

RESOLUTION NO. 223-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCATA ESTABLISHING REGULATIONS GOVERNING SIDEWALK VENDING ON CITY PROPERTY AND RIGHTS-OF-WAY

WHEREAS, Senate Bill 946 was signed into law on September 17, 2018, and became effective January 1, 2019 (Government Code §§ 51032 et seq., “SB 946”);

WHEREAS, SB 946 limits the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Sections 51038 and 51039;

WHEREAS, the City Council finds that the establishment of a sidewalk vending program will benefit the City as a whole by facilitating entrepreneurship and providing economic opportunity for people to support themselves and their families, and by contributing to a diversity of food options and lively streets;

WHEREAS, the City Council finds that the act of vending on sidewalks and other areas of the public right-of-way also creates the potential for increased safety hazards, such as, but not limited to, inhibiting accessibility along a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

WHEREAS, the City Council finds that restrictions on sidewalk vending are needed to accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian movement on sidewalks and in the public right-of-way, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services;

WHEREAS, requiring licenses and permits to vend on sidewalks and parks benefits the health and safety of the public because it increases vendor accountability in following the City’s rules and regulations by identifying vendors out of compliance with the City’s vending program and protects vendors assigned to vend in certain locations;

WHEREAS, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that sidewalk vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning;

WHEREAS, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant;

WHEREAS, the City Council finds that restrictions on sidewalk vending in public parks is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;

WHEREAS, the City Council adopts this Resolution under the authority provided in SB 946 and Arcata Municipal Code §10011, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City's purpose of protecting of the health, safety, and welfare of its residents, businesses and visitors.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arcata as follows:

1. The City hereby adopts Exhibit A, Rules and Regulations Governing Sidewalk Vending on City Property and Rights-of-Way, attached hereto and incorporated herein, establishing the fees, rules, regulations and policies pertaining to the use of public sidewalks and rights-of-way.

This Resolution shall be effective upon its adoption.


DATED: October 19, 2022

ATTEST:

APPROVED:



City Clerk, City of Arcata



Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the Resolution No. 223-19 passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, held on the 19th day of October, 2022, by the following vote:

AYES: ATKINS-SALAZAR, SCHAEFER, MATTHEWS, STILLMAN, WATSON

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE



City Clerk, City of Arcata

**EXHIBIT A
TO RESOLUTION NO. 223-19**

**City of Arcata
Rules and Regulations Governing Sidewalk Vending
on City Property and Rights-of-Way**

DEFINITIONS

“Farmers market” shall mean the temporary use of a site for the outdoor sales of food and farm produce items from vehicles, in compliance with California Food and Agriculture Code Section 1392 *et seq.*

“Roaming sidewalk vendor” shall mean a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk vendor” shall mean a person who vends from a vending cart or from one’s person, upon a public sidewalk, parkway, pedestrian path, or other public right-of-way available to pedestrians, and shall not include vendors associated with special events that have received permits pursuant to Arcata Municipal Code (AMC) Sec. 10006.

“Stationary sidewalk vendor” shall mean a sidewalk vendor who vends from a fixed location.

“Special Event” shall refer to any non-spontaneous activity or event occurring on City property or right-of-way and governed by the regulations adopted in Resolution 112-36.

“Spontaneous” activity or event means any activity or event for the purpose of expressive activity which is occasioned by news or affairs coming into public knowledge fewer than 48 hours prior to any such activity or event. All other activities or events are considered “non-spontaneous” events or activities as specified in the AMC Sec. 10006.

“Temporary use permit” shall mean a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special activity permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerns, and issued pursuant to, but not limited to, AMC Title X, Chapter 1.

“Vend” or “vending” shall mean the act of conveying or transporting goods, ware, merchandise, food, offering and exposing the same for sale or making sales deliveries of articles to purchasers, or taking or attempting to take order for the sale of goods.

“Vending cart” shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

“Vendor” shall mean any person by foot, wagon, table or other conveyance, who is conveying or transporting goods, ware, merchandise, food, offering and exposing the same

for sale or making sales and delivering articles to purchasers, or who takes or attempts to take orders for sale of goods, ware and merchandise, books or magazines, personal property of any nature for future delivery, or for services to be furnished or performed in the future, whether or not such an individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

PERMIT REQUIREMENT

1. Permits are required for the sale of merchandise, food or beverages on City property as specified in the Arcata Municipal Code (AMC) Sec. 10006.
2. No person, either for themselves or any other person, shall conduct or engage in sidewalk vending within the city without first obtaining a sidewalk vending temporary use permit pursuant to these regulations. A Minor Use Permit shall not be required for outdoor retail sales and activities pursuant to Arcata Land Use Code Article 2 Chapter 9.26 Table 2-10 if a sidewalk vending temporary use permit is obtained.
3. To apply for a sidewalk vending temporary use permit, a person must file an application with the City Manager, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the City Manager and shall contain, at a minimum, the following:
 - A. The legal name and current address and telephone number of the applicant;
 - B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
 - C. A description of the food or merchandise offered for sale;
 - D. Whether the applicant intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
 - E. A copy of a valid business license issued pursuant to AMC Title VI, Chapter 1;
 - F. Certification by the applicant that the information contained in the application is true to their knowledge and belief;
 - G. If a vendor of food or food products, certification to completion of a food handler course and proof of all required approvals from the Humboldt County Department of Environmental Health; and
 - H. Any other reasonable information regarding the time, place, and manner of the proposed vending.
4. The City Manager, or their designee, shall approve the issuance of a sidewalk vending temporary use permit unless he or she determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
- B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or
- C. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in these regulations.

If the sidewalk vending temporary use permit is denied, written notice of such denial and the reasons therefore shall be provided to the applicant.

5. A sidewalk vending temporary use permit shall be valid for twelve (12) months from the date of issuance, and shall expire and become null and void on the anniversary of its issuance. A person may apply for a sidewalk vending temporary use permit renewal on a form provided by the city prior to the expiration of their active sidewalk vending temporary use permit.
6. The City Manager may rescind a sidewalk vending temporary use permit issued to a sidewalk vendor for a fourth violation. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending temporary use permit upon the expiration of the term of the rescinded permit.
7. No sidewalk vending temporary use permit granted pursuant to these regulations shall be transferable.

OPERATING REQUIREMENTS

1. Sidewalk vendors shall comply with the following operating requirements:
 - A. No sidewalk vendor shall vend in the following locations:
 1. Within thirty (30) feet of any street intersection;
 2. Within twenty (20) feet of any fire hydrant, fire call box, electric transformer, or other facility dedicated to the emergency and public infrastructure functions of the city;
 3. Within twenty (20) feet of any driveway or driveway apron;
 4. Upon or within any roadway, median strip, or dividing section;
 5. Within two hundred (200) feet of a permitted farmers' market, special event, or an area designated for a temporary use permit. This prohibition shall be

limited to the operating hours of the farmers' market or special event, or the limited duration of the temporary use permit;

6. Upon landscaping or lawn within public a park or open space.
- B. No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles. No sidewalk vendor shall vend in a manner that blocks or obstructs the required Americans with Disabilities Act of 1990 access standards for accessibility. Sidewalk vendors must at all times provide a clearance of not less than three (3) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices;
- C. Sidewalk vending is permitted one half hour after sunrise to one half hour before sunset daily, except as follows:
 1. On the Plaza (defined under AMC Title X, Chapter 1, Sec. 10800), sidewalk vending shall be permitted between 10:00 a.m. and 1:30 a.m.
 2. In residential areas, sidewalk vending shall be permitted one hour after sunrise to one hour before sunset.
 3. In nonresidential areas, the limit on hours of operation shall not be more restrictive than the hours of operation of other businesses or uses on the same street.
- D. Stationary sidewalk vendors within the interior Plaza shall operate in three (3) designated Arcata Plaza Stationary Sidewalk Vending Spaces, available daily on a first-come, first-served basis, in order to ensure public health and safety for pedestrian travel through the Plaza.
- E. Stationary sidewalk vendors shall not vend at any park where the city has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- F. Sidewalk vendors shall provide a minimum of one solid waste receptacle and one recyclable materials receptacle for customers and ensure compliance with AMC Title V, Chapter 3—Solid Waste Management, and the City's organic material diversion requirements. Prior to leaving any vending location, the sidewalk vendor shall pick up, divert, and dispose of all trash, recyclables and organic waste generated by the vending operations or the vendor's customers within a fifteen (15) foot radius of the vending location. All waste shall be removed to an off-site, non-City of Arcata disposal site on a daily basis. Vendors must be familiar with and adhere to the Single-Use Disposable (SUD) requirements found in AMC Title V, Chapter 3.5, Article 3—Foodware Waste Reduction. All single-use disposable foodware must be fiber-based compostable and free of poly-fluorinated chemicals. Food vendors must charge a \$0.25 fee per order for food served in a disposable foodware. Food Vendors must offer a \$0.25 discount per order for customers who bring their own reusable foodware for takeout.

- G. Vendors of food or food products shall possess and display in plain view on the vending cart a valid health permit from Humboldt County Department of Environmental Health.
- H. Sidewalk vendors shall possess at all times while vending, a valid sidewalk vending temporary use permit issued pursuant to these regulations, as well as any other permit or license required by the city and any other appropriate governmental agency.
- I. Sidewalk vendors shall comply with all applicable state and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulations; noise standards; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).
- J. No vending cart shall become a permanent fixture on the vending site or be considered an improvement to real property.

ENFORCEMENT AND ADMINISTRATIVE CITATIONS

1. Pursuant to state law the following are the enforcement mechanisms the City can utilize related to sidewalk vending.
2. The City shall take appropriate steps to educate and inform the public about the sidewalk vending permit requirements.
3. In addition to any other remedy available, any violation of these regulations by any person is subject to Administrative fines pursuant to California Government Code Section 53069.4, and pursuant to Title I, Chapter 3 of the Arcata Municipal Code.
4. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
5. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The city shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The 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.
6. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the city shall accept, in full satisfaction, twenty (20) percent of any administrative citation penalty amount imposed pursuant.

7. The City Manager may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.