

ORDINANCE NO. 6060

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING TITLE 9 OF THE SANTA BARBARA MUNICIPAL CODE BY THE ADDITION OF CHAPTER 9.49 TO REGULATE SIDEWALK VENDING IN ACCORDANCE WITH STATE LAW

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Background and Introduction.

Senate Bill 946, which took effect on January 1, 2019, provides that cities and counties may not regulate sidewalk vending except in accordance with sections 51038 and 51039 of the California Government Code. California Government Code Section 51038 generally requires local regulation of sidewalk vending to be “directly related to objective health, safety, or welfare concerns.” The City seeks to adopt a sidewalk vending Ordinance to ensure compliance with the requirements of state law. Regulating sidewalk vending will benefit the entire Santa Barbara community as it will encourage entrepreneurship and provide for equal economic opportunities while ensuring orderly commerce and protection of the public safety and welfare. The City Administrator is directed to provide educational materials and outreach campaigns in English and Spanish to assist vendor compliance with the new regulations. Further, it is the City Council’s policy that administrative penalties will not be imposed for violations of this Chapter 9.49 as adopted by this ordinance for the first year following its enactment. The City Administrator is directed to provide a report of implementation and outreach efforts, along with any recommendations for amendments, if any, to Chapter 9.49, no later than April 2023.

SECTION 2. Title 9 of the Santa Barbara Municipal Code is amended by the addition of Chapter 9.49 as follows:

**Chapter 9.49
Sidewalk Vendors**

- 9.49.010 Purpose.**
- 9.49.020 Definitions.**
- 9.49.030 Measurements.**
- 9.49.040 Sidewalk Vending Authorized – Violations Prohibited.**
- 9.49.050 Sidewalk Vending in Residential Zones.**
- 9.49.060 Prohibited Merchandise.**
- 9.49.070 Business License – Health Department Permit.**
- 9.49.080 Operational Requirements.**

- 9.49.090** **Locational Requirements.**
- 9.49.100** **Sidewalk Vending in Parks and Beaches.**
- 9.49.110** **State Street Promenade.**
- 9.49.120** **Administrative Penalty.**
- 9.49.130** **Removal of Carts.**
- 9.49.140** **Exemptions.**
- 9.49.010** **Purpose.**

This Chapter establishes regulations of sidewalk vending in accordance with California Government Code Sections 51036 – 51039.

9.49.020 **Definitions.**

A. **FOOD.** Any type of edible substance or beverage intended for human consumption.

B. **HEALTH DEPARTMENT.** The County of Santa Barbara Environmental Health Services.

C. **HEALTH DEPARTMENT PERMIT.** All licenses, permits, certifications, and courses required and issued by the Health Department to vend food within the City.

D. **MERCHANDISE.** Any item, good, or tangible personal property of any kind that is not food intended for human consumption.

E. **RESIDENTIAL ZONE.** Areas designated on the Sectional Zoning Map of the City of Santa Barbara as: A-1 A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, or S-H under Title 28 of this Code; RS, R-2, R-M, R-MH under Title 30 of this Code; or within any overlay zone for mobilehome or residential planned unit or common interest development.

F. **ROAMING SIDEWALK VENDOR.** A sidewalk vendor who moves from place to place and stops only to complete a transaction, or as otherwise defined by Government Code Section 51036(b), as it may be amended.

G. **SIDEWALK.** The portion of a public street or highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel. Sidewalk excludes, public paseos, plazas, and other public pedestrian pathways that are not part of a public street or highway.

H. **SIDEWALK VENDOR.** A person who vends food or merchandise from a vending cart or from one’s person upon a sidewalk. A sidewalk vendor does not include an owner, employee, agent, or independent contractor of a business having an established storefront or other fixed business location within the City.

I. **STATIONARY SIDEWALK VENDOR.** A sidewalk vendor who vends from a fixed location, or as otherwise defined by Government Code Section 51036(c), as it may be amended.

J. STATE STREET PROMENADE. The portions of State Street generally between Victoria Street and Haley Street closed to use by motor vehicles pursuant to City Council ordinance or resolution.

K. SUNSET. A time of day as determined by the National Weather Service.

L. VEND OR VENDING. To sell, offer for sale, expose or display for sale, solicit offers to sell, barter, or exchange anything of value, even if the transaction is characterized as a donation.

M. VENDING CART. A pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used by a sidewalk vendor to sell food or merchandise.

9.49.030 Measurements.

Distance shall be measured along a sidewalk as the closes points between the items or places being measured. When a distance is being measured between a vending cart and the entrance to a location, the measurement will be made to the point where the pathway to the entrance intersects the sidewalk. When a distance is measured to a school or other building or facility, measurement shall be made to the exterior boundary of the grounds on which the school or other building or facility is located.

9.49.040 Sidewalk Vending Authorized – Violations Prohibited.

Notwithstanding Chapter 9.48 of this Code, sidewalk vendors may vend on sidewalks in the City in compliance with all the requirements of this Chapter. A sidewalk vendor who vends in the City in violation of this Chapter is subject to an administrative citation punishable by an administrative penalty pursuant to Section 9.49.110 only.

9.49.050 Sidewalk Vending in Residential Zones.

A. Stationary sidewalk vendors are prohibited in residential zones.

B. Roaming sidewalk vendors are permitted in residential zones between the hours of 8 a.m. and one-half hour after sunset. Roaming vendors must move continuously except when stopped to complete a sale. For purposes of this Section, “move continuously” means not staying in the same location for more than 5 minutes, except to complete a sale commenced during the initial 5 minutes.

9.49.060 Prohibited Merchandise.

Notwithstanding Section 9.49.040, sidewalk vending of the following merchandise is prohibited and punishable pursuant to Chapter 1.28 of this Code:

1. Alcoholic beverages;
2. Tobacco, tobacco products, or electronic smoking devices;
3. Cannabis or cannabis products;
4. Weapons, including knives, guns, or explosive devices;

5. Pharmaceuticals;
6. Any other merchandise prohibited by law from being vended from a vending cart.

9.49.070 Business License – Health Department Permit.

A. Sidewalk vendors are prohibited from vending without first paying the applicable business tax pursuant to Chapter 5.04 of this Code and obtaining and displaying a business tax receipt.

B. When accepting business tax payments and issuing a business tax receipt to a sidewalk vendor, the Finance Department shall accept either a California driver's license or identification number, an individual taxpayer number in lieu of a social security number, or such other forms of identification as the Finance Director deems acceptable. The Finance Director will keep the information exempt from public inspection, confidential, and not disclosable except as required to administer the permit or licensure program or comply with a state law or state or federal court order as required by Government Code Section 51038(c)(4).

C. Before issuance or renewal of a business tax receipt, a sidewalk vendor must provide the following information to the Finance Department:

1. The name and current mailing address of the sidewalk vendor;
2. A description of the merchandise offered for sale or exchange;
3. A statement whether the vendor intends to operate as a stationary or a roaming vendor;
4. All other information required by Chapter 5.04 of this Code;
5. The vendor's California seller's permit number (California Department of Tax and Fee Administration sales tax number);
6. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;
7. A certification by the vendor that to his or her knowledge and belief, the information provided is true.

D. No sidewalk vendor may vend food anywhere within the City without first obtaining a Health Department Permit.

E. A copy of the business license certificate and, if applicable, the Health Department Permit, must be prominently displayed on each vending cart used by the licensed sidewalk vendor or carried by a sidewalk vendor when vending without a cart.

9.49.080 Operational Requirements.

A. Sidewalk vendors shall comply with each of the operational requirements in this Section.

B. Sidewalk vendors who vend food shall comply with the requirements of the Health Department Permit issued to the sidewalk vendor.

C. Vending carts shall not exceed a length of 74 inches, a width of 34 inches, or a height of 80 inches. A vending cart may have an attached umbrella with a diameter that does not exceed 48 inches and a height not less than 80 inches.

D. Stationary sidewalk vendors and roaming sidewalk vendors shall not operate in commercial zones between the hours of midnight and 6:00 a.m.

E. Vending carts shall not be stored overnight in any zone on the sidewalk or other City property and must be removed from the sidewalk or other City property after the hours of operation.

F. Vending carts shall not be left unattended.

G. Vending carts shall not be locked, chained, or otherwise secured to any pole, sign, tree, or other object in the public right-of-way.

H. Stationary sidewalk vendors shall maintain a clean and trash-free vending location including a 10-foot radius from the stationary cart. All waste generated by the preparation or service of food products or other products shall be maintained within cart until properly disposed of in a proper receptacle that is lawfully available for use of a stationary or roaming sidewalk vendor.

I. Sidewalk vendors that vend food items shall provide a trash receptacle for customers. The trash receptacle shall be large enough to accommodate customer trash. The trash receptacle may be attached to the vending cart or placed adjacent to it. The trash receptacle shall be regularly emptied and available for customer use. Sidewalk vendors shall dispose of all waste, including all waste generated from preparation or service of food or other products and customer trash, in a proper receptacle that is lawfully available for use of the vendor.

J. A stationary sidewalk vendor that vends food shall operate within 200 feet travel distance of an approved and readily available toilet and handwashing facility, as required by California Health & Safety Code Section 114315.

K. Freestanding signs are prohibited. A vending cart may have signs advertising the sidewalk vendor and the products vended attached to the cart.

L. Sidewalk vendors shall not use or set up tables, chairs, or other structures, provided however, that a stationary vendor may use a stool or chair for personal use.

M. Carts shall be self-contained, including any power sources. Sidewalk vendors shall not connect to or use a water or an electricity source owned by the City or a private party without authorization from the City or the private party. Gas powered generators are prohibited.

N. Sidewalk vendors shall comply with all laws regulating noise and must not create a noise nuisance.

O. Sidewalk vendors shall comply with all applicable rules, regulations and requirements promulgated by the City, including but not limited to, park regulations and regulations related to the State Street Promenade.

9.49.090 Locational Requirements.

A. Sidewalk vendors shall comply with each of the locational requirements in this Section.

B. Sidewalk vending is prohibited within 500 feet of any elementary, middle, junior high, or high school during the hours of 7:30 a.m. to 4:00 p.m. on days that school is in session.

C. A roaming sidewalk vendor shall not stop to make a sale in a manner that impedes the flow of pedestrian traffic, including persons with disabilities using a mobility device, by reducing the path of travel on a sidewalk to less than 5 feet, or that blocks entrance to a driveway.

D. Sidewalk vending is prohibited within 500 feet of a City-permitted special event. Permitted special events include certified farmers' markets, the Santa Barbara Arts and Crafts Show, parades, and other events conducted pursuant to a special event permit or other authorization issued by the City. This prohibition does not apply to a sidewalk vendor who has been authorized to participate as a vendor in the Santa Barbara Arts and Craft Show pursuant to Chapter 15.08. This prohibition does not apply to a sidewalk vendor who has been authorized to vend at a special event by the organizer of the event.

E. A stationary sidewalk vendor shall not place a vending cart or vend, and a roaming sidewalk vendor shall not *stop to vend*, in any of the following locations:

1. Within 5 feet of a marked crosswalk;
2. Within 5 feet of an unmarked crosswalk at the intersection of two streets;
3. Within 5 feet of any fire hydrant;
4. Within 5 feet ahead and 45 feet to the rear of a sign designating a bus stop;
5. Within 10 feet of a driveway or driveway apron;
6. Within 100 feet of an outdoor dining or patio dining area;
7. Within 18 inches from the edge of the curb;
8. Within the roadway of any street or highway;
9. On a sidewalk having a slope greater than 5 percent;
10. In a location or manner where placement or operation endangers the safety of persons or creates a dangerous condition of property;

11. Within 200 feet of the entrance to any library, city hall, police station, government administration building, a fire station, or a hospital;
12. Within 10 feet of the entrance to any business, during the hours that any business is open to the public;
13. Within 10 feet of a bicycle rack;
14. Within a City Class 1 off-street bicycle or multi-use path;
15. Within the approach to or on a vehicular, bike or pedestrian bridge.

F. Stationary sidewalk vendors shall not occupy the area directly in front of a transparent window or within 4 feet of an entry or exit of a business fronting on a public street.

G. In order to limit obstructions caused by a congregation of customers during periods of operations, and to clearly delineate responsibilities in operation, stationary sidewalk vendors shall not locate and roaming sidewalk vendors shall not vend closer than 50 feet from another sidewalk vendor.

H. Stationary sidewalk vendors are prohibited on the north side of Cabrillo Boulevard. Stationary sidewalk vendors are permitted on the sidewalk on the south side of Cabrillo Boulevard provided that the vending cart is located on the portion of the sidewalk furthest from the street and that a clear pedestrian path of travel of at least 8 feet is maintained along the sidewalk, except in areas where sidewalk vending is prohibited by subdivision D of this Section or by subdivision C of Section 9.49.100.

9.49.100 Sidewalk Vending in Parks and Beaches.

A. Sidewalk vending is prohibited in City parks or beach, except when conducted in compliance with Subsection D, below.

B. Stationary sidewalk vending is prohibited in any City park or beach where the City has entered into an exclusive concessionaire's agreement for the sale of food or merchandise in that City park, and signs have been posted at each entrance notifying sidewalk vendors.

C. Sidewalk vending is prohibited on Stearns Wharf and the sidewalks between the intersection of State Street and Cabrillo Boulevard and the entry to Stearns Wharf.

D. Sidewalk vendors shall comply with each of the following vending requirements:

1. Sidewalk vending shall not be conducted during times the park or beach is closed;
2. All sidewalk vending activities in parks shall be conducted from a sidewalk or pedestrian pathway within the park in an area designated for sidewalk vending by the Parks and Recreation Director. A vending cart may not be placed or

operated in a manner that impedes the flow of pedestrian traffic, including persons with disabilities using a mobility device, by reducing the path of travel on a sidewalk or pedestrian pathway to less than 4 feet;

3. Sidewalk vending is prohibited within 100 feet of playgrounds, recreational fields, skate parks, ball courts, and designated parking stalls;

4. Sidewalk vending is prohibited in areas set aside for special events or reserved use during the time period authorized for the special event or reserved use;

5. Sidewalk vending is prohibited in park, waterfront, and beach, parking lots.

E. The Parks and Recreation Director may adopt additional rules and requirements consistent with this Section and Government Code Section 51038(b)(2)(B) for conduct of sidewalk vending within parks. The additional rules will be effective upon publication of the rules in English and in Spanish.

9.49.110 State Street Promenade.

A. Sidewalk vending is permitted within that portion of the State Street Promenade roadway that is available for outdoor dining or other commercial activity under guidelines issued by the City Administrator and subject to all other requirements of this Chapter. Sidewalk vending is prohibited on the sidewalks within the State Street Promenade.

B. Notwithstanding Subsection A, sidewalk vending is prohibited entirely on the 500 block of State Street.

C. In addition to vending authorized by subdivision A of this section, persons may vend cascarones (confetti filled eggs), and other non-food items from vending carts, tables, temporary stands placed within the roadway or on the sidewalk adjacent to the curb of the State Street Promenade provided that an 8 foot pedestrian path of travel along the sidewalk is maintained at all times. Use of the sidewalk authorized by this subdivision is limited to the week of the Old Spanish Days Fiesta.

9.49.120 Administrative Penalty.

A. A violation of this Chapter is punishable only by the following:

1. A Notice of Violation for a first violation;
2. An administrative fine not exceeding \$100 for a second violation within one year of the first violation;
3. An administrative fine not exceeding \$200 for a third violation within one year of the first violation;
4. An administrative fine not exceeding \$500 for each additional violation within one year of the first violation.

B. Administrative citations may be issued by any city employee designated by the City Administrator as responsible for enforcement of this Chapter.

C. Administrative citations and business license revocation issued pursuant to this Section may be appealed according to the provisions of Sections 1.25.080 – 1.25.130

of this Code. For purposes of this appeal, the employee issuing the citation will be deemed to be the Director as that term is used in Sections 1.25.080 – 1.25.130.

D. In reviewing an appeal, the Hearing Administrator shall take into consideration the person's ability to pay the fine. The citation must include notice of the right to appeal, including the right to request an ability-to-pay determination and shall make available information regarding how to file an appeal. 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.

E. If a person meets the criteria described in Government Code Section 68632 (a) or (b), the City will accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to Subsection A of this Section.

9.49.130 Removal of Carts.

A. The placement of a vending cart on a sidewalk in violation of the provisions of this Chapter is a public nuisance. A City employee authorized to enforce this Chapter may direct a sidewalk vendor to remove a cart placed in violation of this Chapter. If the sidewalk vendor refuses to remove the cart, or if the cart has been left unattended overnight, the City may impound the cart and its contents.

B. Impounded carts will be stored at a location designated by the City Administrator and may be retrieved by the sidewalk vendor during normal City business hours beginning on the day following impoundment. The City Administrator is directed to provide reasonable notice to sidewalk vendors, which notice may be by posting in a prominent location on the City's Internet website or by written notice distributed to sidewalk vendors in connection with the issuance or renewal of a business license. A vending cart will be released to a sidewalk vendor upon proper identification of the cart, execution by the vendor of a statement under penalty of perjury declaring ownership of the cart, and payment of an impound fee in an amount set by City Council resolution not to exceed the reasonable cost to impound and store the cart.

C. Carts not retrieved within 30 days following the date of impound will be deemed abandoned property and may be sold or destroyed by the City. Perishable food items may be discarded immediately.

9.49.140 Exemptions.

This Chapter does not apply to:

A. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to, or solicit orders for future delivery from local retailers, local businesses, local governments, local schools or local wholesale firms.

B. The occasional sales of goods and services, including admission to local events, by local school students to a function of their school; or fund raising sales by service clubs or groups such as Elks, Kiwanis, Lions, Boy Scouts or Girl Scouts.

C. Peddlers operating pursuant to a permit issued under Chapter 5.32 of this Code.

D. Solicitation of charitable or political contributions that do not involve the exchange of any merchandise or food in exchange for the donation. Such activity may be subject to Chapter 5.06 of this Code.

ORDINANCE NO. 6060

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing ordinance was introduced on March 1, 2022 and adopted by the Council of the City of Santa Barbara at a meeting held on March 8, 2022 by the following roll call vote:

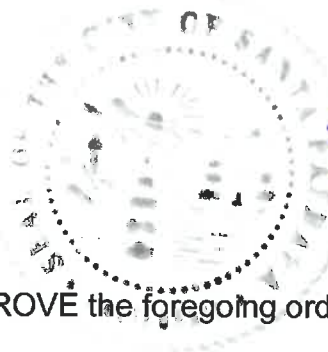
AYES: Councilmembers Eric Friedman, Alejandra Gutierrez, Oscar Gutierrez, Meagan Harmon, Mike Jordan, Kristen W. Sneddon, Mayor Randy Rowse

NOES: None

ABSENT: None

ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on March 10, 2022.



Sarah P. Gorman

Sarah P. Gorman, MMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing ordinance on March 10, 2022.

Randy Rowse

Randy Rowse
Mayor