for a special event permit, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the city's special event permit are also provided to a sidewalk vendor permitted to operate in the area, if applicable. A prohibition on vending pursuant to this paragraph shall only be effective for the limited duration of the special event permit;
- M. Within one (1) block of the designated locations for Fiesta Hermosa during the days on which the event is scheduled to take place;
- N. Within three hundred (300) feet of any public or private school grounds between 7:00 a.m. and 6:00 p.m. on school days, and while the same is in use, including for after-school child care, enrichment classes and sports;
- O. Within three hundred (300) feet of the Hermosa Beach Community Center between 7:00 a.m. and 6:00 p.m. on school days, and on days when the Community Theater and Second Story Theater are in use for theater programming, during the limited hours of these scheduled events;
- P. Within fifteen (15) feet of any street intersection;
- Q. Within ten (10) feet of any fire hydrant, fire call box, or other emergency facility;
- R. Within ten (10) feet of any curb which has been designated as white, yellow, green, blue, or red zone, or a bus zone;
- S. Within ten (10) feet of an entrance to or emergency exit of any building or business during the hours that the building or business is open to the public;
- T. Within ten (10) feet of any driveway or driveway apron;
- U. Upon or within any roadway, median strip, or dividing section;

V. On private property in a residential zone;

W. On private property in a commercial zone without the consent of the property owner and a city-issued permit;  
or

X. Within two hundred (200) feet of another vendor. (Ord. 19-1391 §2 (part), 2019)

**12.38.040 Application procedure.**

A. Any and each person seeking a permit pursuant to this chapter shall submit a completed application, on a city-approved form, to the public works department. Said application shall contain the following information:

1. The applicant's legal name, current mailing address, and telephone number;
2. If the vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;
3. A copy of a California's driver's license or identification number, or an individual taxpayer identification number. 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 or comply with a state law or state or federal court order;
4. A description of the food and/or merchandise to be offered for sale;
5. A copy of the applicant's California seller's permit issued by the California Department of Tax and Fee Administration, if applicable;
6. If a vendor of food, proof of all required approvals from the Los Angeles County department of public health, including a current mobile food facility permit;
7. A description, map, or drawing of the location(s) in which the applicant proposes to operate;
8. The dimensions of the vending cart;
9. A statement of the days and hours of proposed vending operations, and whether the sidewalk vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
10. Proof of comprehensive general liability insurance with minimum policy limits of one million dollars (\$1,000,000) per occurrence, combined single limit coverage, and two million dollars (\$2,000,000) in the aggregate against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee, with an endorsement naming the city as an additional insured;

11. An agreement by the applicant to indemnify and hold harmless the city, its officers and employees, for any damage or injury caused to the city as a result of the sidewalk vending conduct or activity;
12. Certification by the applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and
13. Such other information as the director of public works deems necessary for the administration or enforcement of this chapter as specified on the required application form.

B. Applications shall not be accepted unless accompanied by payment of an application fee that the city council may establish by separate resolution in an amount not to exceed the city's reasonable cost of providing the services required by this chapter. (Ord. 19-1391 §2 (part), 2019)

### **12.38.050 Grounds for denial.**

A. Within thirty (30) days of receiving a completed application for a sidewalk vendor permit the public works department shall notify the applicant in writing of its determination to approve or deny the application. If an application is denied, the reasons for denial shall be set forth in the written notice to the applicant.

B. The public works department shall approve a permit application unless substantial evidence supports a finding of one (1) or more of the following grounds for denial:

1. The application seeks authorization for vending at a restricted location under Section [12.38.030](#).
2. The proposed vending location encroaches on a public sidewalk without maintaining a minimum five (5) foot clearance.
3. The applicant's vending operation, as described in the application, including the equipment to be used by the vendor, fails to comply with all applicable health, zoning, fire, building and safety laws of the State of California or of the city.
4. The applicant does not possess all state and local permits necessary for the proposed vending operation.
5. The applicant has knowingly made a false, misleading or fraudulent statement of material fact in the application.
6. The applicant has had a permit issued pursuant to this chapter revoked within the preceding twelve (12) months.
7. The applicant is required to register as a sex offender pursuant to California Penal Code Section [290](#).
8. Within three (3) years of the date of the application, the applicant has been convicted in a court of competent jurisdiction or pled nolo contendere to any felony offenses involving the sale of a controlled

substance as specified in California Health and Safety Code Sections [11054](#), [11055](#), [11056](#), [11057](#), or [11058](#).

9. The applicant is indebted to the city for any unpaid fee or fine. (Ord. 19-1391 §2 (part), 2019)

#### **12.38.060 Term and renewal.**

A. A sidewalk vending permit issued pursuant to this chapter shall be valid for one (1) year from the date of issuance, unless it is revoked prior to that date in accordance with the provisions of this chapter.

B. Each sidewalk vendor who seeks to renew a permit issued pursuant to this chapter shall submit a renewal application on a city-approved form and tender any applicable fees to the public works department no later than thirty (30) calendar days prior to the expiration of the vendor's current permit. Unless timely renewed, any permit issued pursuant to this chapter shall expire and become null and void at the end of its term.

C. An application to renew a permit issued pursuant to this chapter may be denied by the public works department upon the grounds set forth in Section [12.38.050](#). (Ord. 19-1391 §2 (part), 2019)

#### **12.38.070 Permit nontransferable.**

A sidewalk vending permit shall not be transferable to any person or be valid for vending operations in any location(s) other than that location designated on the permit for the term stated. (Ord. 19-1391 §2 (part), 2019)

#### **12.38.080 Exemptions.**

A sidewalk vending permit shall not be required for the following activities:

A. Catering services for an event exclusively on private property, which is not open to the public;

B. Events permitted pursuant to a special event permit, including but not limited to a certified farmers' market, swap meet, and outdoor concerts. (Ord. 19-1391 §2 (part), 2019)

#### **12.38.090 Operating requirements.**

A. All sidewalk vendors are subject to the following requirements:

1. Maintain and ensure compliance with all state and local permits necessary for the proposed vending operation;

2. Keep current the information furnished to the city under Section [12.38.060](#)(A);

3. Display any permit issued pursuant to this chapter at all times while vending;

4. Do not sell or offer for sale lottery tickets, alcohol, adult oriented material, or tobacco or electronic cigarette products;

5. Do not sell or offer for sale any illegal merchandise;
6. Maintain an unobstructed pedestrian access route of at least five (5) feet in width at the sidewalk vending location;
7. Ensure that no equipment or objects used in connection with sidewalk vending operations are stored or left unattended in public spaces or in any portion of the public right-of-way. (Any equipment or objects left in public spaces or in the public right-of-way overnight, or outside the hours of permitted sidewalk vending, will be considered discarded and may be seized or disposed of by the city.);
8. Ensure that no signs, tables, chairs, shade structure, fences, or other furnishings not previously approved for use in a sidewalk vending permit are used in connection with vending operations, including any unapproved exterior storage of merchandise or equipment used by the vendor;
9. Ensure that no entertainment, music, visual media, or any sound amplifying device is used in connection with the vending activity unless previously approved in the vending permit;
10. Ensure that water lines, electrical lines, or gas lines are not used or attached in connection with vending operations;
11. Maintain reasonable financial responsibility to conduct sidewalk vending operations in accordance with Section [12.38.040](#)(A)(10);
12. Maintain vending operations and conveyances in clean, sanitary condition; and
13. Ensure proper clean-up of vending sites, including removal of any trash or litter generated by the permitted sale of food or merchandise. (Vendors must operate with their own trash receptacles and are prohibited from placing waste or litter generated by their operations in street trashcans.)

B. Stationary sidewalk vendors are prohibited from operating in any exclusively residential zone and may only operate at the location(s) designated in the permit issued pursuant to this chapter during the periods of operation designated in the permit.

C. Roaming sidewalk vendors may not operate within exclusively residential zones between the hours of 8:00 p.m. and 8:00 a.m. (Ord. 19-1391 §2 (part), 2019)

### **12.38.100 Sidewalk vending in parks.**

A stationary sidewalk vendor is prohibited from operating in a park if the city has entered into an exclusive agreement for the sale of food or merchandise by a concessionaire in that park. In all other circumstances, sidewalk vendors may operate in parks subject to the requirements of this chapter, which include and are in addition to the following requirements:

- A. Cease vending operations one (1) hour prior to park closure;
- B. Operate only on a sidewalk or surfaced pedestrian path, and not on grass turf, dirt paths, or other unpaved trails or paths;
- C. Maintain an unobstructed pedestrian access route of at least five (5) feet in width at the vending location;
- D. Ensure that vending operations are not blocking the entrances to any buildings, driveways, or vehicle parking spaces;
- E. Refrain from operating within one (1) block of a certified farmers' market, a swap meet, or an event held pursuant to a special event permit; and
- F. Ensure proper clean-up of vending sites, including removal of any trash or litter generated by the permitted sale of food or merchandise. (Vendors must operate with their own trash receptacles and are prohibited from placing waste or litter generated by their operations in park trashcans.) (Ord. 19-1391 §2 (part), 2019)

#### **12.38.110 Permit revocation.**

A sidewalk vendor permit issued pursuant to this chapter may be revoked after the permittee is afforded written notice and an opportunity to be heard respecting a citation for the permittee's fourth or subsequent violation of the requirements set forth in this chapter. (Ord. 19-1391 §2 (part), 2019)

#### **12.38.120 Appeal procedures.**

A. Any person aggrieved by a decision denying or revoking a permit pursuant to this chapter may appeal the decision to the city council within ten (10) days after notice of the decision has been mailed to the applicant's address. Appeals shall be taken by filing a written appeal statement with the public works department setting forth the grounds for the appeal. A timely appeal shall stay the enforcement of any decision to revoke a permit. Absent a timely appeal, the decision of the public works director shall be final ten (10) days after notice of the decision has been mailed to the applicant.

B. Upon receipt of a timely, written request for an appeal, council shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed unless requested by the applicant. Written notice of hearing shall be given to the appellant at least ten (10) days prior to the hearing date. At the hearing, the appellant and the city may be represented by legal counsel, and each party may present relevant evidence, provide sworn testimony, and call witnesses. The city council shall not be bound by the traditional rules of evidence, and hearsay evidence may be presented at the hearing, although such evidence may not be the sole basis for the council's decision. Within forty (40) calendar days of the conclusion of the hearing, the council shall announce its determination to sustain or overrule the director's decision based on written findings of the applicant's or permittee's compliance with the requirements of this chapter. The council's decision shall be final. (Ord. 19-1391 §2 (part), 2019)



**12.38.130 Penalties and ability-to-pay determinations.**

A. A violation of this chapter is not punishable as an infraction or misdemeanor, and no person shall be subject to arrest for sidewalk vending in violation of this chapter unless said person has violated a law for which a person may be arrested.

B. A violation of this chapter shall be punishable only by an administrative fine according to a fee schedule adopted by resolution of the city council and according to the procedures for administrative citations set forth in Sections [1.10.060](#) through [1.10.090](#) consistent with this section.

C. Notwithstanding any other provision of this Code, failure to pay an administrative fine assessed under this section is not punishable as an infraction or misdemeanor, and additional fines, fees, assessments, or any other financial conditions beyond those authorized will not be assessed.

D. When assessing an administrative fine under this section, the city will take into consideration a person’s ability to pay the fine. Any fine issued under this section will be accompanied by notice of and instruction regarding the right to request an ability-to-pay determination.

- 1. A 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 a person is receiving public benefits under Government Code Section [68632](#), subdivision (a), or has a monthly income which is one hundred twenty-five (125) percent or less than the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services, the public works director will limit the total amount of the person’s administrative fine to twenty (20) percent of the total amount and may:
  - a. Allow the person to complete community service in lieu of paying the total administrative fine; or
  - b. Waive the administrative fine; or
  - c. Offer an alternative disposition. (Ord. 19-1391 §2 (part), 2019)

---

The Hermosa Beach Municipal Code is current through Ordinance 21-1425U, passed January 26, 2021.

Disclaimer: The City Clerk’s Office has the official version of the Hermosa Beach Municipal Code. Users should contact the City Clerk’s Office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.hermosabeach.gov/>  
City Telephone: (310) 318-0204

[Code Publishing Company](#)