
CHAPTER 7. REGULATION OF VENDORS *

* CodeAlert: This topic has been affected by Ordinance No. [1086](#). To view amendments and newly added provisions, please refer to the [CodeAlert Amendment List](#).

Note

* **Prior history:** Ords. 599, 723 and 753.

Sec. 4-7.01. Purpose and intent.

The City Council expressly finds that vehicles in which products are carried for the purposes of retail sale on public or private streets or alleys pose special dangers to the public health, safety and welfare of children and residents in the City of San Juan Capistrano. It is the purpose and intent of the City Council, in enacting this article, to provide responsible companies and individuals who engage in the operation of vending vehicles with clear and concise regulations to prevent safety, traffic, and health hazards, as well as to preserve the peace, safety, and welfare of the community. Due to the impacts that unrestricted vending can have on the peaceful use and enjoyment of residences and the need to preserve the residential character of neighborhoods and the impacts on Code Enforcement staff in the enforcement of vending regulations, the number, location, and other operational standards for vendors are provided. (§ 1, Ord. 778)

Sec. 4-7.02. Definitions.

For the purposes of this chapter, unless otherwise apparent from the content, certain words and phrases used in this chapter are defined as follows:

- (a) “Driver” shall mean and include every person in actual charge and control of any vehicle, bicycle, wagon, or pushcart from which goods, wares, merchandise, fruits, vegetables, ice cream, or foodstuffs are sold, displayed, solicited, offered for sale, bartered, or exchanged, or any lunch wagon or eating car or vehicle.
- (b) “Operator” shall mean any person who drives, operates or vends from a vehicle and shall include the driver and assistant on each vending vehicle.
- (c) “Person” means any natural person, firm, partnership, association, corporation, stockholder and includes, but is not limited to owners, operators, drivers, lessors and lessees of vending vehicles.
- (d) “Owner” shall mean and include every person owning or employing any individual or any vehicle, bicycle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables, ice cream, or foodstuffs are sold, displayed, solicited, offered for sale, bartered, or exchanged, or any lunch wagon or eating car or vehicle.
- (e) “Vending” means offering products of any kind for sale from a motor vehicle or pushcart on a street, alley, highway or public place within the City of San Juan Capistrano and includes the movement or standing of a vehicle for the purpose of searching for, obtaining or soliciting retail sales of products. “Vendor” shall mean any person engaged in vending. Vending conducted in connection with, or as part of, City-approved short term special events, such as Swallows Day, is exempted from the regulations of this chapter. All vendors associated with City-approved short-term special events shall be in possession of a special events business license issued by the City.
- (f) “Vending vehicle” means any vehicle, as the term is defined in the California [Vehicle Code](#), which is equipped or primarily used for retail sales on any public or private street, alley, or highway within the City of San Juan Capistrano.
- (g) “Vendor’s permit” shall mean a permit issued by the City of San Juan Capistrano authorizing the holder thereof to engage in the business of vending by an individual, firm, corporation, partnership, or association. (§ 1, Ord. 778)

Sec. 4-7.03. Vendor permit requirement.

It shall be unlawful for any person to engage in the act of vending within the City, within the public right-of-way or on any public street, alley or highway, without first obtaining from the City a vendor's permit. (§ 1, Ord. 778)

Sec. 4-7.04. Permit term and renewal.

The term of vendor permits, unless sooner suspended or revoked, shall be for a period of one year. Upon the expiration of such term, the permittee may renew the permit for additional one-year terms by payment of the annual permit renewal fees as may be established by resolution by the City Council, and by submission of a current list of operators employed by the permittee, and a current list of vehicles used by the permittee for vending in the City. Habitual or chronic violations of this article, or failure to pay fines assessed as the result of citations under this article, shall be grounds for the denial of the renewal of a vendor permit. A permittee seeking to renew a permit that is not suspended or revoked may continue in operation under the prior permit for a period of up to sixty (60) days while the renewal process is completed. (§ 1, Ord. 778)

Sec. 4-7.05. Permit process.

Any person desiring to vend within the City shall submit, in addition to a business license application, an application for a vendor's permit. A non-refundable processing fee to be set by City Council resolution shall be submitted with the application.

The application shall be reviewed by the County Sheriff's Department for verification of the licensing of the motor vehicles that may be listed in the application to be used for vending purposes. The vendor's permit shall be approved, conditionally approved or denied based on whether the following criteria have been met:

- (a) Payment of all applicable processing fees and license fees;
- (b) Receipt and approval by the City Attorney of appropriate certificates of insurance;
- (c) A finding that neither the owner, vendor, nor any operator has been found guilty of two (2) or more misdemeanors or a felony, any crime of moral turpitude or drug-related misdemeanor or felony crime, including but not limited to the sale of a controlled substance; the sale, distribution or display of harmful or obscene matter; indecent exposure; selling or disposing of lottery tickets, gambling; bookmaking; alcoholic or drug-related traffic offenses;
- (d) Accurate completion of the application, including identification of each operator to be employed in vending activities, and all vehicles to be utilized in vending activities;
- (e) In addition to the fees required by other sections of the Municipal Code, an annual fee to cover the additional Code Enforcement involvement with vendors shall be paid by all holders of a Vendor Permit. The amount of the Code Enforcement fee for vendors shall be as established by resolution of the City Council and may be amended from time to time;
- (f) Vending activities associated with an approved and permitted Special Activities Permit shall be exempt from the provisions of this chapter;
- (g) No more than fifteen (15) vendor permits for vending from vehicles as defined in this Chapter shall be in effect at any time within the City.

The decision may be appealed to the City Manager as set forth in this chapter. (§ 1, Ord. 778)

Sec. 4-7.06. Processing procedures.

The City shall, upon receipt of a fully completed application for a vendor's permit, request the County Sheriff's Department to review the vehicle license information and conduct a criminal background check for each owner, vendor and operator listed in the application. No permit shall be issued to any owner or vendor found guilty, or employing persons found guilty, of misdemeanors, or of a felony or crime as set forth in Section 4-7.05(c) of this chapter. Department of Justice background checks will be conducted annually.

All fees shall be paid prior to the background checks being conducted. Permits shall be renewed and fees paid annually. The fees shall include:

- (a) Department of Justice Processing Fee;

(b) Administrative Services Application Processing Fee;

(c) Code Enforcement Fee. In addition to receiving a vendor's permit, identification cards shall be issued to each owner and vendor by the City. The vendor identification card shall include a photograph and will be valid for a period of one year.

The owner shall produce a certificate of insurance of at least Five Hundred Thousand and no/100ths (\$500,000.00) Dollars combined single limit, certifying as to adequate public liability insurance for the specific business, including all individuals, property, and vehicles to be used in the vending.

All insurance must be current and include endorsements naming the City and Agency as additionally insured.

Any person found to have misrepresented any information will not be considered eligible for application for a background check/identification card for a period of one year. (§ 1, Ord. 778)

Sec. 4-7.07. Vehicle maintenance and inspection.

It shall be unlawful for any owner or vendor to drive or cause to be driven any vending vehicle, as defined in this chapter, which is in a defective, unsafe, or unsanitary condition. Every vending vehicle shall at all times during its operation be subject to the inspection of any officer of the City where reasonable suspicion exists of unsafe conditions or unlawful conduct. (§ 1, Ord. 778)

Sec. 4-7.08. Vendor regulations.

Due to the impacts that vending can have on residential neighborhoods and the desire to preserve the residential character of neighborhoods, the following operating standards are established:

(a) All owners and vendors vending fruits, vegetables, ice cream, or other foodstuffs shall be in possession of a valid Orange County Health Inspection Sticker. If such foodstuffs are being vended from a vehicle, the above-mentioned sticker shall be affixed to the lower right side of the windshield of the vehicle or in a prominent position on any wagon or pushcart. Each owner or vendor vending such foodstuffs on foot shall carry the sticker on his/her person.

(b) Each person who operates a motor vehicle while engaged in vending shall have on his or her person a current, valid State driver's license which he shall make available for inspection by law enforcement officials upon request. Each person who vends from a vehicle shall have on his or her person a current, valid State identification card or other verifiable identification which he shall make available for inspection by law.

(c) Each individual engaged in vending shall have the vendor identification card issued by the City in a visible position within the vehicle at all times while vending. Each vendor shall be responsible for the conduct and activities of each operator employed in vending activities and each person within a vending vehicle while such vehicle is engaged in vending activities. It shall be the responsibility of each vendor to submit the name of each operator to the City prior to employment in vending activities. Except as provided in this chapter, no operator shall vend within the City until background checks are completed, which shall be completed on an expedited basis.

(d) Each vendor shall pick up and deposit in the trash receptacle on the vehicle any paper, cups, wrappers, litter, or other refuse of any kind which were a part of the goods or merchandise supplied from the vehicle and which have been left or abandoned within twenty-five (25) feet of such vehicle on any public or private property other than in a trash receptacle provided for such purposes.

(e) No vending shall be permitted within any residential district by any vendor or operator during the following hours:

(1) Daylight savings time: From the first Sunday in April through the last Saturday in October, from 8:00 p.m. until 8:00 a.m.

(2) Non-daylight savings time: From the last Sunday in October through the first Saturday in April, from 5:30 p.m. until 8:00 a.m., except in specified locations away from through streets and high traffic areas, where vending shall be prohibited from 7:00 p.m. until 8:00 a.m.

(f) No vending vehicle shall park or stand on a public street in a residential district for a continuous period exceeding one hour in duration at any one location. For purposes of this section, any vehicle moving from a location less than 100 feet or for a period of less than one hour shall be deemed to be in the same location continuously. (§ 1, Ord. 778)

Sec. 4-7.09. Prohibited conduct.

- (a) No person shall vend:
 - (1) Within 500 feet of any school property;
 - (2) To persons who are located in that portion of the street, alley, or highway which is open to vehicular traffic;
 - (3) To persons who are parked in violation of any other provision of this Code or the Vehicle Code of the State;
 - (4) In any manner that impedes the flow of traffic;
 - (5) In any manner that impedes the flow of pedestrians on the sidewalk, or with an overhead gate or awning that is less than six feet and eight inches above the sidewalk;
 - (6) In any manner that violates the City's sign regulations pursuant to Section 9-3.603 of this Code;
 - (7) From a vehicle parked or standing on a public street in the following residential districts, except in designated parking spaces marked exclusively for vehicular vending pursuant to the provisions of Title 4, of the San Juan Capistrano Municipal Code: Capistrano Villas I, II, and III, Tracts 7160, 7183, 7191, 7192, 7193, 7194, 7195 and 7196;
 - (8) Except in the residential districts with designated parking spaces listed in this Section, from a vehicle parked or standing on a public street within thirty (30) feet in very low, low, medium low, and medium density and forty (40) feet in medium high and high density land use categories from the right-of-way line to the dwelling portion of any residence. For the purposes of this section, the dwelling portion shall mean the habitable portion of a dwelling unit not including any garage, carport or similar structure; very low, low, medium low, medium, medium high, and high density shall be as defined and shown on the official General Plan Map of the City of San Juan Capistrano;
 - (9) When the certificate of liability insurance coverage for said business, individuals, property, and/or vehicles has expired or has been cancelled.
- (b) No vendor shall vend from a vehicle which is stopped, parked, or standing on any public street, alley or highway:
 - (1) When the posted speed limit on the public street, alley, or highway is thirty-five (35) miles per hour or greater;
 - (2) When the vehicle is parked in violation of any other provision of this Code or the Vehicle Code of the State;
 - (3) When any pan of the vehicle is open to prospective customers other than the side of the vehicle next to the right side of the street, alley, or highway;
 - (4) When the vehicle is not stopped, parked, or standing on the right side of the street, alley, or highway;
 - (5) When the prospective customer is standing or sitting in another vehicle, in any manner that impedes the flow of traffic;
 - (6) When the minimum half width of the street is less than eighteen (18) feet measured from the centerline to curb face or the edge of pavement when there are no curbs within the street.
- (c) No vendor shall back a vehicle to make or attempt a sale, except for backing of not more than two vehicle lengths necessary for the legal parking of the vehicle.
- (d) No owner or driver shall activate any device causing music or any loud noise to emanate therefrom for the purpose of attracting customers to the vehicle. (§ 1, Ord. 778)

Sec. 4-7.10. Penalties.

Anyone found to be in violation of any provisions of this article shall be subject to the following penalties:

- (a) Any person found to be vending without a valid vendors permit shall be subject to citation. Any such person refusing to cease vending activities within the City when directed to do so by an authorized officer of the City or police officer shall be subject to the confiscation and/or impounding of the vehicle or pushcart and all products offered for sale. In the event that property has been seized, said property will be held until all financial obligations have been met. No vending permit shall be reinstated until such time that all fees, penalties and financial obligations have been met.
- (b) Vendors with a valid vending permit who are found to be in violation of this ordinance may be subject to the following disciplinary actions:
 - (1) On the first violation of this article, a citation will be issued for an infraction pursuant to Section 1-2.01 (b) of this Code.

(2) On the second violation of this article within a twelve (12) month period, where a conviction or the payment of a fine is the result of a prior violation in that period, a citation will be issued with a notation to the court that the fine should be doubled pursuant to Section 1-2.01(b) of this Code.

(3) On the third violation of this article within any twelve (12) month period, where a conviction or the payment of a fine is the result of two prior violations in that period, a citation will be issued with a notation to the court that the fine should be trebled pursuant to Section 1-2.01(b) of this Code.

(4) On the sixth conviction of a violation of this article within a twelve (12) month period, the vending permit shall be suspended for a period of thirty (30) days.

(5) On the ninth conviction of a violation of this article within a twelve (12) month period, the vending permit shall be suspended for a period of sixty (60) days.

(c) Any vendor found to be offering to sell or distribute any unlawful, dangerous, or controlled substance or product shall be subject to immediate revocation of the vendor's permit and will be prohibited from obtaining a vendor's permit.

(d) All violations of this article shall also be subject to the penalties pursuant to Section 1-2.01 of this Code.

(e) Habitual or chronic violations of this article, or failure to pay fines assessed as the result of citations under this article, shall be grounds for the denial of a vendor permit.

(f) The vending permit of any owner or vendor found guilty, or employing persons found guilty, of misdemeanors, or of a felony or crime as set forth in Section 4-7.05(c) of this chapter shall be revoked. (§ 1, Ord. 778)

Sec. 4-7.11. Suspension or revocation—Appeals.

The decision to suspend or revoke a vendor permit or to refuse issuance or renewal of a vendor permit shall be appealable upon application to the City Manager within ten (10) days of notice thereof. The City Manager, or his designee, shall conduct a hearing within thirty (30) days of the receipt of the application for appeal. The appealing party shall be afforded not less than ten (10) days notice of the date, time and place of the hearing, and shall have an opportunity to address the City Manager, or his designee, on all issues relevant to the suspension, revocation or refusal of a permit. The decision of the City Manager shall be final. (§ 1, Ord. 778)

Sec. 4-7.12. Special vending activities.

Notwithstanding the provisions of this article, the conduct of vending activities, in other than residential districts, may be allowed by the City Council on public property that is not located within the travel way of any highway, street, road, alley, or driveway. The conduct of such vending activity shall be in strict compliance with any conditions imposed on the use by the City Council. For the purposes of this section, "public property" shall mean any property owned or controlled by any public agency, utility, school district, transportation agency, or other similar entity. Applications for a special vending permit shall be submitted and processed by the Department of Planning. (§ 1, Ord. 778)

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