

ORDINANCE NO. 2019-3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD ESTABLISHING RULES FOR SIDEWALK VENDING PURSUANT TO GOVERNMENT CODE SECTION 51036, ET SEQ.

THE CITY COUNCIL OF THE CITY OF LAKEWOOD DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines as follows:

A. At present, the Lakewood Municipal Code generally prohibits vending, peddling, selling and/or soliciting on public property.

B. Government Code §§ 51036, et seq., became effective on January 1, 2019, and it acts to, among other things, decriminalize sidewalk vending.

C. Amendments to the LMC implemented by this Ordinance are necessary to create a Sidewalk Vending Program that establishes licensing regulations for street vendors in the City and limits penalties to a specified schedule of fines.

SECTION 2. The purpose of this Ordinance is to establish a uniform and comprehensive set of standards and regulations for sidewalk vending in the City. The regulations contained herein are designed to promote and protect the public health, safety, and general welfare of citizens of the City, and to reduce or eliminate any potential adverse impacts from sidewalk vending operations. At the same time, the intent is to comply with the provisions contained in California Government Code, section 51036, et seq., to not unduly restrict the operation of sidewalk vendors, and to encourage a balance between the managed establishment of sidewalk vending operations and objective public health, safety and welfare concerns.

SECTION 3. The following new Chapter 4.5 is hereby added to Article VI of the Lakewood Municipal Code:

**CHAPTER 4.5
SIDEWALK VENDOR PERMITS**

6405.1 DEFINITIONS. Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Chapter. Words and phrases undefined in this Chapter shall have the same meanings as set forth in Title 8 of the Public Health Code of Los Angeles County, as amended by this Code.

- A. "Conveyance" means any pushcart, stand, display, pedal-driven cart, wagon, showcase, rack or other non-motorized conveyance used by a sidewalk vendor for purposes of vending.

- B. "Roaming Sidewalk Vendor" means a Sidewalk Vendor who moves from place to place and stops only to complete a transaction, as defined in Government Code Section 51036, as it may be amended from time to time.
- C. "Sidewalk Vendor" means a person who sells food or merchandise from a pushcart, stand, pedal-driven cart, wagon, showcase, rack or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path, as defined in Government Code Section 51036, as amended from time to time.
- D. "Stationary Sidewalk Vendor" means a Sidewalk Vendor who vends from a fixed location, as defined in Government Code Section 51036 as it may be amended from time to time.
- E. "Certified Farmers' Market" means a California agricultural product point-of-sale location that is registered under, and operated in accordance with Food and Agriculture Code §§ 47000, et seq.
- F. "Pedestrian Path" means a footpath, not adjacent to a road, which is intended for use only by pedestrians, tricycles, strollers or baby carriages.
- G. "Special Event" means any parade, athletic event, block party, or public assembly that requires partial or complete street or sidewalk closure to vehicular or pedestrian traffic and use of the street or sidewalk for the event, or any event for which a City-issued permit is required for the temporary use of, or encroachment on, the sidewalk or other public area.

6405.2 SIDEWALK PERMIT REQUIREMENT. Operating as a Sidewalk Vendor is prohibited without a valid Permit issued in accordance with this Chapter. Persons must, in addition to obtaining a permit in this Chapter, comply with all other provisions of this Code and all other applicable laws and regulations.

6405.3 PERMIT APPLICATIONS.

- A. Sidewalk Vendor Permit applications must be made on a form approved by the City Manager or designee, and accompanied by all information requested on the application, including:
 - 1. The applicant's full, true name and California Driver's License, California Identification Card number, or individual taxpayer identification number;
 - 2. City of Lakewood business license, under the "Peddler" designation pursuant to Title VI of the LMC;
 - 3. Live Scan background check;
 - 4. Proof of a valid California Department of Tax and Fee Administration seller's permit;
 - 5. The name, telephone number, current mailing address, and current photograph of the Sidewalk Vendor;
 - 6. The name and business address of the principal if the Sidewalk Vendor is an agent of an individual, company, partnership or corporation;
 - 7. A complete description of the food or merchandise offered for sale or exchange. Any applicant who intends to sell food must also provide proof of either a Food Handler

- Card or Certified Food Protection Manager certificate, where applicable, pursuant to Health and Safety Code §§ 113700-114437, and certify that the pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used has been approved by the County Health Department for that particular type of food;
8. The address of the location or proposed route where the Sidewalk Vendor is proposing to operate;
 9. Proof of liability insurance; and
 10. A complete description of any ancillary items that the applicant intends to use in conjunction with sales including, without limitation, small tables, trash receptacles, chairs, umbrellas and umbrella stands, or other similar items.
- B. Each application must be accompanied by an application fee, the amount of which will be set by City Council resolution. Such application fee is solely to reimburse the City for costs incurred as a result of processing a Permit application.
- C. Complete applications must be submitted to the City Manager or designee. Only complete applications will be considered. An application shall be complete if it includes all required information together with full payment of the application fee. Applications will be considered in the order they are received. The City may require supplemental information from any applicant before deeming an application complete. If supplemental information is requested, it must be provided to the City Manager or designee, within seven business days of the request.
- D. The City may reject or deny any or any application. The City may request and obtain supplemental information from any applicant before making a decision on the application.
- E. Applicants must agree to abide by the Operating Requirements set forth in this Chapter.
- F. Sidewalk Vendors shall not be permitted as a permanent or proprietary location at or on any property within the City.
- G. The City Manager's decision with respect to a Sidewalk Vendor Permit application may be appealed to the License and Permit Hearing Board.

6405.4 OPERATING REQUIREMENTS.

- A. A Sidewalk Vendor Permit shall be valid for 12 months after being issued unless revoked or suspended, and may be renewed early, before expiration. Sidewalk Vendor Permits shall be issued to persons, not pushcarts, wagons, or other non-motorized conveyances. Sidewalk Vending Permits shall be nontransferable.
- B. Sidewalk Vendors must maintain a clearance of not less than four feet (48 -inches) upon every sidewalk or pedestrian path in order to comply with the Americans with Disabilities Act.

- C. Sidewalk Vendors must provide trash receptacles and recycling containers for customers' proper disposal of customer trash during the sidewalk vendor's hours of operation. A Sidewalk Vendor may not dispose of customer trash in existing receptacles provided by the City, or any other trash receptacles not provided by the Sidewalk Vendor.
- D. Sidewalk Vendors must keep the area around them clean and free of trash (no less than a 300 -foot radius) during the sidewalk vendor's hours of operation and must pick up and properly discard any trash associated with their activities before leaving the area upon termination of the day's activities.
- E. All Sidewalk Vendor Permits and any other legally required permits must be displayed in plain view at all times.
- F. No pushcart, stand, display, pedal-driven cart, wagon, showcase, rack or other non-motorized conveyance, or ancillary vending items or equipment may be left unattended or chained or fastened to any pole, sign, tree or other object in the public right of way. Any pushcart, stand, display, pedal -driven cart, wagon, showcase, rack or other non-motorized conveyance in violation of this subsection will be confiscated. The City may charge its actual reasonable costs of confiscating and storing items, pursuant to this subsection.
- G. Merchandise may not be placed directly onto the public right-of-way.
- H. No freestanding signs or banners are allowed, pursuant to LMC 9503.A.
- I. Sidewalk Vendors may not sell within 1000 feet of any K-12 school between the hours of 6:00 am and 6:00 pm. every day of the week.
- J. Sidewalk Vendors may not operate within 500 feet of a Certified Farmers' Market or area designated for a Special Event, during their limited duration.
- K. Sidewalk Vendors shall not offer services or any illegal or counterfeit merchandise.
- L. Stationary Sidewalk Vendors shall not operate in any of the City's residential zones. Roaming Sidewalk Vendors shall not operate in any residential zone between the hours of 5 p.m. to 9 a.m.
- M. Stationary Sidewalk Vendors shall not operate within any City park which park has an agreement between the City and a concessionaire for the exclusive sale of food or merchandise by the concessionaire.
- N. Any Stationary Sidewalk Vendor that stores, prepares, packages, serves, vends, or otherwise provides food must be operated within 200 feet of an approved and readily available toilet and handwashing facility whenever the Stationary Sidewalk Vendor is stopped to conduct business for more than a one-hour period, per §114315 of the Health and Safety Code.

- O. Sidewalk Vendors may not operate vending tricycles, icicle trikes, bicycle vending carts or the like, in any City park.
- P. Sidewalk Vendors may not operate:
 - 1. Within 15 feet of an intersection;
 - 2. Within 10 feet of a driveway;
 - 3. Within 5 feet of any alleyway;
 - 4. Within 5 feet of any fire hydrant, fire call box or other emergency facility;
 - 5. Within a marked bus zone;
 - 6. Within 18 inches from the edge of the curb;
 - 7. Where placement impedes the flow of pedestrian traffic or impedes egress from, access to or the use of abutting property;
 - 8. Within 25 feet of the entrance or exit to any building;
 - 9. Within a parking lot of a City park or public facility;
 - 10. Within medians, parkways or on streets and roadways.
- Q. Use of an electrical outlet or power source that is owned by the City, or any other entity, other than the Sidewalk Vendor's own source, is prohibited.
- R. No Sidewalk Vending receptacle shall contain or use propane, natural gas, batteries, barbecue grills, charcoal, generators or other explosive or hazardous materials.
- S. Sidewalk Vendors shall not throw, deposit, or leave, or permit to be thrown, deposited, or left, any trash, food, fluids, liquids, grease or hazardous materials in or upon any street, sidewalk, path, gutter, storm drain, inlet, catch basin, or other drainage structure, on private or public property.
- T. No Sidewalk Vendor or Conveyance shall produce or emit amplified sounds of any kind.
- U. Sidewalk Vendors must have personal identification on their person at all times.
- V. Sidewalk Vendors shall comply with all applicable federal, state and local laws.

6405.5 VIOLATIONS AND PENALTIES.

- A. Any violation of any provision set forth in this Chapter is deemed to be a public nuisance and each day such condition continues shall be regarded as a new and separate offense. Violations of this Chapter will be subject to penalties as set forth in this Section.
- B. Fines imposed for such violations shall be as follows:
 - 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; and
 - 3. An administrative fine of \$500 for a third or subsequent violation within one year of the first violation. Additionally, the City may revoke the Permit upon a fourth or

subsequent violation.

- C. When assessing an administrative fine, the City must take into consideration the violator's ability to pay the fine. In doing so, the City may allow the violator to complete community service in lieu of paying the total administrative fine, waive the fine, or offer an alternative disposition. If either of the following are true, the violator may remit to the City 20% of the administrative fine imposed:
1. The violator is receiving public benefits under one or more of the following programs: (i) Supplemental Security Income (SSI) and State Supplementary Payment (SSP); (ii) California Work Opportunity and Responsibility to Kids Act (CalWORKs) or a federal Tribal Temporary Assistance for needy Families (Tribal TANF) grant program; (iii) Supplemental Nutrition Assistance Program or the California Food Assistance Program; (iv) County Relief, General Relief (GR), or General Assistance (GA); (v) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants; (vi) In-Home Supportive Services (IHSS); or (vii) Medi-Cal; or
 2. The violator's monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).
- D. Any fine required to be paid pursuant to this Chapter shall constitute a debt owed by the Vendor to the City. Any person owing money to the City pursuant to this Chapter shall be subject to an action brought in the name of the City for the recovery of such amount.

6405.6 SUSPENSION OR REVOCATION OF PERMIT.

- A. After holding a hearing, the City Manager or designee shall have the authority to suspend or revoke a Sidewalk Vendor Permit as provided in this Chapter, or for other violations of the Code or other applicable law, or for any grounds that would warrant the denial of initial issuance of a permit hereunder. Prior to holding such hearing, the City Manager or designee shall give the Permit holder 10 days' notice in writing to the address stated on the application, specifying the time and place of hearing, and requiring him/her to show cause why his/her Permit should not be revoked. The City will not issue a new Permit after the revocation of a Permit unless it is satisfied that the applicant will thereafter comply with all provisions of this Chapter, the rules and regulations adopted hereunder, and all other applicable provisions of law, and until the City collects a fee in an amount sufficient to recover the actual costs of processing the re-application.
- B. The City Manager or designee will provide the Permittee with written notice of suspension or revocation by certified mail addressed to the Permittee's address.
- C. Any decision by the City Manager or designee to suspend or revoke a Permit shall be appealable to the License and Permit Hearing Board. Any such appeal must be filed with the City Clerk not later than 10 days after deliver of the notice of suspension or revocation, or the right to appeal shall be deemed waived.

6405.7 CONFLICTS. In the event of any conflict between any provision contained in this Chapter and any other provision in this Code, including but not limited to Sections 3260 and 4220, the provision in this Chapter shall be controlling.

SECTION 4. The City Council hereby declares it would have passed this Ordinance sentence by sentence, paragraph by paragraph and section by section, and does hereby declare the provisions of this Ordinance are severable, and if for any reason any section of this Ordinance should be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance. The City Council hereby finds and determines there are no newspapers of general circulation both published and circulated within the City and, in compliance with Section 36933 of the Government Code, directs the City Clerk to cause said Ordinance within fifteen (15) days after its passage to be posted in at least three (3) public places within the City as established by Ordinance.

ADOPTED AND APPROVED this 8th day of October, 2019, by the following roll call vote:

	AYES	NAYS	ABSENT
Council Member Croft	<u>X</u>	_____	_____
Council Member DuBois	<u>X</u>	_____	_____
Council Member Wood	<u>X</u>	_____	_____
Council Member Piazza	<u>X</u>	_____	_____
Mayor Rogers	<u>X</u>	_____	_____



Mayor

ATTEST:



City Clerk