



CITY of ESCONDIDO

ECONOMIC DEVELOPMENT SUBCOMMITTEE

Thursday, March 9, 2023 at 3:15 p.m.
Mitchell Room, 201 North Broadway, Escondido, CA 92025

WELCOME TO YOUR SUBCOMMITTEE MEETING

We welcome your interest and involvement in the legislative process of Escondido. This agenda includes information about topics coming before the Subcommittee.

MAYOR

Dane White

DEPUTY MAYOR

Joe Garcia (District 2)

CITY MANAGER

Sean McGlynn

CITY ATTORNEY

Michael McGuinness

CITY CLERK

Zack Beck

HOW TO WATCH

The City of Escondido provides the following way to watch a Subcommittee meeting:

In Person



201 N. Broadway, Escondido, CA 92025



CITY *of* ESCONDIDO

ECONOMIC DEVELOPMENT SUBCOMMITTEE

MEETING AGENDA

1. Roll Call
2. Oral Communication
3. Review of Proposed Street Vendors Regulations
4. Adjournment

HOW TO PARTICIPATE

The City of Escondido provides one way to communicate with the Subcommittee during a meeting:

In Person



Fill out Speaker Slip and Submit to City Clerk

ASSISTANCE PROVIDED

If you need special assistance to participate in this meeting, please contact our ADA Coordinator at (760) 839-4643. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility. Listening devices are available for the hearing impaired – please see the City Clerk.



Chapter 16
LICENSE AND BUSINESS REGULATIONS GENERALLY
ARTICLE 8. SIDEWALK VENDING

Sec. 16-410. Title.

Sec. 16-411. Definitions.

Sec. 16-412. Sidewalk vending permit requirement.

Sec. 16-413. Insurance requirements.

Sec. 16-414. Sidewalk vending permit issuance.

Sec. 16-415. Sidewalk vending permit denial, revocation and non-renewal.

Sec. 16-416. Notice of denial, revocation or non-renewal.

Sec. 16-417. Appeal of denial, revocation or non-renewal.

Sec. 16-418. Sidewalk vending generally.

Sec. 16-419. Sidewalk vending locations.

Sec. 16-420. Sidewalk vending in recreational areas.

Sec. 16-421. Roaming and stationary sidewalk vending.

Sec. 16-422. Sidewalk vending equipment.

Sec. 16-423. Cooking equipment.

Sec. 16-424. Prohibited sales.

Sec. 16-425. Penalties and fines.

Sec. 16-410. Title.

This article shall be known as the Safe Sidewalk Vending Ordinance.

Sec. 16-411. Definitions.

The following definitions apply to this article; words and phrases whenever used in this article shall be construed as defined in this section, unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Recreational area(s) shall have the same meaning as recreational area in section 18-67(c) of this code.

Residential areas mean any area that is zoned for residential uses, including, R-A, R-E, R-1, R-T, R-2, R-3, R-4 and R-5 zones, and areas of specific plans designated exclusively for residential uses.

Roaming sidewalk vendor(s) shall have the same meaning as roaming sidewalk vendor in section 51036 of the California Government Code.

Sidewalk vendor(s) or *vendor(s)* shall have the same meaning as sidewalk vendor in section 51036 of the California Government Code.

Stationary sidewalk vendor(s) shall have the same meaning as stationary sidewalk vendor in section 51036 of the California Government Code.

Vending equipment means any pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used for vending.

Sec. 16-412. Sidewalk vending permit requirement.

(a) All sidewalk vendors shall obtain a sidewalk vending permit even if the sidewalk vendor is employed or engaged by another person, or will use vending equipment owned by another person.

(b) Prior to applying for a sidewalk vending permit, a sidewalk vendor shall:

(1) obtain a valid California Department of Tax and Fee Administration seller's permit that notes the City of Escondido as a location or sub-location, which is valid for the duration of the sidewalk vending permit;

(2) for those sidewalk vendors selling food, obtain both:

(A) a valid County of San Diego Department of Environmental Health & Quality (DEHQ) Health Permit applicable to the vending equipment to be used for food preparation and storage to the extent required by law; and

(B) either a Manager's Food Safety Certificate or a San Diego County Food Handlers Card applicable to the sidewalk vendor to the extent required by law;

(3) obtain insurance as required by section 16-413; and

(4) obtain a business license issued to the sidewalk vendor, or if the sidewalk vendor is an employee, the person employing the sidewalk vendor obtains a business license.

(c) To obtain a sidewalk vending permit, a sidewalk vendor must submit the following information on a permit application form provided by the city:

(1) the name, address and telephone number of the sidewalk vendor;

(2) if the sidewalk vendor is an employee, then also the employer's name, address and telephone number;

(3) proof of valid, government-issued identification;

(4) one (1) passport size photograph of the sidewalk vendor applying for the permit;

- (5) proof of all requirements, as applicable, under subsection (b);
 - (6) whether the sidewalk vendor will be selling food, merchandise, or both;
 - (7) if the sidewalk vendor is selling food, a description of the type of food to be sold, whether such foods are prepared on site, and whether the sidewalk vendor requires a heating element to prepare the food;
 - (8) a signed statement acknowledging sidewalk vending regulations;
 - (9) a signed waiver of release and indemnification; and
 - (10) such other information as the City Manager or designee deems reasonably necessary to administer this article.
- (d) Each sidewalk vending permit application shall be accompanied by a non-refundable permit fee as established by resolution of the city council.

Sec. 16-413. Insurance requirements.

All sidewalk vendors shall obtain and maintain throughout the duration of the permit issued under this article commercial general liability insurance in a form and with a coverage amount acceptable to the city's risk and safety manager based on the size and risk factors of the business. The vendor shall name the city as an additional insured. The cancellation, limitation or non-renewal of the commercial general liability insurance required by this section shall render a sidewalk vending permit null and void.

Sec. 16-414. Sidewalk vending permit issuance.

- (a) Sidewalk vending permits shall be issued by the City Manager or designee.
- (b) Sidewalk vending permits shall be valid for one (1) year from the date of issuance and must be renewed annually.
- (c) Each sidewalk vendor who is issued a sidewalk vending permit or who renews a sidewalk vending permit shall be given a picture identification card by the city.
- (d) A sidewalk vendor shall notify the City Manager or designee in writing of any material changes to the facts provided in a sidewalk vending permit application before vending.
- (e) A sidewalk vending permit that is sold, assigned, or transferred is null and void.

(f) Sidewalk vending permits do not provide an exclusive right to operate on any public space, pedestrian path, sidewalk or portions thereof.

Sec. 16-415. Sidewalk vending permit denial, revocation and non-renewal.

(a) A sidewalk vending permit may be revoked for the term of that sidewalk vending permit upon the fourth violation or subsequent violations of this article.

(b) A sidewalk vending permit shall not be issued or renewed if the sidewalk vendor owes any outstanding administrative fines associated in any way with a previous violation of this article by the sidewalk vendor.

(c) A sidewalk vending permit application may also be denied or a sidewalk vending permit may be revoked or not renewed for any of the following reasons:

(1) provision of false statements, information, or facts by the sidewalk vendor in a sidewalk vending permit application;

(2) failure of the sidewalk vendor to notify the City Manager or designee of any material changes to the facts provided in a sidewalk vending permit application after the issuance of a permit, including, but not limited to, lapse of commercial general liability insurance; and

(3) violation of other local, state, or federal laws while operating as a sidewalk vendor.

Sec. 16-416. Notice of denial, revocation or non-renewal.

(a) Service of notice of denial of a sidewalk vending permit application, or revocation or non-renewal of a sidewalk vending permit shall be by first class mail to the address listed on the initial application or to any subsequent address provided to the city by the sidewalk vendor.

(b) Notice of denial of a sidewalk vending permit application, or revocation or non-renewal of a sidewalk vending permit shall include:

(1) any and all specific grounds for denial, revocation or non-renewal,

(2) the effective date of the denial, revocation or non-renewal and

(3) the right to appeal the denial, revocation or non-renewal.

Sec. 16-417. Appeal of denial, revocation or non-renewal.

(a) Any sidewalk vendor whose application for a sidewalk vending permit is denied or whose sidewalk vending permit is revoked or not renewed may appeal such decision to the City Manager or designee by filing a written notice of appeal with the City Manager or designee within 10 calendar days after service of the notice of denial, revocation or non-renewal. Service shall be deemed complete when the notice is mailed by first class mail to the address listed in the application or the sidewalk vending permit.

(b) The City Manager or designee shall review and render a decision on the appeal within 90 calendar days of receipt of written notice of appeal. The decision made by the City Manager or designee shall be final.

(c) A sidewalk vendor shall not vend during the period which the City Manager or designee is reviewing and rendering a decision on the appeal.

Sec. 16-418. Sidewalk vending generally.

(a) Sidewalk vendors shall visibly display their business license and sidewalk vending permit on their vending equipment at all times when vending. A sidewalk vendor vending from their person shall keep their business license and sidewalk vending permit on their person at all times when vending.

(b) Sidewalk vendors shall visibly wear at chest height any photo identification given by the city at all times when vending.

(c) Sidewalk vendors shall not vend to any individuals traveling within motor vehicles along a public roadway.

(d) Sidewalk vendors shall not display any food or merchandize less than 28 inches off the ground or attached to or on top of any utility pole, street sign, bus stop, trash can, traffic pole, or other public structure.

(e) Sidewalk vendors shall ensure that the 10-foot area immediately surrounding the vending equipment is kept clean and free of trash and debris.

(f) Sidewalk vendors who vend any food, beverage, or liquid product must implement the following best management practices:

(1) possess spill kits that are comprised of paper towels, cloth towels, cat litter, or sand at all times while vending;

(2) remove all spill material from the public right-of-way, sidewalks and pedestrian paths once the spilled material is absorbed off the ground;

(3) capture and prevent spills leaving the area and moving into the surrounding streets from entering the storm water conveyance system, including curbs, gutters, and storm drains;

(4) properly dispose of grease, either by hiring and utilizing an on-site grease collector or collection system, or at an acceptable facility;

(5) shall not dispose any water or rinse residue used for vending activities (e.g., cooler water, ice, food preparation water) in the curbs, gutters, streets, drains, or on any public property; and

(6) provide a trash receptacle large enough to accommodate all trash or recycling litter generated by vending activities, including, but not limited to paper products, food waste, utensils, bottles and cans, to ensure the proper disposal of trash or recycling litter and prevent the disposal of all trash or recycling litter in the curbs, gutters, streets, drains, or on any public property.

(g) The City Manager may issue administrative orders implementing sidewalk vending guidelines when such guidelines are published and include justification that such guidelines are directly related to objective health, safety or welfare concerns.

Sec. 16-419. Sidewalk vending locations.

(a) Except as otherwise provided in section 16-420, sidewalk vendors shall only vend on sidewalks or other pedestrian paths.

(b) No vending of any kind shall take place in the following locations:

(1) any area that blocks pedestrian or vehicle access;

(2) any area that obstructs traffic signals or regulatory signs;

(3) any painted or raised traffic island or median;

(4) any bike path;

(5) any super prime arterial, prime arterial, super major roads and major roads as depicted in the Circulation Element of the Escondido General Plan;

(6) within 18 inches from the edge of a curb;

(7) within 15 feet of any:

- (A) outdoor dining or patio area,
- (B) marked crosswalk,
- (C) curb ramp or access ramp designed for persons with disabilities,
- (D) building entrance or exit,
- (E) fire escape or emergency exit, or
- (F) bus stop,

(8) within 25 feet of any:

- (A) intersection,
- (B) curb which has been designated as red or blue,
- (C) driveway,
- (D) fire hydrant, or
- (E) loading zone,

(9) within 50 feet of any other sidewalk vendor;

(10) within 100 feet of any:

- (A) vehicle entrance of any fire station, police department, hospital or any other structure involved in health and safety emergency matters, or
- (B) event that is issued a special event permit or temporary use permit by the city, including farmers markets, street fairs, parades and other private events;

(11) within 500 feet of any:

- (A) freeway off ramp or on ramp; and

(B) private or public K-12 school while children are going to or from the school, during a recess period or within 30 minutes before or after the school's opening or closing hours.

Sec. 16-420. Sidewalk vending in recreational areas.

The following provisions apply in recreational areas:

- (a) Sidewalk vendors shall only vend within the hours of operation of any recreational area in which they are vending. Where there are no designated hours of operations of a recreational area, sidewalk vendors shall only vend from sunrise to sunset.
- (b) Vending within recreational areas is allowed alongside sidewalks or other pedestrian paths.
- (c) A valid park and facility use agreement with the city or special event permit obtained pursuant to Article 4 of this Chapter may waive these requirements for limited engagements or events.

Sec. 16-421. Roaming and stationary sidewalk vending.

- (a) Roaming sidewalk vendors in residential areas may vend between the hours of 8:00 a.m. and sunset.
- (b) Stationary sidewalk vendors shall not vend in residential areas.
- (c) Stationary sidewalk vendors shall not vend in any recreational area if the recreational area operator has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a specified concessionaire, provided that notice by signage or other means is provided to the stationary sidewalk vendor.

Sec. 16-422. Sidewalk vending equipment.

- (a) To maintain accessibility standards, sidewalk vendors shall not place any obstruction on the sidewalk that would reduce the width of the sidewalk or pedestrian path to less than forty-eight inches excluding the curb.
- (b) Vending equipment and accessories, including, but not limited to, signs, umbrellas, ice chests, chairs or benches, shall not be:

- (1) left unsecured;

(2) attached to or contact any utility pole, street sign, bus stop, trash can, traffic pole, or other public structure; or

(3) left unaccompanied, stored, parked or left overnight on a public street, alley, highway, parking lot, sidewalk or right-of-way at any time.

(c) Sidewalk vendors shall not set up customer seating areas. Sidewalk vendors may only have a chair for personal use.

(d) Sidewalk vendors shall not erect, place, or maintain any tent canopy or other temporary shelter in the public right-of-way or public place.

(e) Sidewalk vendors shall only use, maintain or possess one (1) umbrella. When in use, the umbrella shall not exceed ten (10) feet in height as measured from ground level to its highest point. The umbrella must be made of a sturdy and safe material and must be attached and anchored to the sidewalk vending equipment in such a way that sudden bursts of wind will not dislodge it.

(f) Sidewalk vendors may place signs on their sidewalk vending equipment. Signs placed in the public right-of-way are subject to the restrictions in Section 17-22 of this Code.

(g) Sidewalk vendors shall not use:

(1) portable generators;

(2) portable gas fueled heaters; and

(3) gasoline or kerosene.

Sec. 16-423. Cooking equipment.

(a) Sidewalk vendors shall not use outdoor wood burning ovens, fire pits or charcoal barbecues.

(b) Sidewalk vendors shall not use any portable cooking equipment, gas-fueled appliance, or any open flame unless approved and permitted by the DEHQ.

(c) Sidewalk vendors with required permits from the DEHQ may use portable cooking equipment authorized by such permits subject to the following regulations:

(1) While the portable cooking equipment is in operation:

(A) It must be kept at least 20 feet from any permanent structure or any area in which the fire marshal determines that a fire hazard exists; and

(B) it must not be unattended.

(2) Sidewalk vendors must regularly clean the portable cooking equipment to remove grease and food buildup.

(3) Sidewalk vendors shall:

(A) use only propane, natural gas, or butane cylinder tanks;

(B) use or store only propane, natural gas, or butane tanks of 20 gallons or less, with a limit of two 20-gallon tanks on sidewalk vending equipment;

(C) store tanks in an upright position during use and positioned in such a way as to prevent falling, tipping, and tampering;

(E) use only tanks with a shut-off valve and a pressure regulator, having hoses of a type approved for use by the manufacturer with the equipment; and

(F) test all connections to the tank for potential leaks using soap and water before each use.

(4) Any sidewalk vending equipment that stores a tank shall have two ventilation openings on opposite sides at the cylinder valve level and at least one ventilation opening at the floor level. Each opening shall be a minimum of 10 square inches, screened with a minimum 16 mesh and shall vent to the exterior of the sidewalk vending equipment.

(5) Sidewalk vendors shall comply with the following fire extinguisher requirements:

(A) Keep an easily accessible, properly charged and maintained Class K-rated fire extinguisher on the sidewalk vending equipment at all times and be familiar with its proper use. Sidewalk vendors shall ensure the extinguisher has been serviced within the last year and has a valid California State Fire Marshal service tag attached;

(B) Mount the extinguisher securely to the sidewalk vending equipment; and

(C) Locate the extinguisher away from the cooking area.

Sec. 16-424. Prohibited sales.

Sidewalk vendors are prohibited from vending the following goods: alcoholic beverages; tobacco and tobacco products; vaping products; smoking and drug related paraphernalia, not including apparel; cannabis and cannabis products; weapons, including knives, guns, or explosive devices; BB devices or imitation firearms; pharmaceuticals; live animals; and other products prohibited by local, state and federal laws.

Sec. 16-425. Penalties and fines.

(a) Any violation of this article by a sidewalk vendor holding a valid sidewalk vending permit shall be punished as follows:

- (1) An administrative fine of \$100 for a first violation.
- (2) An administrative fine of \$200 for a second violation within one year of the first violation.
- (3) An administrative fine of \$500 for a third violation and each additional violation within one year of the first violation.

(b) Any sidewalk vendor found vending without a sidewalk vending permit, if required pursuant to this article, shall immediately cease vending and be subject to the following:

- (1) An administrative fine of \$250 for a first violation.
- (2) An administrative fine of \$500 for a second violation within one year of the first violation.
- (3) An administrative fine of \$1,000 for each additional violation within one year of the first violation.

(c) Proof of a valid sidewalk vending permit issued by the City will result in a reduction of administrative fines to the administrative fine schedule set forth in subsection (a).

(d) With regards to sidewalk vendors only, failure to pay an administrative fine issued pursuant to subsections (a) and (b) shall not result in additional fines, fees, assessments, or any other financial conditions beyond those authorized in subsection (a) and (b) being assessed.

(e) Upon discovering or observing any violation of this article for which an administrative fine has been prescribed under subsection (a) and (b), the enforcement officer may issue an administrative citation to the violator in the manner prescribed in section 1A-6 of this code.

(f) The content of the administrative citation shall be consistent with those required under section 1A-8 of this code. Additionally, the administrative citation shall include a statement describing the responsible party's right to request an ability-to-pay determination and provide instructions for requesting an ability-to-pay determination.

(g) An ability-to-pay determination shall be made by the City Manager or designee. If the City Manager or designee finds the person meets the criteria described in California Government Code section 68632(a) and (b), or any successor section, the City Manager or designee shall order the City to accept, in full satisfaction, 20 percent of the administrative fine or waive the administrative fine imposed pursuant to this article. The City Manager or designee's determination shall be final.

(h) An administrative citation may be appealed pursuant to section 1A-9 of this code.

(i) A violation of this article shall not be punishable as a misdemeanor.