

City Council Meeting: April 9, 2019

Santa Monica, California

ORDINANCE NUMBER 2607 (CCS)

(City Council Series)

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE CHAPTER 6.36
TO ADOPT A COMPREHENSIVE VENDING REGULATORY PROGRAM

WHEREAS, the City of Santa Monica (the “City”) consists of just over eight square miles and is home to more than 90,000 residents, the job site of 300,000 workers, and a destination for as many as 500,000 visitors on weekends and holidays; and

WHEREAS, because the City is both densely populated and visitor serving, its public spaces often become extremely crowded; and

WHEREAS, the City’s park space is limited; and

WHEREAS, much of the City’s limited park space is devoted to active uses such as sports fields and children’s playgrounds, leaving even less open space available for all other activities, such as passive recreation; and

WHEREAS, public beaches, the Ocean Front Walk and City parks are congested public recreational facilities that are heavily used by residents, workers and visitors; and

WHEREAS, Palisades Park, situated between the Pacific Ocean, the Pier bridge, and the City’s bustling downtown, is the crown jewel of the City’s park system and is the most heavily utilized; and

WHEREAS, Palisades Park sits along the edge of the bluffs overlooking the Pacific Ocean providing spectacular and unparalleled views of the coastline; and

WHEREAS, based on Palisades Park's unique aesthetic qualities and unmatched scenic beauty, the City designed the Park as a local Landmark and the City's local Coastal Program Land Use Plan requires review to, from, and along the Park be protected; and

WHEREAS, circulation within Palisades Park is limited because it is extremely narrow, and is physically surrounded by downtown streets on three sides and tall bluffs on the fourth;

WHEREAS, the Pier is a long and narrow space, only 35 feet wide at some points, with ingress and egress at only one end; and

WHEREAS, the Third Street Promenade and the Transit Mall are located at the heart of the City's busy Downtown District; and

WHEREAS, all of these public spaces are heavily patronized by the public year round and congestion in these confined places is a constant norm; and

WHEREAS, the intensity and variety of park, Pier, Promenade, Transit Mall and beach uses further necessitates regulation to avoid safety hazards and conflicts; and

WHEREAS, public sidewalks and pedestrian paths are created and maintained for the primary purpose of enabling pedestrians to safely and efficiently move about from place to place; and

WHEREAS, ensuring the unobstructed flow of pedestrian traffic on sidewalks and pedestrian paths promotes public safety by minimizing the risk that pedestrians will jostle one another, collide, trip, or fall, and safeguarding the ability of the public to safely away from dangerous situations that may occur on or near public streets, pedestrian paths and sidewalks; and

WHEREAS, ensuring the free flow of pedestrian traffic is particularly important to the safety of the elderly, the very young, the disabled, vision-impaired persons, and others who are less able to navigate through crowds and around obstacles or hazards and who are particularly impacted by having to navigate off and onto curbs when sidewalks or pedestrian paths are blocked; and

WHEREAS, hindrances to the free flow of pedestrian traffic, particularly in the City's congested public places, may interfere with the work of public safety personnel seeking immediate access to emergency situations and with other work vital to the public health and safety, such as cleaning and maintenance; and

WHEREAS, because each of the above mentioned public spaces and resources is limited and heavily utilized, special efforts must be undertaken to maintain them and facilitate their shared use and availability to all; and

WHEREAS, disruptive activities, including unregulated vending activities, within the City's congested public spaces interfere with the general public's use and enjoyment of these public facilities, create serious public safety hazards, and damages the public welfare; and

WHEREAS, the City's has long regulated vending activities in order to address these and other public health, safety and welfare concerns; and

WHEREAS, on September 17, 2018, California Governor Edmund Gerald Brown signed Senate Bill ("SB") 946 into law, which regulates and decriminalizes certain sidewalk vending activities; and

WHEREAS, the City undertook an extensive review of vending activities in light of SB 946; and

WHEREAS, the results of the review show that continued regulation of vending activities, especially in the City's most congested public places, remains essential to protect public health, safety and welfare; and

WHEREAS, the City Council adopts this ordinance pursuant to the City's constitutionally authorized charter city police powers and consistent with authorities granted by SB 946; and

WHEREAS, the City Council finds that the regulations and requirements provided in this ordinance are necessary to protect the health, safety, and welfare of its residents, workers, businesses, and visitors; and

WHEREAS, the City Council further finds that the regulations and requirements provided in this ordinance are necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards; safeguard the public's use and enjoyment of natural resources and recreational opportunities; prevent undue concentration of disruptive activities that unreasonably interferes with the scenic and natural character of City parks; and prevent unsanitary conditions; and

WHEREAS, based on the findings contained in this ordinance and material presented in the accompanying Staff Report, the City Council finds and declares that taking emergency action to adopt this ordinance is necessary to protect and preserve the public peace, health, and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 6.16.030 of the Santa Monica Municipal Code is hereby amended to read as follows:

6.16.030 Appeal procedure.

(a) Hearing Examiner. The Hearing Examiner shall be the City Manager or designee. The Hearing Examiner shall not have had any prior direct involvement with the matter pending before him or her. If no City staff is capable of conducting the hearing, then the City shall contract with the California Office of Administrative Hearings (“OAH”) to conduct the hearing.

(b) Standards. The Hearing Examiner may ~~grant, suspend, revoke or deny a license or permit,~~ approve, modify or reject the underlying City decision or action, whenever, in the reasonable judgment of the Hearing Examiner, the City’s decision or action ~~grant, suspension, revocation or denial~~ is in accordance with any applicable law. The Appellant has the burden of proving, based on a preponderance of the evidence, that the City’s decision or action is not in compliance with applicable laws.

(c) Hearing Request. Any person aggrieved by an action appealable to a Hearing Examiner shall be entitled to a hearing upon filing a written request therefor with the City Clerk. This written request must be filed within ten days not later than the tenth day following the mailing of service of a notice of the City action being appealed. ~~from which the appeal is taken.~~ Service is effectuated on the date that the notice is mailed to the recipient, personally served on the recipient, or emailed to the recipient if the recipient has consented in writing to electronic service.

(d) Hearing. The Hearing Examiner shall hold a hearing not later than sixty days following receipt of the request by the City Clerk, unless an extension of the time is granted by the Hearing Examiner, upon a finding of good cause. If the hearing is to be

conducted by OAH, it shall be scheduled as soon as practicable, consistent with OAH's calendar availability.

The applicant shall be given no less than five days' notice of the time and place of said hearing. The hearing shall be open to the public. Any interested party is entitled to be heard and may be represented by counsel.

Any failure to comply with the time limits set forth in this subsection (d) does not deprive the Hearing Examiner of jurisdiction to conduct the hearing or render a binding decision.

The Hearing Examiner shall have the power to issue orders to keep order and decorum during an Administrative Hearing. No person shall fail to comply with any such order.

(e) Decision of Hearing Examiner. The decision of the Hearing Examiner shall be made promptly after the conclusion of the hearing. Notice of the decision shall be mailed to the applicant at his or her last known mailing address.

(f) Stay Pending Hearing. The suspension or revocation of any permit or license for which a request for review has been timely filed under this Section, shall be stayed pending decision of the Hearing Examiner. Nothing in this subsection shall be construed to require any officer or employee of the City to issue any permit or license.

(g) Review of Hearing Examiner's Decision. The stay expires ten days after the Hearing Examiner issues the decision. The Hearing Examiner's decision in all cases is final except for judicial review. Such review must be sought by petition under Code of Civil Procedure Section 1094.5, not later than ninety days after the decision is issued.

SECTION 2. Chapter 6.36 of the Santa Monica Municipal Code is hereby amended to read as follows:

Chapter 6.36 Vending

6.36.010 Findings and purpose

The City Council of the City of Santa Monica hereby finds:

(a) Sidewalk vending fosters vibrant public spaces and promotes a diverse and inclusive local economy.

(b) In order to promote the public peace, safety, health and welfare, sidewalk vending must be regulated to promote public safety; to ensure rapid access by first responder and emergency personnel to public and private spaces throughout the City; 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; and to reduce the City's exposure to civil liability.

(c) Because the City is densely populated by residents and visitors, its public spaces often become extremely crowded. The City's parks, Pier, Promenade, Transit Mall and beaches, and many of the City's sidewalks and pedestrian paths, are all heavily trafficked by the public and congestion in these places is a constant norm.

(d) Palisades Park, situated between the pacific ocean, the Pier bridge, and the City's bustling downtown, is the crown jewel of the City's park system and is the most heavily utilized. Based the Park's unique aesthetic qualities and unmatched scenic beauty, the City designed the Park as a local Landmark and the City's local Coastal Program Land Use Plan requires review to, from, and along the Park be protected.

Circulation within Palisades Park is limited because it is extremely narrow, and is physically surrounded by downtown streets on three sides and tall bluffs on the fourth.

(e) The unique and historic nature of many of the City's public spaces further require special consideration. For example, the Santa Monica Pier is a long, narrow, wooden structure 1,080 feet long, supported by concrete and timber piles extended over the beach and ocean with limited points of entry and exit. The Santa Monica Pier is also on the State of California Protected Critical Infrastructure list, experiences a high volume of pedestrian traffic and is congested throughout the year. The Third Street Promenade and the Transit Mall similarly draw significant local and tourist pedestrian traffic, with crowds as large as 10,000 or more traveling each block of the narrow, open-air public rights-of-way each day. Careful regulation of vending activities is necessary to protect public safety and ensure accessibility in these highly trafficked tourist destinations. Similarly, many of the City's parks and beaches provide opportunities for community engagement and recreation; regulation of vending activities is necessary to ensure availability of open space for public engagement, access and recreation, and to protect the natural resources within and the scenic and natural character of the parks and beaches. Additionally, many of the sidewalks and pedestrian paths in the City are under eight (8) feet wide, such that vending in these areas would unreasonably interfere with the flow of pedestrians and disrupt access for persons with disabilities or other special needs.

6.36.020 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) “Certified farmers’ market” means a farmers’ market certified as operating 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.

(b) “Pedestrian path” means a path or walkway, other than a sidewalk, that is owned by the City or another public entity and is specifically designed for pedestrian travel. Pedestrian path shall not include any private property or areas not traditionally used or designated for pedestrian travel, such as the beach, bike-paths, streets, driveways, and public parking lots.

(c) “Pushcart” means any humanly propelled wheeled vehicle which contains items for sale.

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

(e) “Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

(f) “Santa Monica Pier” means the Santa Monica Pier, consisting of both the Newcomb Pier and the Municipal Pier, protruding from the Santa Monica State Beach at the southwesterly terminus of Colorado Avenue, extending for approximately two thousand one hundred thirty-five feet into the Santa Monica Bay, and extending 100 feet from all ingress and egress points to and from the Newcomb Pier and the Municipal Pier, including but not limited to the Ocean Avenue entrance point to the Pier bridge.

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

(h) “Vehicle vendor” means a person who vends from a motor vehicle or unhitched trailer upon a public street, roadway, or highway.

(i) “Vend” means to sell, offer to sell, expose for sale, solicit offers to purchase, or barter food, food products, services, goods, or merchandise from any public area, including any area open to the public on private property. Vending includes offering samples of products that are also for sale, negotiating fees for goods, and/or requesting donations in exchange for merchandise from any public area or any area open to the public on private property.

(j) “Vendor” means a person who vends. A vendor includes a person who vends as an employee or agent of another person or entity. A person engaged in the business of soliciting, canvassing, or taking orders subject to the regulations in Chapter 6.32 is not a “vendor.”

(k) “Vendor permit” shall mean a sidewalk vendor permit or a vehicle vendor permit issued pursuant to this Chapter.

6.36.030 Vendor permit required.

No person shall vend in the City without first obtaining a vendor permit issued pursuant to this Chapter and a business license issued pursuant to Chapter 6.04 of this Code.

6.36.040 Restricted vending times and locations.

(a) Unless otherwise expressly authorized by or with the consent of the City, no person shall vend on or within, any private property, the Santa Monica Pier, a certified

farmers' market, a permitted community event, a permitted filming activity, a bike path, a street, a driveway, or a public parking lot.

(b) No stationary sidewalk vendor shall vend within

(1) twenty-five (25) feet of the Third Street Promenade;

(2) the Transit Mall;

(3) the Beach;

(4) any area exclusively zoned for residential uses;

(5) the 1700 block of Ocean Front Walk;

(6) any portion of Palisades Park that is within 500 feet of the Ocean Avenue entrance point to the Pier bridge; or

(7) any City park during the hours that an exclusive concessionaire is open and operating pursuant to an agreement with the City or other operator of the park.

(c) No roaming sidewalk vendor shall vend in an area exclusively zoned for residentially uses or on a sidewalk or pedestrian path directly adjacent to such an area between the hours of 9:00 PM and 8:00 AM.

(d) No vehicle vendor shall vend on Main Street between Ocean Park Boulevard and the City's southern boundary between the hours of one a.m. and three a.m. on a Saturday, a Sunday, St. Patrick's Day, Valentine's Day, Cinco De Mayo Day, Memorial Day, Independence Day, Labor Day, Halloween, or New Year's Day.

(e) The City Manager or designee may adopt administrative regulations imposing additional requirements consistent with this Chapter and all other applicable laws in order to regulate the time, place, and manner of vending.

6.36.050 Vending requirements and prohibitions.

(a) A vendor shall:

- (1) prominently display the vendor's vending permit at all times while on public property;
- (2) maintain noise levels in compliance with Chapters 4.12 and 6.116 of this Code;
- (3) keep the vendor's vending area litter free by removing litter caused by the vended products off of public or private property; and
- (4) maintain a trash container in or on the vendor's person, cart, or vehicle.

(b) A vendor shall not:

- (1) vend any shared mobility device, as defined in Section 3.21.020 of this Code, cannabis, as defined in Section 26001 of the Business and Professions Code, or cannabis product as defined in Section 11018.1 of the Health and Safety Code;
- (2) employ harassing, threatening or unsafe vending tactics, including but not limited to:
 - a. intentionally or recklessly making physical contact with or touching another person without the person's consent;
 - b. intentionally or recklessly blocking or impeding the safe passage of a person traveling on a public right-of-way;
 - c. engaging in physical conduct, verbal communication, or gestures in a manner (i) intended to or likely to cause a

reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

- (3) knowingly make false statements or misrepresentations in the course of vending; or
- (4) use any public or private electrical outlet or power source, including any City-owned or City-operated electrical outlets or power sources, without authorization.

(c) In addition to the prohibitions set forth in Subsection (b) above, a vehicle vendor shall not:

- (1) Use public property, including a sidewalk or a parkway, adjacent to the vendor's vehicle for vending purposes including displaying merchandise or placement of trash containers; or
- (2) Vend vehicles or motorized devices.

(d) In addition to the prohibitions set forth in Subsection (b) above, a sidewalk vendor shall not:

- (1) Vend services or merchandise for rent to customers;
- (2) Display merchandise or food that is not available for immediate sale;
- (3) Use an open flame; or

- (4) Place or maintain vending equipment or materials in a manner that touches, leans against or is affixed to any building or structure including, but not limited to, a lamppost, parking meter, mailbox, traffic signal, fire hydrant, bench, bus shelter, newsstand, trashcan, or traffic barriers.

6.36.060 Exemptions.

This Chapter shall not apply to:

- (a) An approved participant in a certified farmer's market;
- (b) A vendor operating pursuant to or under the authority of an approved license agreement;

- (c) An approved participant in a community event authorized by the City;

- (d) An individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons;

- (e) An individual or organization vending the following items, which are inherently communicative, have nominal utility apart from their communication, and have been created, written, or composed by the vendor: books, recorded music, poetry, prose, sculptures, paintings, prints, or photographs.

6.36.070 Vendor permit application and fee.

(a) To receive or renew a vendor permit, a person must complete an application on the form approved by the City and file it with the City. The applicant must provide the following information:

- (1) The applicant's full name and address.
- (2) Proof of applicant's identity.

- (3) A description of the type of products to be vended.
- (4) The location where the applicant plans to vend.
- (5) If the applicant is employed by another vendor, the name and business address of the employer.
- (6) A description of any motor vehicle, pushcart, or other device to be used during vending.
- (7) If the applicant will vend food products, a valid Los Angeles County Department of Health permit and certification that the vendor will comply with all applicable laws regarding food product vending.
- (8) Whether the applicant seeks a permit to operate as a sidewalk vendor or a vehicle vendor.
- (9) Other relevant information as required by the City, including proof of insurance coverage where required.

(b) No application for a vendor permit or for renewal of such a permit shall be accepted unless accompanied by the required vendor permit fee. The amount of the fee shall be established by resolution of the City Council.

(c) A vendor permit shall be effective for the same period as the term of the applicant's business license.

(d) A vendor permit may be renewed through the same application process described above.

(e) A vendor permit may not be assigned or transferred to any other person or entity.

6.36.080 Vendor permit approval, revocation, suspension or denial.

(a) The City may condition the approval of any vendor permit on compliance with this Chapter and other applicable laws and regulations.

(b) A vendor permit may be revoked, suspended or denied by the City Manager or designee based upon any of the following grounds:

(1) The applicant has made a materially false, misleading or fraudulent statement of fact or omission of fact to the City;

(2) The applicant operates, has operated, or proposes to operate in a manner that endangers public health or safety;

(3) The applicant fails to comply or has failed to comply with any requirement imposed by the provisions of this Code (or successor provision or provisions) including any rule, regulation, condition, or standard adopted pursuant to this Chapter, or any term or condition imposed by the vendor permit, or any provision of State law;

(4) The applicant, or any of its officers, owners or principals, has been convicted of a criminal offense that is substantially related to the qualifications, functions or duties of the vending profession, including, but not limited to, any criminal conviction involving a violent or serious felony, fraud, deceit, or embezzlement; or

(5) Other grounds set forth by administrative regulations.

6.36.090 Appeals.

A decision by the City under this Chapter to deny an application, conditionally approve an application, suspend a permit, or revoke a permit may be appealed by an

aggrieved applicant or permit holder. An appeal must be taken within the time and manner set forth in Chapter 6.16 of this Code.

6.36.110 Administrative regulations.

The City Manager or designee may promulgate administrative regulations to implement the provisions of this Chapter, including but not limited to, permit application procedures and requirements, permit conditions, operating conditions, inspection frequencies, enforcement procedures, location restrictions, or concentration restrictions. No person shall fail to comply with any such regulations.

6.36.111 Penalties

(a) Any person who violates any provision of this Chapter shall be subject to administrative citation pursuant to Chapter 1.09 of this Code.

(b) Any person, other than a sidewalk vendor, who violates any provision of this Code shall be subject to an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars per violation.

(c) Any person, other than a sidewalk vendor, who violates Section 6.36.040(a), (b)(3), (d), or 6.36.050(b) of this Chapter, shall be subject to an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars per violation, or a misdemeanor, which shall be punishable by a fine not exceeding five hundred dollars per violation, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.

(d) The remedies specified in this Chapter are cumulative and their specification shall not preclude the use of any other remedy provided by law.

6.36.112 Impoundment

(a) The City may impound food, goods, and/or merchandise that are abandoned on public property or displayed, offered, or made available for rent or sale by a vendor who does not possess a valid City vending permit.

(b) The City may immediately dispose of impounded materials that are perishable or cannot be safely stored.

(c) The City may forfeit impounded materials from a vendor who has been found responsible for vending without required governmental permits three or more times within a twenty-four month period. An aggrieved vendor may appeal a City forfeiture order pursuant to the procedures set forth in Chapter 6.16.

(d) The City may dispose of abandoned impounded materials in accordance with administrative regulations.

(e) The City Council may by resolution adopt impound fees, which shall reflect the City's enforcement, investigation, storage and impound costs.

(f) No person shall retrieve impounded materials without paying applicable impound fees and demonstrating proper proof of ownership.

~~6.36.010 Findings and purpose.~~

~~—The City Council of the City of Santa Monica finds and declares as follows:~~

~~—(a) The City is extremely dense with a land area of just eight square miles and a population of approximately ninety thousand people. Moreover, the combination of an oceanside location, fine climate, and the availability of urban facilities, services and~~

~~entertainments make the City an extremely desirable place to work or visit. Consequently, a large number of nonresidents come into the City to work or recreate each day. On weekdays, approximately three hundred thousand people are present within the City. On weekends, the number swells to as high as five hundred thousand. Thus, population density and congestion both present threats to the quality of life in the City, particularly in the City's downtown business district which is the most crowded area within the City.~~

~~—(b)—To protect the public health and safety and ensure safe pedestrian and motorist traffic, the City needs equitable, uniform vending regulations.~~

~~—(c)—Unregulated vending, from pushcarts, motor vehicles, stands, or by persons contributes to traffic congestion and thereby impedes the orderly movement of pedestrian and motorist traffic. The unregulated use of congested streets and sidewalks by vendors may make the streets and walkways unsafe for motorists, pedestrians, and vendors.~~

~~—(d)—The City has adopted a series of comprehensive plans and development guides which promote the City's aesthetic interests generally and the aesthetics of its public space specifically. Included among these plans are the Bayside District Specific Plan, the Downtown Urban Design Plan, and the Santa Monica Pier Design Guidelines. Through the adoption of these plans and specific legislation, the City is affirmatively seeking to eliminate visual blight on the public rights-of-way, including the visual blight caused by unsightly vendor stands. Santa Monica is designed to be a city where people are encouraged and able to walk through a safe and attractive street environment.~~

~~—(e)—The City presently has a vibrant and stable merchant community. Uncontrolled street vending would constitute unfair competition and could serve to~~

~~undermine the City's commercial life by reducing sales from local merchants and eroding the City's tax revenues.~~

~~6.36.020 Definitions.~~

~~— For purposes of this Chapter, the following words or phrases shall have the following meanings:~~

~~— (a) Food or Food Products. Any type of edible substance or beverage.~~

~~— (b) Goods or Merchandise. Any items that are not a food product.~~

~~— (c) Vend or Vending. To sell, offer for sale, expose for sale, solicit offers to purchase, or to barter food, goods, merchandise, or services in any public area from a stand, pushcart, motor vehicle, or by a person with or without the use of any other device or other method of transportation. To require someone to pay a fee or to set, negotiate, or establish a fee before providing goods or services constitutes vending. Requests for donations in exchange for merchandise also constitute vending.~~

~~— (d) Vendor. A person who vends. This includes a vendor who is an employee or agent of another. A person engaged in the business of soliciting, canvassing, or taking orders subject to the regulations in Chapter 6.24 is not a "vendor."~~

~~— (e) Pushcart. Any nonmotorized mobile device used in the sale, barter, or offer for sale of food products, goods, or merchandise or services.~~

~~— (f) Vehicle. Any motorized device used in the sale, barter, or offer for sale of food products, goods, or merchandise or services.~~

~~6.36.030 Exemptions.~~

~~— The provisions of this Chapter shall not apply to:~~

~~— (a) Any approved participant in any farmer's market;~~

~~—(b) (Reserved);~~

~~—(c) Any vendor operating pursuant to or under the authority of an approved license agreement;~~

~~—(d) Any approved participant in any community event authorized by the City;~~

~~—(e) Any individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons;~~

~~—(f) Any individual or organization that vends the following items which are inherently communicative, have nominal utility apart from their communication, and have been created, written, or composed by the vendor: books; recorded music, poetry, prose, sculptures, paintings, prints, or photographs.~~

~~6.36.040 Vendor permit required.~~

~~—(a) No person may vend in the City without first obtaining and having in his or her possession a vendor permit issued by the City in accordance with this Chapter.~~

~~—(b) To receive a vendor permit, a person must complete a vendor permit application on the form approved by the City and file it with the City. The applicant must provide the following information:~~

~~—(1) Applicant's full name and address.~~

~~—(2) Proof of applicant's identity.~~

~~—(3) Proof of insurance coverage satisfactory to City.~~

~~—(4) A brief description of the type of food products or goods to be sold. This shall include the nature, character and quality of the product.~~

~~—(5) The location where the applicant plans to vend.~~

~~—(6)— If applicant is employed by another to vend, the name and business address of the employer.~~

~~—(7)— If applicant will use a motor vehicle during his or her vending, a description of the vehicle, its registration number, its license number, and the streets the applicant intends to use.~~

~~—(8)— If applicant will use a pushcart or any other device, a description of the pushcart or device.~~

~~—(9)— If applicant will vend food products, a valid Los Angeles County Department of Health permit and certification that he or she complies with all State and Federal laws regarding food product vending.~~

~~—(10) Any other relevant information required by the City.~~

~~—(c) No application for a vendor permit or the renewal thereof shall be accepted unless accompanied by the application fee. The application fee shall be in the amount established by resolution of the City Council.~~

~~6.36.050 Vendor business license fee permit issuance and denial.~~

~~—(a) A vendor permit shall be approved, conditionally approved, or denied within thirty days of the filing of an application. The vendor permit shall be approved unless one of the following findings is made:~~

~~—(1)— The applicant has made a material false, misleading or fraudulent statement of fact to the City in the application process.~~

~~—(2)— The application does not contain the information required by this Chapter.~~

~~—(3)— The applicant has not satisfied the requirements of this Chapter.~~

~~—(b)— The City may condition the approval of any vendor permit to ensure compliance with this Chapter and other applicable laws.~~

~~—(c)— A vendor permit issued by the City may be revoked pursuant to the provisions of Section 6.14.110 of this Code.~~

~~—(d)— The license fee shall be fifty dollars per annum and no additional license fee shall be required by virtue of vending in any assessment district.~~

~~—(e)— A vendor permit issued hereunder shall be effective for the same period as the business license. Upon the expiration of the vendor permit, an application for renewal thereof shall be filed in a like manner as an application for an original vendor permit, and such renewal permit shall be approved only when the requirements for the issuance of an original vendor permit are met.~~

~~—(f)— A vendor permit shall not be assignable or transferable.~~

~~6.36.060 Appeals.~~

~~—Any decision by the City under this Chapter denying an application, conditionally approving an application, or revoking a permit, may be appealed by an aggrieved applicant or permit holder. Any appeal must be taken within the time and manner set forth in Section 6.16.030 of this Code. Upon an appeal, the decision of the Hearing Examiner shall be final except for judicial review and shall not be appealable to the City Council.~~

~~6.36.090 Vendor location sites.~~

~~—No person issued a vendor permit pursuant to this Chapter shall vend in any location in the City except in connection with vending from vehicles, such as catering or ice cream trucks, on any street designated in the vendor permit or on private property.~~

~~6.36.095 Prohibition of late night vending on Main Street.~~

~~— No person shall vend from vehicles, including unhitched trailers, on Main Street, between Ocean Park Boulevard and the City's southern boundary, during the hours of one a.m. to three a.m. on Saturday, Sunday, St. Patrick's Day, Valentine's Day, Cinco De Mayo Day, Memorial Day, Independence Day, Labor Day, Halloween, and New Year's Day.~~

~~6.36.100 General requirements.~~

~~— (a) Location Restrictions. No person may vend:~~

~~— (1) Within ten feet from the outer edge of any entrance of any business, including, but not limited to: doors; vestibules; driveways; outdoor dining area entries; and emergency exits as measured in each direction parallel to the building line, during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.~~

~~— (2) Within ten feet of any bus stop.~~

~~— (3) Within ten feet of any street corner or marked pedestrian crosswalk.~~

~~— (4) Within thirty-five feet of any other vendor.~~

~~— (5) In any manner that blocks or obstructs the free movement of pedestrians.~~

~~— (b) Vending or Renting on Beaches and Public Parks Prohibited. All vending activity on the beaches and in public parks is prohibited. No vendor permit shall be issued to any person for the vending of any food products, goods, or merchandise, or the renting~~

~~of any types of goods, merchandise, or services on the beaches and in public parks in the City of Santa Monica.~~

~~—(c) Receipts. Upon request by a buyer, a vendor shall give a receipt to the buyer. The receipt shall list the following:~~

~~—(1) The vendor's name.~~

~~—(2) The vendor's City vendor permit number.~~

~~—(3) The vendor's address or telephone number.~~

~~—(4) The items sold.~~

~~—(5) The price of each item sold.~~

~~—(6) The total price of all items sold.~~

~~—(d) Cleanup Responsibility. A vendor shall keep his or her vending or performing area litter free. He or she must remove litter caused by his or her products off of any public property and other private property. A vendor with a pushcart shall have a trash container in or on the cart.~~

~~—(e) Noise Limit. Except as provided for in this Chapter, a vendor shall be subject to the provisions of Chapter 4.12 of Article 4 of this Code. Vendors within the Third Street Promenade shall be subject to the noise regulations in Chapter 6.116. In addition, no vendor shall be so loud as to be heard inside the premises of an adjacent building or structure while the entrance door to the premises is closed.~~

~~—(f) Pushcart Standards. A vendor's pushcart (or other device) shall be kept clean and in a safe condition when used on public property. The pushcart shall display the following:~~

~~—(1) The vendor's name, business name, and City permit number on all vertical sides of the cart. The lettering shall be at least one inch high. A food vendor shall include his or her Los Angeles County Department of Health permit number.~~

~~—(2) A photocopy of the vendor's City vendor permit on at least two vertical sides of the cart.~~

~~—(g) Compliance with Conditions. No person shall vend contrary to the terms or any conditions imposed in approving a vendor permit pursuant to this Chapter.~~

~~6.36.140 Sampling on the Pier and Third Street Promenade.~~

~~—No person may engage in the activity of distributing samples of goods, wares, merchandise, products or services on the Municipal Pier, Newcombe Pier or Third Street Promenade without a permit or license from Downtown Santa Monica, Inc., or the Santa Monica Pier Corporation issued in accordance with the corporation's services agreement with the City. Any such license or permit shall be conditioned so as to ensure compliance with applicable laws and to protect the free flow of pedestrian traffic, emergency ingress and egress, the aesthetic qualities of these public spaces, and public access to all businesses and services.~~

~~6.36.140 Penalties.~~

~~—(a) Except as provided in subsection (b) of this Section, any person violating this Chapter shall be guilty of an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars per violation.~~

~~—(b) Any person violating Section 6.36.040 or 6.36.095 shall be guilty of an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars per violation, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.~~

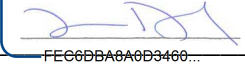
SECTION 3. The City Council finds, based on the findings above and the reasons set forth in the Staff Report accompanying this Ordinance, that it is necessary to adopt this Ordinance as an emergency measure to preserve the public peace, health and safety.

SECTION 4. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

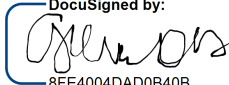
SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall immediately effective upon adoption.

APPROVED AS TO FORM:

DocuSigned by:

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LANE DILG
City Attorney

Approved and adopted this 9th day of April, 2019.

DocuSigned by:

8FF4004DAD0B40B

Glean Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2607 (CCS) had its introduction and adoption at the Santa Monica City Council meeting held on April 9, 2019, by the following vote:

AYES: Councilmembers Jara, Winterer, McKeown, Himmelrich,
 Mayor Pro Tem O'Day, Mayor Davis

NOES: None

ABSENT: Councilmember Morena

ATTEST:

DocuSigned by:

E2F85B056A714C3...

Denise Anderson-Warren, City Clerk

4/17/2019

Date

A summary of Ordinance No. 2607 (CCS) was duly published pursuant to California Government Code Section 40806.