

ORDINANCE NO. 2025-06

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING SANTA CRUZ MUNICIPAL CODE SECTION 5.82 RELATED TO SIDEWALK VENDING REGULATIONS

WHEREAS, in 2019, California Senate Bill ("SB") 946 (Sidewalk Vendors) became law, decriminalizing commercial sidewalk vending and limiting local governments' ability to restrict sidewalk vending;

WHEREAS, on April 12, 2022, the City passed Ordinance No. 2022-03, which created the Santa Cruz Municipal Code Chapter 5.82, "Sidewalk Vending;" to promote public health, safety, and welfare, through a comprehensive City-wide dedicated sidewalk vending permitting and regulation scheme that both complies with state law and is effective at regulating sidewalk vending in public spaces;

WHEREAS, on February 12, 2023, the City amended the Ordinance in Ordinance No. 2023-04;

WHEREAS, the intent of this ordinance is to update the current sidewalk vending permitting and regulation scheme to effectively regulate sidewalk vending in a way that: (a) complies with state law; (b) addresses objective public health, safety, and welfare concerns; (c) promotes the public's use and enjoyment of natural resources and recreational opportunities; and (d) prevents an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of City parks and open spaces.

WHEREAS, this has no impact on the natural environment, because it does not create any physical change to the environment. Therefore, it is not considered a project under CEQA. However, if it were considered a project, it would be exempt from review under the CEQA Guidelines Section 15061(b)(3) (known as the "Common Sense" exemption) in that it would not reasonably be seen to create a significant impact on the environment. It would also be exempt under Section 15306 (Information Collection) of the CEQA Guidelines in that it relates to analysis and provision of information to the Council.

NOW, THEREFORE, BE IT ORDAINED By the City of Santa Cruz as follows:

**Section 1. Santa Cruz Municipal Code Section 5.82.020 "Definitions" is hereby amended as follows:**

**5.82.020 DEFINITIONS.**

For the purpose of this chapter, the following words and phrases are defined as follows:

- a) "City-demarcated vending and display zones" means those areas specifically set aside for sidewalk vending, operating vending display devices, operating other display devices, and/or

conducting First Amendment activities. The city-demarcated vending and display zones on Pacific Avenue are marked on the sidewalk, and an up-to-date, accurate copy of the map of Pacific Avenue city-demarcated vending and display zones shall be posted on the city's website. The city-demarcated vending and display zones on Pacific Avenue must permit a reasonable amount of sidewalk vending on Pacific Avenue, but also must limit vending on Pacific Avenue solely based on objective health, safety, or welfare concerns.

- b) "Director" means the director of the planning and community development department or their designee.
- c) "Farmers' market" or "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.
- d) "Food" means raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, chewing gum and/or any other items defined as food by the California Retail Food Code.
- e) "Food sidewalk vendor" means any type of sidewalk vendor offering products defined as food.
- f) "Mobile vendor" means any person in charge of or driving any motorized mobile vending vehicle requiring a state driver's license to operate, either as an agent, employee, or otherwise under the direction of the owner.
- g) "No vending or limited vending zone" means an area where sidewalk vending is prohibited or limited due to objective public health, safety, or welfare concerns. The city council may establish no vending or limited vending zones by resolution, as set forth in Section 5.82.080(c).
- h) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- i) "Sidewalk vending" means to sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter food, goods, or merchandise on any public sidewalk, pedestrian path, park, or other public property, with or without the assistance of a vending display device, or to require someone to pay a fee or to set, negotiate, or establish a fee before providing any such food, goods, or merchandise, even if characterized by the sidewalk vendor as a donation.
- j) "Sidewalk vending permit" means a permit or card issued by the city to a sidewalk vendor pursuant to Section 5.82.040.
- k) "Sidewalk vendor" means a person who sells food or merchandise from a vending display device or from one's person, upon a public sidewalk, pedestrian path, park, or other public property. This term is inclusive of both roaming and stationary sidewalk vendors.

- l) “Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location.
- m) “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.
- n) “Temporary special permit” is any 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 pursuant to Chapter 15.34, a major public special event permit pursuant to Chapter 10.64, or any other type of city-issued temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts.
- o) “Vending display device” means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, nonmotorized conveyance (including trailers), freestanding table, rack, chair, box, stand, or any container, structure, or other object used or capable of being used for holding, selling, advertising, or displaying tangible things, together with any associated seating facilities. “Vending display device” does not include any street furniture such as benches or planters, any other structure permanently installed by the city of Santa Cruz or with the consent of the city of Santa Cruz, or news racks placed in conformity with the provisions of this code regulating news racks.
- p) “Enforcement Official” means any person designated by the City Manager to enforce this chapter and includes, but is not limited to: planning and community development department or parks and recreation department staff tasked with code enforcement or compliance, all Santa Cruz police department sworn personnel and community service officers, any person designated to issue citations under 4.02.021, and/or any city-contracted code enforcement officer or specialist.

**Section 2. Santa Cruz Municipal Code Section 5.82.050 “Sidewalk Vending Permit Approval, Conditions, Denial, or Revocation” is hereby amended as follows:**

**5.82.050 SIDEWALK VENDING PERMIT APPROVAL, CONDITIONS, DENIAL, OR REVOCATION.**

- a) The director or their designee shall approve the issuance of the sidewalk vending permit unless they determine that:
  - 1) Information contained in the application, or supplemental information requested from the applicant, is false in any material detail; or
  - 2) The proposed operations contained in the application are contrary to the provisions of this chapter, or are contrary to any regulations promulgated pursuant to Section 5.82.030(b); or
  - 3) The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or

- 4) The applicant has failed to demonstrate an ability to conform to the operating standards set forth in this chapter or any standards set forth in regulations promulgated pursuant to Section 5.82.030(b); or
  - 5) The applicant has failed to pay or otherwise resolve any previous administrative citations associated with a previous violation of this chapter; or
  - 6) The location of the proposed vending operations has already been approved for another use (including potentially other vending operations) at the time the applicant proposes to vend at the subject location; or
  - 7) The proposed vending operations are illegal, and/or the city's approval of a sidewalk vending permit would be contrary to legal requirements applicable to the city.
- b) If the permit is denied, written notice of such denial and the reasons therefore shall be provided to the applicant.
- c) The director or their designee may add reasonable sidewalk vending permit conditions, regulating the time, place, and manner of sidewalk vending. Such conditions must be (1) consistent with this chapter and any regulations promulgated pursuant to Section 5.82.030(b), and (2) directly related to objective public health, safety, or welfare concerns, or directly related to legal requirements applicable to the city. A violation of the sidewalk vending permit conditions is considered a violation of this chapter.
- d) Use of a shade structure may be requested in a sidewalk vending permit application and park's vending permit application, and such request will be granted if: (1) there is adequate space for the shade structure at the proposed vending location (including any space needed for pedestrians (including disabled pedestrians), vehicles, and bicyclists); (2) use of the shade structure at the proposed location would not adversely impact or put at risk public health, safety, or welfare; and (3) use of the shade structure at the proposed location would not be contrary to legal requirements applicable to the city.
- e) Use of a generator may be requested in a sidewalk vending permit application, and such request will be granted if the proposed generator use: (1) will not create unreasonable noise, trip and fall hazards, or other adverse risks or impacts to public health, safety, or welfare; (2) is not otherwise illegal or contrary to legal requirements applicable to the city; and (3) is approved by all appropriate regulating entities, such as the Monterey Bay Air Resources District (MBARD), if those appropriate regulating entities require generator use approval.
- f) The director or their designee may revoke a sidewalk vending permit for a fourth or subsequent violation of this chapter within a twenty-four-month period. A sidewalk vendor whose permit is revoked may apply for a new sidewalk vending permit upon the expiration of the term of the rescinded permit.

- g) Any person whose application for a sidewalk vending permit is denied, revoked, or conditioned in a way that the applicant believes is not in accordance with applicable legal requirements may appeal such decision to the city manager by filing a written notice of appeal with the city manager or their designee within ten calendar days after receipt of the notice of denial, conditions, or revocation. The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedure contained in Title 4. If the appeal is successful, the hearing officer will order the city to return the fee paid for appeal.

**Section 3. Santa Cruz Municipal Code Section 5.82.080 “Restricted Vending Times and Locations” is hereby amended as follows:**

**5.82.080 RESTRICTED VENDING TIMES AND LOCATIONS.**

- a) Unless specifically permitted by another provision of this municipal code, to ensure rapid access by first responder and emergency personnel; to improve sidewalk accessibility for persons with disabilities; to facilitate ingress into and egress from vehicles, rights-of-way, buildings, and public spaces; to maximize use and promote maintenance of public rights-of-way, parks, the beach, and other public spaces; to help preserve and protect sensitive habitats, community landmarks, natural and scenic areas and the Monterey Bay National Marine Sanctuary; and to reduce the city’s exposure to civil liability, stationary sidewalk vending is not permitted in the following limited areas:
- 1) Year round, in areas on Pacific Avenue that are outside of the city-demarcated vending and display zones;
  - 2) From November 1st through March 31st, on the streets and sidewalks of Beach Street between the Municipal Wharf and Third Street that are outside of the city-demarcated vending and display zones;
  - 3) Year round, in any city park or beach where the City has entered into an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire;
  - 4) Year round, in areas that are zoned exclusively residential, including within residentially zoned parks; and
  - 5) Year round, within the city’s open space, natural, and scenic areas, which includes Arana Gulch, Pogonip, Moore Creek, the San Lorenzo Riverwalk, and the West Cliff Drive pedestrian/bike path.
- b) For the same reasons identified in subsection (a), both stationary and roaming sidewalk vending shall not be permitted in the following limited areas:
- 1) From April 1st through October 31st, on the streets and sidewalks of Beach Street between the Municipal Wharf and Third Street;

- 2) Year round, on the vehicle and pedestrian thoroughfares of the Santa Cruz Municipal Wharf;
  - 3) Year round, on that portion of Main Beach over which the city has an easement for recreation and beach purposes only pursuant to a 1933 superior court judgment quieting title to the Seaside Company, which mandates “that no peddling, soliciting or bartering shall be permitted thereon”;
  - 4) Year round, on the Beach Street Promenade Deck;
  - 5) Year round, on a bike path, a street (including within on-street parking spaces), within a driveway, or in a public parking lot; and
  - 6) Within five hundred feet of a permitted certified farmer’s market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the farmer’s market or swap meet, or the limited duration of the temporary special permit.
- c) The city council, by resolution, may from time to time designate no vending or limited vending zones due to objective health, safety, or welfare concerns. In designating a no vending or limited vending zone, the city council shall first determine that vending without limitation in the area would impede or interfere with public health, safety, or welfare.
- d) This section shall not be construed as prohibiting events that are conducted pursuant to, and in accordance with, Chapters 10.64, Major Public Special Events, and 10.65, Public Gathering and Expression Events.

**Section 4. Santa Cruz Municipal Code Section 5.82.090 “Vending in City Beaches and Parks” is hereby amended as follows:**

**5.82.090 VENDING IN CITY BEACHES AND PARKS.**

- a) An additional parks and recreation vending permit is required for sidewalk vendors who wish to operate in a city park, beach, or other facility within the jurisdiction of the parks and recreation department, including that portion of the Beach Street sidewalk operated by the parks and recreation department, between the Municipal Wharf and Third Street. No person may vend in a city park, city beach, or facility within the jurisdiction of the parks and recreation department without first obtaining a parks vending permit.
- b) The director of parks and recreation, or their designee, may refuse to grant a parks vending permit if:
  - 1) The sidewalk vendor does not yet have a sidewalk vending permit; or
  - 2) If granting the parks vending permit would negatively impact objective health, safety, or welfare concerns; or

- 3) If denial is necessary to ensure the public's use and enjoyment of natural resources or recreational opportunities; or
  - 4) If denial of the permit is necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park or beach; or
  - 5) If the location of the proposed vending operations has already been approved for another use (including potentially other vending operations) at the time the applicant proposes to vend at the subject location; or
  - 6) If the vending operations are illegal, or the city's approval of the permit would be contrary to legal requirements imposed on the city.
- c) If the permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.
- d) The director of parks and recreation, or their designee, may attach conditions to a parks vending permit. All conditions must be: (1) directly related to objective health, safety, welfare concerns, or directly related to legal requirements imposed on the city; or (2) necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; or (3) necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.
- e) Any person aggrieved by a decision of the parks and recreation department to issue, deny issuance, condition, or rescind a parks vending permit may appeal the decision to the city manager or their designee within ten calendar days after receipt of the notice of denial, conditions, or revocation. The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedure contained in Title 4. If the appeal is successful, the hearing officer shall order the city to return the fee paid for appeal.

**Section 5. Santa Cruz Municipal Code Section 5.82.120 "Impoundment" is hereby amended as follows:**

**5.82.120 IMPOUNDMENT.**

- a) The city may impound vending display devices, food, goods, and/or merchandise that:
- 1) Reasonably appear to be abandoned on public property; or
  - 2) Are displayed, offered, or made available for rent or sale by a sidewalk vendor who (A) operates in violation of this chapter; and (B) refuses or fails to provide identification, as required by Section 5.82.110(f); and (C) refuses to remove their vending display device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a city enforcement official; or

- 3) Are displayed, offered, or made available for rent or sale by a sidewalk vendor who (A) does not possess a valid applicable sidewalk vending permit (and/or, if applicable, a valid applicable parks vending permit); and (B) also refuses to remove their vending display device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a city enforcement official; or
  - 4) Is (A) creating an imminent and substantial safety or environmental hazard by the location of the vending display device or the nature of the goods being offered for sale, and (B) refuses to remove their vending display device, food for sale, and/or goods/merchandise for sale after being instructed to do so by a city enforcement official; or
  - 5) Are displayed, offered, or made available for rent or sale by a sidewalk vendor who has, within a twenty-four-month period, been issued three or more administrative citations for violations of this chapter.
- b) The city may immediately dispose of impounded materials that are perishable or cannot be safely stored.
  - c) An aggrieved vendor may, within ten days, appeal the impoundment of their property by requesting an administrative hearing before a hearing officer appointed by the city under Title 4, and if successful in their appeal, may have their property returned without paying an impound fee. The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedure contained in Title 4. Any appeal fee paid by the sidewalk vendor shall be returned to the sidewalk vendor if they are successful on appeal.
  - d) An individual may recover impounded materials upon paying applicable impound fees and demonstrating proper proof of ownership.
  - e) The city council may by resolution adopt impound fees, which shall reflect the city's enforcement, investigation, storage, and impound costs.
  - f) Any unclaimed items will be considered abandoned and forfeited to the city after ninety days following impoundment.

**Section 6.** If any section or portion of this ordinance is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the ordinance, which shall continue in full force and effect.

**Section 7.** This ordinance shall take effect and be in full force thirty (30) days after final adoption.



ORDINANCE NO. 2025-06

PASSED FOR PUBLICATION this 11<sup>th</sup> day of March 2025, by the following vote:

AYES: Councilmembers Trigueiro, Brunner, Newsome, Golder, O'Hara; Vice Mayor Kalantari-Johnson; Mayor Keeley.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: \_\_\_\_\_  
Fred Keeley, Mayor

ATTEST: \_\_\_\_\_  
Bonnie Bush, City Clerk Administrator

PASSED FOR FINAL ADOPTION this 25<sup>th</sup> day March 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: \_\_\_\_\_  
Fred Keeley, Mayor

ATTEST: \_\_\_\_\_  
Bonnie Bush, City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2025-06 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

\_\_\_\_\_  
Bonnie Bush, City Clerk Administrator