

## ARTICLE V. SIDEWALK VENDORS

### Sec. 15.62. Purpose.

The purpose of this article is to establish a sidewalk vending business license and regulatory program in compliance with Senate Bill 946. The provisions of this chapter allow the City of Oceanside to encourage small business activities by removing sidewalk prohibitions on small-scale stationary and mobile vendors of goods, wares, merchandise, or food items under a regulatory and enforcement program which protects the public's health, safety, and welfare. In order to promote the public's health, safety, and welfare, the City of Oceanside has limited restrictions on sidewalk vending necessary to ensure:

- (a) Limited interference with the performance of a police officer, firefighter, lifeguard, or other emergency personnel;
- (b) The safe flow of pedestrian and vehicular traffic;
- (c) Maximize public access to public parks and along the coast; and
- (d) Reduce exposure to personal injury or property damages.

All sidewalk vending business activities shall continue to be regulated in accordance with this article and chapter 15, article I.

(Ord. No. 19-OR0632-1 , § 2, 9-25-2019)

### Sec. 15.63. Definitions.

- (a) "Sidewalk vendor" or "vendor" means a person, or entity, who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.
- (b) "Sidewalk vending device" means any pushcart, stand, display, pedal-driven cart, or other non-motorized conveyance used for sidewalk vending activities.
- (c) "Roaming sidewalk vendor" means any sidewalk vendor who moves from place to place and stops only to complete a transaction.
- (d) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(Ord. No. 19-OR0632-1 , § 2, 9-25-2019)

### Sec. 15.64. License required.

- (a) No person, on behalf of themselves or any other person or business entity, shall engage in any sidewalk vending activities within the City of Oceanside without first having applied for and being issued a business license from the City of Oceanside in accordance with Oceanside City Code ("OCC") sections 15.2.
- (b) No person, or other business entity, shall be granted a City of Oceanside business license under this article without having first procured:
  - (1) A California Department of Tax and Fee Administration seller's permit; and

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- (2) All applicable health permits from the County of San Diego if the applicant intends to vend any food items prepared on-site, heat food items on-site, or as required by the County of San Diego.

(Ord. No. 19-OR0632-1 , § 2, 9-25-2019)

### **Sec. 15.65. Application.**

An applicant for a sidewalk vending business license shall submit an application to the Business Licensing Division in accordance with OCC section 15.2(3). In addition to the information required in section 15.2(3), the applicant shall provide all of the following information:

- (a) The name, mailing address, and telephone number of each applicant or persons who have a financial interest in the sidewalk vending business;
- (b) The name, address, and telephone number of all persons that will be employed as a stationary or roaming sidewalk vendor;
- (c) The number of sidewalk vending devices that will operate within the city;
- (d) Whether the applicant intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor. An applicant to become a stationary sidewalk vendor shall pinpoint the location. An applicant for a roaming sidewalk vendor shall detail the intended path of travel;
- (e) Whether the applicant is an agent of an individual company, partnership, or corporation, and if so, the applicant shall provide name of the business address of the principal;
- (f) A California Department of Tax and Fee Administration sales tax number;
- (g) A copy of all applicable health permits from the County of San Diego, when required;
- (h) A description of the merchandise or food-items being offered for sale;
- (i) If the applicant is selling food-items, a description of the type of food being sold, whether the food-item is prepared on site, whether the food requires a heating element, and the type of heating element if required;
- (j) A description of any accessories, structures, or other sidewalk vending devices the applicant intends to utilize appurtenant to the vending of merchandise or food-items;
- (k) Proof of commercial liability insurance of not less than one million (1,000,000) dollars which names the city as an additional insured;
- (l) An agreement by the sidewalk vendor to defend, indemnify, release, and hold harmless the City of Oceanside, and its agents, officers, or employees from and against any and all claims related to the manner or operation of the applicant's sidewalk vending activities;
- (m) Any other relevant information required by the City of Oceanside Business License Inspector; and
- (n) A certification, signed by the applicant that to his or her knowledge and belief, the information contained in the application is accurate, complete, and correct.

Within thirty (30) business days of receiving a complete application, the Financial Services Director, or designee, may issue a sidewalk vending business license. Incomplete applications, false information in applications, unpaid fees, or applications for sidewalk vending activities that are determined to be inherently detrimental to the public health or safety or will be rejected. Denial, revocation, or suspensions of a sidewalk vending business license shall be in accordance with OCC section 15.5.

(Ord. No. 19-OR0632-1 , § 2, 9-25-2019)

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## **Sec. 15.66. Operating conditions.**

All sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:

- (a) All food or merchandise shall be stored inside or affixed to the sidewalk vending device or carried by the sidewalk vendor. Food or merchandise shall not be stored, placed, or kept on any public property;
- (b) The sidewalk vending business license shall be displayed conspicuously at all times on the sidewalk vending device or on the sidewalk vendor's person;
- (c) Sidewalk vending devices shall not be left unaccompanied on any public property;
- (d) All sidewalk vending devices shall not touch, lean against, or be affixed to any building, structure, tree, pole, or other object;
- (e) All signage and advertising related to the sidewalk vendor shall be affixed to the sidewalk vending device only;
- (f) Electrical, flashing, or animated signs are prohibited;
- (g) Sidewalk vending devices shall not be stored on public property and must be removed when not in active use;
- (h) All sidewalk vendors shall be subject to inspection by any city official charged with enforcing the laws related to sidewalk vending activities;
- (i) The use of propane, natural gas, or batteries may only be used in a manner approved by the city;
- (j) Sidewalk vendors shall immediately clean up any food, grease, fluids, trash, or other materials related to the sidewalk vending business on public property;
- (k) Sidewalk vendors must maintain a minimum four (4) foot clear accessible path free from all obstructions;
- (l) Sidewalk vendors are prohibited from transactions with persons located inside motor vehicles;
- (m) Amplifiers and/or sound making devices are prohibited;
- (n) Freestanding signs, tables, chairs shade structures, or other furniture at or near the sidewalk vending area are prohibited; and
- (o) All sidewalk vendors must ensure that all required insurance is in effect prior to conducting any sidewalk vending activities and maintained during the duration of their business license.

(Ord. No. 19-OR0632-1 , § 2, 9-25-2019)

## **Sec. 15.67. Prohibited activities and locations.**

- (a) Sidewalk vendors shall not engage in any of the following activities:
  - (1) Renting merchandise to customers;
  - (2) Displaying or selling alcohol, marijuana, cannabinoid products, adult oriented material, tobacco, tobacco products, electronic cigarettes and accessories, vape accessories, vape oils, or any tobacco or drug paraphernalia;
  - (3) Using an open flame on any sidewalk vending device except as approved by the city;

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- (4) Using an electrical power source owned by the City of Oceanside;
  - (5) Conducting sidewalk vending activities between 10:00 p.m. and 7:00 a.m.;
  - (6) Blocking or impeding the path of any pedestrians, including ingress to or egress from adjacent property;
  - (7) Advertising any product or service that is not related to the merchandise or food-item being offered for immediate sale; or
  - (8) Placing sidewalk vending devices outside of any sidewalk or pathway.
- (b) Sidewalk vending activities are prohibited at the following locations:
- (1) Within one hundred (100) feet of the Oceanside Beach;
  - (2) The Oceanside Municipal Pier;
  - (3) Pier Plaza;
    - a. For purposes of this chapter, the Pier Plaza area is defined by area bounded by to the west by the easterly curb line of the strand, bounded to the east by the westerly curb line of N. Pacific Street, bounded to the south by the northerly curb line of Mission Ave, and bounded to the north by the northerly side of the Oceanside Beach Community Center.
  - (4) Any public property that does not meet the definition of a sidewalk or pedestrian pathway;
  - (5) Pacific Street Linear Park;
    - a. For purposes of this chapter, Pacific Street Linear Park is defined by area bounded by:
      - 1. The Strand to the west; Pacific Street to the east; Seagaze Drive to the north; and 121 South Pacific Street to the south; and
      - 2. The westernmost portion of sidewalk and parkway along North Pacific Street bounded by Wisconsin Avenue to the south and Sportfisher Drive to the north.
  - (6) Tyson Street Park;
  - (7) The Oceanside Harbor;
  - (8) Oceanside Harbor Village;
  - (9) The Oceanside Civic Center Plaza Complex.
    - a. For purposes of this chapter, the Oceanside Civic Center Plaza Complex is defined as area bounded by Coast Highway, Civic Center Drive, Nevada Street, and Pier View Way.
  - (10) Any median strip; and
  - (11) Within five hundred (500) feet of any public or private school or daycare facility beginning one (1) hour before classes commence that day until one (1) hour after classes end that day.
  - (12) Within 100 feet of:
    - a. A police station;
    - b. A fire station;
    - c. A certified farmer's market or swap meet including the Oceanside Farmer's Market and Sunset Market during its operational hours;
    - d. An area designated for a special event permit during its operational hours;

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- e. Another sidewalk vendor;
  - f. A public or private school or child day-care facility; and
  - g. Any park in which the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
- (13) Within twenty-five (25) feet of:
- a. A fire hydrant;
  - b. An automated teller machine;
  - c. A driveway, alley, or entrance to a parking lot or parking garage;
  - d. The intersection of a street and a sidewalk;
  - e. A crosswalk;
  - f. A freeway entrance; and
  - g. An outdoor dining or patio dining area.
- (c) Stationary sidewalk vendors are prohibited from operating in areas that are zoned exclusively residential.
- (Ord. No. 19-OR0632-1 , § 2, 9-25-2019)

#### **Sec. 15.68. Violations; penalties.**

- (a) Any person, entity, or other responsible party who violates any provision of this chapter may be immediately issued an administrative citation pursuant to Government Code section 51039(a)(1) and in accordance with the administrative remedies ordinance set forth in chapter 1.14. However, the issuing officer may, in his or her discretion, issue the administrative citation without the prior issuance of a notice of violation or warning. An ability to pay notice shall accompany each administrative citation under this section pursuant to Government Code section 51039(f)(1).
- (b) Any person, entity, or other responsible party who engages in any sidewalk vending activities without an issued sidewalk vendor business license may be immediately issued an administrative citation pursuant to Government Code section 51039(a)(3) and in accordance with the administrative remedies ordinance set forth in chapter 1.14. However, the issuing officer may, in his or her discretion, issue the administrative citation without the prior issuance of a notice of violation or warning.
- (c) A sidewalk vending business license is subject to rescission upon the fourth or subsequent violations of this chapter in accordance with provisions found in chapter 15.5.
- (d) The code enforcement division may, but is not obligated to, consider community service, waive the administrative citation, or offer any reasonable alternative disposition in lieu of payment of the total administrative citation(s) pursuant to Government Code section 51039(f)(3).
- (e) Sidewalk vending devices, or other related vending equipment, left unaccompanied for more than thirty (30) minutes or left on public property between 10:00 p.m. and 7:00 a.m. in violation sections 15.66(c) and 15.66(g) are subject to impoundment by any assigned city employee. A fee will be assessed for each impoundment as set by resolution of the city council.

(Ord. No. 19-OR0632-1 , § 2, 9-25-2019)