



CITY OF WESTMINSTER PUBLIC NOTICE ORDINANCE SUMMARY

NOTICE IS HEREBY GIVEN that on April 26, 2023, the City Council of the City of Westminster introduced an Ordinance entitled:

ORDINANCE NO. 2601

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER, CALIFORNIA, ADDING CHAPTER 8.06 (SIDEWALK VENDING) TO TITLE 8 (HEALTH AND SAFETY) ESTABLISHING A SIDEWALK VENDOR REGULATORY SCHEME, REPEALING CHAPTER 10.44.120 (PEDDLERS & VENDORS) TO TITLE 10 (VEHICLES & TRAFFIC), AND ADDING CHAPTER 10.45 (SALE OF GOODS FROM VEHICLES) TO TITLE 10 (VEHICLES & TRAFFIC) TO ALIGN THE SIDEWALK VENDOR REGULATORY SCHEME WITH THE MOBILE FOOD VEHICLES REGULATIONS

Summary of Adoption of Ordinance 2601 Adding Chapter 8.06 (Sidewalk Vending) of the Westminster Municipal Code (“WMC”) & Adding Chapter 10.45 (Sale of Goods from Vehicles) of the WMC

Pursuant to Government Code section 36933(c), the following constitutes a summary of Ordinance No. 2601 which will be considered for adoption by the Westminster City Council at its regular meeting on May 10, 2023 at 6:00 p.m. Pursuant to California Government Code section 36933(c)(1), the City Council has previously directed the preparation and publication of a summary of Ordinance No. 2601 which regulates sidewalk vending, as follows:

Sidewalk Vending – Chapter 8.06

Senate Bill (“SB”) 946 and SB 972 were both signed into law and became effective January 1, 2019, and January 1, 2023, respectively. SB 946 and 972 limit the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Section 51038 and 51039. Presently, the City of Westminster Municipal Code does not regulate sidewalk vending. Ordinance No. 2601 will add Chapter 8.06 of the WMC which will establish a regulatory framework for sidewalk vendors that will be consistent with the recently enacted State legislation. The new law defines “sidewalk vendors” to include any person who sells food or merchandise from a pushcart, wagon, or other non-motorized conveyance, or from his or her person, while on a public sidewalk or other pedestrian path. A sidewalk vendor may be “stationary” or “roaming.” Stationary sidewalk vendors are those who operate from a fixed location, while roaming sidewalk vendors move from place to place and stop only to complete a transaction. The statutory requirements apply to both stationary and roaming sidewalk vendors unless otherwise indicated.

The Ordinance will regulate the time, place, and manner in which sidewalk vending is conducted, provided that such regulations are directly related to objective health, safety, or welfare concerns. Pursuant to the new legislation, Chapter 8.06 will accomplish the following:

- Impose limits on hours of operation, provided they are not unduly restrictive.
- Impose requirements to maintain sanitary conditions.
- Impose requirements to ensure compliance with the Americans with Disabilities Act.

- Impose requirement for a sidewalk vending permit, business license, California Seller's permit, and/or other licenses from other state or local agencies.
- Impose requirement that a food vendor provide proof of completion of a food handler course and other required approvals by the Orange County Department of Public Health.
- Impose an application requirement of a sidewalk vendor to submit certain information on his or her operations.
- Impose a requirement of compliance with other generally applicable laws.

Pursuant to State legislation, the Ordinance will not accomplish any of the following:

- Restrict the overall number of sidewalk vendors allowed to operate within the jurisdiction, except if directly related to objective health, safety, or welfare concerns.
- Require sidewalk vendors to obtain the consent of any nongovernmental entity.
- Restrict sidewalk vendors to specific parts of the public right-of-way, except if directly related to objective health, safety, or welfare concerns.
- Restrict sidewalk vendors to designated neighborhoods or areas, except if directly related to objective health, safety, or welfare concerns.

The Ordinance prohibits stationary sidewalk vendors in parks and residential areas but pursuant to State Law, allows roaming sidewalk vendors in those locations during certain hours. Chapter 8.06 also prohibits sidewalk vendors near certified farmers' markets, swap meets and special community events.

Sidewalk vendors cannot be cited, fined, or prosecuted for a violation of any rule or regulation that is inconsistent with SB 946 or 972, so the Ordinance does not impose any criminal penalties for violations of this Chapter. Instead, violations may be punished with administrative citations in the amounts set forth in the Government Code Section 51039. Chapter 8.06 provides that no additional fines, penalties, or other financial conditions may be assessed, including for a failure to pay an administrative fine. However, following a fourth violation of a local sidewalk vending regulation, a vendor's permit can be rescinded for the remainder of the term.

Once a citation is issued, the City is required to consider the person's ability to pay the fine and must notify the person of his or her right to request an ability-to-pay determination. For any citation, the local authority may accept community service in lieu of payment, waive the administrative fine, or offer an alternative disposition.

Sales of Goods from Vehicles (Regulations) – Chapter 10.45

The purpose of adding Chapter 10.45 is to align the sidewalk vending regulations with mobile food truck ("food truck") regulations, although State law has not limited cities' ability to enact stricter health, safety and welfare regulations pertaining to food trucks. Section 22455 of the California Vehicle Code authorizes municipalities to regulate the type of vending from motor vehicles and the time, place, and manner of vending from vehicles upon any street to promote public safety. Vending from food trucks on public streets creates the potential for safety hazards, such as, but not limited to, encouraging pedestrians to cross mid-block to purchase food. The actions of food trucks can create safety risks to the public, especially pedestrians who become inattentive to vehicular traffic.

Chapter 10.45 applies to individual food trucks, which are usually found on public rights-of-way, often near construction sites or on private property, such as office buildings, commercial businesses, and industrial areas and which generally stay in one place for less than 60 minutes.

Unlike the regulation contained in Chapter 8.06 (Sidewalk Vendors), Chapter 10.45 contains stricter regulations for food trucks as follows:

- Requires food trucks (in some instances) to obtain the consent or approval of any nongovernmental entity or individual before selling goods or merchandise on private property.
- Requires food trucks to operate within specific parts of the public right-of-way, to protect public health, safety, or welfare concerns.
- Requires food trucks to operate only in designated areas of the city.
- Limits hours of operation of food trucks.
- Requires minimum sanitary conditions.
- Requires a mobile vending permit, business license, California Department of Tax and Fee Administration seller's permit, and County Health Department permit.
- Requires a food truck vendor to submit certain information on his or her operations.
- Requires compliance with other generally applicable laws.

The City Council will conduct second reading and adopt at its Regular Meeting on May 10, 2023, scheduled to commence at 6:00 PM.

A certified copy of the complete text of the Ordinance is posted and may be read and reviewed at City Hall, City Clerk's Office, 8200 Westminster Boulevard, Westminster, CA 92683 and/or a copy may be obtained from the City Clerk at a nominal charge during posted business hours. The proposed ordinance will also be available on the City's website as part of the Agenda Packet at <https://www.westminster-ca.gov>.

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Lucie Colombo, CMC, CPMC
Interim City Clerk of the City of Westminster

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