

ORDINANCE NO. 25-0011

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING MANHATTAN BEACH MUNICIPAL CODE
CHAPTER 3.68 TO ESTABLISH A MOBILE VENDING
BUSINESS PERMIT PROCESS AND AMEND MOBILE
VENDING REGULATIONS, AND MAKING A
DETERMINATION OF EXEMPTION UNDER THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN
AS FOLLOWS:

SECTION 1. The City Council hereby finds as follows:

- A. California Vehicle Code Section 22455 allows municipalities to regulate commercial vending from vehicles in order to protect public safety.
- B. Chapter 3.68 was adopted and hereby amended pursuant to California Vehicle Code Section 22455, which permits local authorities to regulate the type of vending and the time, place and manner of vending from vehicles upon the street in order to promote public safety.
- C. The City is a densely populated area comprised of residents, business patrons, visitors and tourists who generate heavy vehicle and pedestrian traffic and related parking demand on narrow streets.
- D. Unregulated vending from mobile vending vehicles on public streets impairs traffic safety, the safety of pedestrians, contributes to traffic congestion and otherwise impedes the orderly movement of pedestrians and motorist traffic.
- E. Mobile vending businesses cause buyers to congregate around mobile vending vehicles, often in the street, and frequently block or obstruct public sidewalks, thereby posing accessibility and other public safety concerns. More than one mobile vendor operating in close proximity to each other compound the pedestrian impacts on sidewalks and cause unsafe parking and pedestrian movements between vendors.
- F. Mobile vending vehicles that occupy more than one marked parking space reduce public parking access by making it difficult and unsafe to enter or exit adjacent spaces and/or accessing vehicle doors.
- G. Many of the City's sidewalks are narrow, such that vending in these areas would unreasonably interfere with the flow of pedestrians and disrupt access to persons with disabilities or other special needs. An unobstructed accessible path is required to provide accessibility pursuant to the national Public Right-of-Way Accessibility Guidelines.
- H. Mobile vending on streets exceeding five percent (5%) slope violates the Public Right-of-Way Accessibility Guidelines for accessible facilities, thereby denying access to the mobile vending facility by persons with disabilities or other special needs. All City streets with an east-west alignment located west of Highland

Avenue exceed five percent (5%) slope, and therefore are not accessible to customers of mobile vendors.

- I. Mobile vending on a street within 50 feet of a stopped or signalized intersection or within 150 feet of an uncontrolled intersection causes an obstruction to the minimum recommended intersection stopping sight distance for a driver attempting to enter the intersection pursuant to the State of California Caltrans Highway Design Manual.
- J. Mobile vending on streets with a speed limit of 35 miles per hour or greater exponentially increases the risk of death if a pedestrian crossing to or from the mobile vendor is struck by a passing vehicle.

SECTION 2. The City Council hereby finds that the Ordinance is not a "project" under the California Environmental Quality Act ("CEQA") because the Ordinance does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by CEQA Guidelines Section 15378(b)(4). Furthermore, the Ordinance is exempt from further environmental review pursuant to CEQA Guidelines Section 15061(b)(3) because the City Council hereby finds that there is no possibility that this Ordinance to regulate the sale of food and goods on public property will have a significant effect on the environment. Imposing such regulations on mobile vendors pursuant to this Ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures or other direct or indirect physical changes in the environment. The regulated sales are by definition made from mobile locations and not from fixed stores or buildings. The Ordinance is an administrative process and regulates the conduct of people in the mobile sale of food and goods on public property and implements health and safety regulations.

SECTION 3. Manhattan Beach Municipal Code ("Municipal Code") Chapter 3.68 (Mobile Food Vendors) is hereby amended to read as follows:

"Chapter 3.68 (Mobile Vending Business)"

3.68.010 Definitions.

"Applicant" means any person, firm, partnership, association, corporation, company, entity or organization of any kind who proposes to vend from a mobile vending vehicle and who has applied for a permit for the proposed mobile vending pursuant to the provisions of this chapter.

"Certified Farmers' Market" means a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

"Director" means the Manhattan Beach Director of Finance.

"Food" means any type of human edible substance, including any food product or beverage as provided in the California Health and Safety Code Section 113781, or any successor section.

"Hearing Officer" means the impartial person appointed by the City Manager or other appointed authority designated under the Code to preside over mobile vending business permit appeal hearings under this Chapter.

"Mobile Vending" means to sell, offer for sale, display for sale, rent, lease, distribute with or without cost, or solicit offers to purchase, goods, merchandise, services, food, food products or beverages from a mobile vending vehicle.

"Mobile Vending Vehicle" means a vehicle as defined in the California Vehicle Code used to sell, offer for sale, display for sale, rent, lease, distribute with or without cost, or solicit offers to purchase goods, merchandise, services, food, food products or beverages.

"Mobile Vendor" means a person who vends from a mobile vending vehicle.

"Parkway" means that portion of a public right of way other than a roadway or sidewalk.

"Person" shall mean one (1) or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnerships, entities, associations, clubs, or organizations composed of two (2) or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

"Public right-of-way" shall include all public places and areas, streets, highways and other public rights-of-way within the City and all other properties owned by the City of Manhattan Beach.

"Right of way" means the surface and space in, on, above, through and below any real property in which the City of Manhattan Beach has a legal or equitable interest whether held in fee or any other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, curb, parkway, river, tunnel, viaduct, bridge, public easement, or dedicated easement.

"Roadway" means that portion of a highway as defined by California Vehicle Code Section 360 improved, designed, or ordinarily used for vehicular travel, including shoulders and on-street parking lanes, but exclusive of the sidewalk and parkways.

"The Strand" means the paved public right-of-way defined in Section 12.01.030.

"Swap meet" means a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

"Temporary special permit" means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerns.

"Vehicle Code" means the California Vehicle Code.

"Vend or Vending" means to sell, offer for sale, display for sale, rent, lease, distribute with or without cost, or solicit offers to purchase goods, merchandise, services, food, food products or beverages.

"Walk street" means a dedicated public street improved with a public walkway that is closed to vehicular traffic.

3.68.020 Permit Required.

No person, either for themselves or any other person, shall conduct or engage in mobile vending within the City without first obtaining a mobile vending business permit pursuant to this chapter.

3.68.030 Permit Application.

To apply for a mobile vending business permit, a person must file an application with the Director, or the Director's designee, accompanied by a nonrefundable application fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name and current address and telephone number of the applicant;
- B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- C. A description of the mobile vending products that are offered;
- D. Dimensions and photos of each side of the mobile vending vehicle;
- E. The hours per day and the days per week during which the mobile vending business proposes to operate;
- F. A completed application for a business license pursuant to Municipal Code Chapter 6.01;
- G. A copy of a valid California's seller's permit pursuant to Revenue and Taxation Code Section 6067;
- H. If a vendor of food or food products, certification verifying completion of a food handler course and proof of all required approvals and permits from the Los Angeles County Department of Public Health, including Mobile Food Facility Permit(s), if applicable, in compliance with Municipal Code Chapter 5.38;

- I. Certification by the applicant, under penalty of perjury that the information contained in the application is true to his or her knowledge and belief; and
- J. Liability and commercial automobile insurance in an amount to be determined by the City Risk Manager, and an agreement by the applicant to indemnify and hold harmless the City, its officers and employees, for any damage or injury to the City or its property, and for any third party claims against the City for personal injury, wrongful death and property damage as a result of the mobile vending conduct or activity.

3.68.040 Criteria for Approval or Denial of Permit.

The Director, or the Director's designee, shall approve the issuance of a mobile vending business permit unless he or she determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail; or
- B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or
- C. The applicant has failed to demonstrate an ability to conform to the operating requirements set forth in section 3.68.090; or
- D. The applicant has failed to pay any previous administrative fines.

If the mobile vending business permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

3.68.050 Permit Expiration and Renewal.

A mobile vending business permit shall be valid for twelve (12) months, or fraction thereof, from the date of issuance. The permit period shall coincide and expire concurrently with the City issued business license in accordance with Section 6.01.060 and become null and void if the vendor fails to renew each year. Renewal forms will be mailed to the address provided by the applicant prior to the expiration of the active mobile vending business permit. The annual permit is not subject to proration.

3.68.060 Permit Revocation by Director.

A. The Director may revoke a mobile vending business permit issued to a mobile vending business after a fourth violation of this chapter. A mobile vendor business whose permit is revoked may apply for a new mobile vending business permit upon the expiration of the term of the rescinded permit.

3.68.070 Appeals.

A mobile vendor whose permit was denied or revoked may appeal a decision of the Director to deny or revoke the mobile vending business permit may appeal the Director's decision to a Hearing Officer. The appeal and the applicable appeal fee shall

be filed with the City Clerk within fifteen (15) days following the date of the Director's decision. The City Council shall establish the appeal fee by Resolution.

3.68.080 Permits Nontransferable.

No permit granted pursuant to this chapter shall be transferable.

3.68.090 Operating Requirements.

Mobile vending businesses shall comply with the following:

- A. No mobile vending business shall vend in the following locations:
 - 1. Any public property, including but not limited to, sidewalks, City parks, walkstreets, landscaped areas, the Strand, marked or unmarked crosswalks, bike lanes, bike paths, parking lots, parking structures, loading zones, fire lanes and accessible paths other than on a paved roadway.
 - 2. Within one hundred fifty feet (150') of a corner to any uncontrolled crosswalk or street intersection, or within fifty feet (50') of a corner to any stopped or signalized intersection;
 - 3. Within any fire lane or adjacent to any red curb;
 - 4. On any street with a five percent (5%) or greater vertical slope, including but not limited to, any street segment with an east-west alignment west of Highland Avenue;
 - 5. Within ten feet (10') of any curb which has been designated as white, yellow, green, blue, or red zone, or a bus zone;
 - 6. Within five hundred feet (500') of a permitted certified farmers' market, a swap meet, or an area designated for a temporary special permit except as authorized by the City This prohibition shall be limited to the operating hours of the farmers' market or swap meet, or the limited duration of the temporary special permit;
 - 7. On private property without a Temporary Use Permit pursuant to Municipal Code Section 10.84.110;
 - 8. Within fifty feet (50') of another vendor;
 - 9. Within three hundred feet (300') of the nearest property line of any school property with school buildings between the hours of 7:00 AM and 5:00 PM of any school day;
 - 10. On any street with a speed limit of 35 miles per hour or more.
- B. Mobile vending is permitted between 8:00 AM and 10:00 PM daily, except in residentially zoned areas where mobile vending shall be permitted between the hours of 9:00 AM and 6:00 PM daily.
- C. The mobile vending vehicle shall be in full compliance with all state and local parking and Vehicle Code provisions which apply to the location at which it is parked or stopped.

- D. The mobile vending vehicle shall not occupy more than one marked parking space. The entire mobile vending vehicle must be located completely within a single marked parking space.
- E. Equipment and accessories that are not attached to the mobile vending vehicles including, but not limited to, portable canopies; seating; tables; umbrellas; displays; signs; lighting; portable heaters; portable generators; portable cooking equipment; external power; retail or rental merchandise; and other objects related to the operation of the business are prohibited within the public right-of-way, except for trash receptacles for mobile food vendors as prescribed in this Chapter.
- F. All food, goods and merchandise shall be stored within the mobile vending vehicle. Food, goods and merchandise shall not be displayed, stored, placed or kept on or over the public right-of-way.
- G. The mobile vendor shall not vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles or access to any business, emergency exit or life safety equipment. An unobstructed clearance of not less than five feet (5') on all sidewalks or pedestrian areas shall be maintained so as to enable persons to freely pass while walking, running, accessing parking meters, or using mobility assistance devices. The mobile vendor shall organize customer queuing in a manner that does not interfere with or obstruct the free passage of pedestrians.
- H. The mobile vendor shall not vend to occupants of vehicles or in a manner that causes any person to stand on the exposed street or traffic side of the vending vehicle or between the vending vehicle and another vehicle. The mobile vendor shall not occupy a diagonally marked parking space.
- I. The mobile vendor shall provide one minimum 30-gallon trash receptacle and one recycling receptacle for customers and shall ensure proper disposal of customer trash. Prior to leaving any vending location, the mobile vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor's customers within a fifty feet (50') radius of the vending location. Trash generated by the vending operation shall not be deposited in public trash receptacles, dumpsters or other public facilities by the mobile vendor.
- J. Mobile food vendors shall possess and display in plain view on the mobile vending vehicle a valid Public Health Permit from the Los Angeles County Department of Public Health.
- K. Mobile food vendors shall only operate within 200 feet travel distance of an approved and readily available toilet and handwashing facility to ensure that restroom facilities are available to facility employees whenever the mobile vending vehicle is stopped to conduct business for more than a one-hour period pursuant to California Health and Safety Code Section 114315(a).
- L. The mobile vendor shall possess and display a valid mobile vending business permit issued pursuant to this chapter on the vehicle in plain view at all times while vending, as well as any other permit or license required by the City and any other appropriate governmental agency.
- M. The mobile vendor shall possess at all times while vending, current general liability insurance naming the City as additionally insured in an amount not less than \$2 million dollars per occurrence and \$4 million aggregate, and \$2 million commercial auto insurance, as determined by the City's Risk Manager.

- N. The mobile vendor shall comply with all applicable federal, state and local laws, including without limitation all food preparation, handling, and labeling requirements; fire codes and regulations; noise regulations; alcoholic beverage regulations; tobacco products, cannabis, electronic cigarettes, smoking devices and controlled substances regulations; disposable plastics and take-out container regulations; sanitation and health standards set forth in Title 5, including, but not limited to, the product regulations set forth in Chapters 5.80 and 5.84; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).
- O. The mobile vendor shall not discharge any liquid (i.e. water, grease, oil, etc.) onto or into any public or private property, public right-of-way, storm drains, catch basin or sewer facilities. All discharges shall be contained and properly disposed of by the mobile vendor.
- P. Mobile vending vehicles shall not be left unattended or stored on public property or within the public right-of-way.
- Q. Mobile vendors shall not vend live animals, wildlife, fish, fowl, or insects.
- R. The mobile vendor shall not display any animated, flashing or scrolling signs.

3.68.100 Violations.

Any violation of this Chapter is unlawful and constitutes a misdemeanor punishable as set forth in Municipal Code Section 1.04.010. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Pursuant to Municipal Code Chapter 1.06, the City may issue an administrative citation for any violation of this Chapter. Such administrative remedy may be exercised in place of, or in addition to, any administrative, criminal, civil, or equitable remedy allowed by law. The amount of the fine associated with the administrative citation will be assessed according to a schedule of fines adopted by the City Council.

3.68.120 Exemptions.

This chapter shall not apply to the following:

- A. Sidewalk vendors as defined in Municipal Code Chapter 6.24.
- B. Persons delivering any goods or merchandise by vehicle where such goods or merchandise has been ordered in advance for such delivery from any business located at a permanent location, and which goods or merchandise is being delivered from such location to the customer by vehicle, regardless of the point of sale."

SECTION 4. Any provisions of the Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This Ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance and cause a summary of this Ordinance to be published as provided by law. The summary shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

ADOPTED on _____, 2025.

AYES:

NOES:

ABSENT:

ABSTAIN:

DAVID LESSER
Mayor

ATTEST:

LIZA TAMURA
City Clerk