

ORDINANCE NO. 18-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CENTRO REPEALING AND READOPTING IN ITS ENTIRETY CHAPTER 16, ARTICLE VIII, REGULATING PEDDLERS, SOLICITORS AND ITINERANT VENDORS TO COMPLY WITH UPDATED PROVISIONS OF STATE LAW REGARDING SIDEWALK VENDORS

Section 1. – The City Council of the City of El Centro finds as follows:

A. The City presently has solicitor, peddler, and itinerant vendor provisions and now wishes to update its regulations for sidewalk vending to comply with the changes in state law effective January 1, 2019 intended to decriminalize such sidewalk vending.

B. The provisions of this Article are directly related to health, safety and welfare concerns of both the community and sidewalk vendors.

C. The provisions of this ordinance, as revised, preserve the non-commercial character of residential areas; protect motorists from those in the median who may step or fall into traffic; preserve disabled accessibility on sidewalks, keep sidewalks available for pedestrians as well as protecting vendors and preserving their ability to vend, and protect public health by prohibiting littering.

D. The provisions of this ordinance are necessary to ensure the public's continued use and enjoyment of public parks and are necessary to prevent a concentration of commercial activity that could interfere with recreational uses.

E. Unregulated vending may cause litter and unsanitary conditions on sidewalks and in other public areas and is unfair to those who are licensed.

Section 2 – The City Council of the City of El Centro does ordain as follows:

Chapter 16, Art. VIII, Division 1 is repealed in its entirety and readopted to read as follows:

Article VIII. – Sidewalk vendors

Division 1 - Generally

Sec. 16-274 - Definitions; Exemption

Generally as used herein, the following words shall have the meanings set out here:

Sidewalk vendor or “vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-drive cart, wagon, showcase, rack, or other non-motorized conveyance, or from his/her person, upon a public sidewalk or other public path, and includes those selling for charitable purposes, and also includes “roaming sidewalk vendor” and “stationary sidewalk vendor as well as solicitor, peddler or itinerant vendor.

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

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

- a. Notwithstanding, “sidewalk vendor” or “vendor” as used in this Division shall not apply to mobile food facilities that are governed by Chapter 29, Art. IV, Division 2 of this Code.

Sec. 16-275 - Licenses required for vending

All vendors must have a current business license as required by Division 2 of this Article and must comply with all applicable provisions of local, state and federal law and regulations.

Sec. 16-276 – Vending in residential areas

- a. It shall be unlawful for any stationary sidewalk vendor to enter or go in or upon private premises within an area of the City zoned and/or used for residential purposes (“residential areas”).

- b. A roaming sidewalk vendor may vend in residential areas on public sidewalks only during the hours of 8:00 a.m. to 5:00 p.m. daily from October through June, and 8:00 a.m. to 8:00 p.m., from July through September. A resident who does not wish to be contacted by such vendors, peddlers or solicitors may post a statement or notice to the effect that they are requested not to enter the premises or contact the resident.

Sec. 16-277 – Vending in any City Right of Way

- a. City “right of way” means only city sidewalks and does not include road rights of way or medians or right of way belonging to other public agencies adjacent to public streets unless specifically allowed to do so in writing by such other public agencies.

- b. No vendor may operate within or on public streets or traffic medians because of danger to the traveling public and to the vendor.

- c. A vendor must vend from such sidewalks and cannot block access to the sidewalk in a manner that restricts use of such sidewalks by pedestrians or blocks disabled access.

- d. A vendor cannot block driveways, curb cuts, entrances or exits or vend within any area where there is construction.

- e. No vending is allowed in the street where there is not a sidewalk.

Sec. 16-278 – Vending in City Parks

- a. As used here, "City parks" means and includes all parks and associated restrooms, snack bar, gathering and parking areas."

- b. Vending of food in City parks is regulated by the provisions of Chapter 29, Article IV, Division 2 of the City Code regarding mobile food facilities.

- c. Sidewalk Vendors governed by this Article III Divisions 1 and 2 desiring to vend in public parks must obtain the prior written consent for such vending by obtaining a permit from the Park & Recreation Division pursuant to City Code Section 19-40.

- d. The City reserves the right to enter into an agreement with an exclusive concessionaire for vending in one or more parks for any applicable period of time and may rotate such vendors.

e. No vendor may vend in a City park during any scheduled event, whether it is a City event or a private event for which a temporary use permit or park facilities use permit has been obtained.

f. In addition to the requirements of this Article III, Division 1 and 2, any vendor operating in a City park is subject to the rules and regulations for activities and vending within that park. No vendor may operate on a sports field whether or not that field is in use.

g. A vendor may vend in a park only during the hours such park is open.

Sec. 16-279 – Vending in Commercial Zones

a. Vending is allowed in a commercial zone only during the hours that the majority of other businesses are open.

b. Vendors shall not block access to or egress from such businesses and generally shall remain no less than 8 feet from any entrance or exist.

c. Vendors may not utilize private solid waste receptacles or those belonging to other businesses without consent from that business.

d. Vendors may not utilize private restrooms without the prior consent of the business.

Sec. 16-280 – Vending in or on other City or public property

a. Vending shall be allowed on public City property only as provided in this Division, and is not allowed in City parking lots or in City owned, leased or managed facilities, including but not limited to City parking lots City Hall and the courtyard, the Adult Center, the Aquatic Center, Martin Luther King Sports Pavilion, El Centro Regional Bus Transfer Terminal, and Sidewinder Skate Park.

b. The City may allow such vending pursuant to a temporary use permit.

c. Unless specifically permitted by that public agency, and subject to the business license requirements of this Article, there shall be no vending on the property of other public agencies, including but not limited to Imperial Irrigation District (and its right of way), school districts, and El Centro Regional Medical Center.

Sec. 16-281 – Regulations applicable to all vendors in all zones

a. No vendor may use sound amplifying equipment, unless it complies with the noise limits established in section 17.1-4 of the City Code.

b. No lighting may be used except localized lighting that is used by the vendor for visibility after dark.

c. Signage must be limited only to the vending offered and must be displayed upon the cart or person. Banners, wind feathers or free-standing signage is prohibited.

d. No vending of alcohol, tobacco, drugs or cannabis, firearms, weapons, spray cans, or pornography.

e. No verbal solicitation of business from pedestrians or persons in vehicles, and no sales to persons in vehicles.

f. No obstruction or interference with the free flow of pedestrian or vehicular traffic, including but not limited to access to or from any parking lot, business, public building, or dwelling unit.

g. No restriction of visibility area sight distance at any driveway or intersection as established in section 29-143(11) of the City Code.

h. No littering or release of any liquids.

i. The vendor shall maintain vehicular and pedestrian circulation and access consistent with the Americans with Disabilities Act and all local and state regulations.

j. A stationary vendor may stay in one location only for two hours and must move more than 1000 feet in any direction.

k. A stationary vendor may not store materials or equipment around his or her vending area.

l. The vendor shall not allow loitering around his/her vending area.

Sec. 16-282 – Enforcement of Division 1 requirements

a. A violation of the requirements of this Division 1 is punishable only by administrative citations, as follows: \$100 for the first violation; \$200 for a second violation within one year of the first violation; and \$500 for each additional violation within one year of the first violation.

b. The City may rescind the vendor's business license for the remaining term of that business license upon a fourth or subsequent violation and the vendor may be denied a subsequent business license.

Sec. 16-283 – Administrative Fine Reduction

a. At the time of service of an administrative citation pursuant to Section 16-281(a) or Section 16-284(a), the City shall provide the vendor with notice of the right to request an ability-to-pay determination and shall provide instructions for how to do so.

b. Notwithstanding the time frames set out in Chapter 18, Art. XI of the City Code regarding administrative citations, any vendor served with a citation under Section 16-281(a) or Section 16-284(a) may request an ability-to-pay determination at any time while the citation remains unpaid.

c. The City will accept 20% of the administrative fine as full payment when the vendor applying for the ability-to-pay determination meets any of the following criteria as a recipient of public benefits or poverty guidelines:

(1) Supplemental Security Income (SSI) and State Supplementary Payment (SSP) (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(2) California Work Opportunity and Responsibility to Kids Act (CalWORKs) (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or a federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program (Section 10553.25 of the Welfare and Institutions Code).

(3) Supplemental Nutrition Assistance Program (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code) or the California Food Assistance Program (Chapter 10.1 (commencing with Section 18930) of Part 6 of Division 9 of the Welfare and Institutions Code).

(4) County Relief, General Relief (GR), or General Assistance (GA) (Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code).

(5) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9 of the Welfare and Institutions Code).

(6) In-Home Supportive Services (IHSS) (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code)

(8) A person whose 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 paragraph (2) of Section 9902 of Title 42 of the United States Code.

The City also may allow the person cited to complete community service in lieu of paying the fine, may waive the fine in whole or in part, or may offer an alternative settlement and disposition.

DIVISION 2. – Licensing

Sec. 16-284. – Business License Required.

a. Every vendor shall obtain and maintain a City business license pursuant to the provisions of Chapter 16, Art. II of this Code and specifically Sections 16-54 and 16-55.

b. The business license application shall require the current name and mailing address for the vendor and for the company for which he/she works, a description of the merchandise to be sold and any California seller's permit number,

Sec. 16-285 – Enforcement of Permit requirement – Vending without a permit

a. Notwithstanding the provisions of Section 16-30 of this code, vending without a business license is not punishable by criminal prosecution but only by administrative citation, with fines as follows: \$250 for the first violation, \$500 for the second violation within one year of the first violations; \$1,000 for each additional violation within one year of the first violation.

b. In the event the vendor obtains a valid business license after imposition of the administrative fine, the fines set out in this Section 16-284 shall be reduced to those of administrative fines set out in Section 16-281(a), above.

c. The provisions of Section 16-284 (b) shall also apply to fines under this Section.

Sec. 16-286. – 16- 300 - Reserved

Section 3. – Effective Date: This ordinance shall be effective thirty (30) days from the date of its adoption. Within fifteen (15) days after adoption, it shall be published once in a newspaper, published and circulated within the City of El Centro, California. This ordinance shall not be applicable to completed applications filed with the City before its effective date.

INTRODUCED at an adjourned regular meeting of the City Council of the City of El Centro California, held on the 29th day of October, 2018.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of El Centro, California, held on the 6th day of November, 2018.

CITY OF EL CENTRO

By: _____
Cheryl Viegas-Walker, Mayor

ATTEST:

By: _____
L. Diane Caldwell, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

By: _____
Elizabeth L. Martyn, City Attorney

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STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) ss
CITY OF EL CENTRO)

I, L. Diane Caldwell, City Clerk of the City of El Centro, California, do hereby certify that the foregoing Ordinance No. 18-09 had its first reading on October 29, 2018, and had its second reading on November 6, 2018, and was passed by the following vote:

AYES: Cardenas, Viegas-Walker, Garcia, Silva
NOES: None
ABSENT: Jackson
ABSTAINED: None

AYES: Cardenas, Jackson, Viegas-Walker, Garcia Silva
NOES: None
ABSENT: None
ABSTAINED: None

By: _____
L. Diane Caldwell, City Clerk