

ORDINANCE NO. 2901

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING AND RESTATING CHAPTER 8.48 OF TITLE 8 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING TO VENDING ON THE PUBLIC RIGHT-OF-WAY AND REGULATING SIDEWALK VENDORS

**City Attorney Summary**

***This Ordinance revises Chapter 8.48 (Vending on Public Right-of-Way) of the Garden Grove Municipal Code to update the City's vending regulations and comply with Senate Bill 946 pertaining to sidewalk vendors. The Ordinance establishes new licensing and permitting requirements for sidewalk vendors in compliance with the new State regulations enacted in 2018.***

WHEREAS, Senate Bill 946 (an act to add Chapter 6.2, commencing with Section 51036, to Part 1 of Division 1 of Title 5 of the Government Code) establishes requirements for local regulation of sidewalk vendors;

WHEREAS, the City seeks to implement sidewalk vending regulations to provide a licensing and permitting process and impose operational requirements for sidewalk vendors in the City to comply with SB 946 and protect the health, safety, and welfare of the community; and

WHEREAS, the City finds that the regulations set forth herein are directly related to objective health, safety, and welfare concerns.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The foregoing recitals are true and correct and incorporated herein.

SECTION 2: Chapter 8.48 of Title 8 of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

**CHAPTER 8.48**

**VENDING ON PUBLIC RIGHT-OF-WAY**

Sections:

- 8.48.010 Purpose
- 8.48.020 Definitions
- 8.48.030 Vehicular Food Vending (Food Trucks)
- 8.48.040 Vending on Sidewalks
- 8.48.050 Vending in City Parks
- 8.48.060 Vending in Residential Areas

- 8.48.070 Vending Near Schools
- 8.48.080 Sidewalk Vending Permits
- 8.48.090 Prohibition of Vending During Farmers' Markets, Swap Meets and Special Events
- 8.48.100 Violations

### **Section 8.48.010 Purpose**

The purpose of this chapter is to establish a program to regulate vending in the public right-of-way in accordance with state law. The reasonable time, place and manner regulations set forth in this chapter are necessary to protect the public health, safety and welfare by, among other things, minimizing potential conflicts between motor vehicles and pedestrians and vendors in the public right-of-way, ensuring unobstructed pedestrian travel on City sidewalks and safe and unfettered access to school sites, and limiting the potential for noise and disruption in residential zones. Furthermore, regulations are necessary to prevent unsanitary conditions, and to ensure trash and debris in the areas vending is taking place are removed by vendors.

### **Section 8.48.020 Definitions**

The following terms used in this chapter shall have the meaning indicated below:

"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.

"Food" means any type of edible substance or beverage intended primarily for consumption by human beings.

"Immediate vicinity" means within five hundred (500) feet.

"Merchandise" means small and easily carried or worn items that are not food, including but not limited to, souvenirs, toys, articles of clothing, flowers, etc.

"Public right-of-way" means the area dedicated to public use for street or pedestrian purposes, including privately owned and maintained roads within the city that are generally held open to the public for purposes of vehicular and pedestrian traffic and includes alleys, driveways, highways, medians, parkways, planter strips, roads, sidewalks, and streets.

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

"School" means any public or private educational institution which is run by the state or a subdivision thereof or which is licensed by the state to offer pre-school,

elementary or secondary academic instruction, including kindergartens, elementary schools, middle or junior high schools, and high schools.

“Sidewalk” means that portion of the public right-of-way provided for the primary use of pedestrians along or adjacent to the street, including a public pathway provided for the primary use of pedestrians.

“Sidewalk vendor” means 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 sidewalk or other pedestrian path. This definition includes “roaming sidewalk vendor” and “stationary sidewalk vendor.”

“Stationary sidewalk vendor” means a sidewalk vendor who vends 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.

“Temporary special permit” means a permit issued by the City 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, or temporary event permit, for purposes including, but not limited to, filming, parades, athletic events, public assemblies, carnivals, festivals, and outdoor concerts.

“Vend, vends, or vending” means to sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

### **Section 8.48.030 Vehicular Food Vending (Food Trucks)**

Vending of prepared food products from stationary motor vehicles is only permitted pursuant to Title 9 (Land Use) and Chapter 6.16 of this Code. Vending of prepared food products from roaming motor vehicles is permitted on the public right-of-way in compliance with Chapter 6.16 (Food Handling) of this Code and Vehicle Code Section 22455, subject to the following additional requirements:

- A. The time between stopping the vehicle to dispense any item of food and the time the vehicle leaves the location shall not exceed 10 minutes;
- B. The vehicle must move at least 500 feet between each stop;
- C. The parked location of the vehicle must be at least 100 feet from an intersection to minimize impacts on traffic flow and the potential obstruction of sight lines and observation.

- D. The opening of the vehicle from which sales are made must face the sidewalk or such other direction so that customers are not required to stand in the vehicular right-of-way.
- E. No vending from motor vehicles is permitted within 1000 feet from any school while children are going to or leaving such school during school opening or closing hours, or during the noon or lunch-time recess period.

**Section 8.48.040 Vending on Sidewalks**

- A. A sidewalk vendor shall only operate on sidewalks and no other portion of the public right-of-way.
- B. No sidewalk vendor shall sell food on any portion of the sidewalk without first obtaining the following:
  - 1. A business license pursuant to Chapter 5.01 and 5.02 of this Code.
  - 2. A sidewalk vending permit pursuant to Section 8.48.080 of this Chapter.
  - 3. A Health Department permit pursuant to Chapter 6.16 of this Code.
  - 4. Such other permits as may be required by State or local law, such as a secondhand dealer permit under Chapter 5.38 of this Code for the sale of secondhand goods.
- C. No sidewalk vendor shall sell merchandise on any portion of the sidewalk without first obtaining the following:
  - 1. A business license pursuant to chapters 5.01 and 5.02 of this Code.
  - 2. A sidewalk vending permit pursuant to Section 8.48.080 of this Chapter.
- D. At all times, a sidewalk vendor shall be in possession of a valid identification, business license, sidewalk vending permit, and Health Department permit, if applicable.
- E. A sidewalk vendor shall maintain a clean and trash-free 10-foot radius around his or her pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance during hours of operation.
- F. No pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance shall be chained or fastened to any pole, sign, tree, or other object in the public right-of-way or left unattended.

- G. For public safety reasons, including pedestrian and vendor safety, a sidewalk vendor shall not operate in the following locations:
1. Within 50 feet of the roadway of any freeway on-ramp or off-ramp.
  2. Within 5 feet of a marked crosswalk.
  3. Within 5 feet of any fire hydrant or fire call box.
  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 transit shelter.
  7. Within 5 feet of a driveway.
  8. Within 18 inches from the edge of the curb.
  9. Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than 4 feet or as necessary to comply with the Americans with Disabilities Act.
  10. Where placement impedes access to or the use of abutting property, including, but not limited to, residences and places of businesses. This requirement is intended to preserve emergency access for the Police, Fire Department, or medical personnel.
- H. No sidewalk vendor shall willfully make, continue, or cause to be made or continued, any loud, unnecessary, or unusual noise that disturbs the peace or quiet of any neighborhood, or that causes discomfort or annoyance to any person of normal sensitivities, subject to the standards established in Section 8.47.050 of this Code.

### **Section 8.48.050 Vending in City Parks**

In addition to the requirements set forth in Section 8.48.030 herein, no sidewalk vendor shall sell food or merchandise in any park owned or operated by the City, except as provided by this Section, subject to the following requirements:

- A. No stationary sidewalk vendor shall sell food or merchandise in a park if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

- B. No sidewalk vendor shall sell food or merchandise in a park when the park has been designated for a temporary special permit issued by the City, including nearby parking lots used to accommodate the event. A prohibition of sidewalk vendors pursuant to this Section shall only be effective for the limited duration of the temporary special permit.
- C. A sidewalk vendor shall be restricted to operating within the posted hours of the park.

#### **Section 8.48.060 Vending in Residential Areas**

In addition to the requirements set forth in Section 8.48.030 herein, the following restrictions shall apply to sidewalk vendors in residential zones:

- A. Stationary sidewalk vendors are prohibited.
- B. A roaming sidewalk vendor shall move from place to place and stop only to complete a transaction.
- C. A sidewalk vendor shall be restricted to operating within the limited hours of 8:00 a.m. to 6:00 p.m.

#### **Section 8.48.070 Vending Near Schools**

In addition to the requirements set forth in Section 8.48.030, no sidewalk vendor shall operate within 500 feet of any school property from 7:00 a.m. to 4:00 p.m. when school is in session or during graduation ceremonies.

#### **Section 8.48.080 Sidewalk Vending Permits**

- A. Application. To obtain or renew a Sidewalk Vending Permit, a sidewalk vendor must provide the following as part of their application:
  - 1. Valid California Driver's License or Identification.
  - 2. The name, address, and telephone number of the applicant.
  - 3. Whether the applicant intends to operate as a stationary or a roaming sidewalk vendor.
  - 4. The expiration date of the applicant's City business license.
  - 5. Proof of a valid County health permit for prepared food products for vending.

6. Proof of a valid State Department of Tax and Free Administration Seller's Permit and additional licenses from State or local agencies to the extent required by law.
  7. A description of the food or merchandise offered for sale or exchange.
  8. Payment of an application or renewal fee, which shall be established by resolution of the City Council to defray the costs of processing the application for, or renewal of, a permit.
  9. A certification by the sidewalk vendor that to his or her knowledge and belief, the information contained on the form is true.
  10. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.
  11. Such other information deemed necessary by the City Manager or designee.
- B. Expiration. Permits shall expire one year after the date of issuance.
- C. Transfer of Permit. Permits are not transferable.
- D. Renewal of Permit After Revocation. A person whose permit is revoked may not renew their permit for one year from the date it is revoked.

**Section 8.48.090 Prohibition of Vending During Farmers' Markets, Swap Meets and Special Events**

- A. No sidewalk vendor shall operate in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet, including nearby parking lots used to accommodate the event, during the limited operating hours of that certified farmers' market or swap meet.
- B. No sidewalk vendor shall operate in areas located within the immediate vicinity of an area designated for a temporary special permit issued by the City, including nearby parking lots used to accommodate the event, during the limited duration of the temporary special permit.

**Section 8.48.100 Violations**

A person found in violation of this chapter shall be subject to the following:

- A. Operating without a valid sidewalk vending permit:

1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
  2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.
  3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.
  4. The administrative fines listed in paragraph (A) may be reduced from \$250 to \$100, \$500 to \$200, and \$1,000 to \$500 upon submission of proof of a sidewalk vending permit before such fines are due.
- B. Operating as a sidewalk vendor in violation of this chapter, other than the failure to possess a valid sidewalk vending permit:
1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
  2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.
  3. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.
  4. The city manager, or designee, may rescind a sidewalk vending permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.
- C. A sidewalk vendor may contest an administrative fine or the rescission of a sidewalk vending permit pursuant to the provisions set forth in Sections 1.22.030 through 1.22.060 and Section 1.22.080 under this Code.
- D. A sidewalk vendor who has been issued an administrative fine under this Chapter may request a determination of his or her ability to pay the administrative fine pursuant to the provisions of Government Code Section 51039(f). If the sidewalk vendor shows proof to the satisfaction of the hearing officer (if the request is made at the time of an administrative appeal hearing), or the City Manager or his or her designee (if the request is made at any other time), that he or she meets the criteria set forth in Government Code Section 68632, subsections (a) or (b), the fine amount shall be reduced to 20 percent of the original fine amount.
- E. Violations of the regulations of this Chapter not specifically applicable to sidewalk vending and sidewalk vendors and Section 51039 of the Government Code shall be subject to criminal or civil enforcement pursuant to Chapter 1.04

and/or 1.22 of this Code, in addition to any other applicable penalties or remedies prescribed by law.

SECTION 3: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 4: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the \_\_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE)

I, TERESA POMEROY, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on January 22, 2019, with a vote as follows:

AYES: COUNCIL MEMBERS: (7) BRIETIGAM, O'NEILL, NGUYEN T., BUI,  
KLOPFENSTEIN, NGUYEN K., JONES

NOES: COUNCIL MEMBERS: (0) NONE

ABSENT: COUNCIL MEMBERS: (0) NONE