

---

## **CHAPTER 27. SIDEWALK AND STREET VENDORS**

### Sections:

#### Article 1. Sidewalk and Street Vendors

##### **5-27.1.01 Definitions**

##### **5-27.1.02 Business Tax Certificate**

##### **5-27.1.03 Health and Sanitation Requirements**

##### **5-27.1.04 Vendor Permit to Operate**

##### **5-27.1.05 Vending Locations**

##### **5-27.1.06 Cleanliness**

##### **5-27.1.07 Open-Air Barbeques or Outdoor Wood-Burning Ovens**

##### **5-27.1.08 Operation Within Specified Distance of Toilet and Handwashing Facility**

##### **5-27.1.09 Certified Farmers' Markets**

##### **5-27.1.10 Penalties**

#### Article 2. Peddlers and Solicitors

##### **5-27.2.01 Definitions**

##### **5-27.2.02 Business Tax Certificate**

##### **5-27.2.03 Permit to Operate**

##### **5-27.2.04 Permit Denial or Revocation**

##### **5-27.2.05 Peddling or Soliciting Locations**

##### **5-27.2.06 Hours When Prohibited**

##### **5-27.2.07 Certified Farmers' Markets**

##### **5-27.2.08 Penalties**

#### **Article 1. Sidewalk and Street Vendors**

**5-27.1.01 Definitions.**

For purposes of this article, the following definitions apply:

- (a) "Certified farmers' market" shall be defined as provided in California Administrative Code Title 3, Section 1392.2(a) or any successor provision.
- (b) "City" shall mean the City of Emeryville.
- (c) "Code" shall mean the Emeryville Municipal Code.
- (d) "Commissary" shall be defined as provided in Health and Safety Code Section [113751](#) or any successor provision.
- (e) "Community event" shall be defined as provided in Health and Safety Code Section [113755](#) or any successor provision.
- (f) "Eating and drinking establishments" shall be defined in Section 9-4.4.320, or any successor provision.
- (g) "Enforcement agency" shall be defined as provided in Health and Safety Code Section [113773](#) or any successor provision.
- (h) "Enforcement officer" shall be defined as provided in Health and Safety Code Section [113774](#) or any successor provision.
- (i) "Food" shall be defined as provided in Health and Safety Code Section [113781](#) or any successor provision.
- (j) "Food facility" shall be defined as provided in Health and Safety Code Section [113789](#) or any successor provision.
- (k) "Mobile food facility" shall be defined as provided in Health and Safety Code Section [113831](#) or any successor provision.
- (l) "Open-air barbeque" shall be defined as provided in Health and Safety Code Section [113843](#) or any successor provision. An "open-air barbeque" may include a fire box for heating, storage and disposal of hot coals, heated lava, hot stones or other material utilized to cook food and no more than one (1) worktable of a size not in excess of fifteen (15) square feet which may not be used for dining by the general public.
- (m) "Other public gathering" shall include for purposes of this article the operation of a mobile food facility that stops to conduct business for more than one (1) hour in the same location.
- (n) "Permanent food facility" shall be defined as provided in Health and Safety Code Section [113849](#) or any successor provision.
- (o) "Police Chief" means the Chief of Police or his/her designee.
- (p) "Temporary food facility" shall mean, consistent with Health and Safety Code Section [113930](#) or any successor provision, a food facility approved by the enforcement officer that operates at a fixed location for the duration of an approved community event and only as a part of the community event.

(q) "Vehicle" shall mean a mobile food facility, temporary food facility, catering truck, wagon, pushcart, or other motorized or non-motorized conveyance upon which food is sold, offered for sale or distributed.

(r) "Vendor" shall mean a sidewalk vendor or a street vendor.

(s) "Sidewalk vendor" shall mean any person engaged in selling, offering for sale, or distributing food on a public sidewalk.

(t) "Street vendor" shall mean any person engaged in selling, offering for sale, or distributing food from a vehicle located within a public street.

(Sec. 2 (part) (9-4.2001), Ord. 88-012, eff. Nov. 5, 1988; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.01)

#### **5-27.1.02 Business Tax Certificate.**

It shall be unlawful to sell, offer for sale, or distribute any food on any public street or public sidewalk within the City without first obtaining a business tax certificate and paying the applicable business license tax for each sidewalk vendor or street vendor, pursuant to Chapter [1](#) of Title [3](#). Notwithstanding those provisions, no business tax certificate shall be issued without evidence that the vendor has obtained all permits required by this article. The original of the City business tax certificate shall be displayed conspicuously at all times on the street vendor's vehicle and at the location of the sidewalk vendor.

(Sec. 2 (part) (9-4.2002), Ord. 88-012, eff. Nov. 5, 1988; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.02)

#### **5-27.1.03 Health and Sanitation Requirements.**

Vendors shall obtain a health permit from the enforcement agency. The health permit shall be displayed conspicuously at all times on the street vendor's vehicle and at the location of the sidewalk vendor. Evidence of such health permit shall be made available to the Finance Department as part of the business tax certificate application or renewal.

(Sec. 2 (part) (9-4.2004), Ord. 88-012, eff. Nov. 5, 1988; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.04)

#### **5-27.1.04 Vendor Permit to Operate.**

(a) It shall be unlawful to sell, offer for sale, or distribute any food on any public street or public sidewalk within the City without first obtaining a vendor permit from the Police Department pursuant to the provisions of this article for each sidewalk vendor or street vendor location. The vendor permit shall be displayed conspicuously at all times on the street vendor's vehicle and at the location of the sidewalk vendor. Evidence of such vendor permit shall accompany the business tax certificate application or renewal application to the Finance Department.

(b) Any vendor permit issued pursuant to this article shall automatically expire, terminate and be of no further force and effect at 5:00 p.m. on December 31 of each year.

(c) Any vendor permit issued pursuant to this article is nontransferable.

(d) A vendor applicant desiring a vendor permit shall file an annual application with the Chief of Police, on a form furnished by the Police Department, setting forth the following information and including the accompanying data:

- (1) Names, addresses and telephone numbers of the vendor applicant and of all persons financially interested in the business;
- (2) A statement of the type of food to be sold;
- (3) The location at which the sidewalk vendor applicant intends to operate;
- (4) Number of vehicles the street vendor applicant intends to operate, along with a copy of the current registration of each vehicle;
- (5) For street vendors, the desired street location(s) of the vehicle(s);
- (6) Intended day(s) and hours of operation at such location(s);
- (7) Whether the vendor applicant intends to operate an open-air barbeque at such location(s);
- (8) The location of the toilet and handwashing facility required by this article;
- (9) If the toilet and handwashing facility required by this article is on private property, a copy of an enforceable contract between the private property owner and the vendor applicant allowing vendor to utilize such facilities on the day(s) and hours of operation;
- (10) A copy of the health permit required by this chapter;
- (11) An acknowledgement by the vendor applicant of the obligation to comply with Chapter [14](#) of Title [6](#) regarding food service waste reduction;
- (12) Agreement by the applicant to indemnify and hold harmless the City, its officers and employees from any and all damages or injury to persons or property proximately caused by the act or neglect of the applicant or by hazardous or negligent conditions maintained at the applicant's sales location;
- (13) Evidence of general liability and automobile liability insurance in a form and at levels of coverage acceptable to the City;
- (14) Previous vending permits issued to the vendor applicant in other cities and the status of those permits;
- (15) Such further information as the Police Department may require.

(e) The application shall be accompanied by an application fee for each vehicle of a street vendor and/or each location of a sidewalk vendor. If the application is denied, the application fee shall not be returned to the vendor applicant. The application fee shall be set forth in the City's Master Fee Schedule.

(f) The Police Department shall conduct an investigation of the application and may issue a vendor permit to the vendor applicant within thirty (30) days of its receipt if the Police Chief finds that all of the following conditions have been met:

- (1) An accurate application has been filed;
  - (2) The required application fee has been paid;
  - (3) All applicable provisions of this article have been or will be met;
  - (4) The vending locations are in compliance with Section [5-27.1.05](#), will not cause evident traffic congestion, impede pedestrian or bicycle movement, or violate applicable Federal or State accessibility laws; and
  - (5) The applicant and all the persons listed in subsection (d)(1) of this section have no previous convictions under State law concerning theft, possession of stolen property, or the sale of narcotics.
- (g) The Police Chief may deny the application if it is inaccurate, incomplete or unable to meet the requirements of subsection (f) of this section, or if no application fee has been submitted.
- (h) The Police Chief may revoke a vendor permit if it is determined and found thereafter that the application was inaccurate, that the permit holder failed to meet requirements of this article, or that the vendor is operating in a manner detrimental to public health, safety or the general welfare of the City.
- (i) Any revocation of a vendor permit or denial of a vendor permit application may be appealed to the City Council pursuant to the provisions of Chapter [4](#) of Title [1](#).

(Sec. 2 (part) (9-4.2005), Ord. 88-012, eff. Nov. 5, 1988; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.05)

#### **5-27.1.05 Vending Locations.**

A vendor with a valid vendor permit shall be permitted on public streets and sidewalks from the hours of 6:00 a.m. until 12:00 a.m. daily, subject to the conditions set forth below:

- (a) No vendor shall locate within three hundred feet (300') of the grounds of any elementary or secondary school on any school day;
- (b) No vendor shall locate within five hundred feet (500') of a freeway entrance or exit;
- (c) No vendor shall locate within fifty feet (50') of any street or roadway intersection, crosswalk, fire hydrant, or bus stop;
- (d) No vendor shall locate their operation in such a way that would restrict the ingress to or egress from the adjoining property;
- (e) No vendor shall locate on any public sidewalk or within any public street adjacent to a curb which has been duly designated by the City as a white, yellow, blue or red zone;
- (f) No vendor shall locate within two hundred feet (200') of a permanent food facility during that facility's operating hours;
- (g) No vendor shall locate within two hundred feet (200') of any other vendor operating during the vending hours specified in this section;

(h) Vendors shall not operate in the RM Medium Density Residential Zone or the S-M Shoreline Management Zone, as those zones are described in Chapter [6](#) of Title [9](#), or any successor provision.

(Sec. 2 (part) (9-4.2006), Ord. 88-012, eff. Nov. 5, 1988; Sec. 2, Ord. 10-010, eff. July 15, 2010; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3, Ord. 10-020, eff. Jan. 20, 2011; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.06)

#### **5-27.1.06 Cleanliness.**

The vendor shall not leave any location without first picking up, removing and disposing of all trash or refuse from their operation that remains within twenty feet (20') of the vendor's location.

(Sec. 2 (part) (9-4.2008), Ord. 88-012, eff. Nov. 5, 1988; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.07)

#### **5-27.1.07 Open-Air Barbeques or Outdoor Wood-Burning Ovens.**

Consistent with Health and Safety Code Section [114143](#), any open-air barbeque or outdoor wood-burning oven permitted to operate on any public street or sidewalk shall meet all of the following requirements:

- (a) The open-air barbeque or outdoor wood-burning oven is operated on the same premises as, in reasonable proximity to, and in conjunction with a temporary food facility, or a mobile food facility that is operating at a community event. The vendor permit holder of the temporary food facility or mobile food facility shall be deemed to be the vendor permit holder of the open-air barbeque or outdoor wood-burning oven, and shall be responsible for ensuring it is operated in full compliance with this chapter.
- (b) The open-air barbeque or outdoor wood-burning oven is not operated in, or out of, any motor vehicle, or in any location that may constitute a fire hazard, as determined by the local enforcement officer and/or the City Fire Marshal.
- (c) The open-air barbeque or outdoor wood-burning oven is separated from public access to prevent food contamination or injury to the public by using ropes or other approved methods.
- (d) The open-air barbeque shall be equipped with an impervious and easily cleanable floor surface that extends a minimum of five feet (5') from the open-air barbeque or outdoor wood-burning oven facility on all open sides.
- (e) An open-air barbeque or outdoor wood-burning oven shall not operate on any day in which a "Spare the Air" alert or "No Burn" announcement has been issued by the Bay Area Air Quality Management District.
- (f) All ashes and coals shall be cooled before disposal. Ashes and coals shall be doused and saturated with water and the fire shall be completely extinguished. The ashes and coals shall then be placed into a metal container with a tight-fitting lid that is only used to collect ashes and coals and properly disposed of off-site of the farmers' market. Ashes and coals shall not be placed into any City trash can at any time.
- (g) The Fire Chief or his/her designee may order the immediate suspension of open-air barbeque and/or outdoor wood-burning oven operations which are conducted in violation of this section, or which are deemed unsafe or constitute a public nuisance or hazard, as determined by the Fire Chief or his/her designee.

(Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.08)

**5-27.1.08 Operation Within Specified Distance of Toilet and Handwashing Facility.**

A mobile food facility or temporary food facility shall be operated within two hundred feet (200') travel distance of an approved and readily available toilet and handwashing facility to ensure that restroom facilities are available to the vendor permit holder and any of its employees whenever the mobile food facility or temporary food facility is stopped to conduct business for more than a one (1) hour period or if the mobile food facility or temporary food facility operates an open-air barbeque or outdoor wood-burning oven.

(Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.09)

**5-27.1.09 Certified Farmers' Markets.**

Notwithstanding the provisions of this article, vendors operating within a certified farmers' market, permitted by this code, shall comply with all of the provisions of Chapter [35](#) of Title [5](#).

(Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.1.10 Penalties.**

Any violations of this article shall be punishable as an infraction as provided in Chapter [2](#) of Title [1](#). Every day of vending without a valid vendor permit constitutes a separate offense.

(Sec. 2 (part) (9-4.2009), Ord. 88-012, eff. Nov. 5, 1988; Sec. 3 (part), Ord. 10-016, eff. Dec. 16, 2010; Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012. Formerly 5-27.10)

**Article 2. Peddlers and Solicitors**

**5-27.2.01. Definitions.**

For purposes of this article, the following definitions apply:

(a) "Certified farmers' market" shall be defined as provided in California Administrative Code Title 3, Section 1392 or any successor provision.

(b) "Code" means the Emeryville Municipal Code.

(c) "Food" shall be defined as provided in Health and Safety Code Section [113781](#) or any successor provision.

(d) "Peddle" means to sell and make immediate delivery, or offer for sale and immediate delivery, any nonfood goods, wares, merchandise, or thing in possession of the seller, or services of seller, at any place within the City other than from a fixed place of business.

(e) "Peddler" means any person who peddles, as herein defined.

(f) "Person" means an individual.

(g) "Police Chief" means the Chief of Police or his/her designee.

(h) "Solicit" means to sell or take orders, or offer to sell or take orders, for any nonfood goods, wares, merchandise, or thing, for future delivery, or for services to be performed, at any place within the City other than a fixed place of business.

- (i) "Solicitor" means any person who solicits, as defined herein.

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.02. Business Tax Certificate.**

It shall be unlawful to peddle, solicit, or distribute any merchandise or services on any public street or sidewalk within the City without first obtaining a business tax certificate and paying the applicable business license tax for each peddler or solicitor, pursuant to Chapter [1](#) of Title [3](#). Notwithstanding those provisions, no business tax certificate shall be issued without evidence that the peddler or solicitor has obtained all permits required by this article. The original of the City business tax certificate shall be displayed conspicuously at all times at the location of a peddler or solicitor located on the public right-of-way or, in the case of a mobile peddler or solicitor, on demand from any law enforcement officer or upon demand of any person to whom the peddler or solicitor is peddling or soliciting.

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.03. Permit to Operate.**

(a) No person shall peddle or solicit on any public street or public sidewalk in the City without a valid permit issued by the Police Department. Evidence of such permit shall accompany the business tax certificate application or renewal application to the Finance Department.

(b) Any permit issued pursuant to this article shall automatically expire, terminate, and be of no further force and effect at 5:00 p.m. on December 31 of each year.

(c) Any permit issued pursuant to this article is nontransferable.

(d) A peddler or solicitor applicant desiring a peddler or solicitor permit shall file an annual application with the Chief of Police, on a form furnished by the Police Department, setting forth the following information and including the accompanying data:

- (1) Names, addresses and telephone numbers of the applicant and of all persons financially interested in the business;
- (2) A statement of the type of goods, property, or service to be peddled or solicited;
- (3) The names and addresses of at least two (2) references as to the applicant's moral character, honesty and integrity;
- (4) Identification of any vehicle intended to be used for peddling or soliciting;
- (5) The intended location of peddling or soliciting activities;
- (6) Agreement by the applicant to indemnify and hold harmless the City, its officers and employees from any and all damages or injury to persons or property proximately caused by the act or neglect of the applicant or by hazardous or negligent conditions maintained at the applicant's sales location;
- (7) Evidence of general liability and automobile liability insurance in a form and at levels of coverage acceptable to the City;



- (8) Previous peddling or soliciting permits issued to the applicant in other cities and the status of those permits; and
  - (9) Such further information as the Police Department may require.
- (e) The applicant shall also furnish his/her fingerprints and thumbprints to be taken by the Police Department.
- (f) The application shall be accompanied by an application fee. If the application is denied, the application fee shall not be returned to the applicant. The application fee shall be set forth in the City's Master Fee Schedule.
- (g) The Police Department shall conduct an investigation of the application and may issue a peddler or solicitor permit to the applicant within thirty (30) days of its receipt if the Police Chief finds that all of the following conditions have been met:
- (1) An accurate application has been filed;
  - (2) The required application fee has been paid;
  - (3) All applicable provisions of this article have been or will be met; and
  - (4) The applicant and all the persons listed in subsection (d)(1) of this section have no previous convictions under State law concerning theft, possession of stolen property, the sale of narcotics, or a crime involving moral turpitude.
- (h) Every peddler or solicitor, at all times while engaged in peddling or soliciting, shall have in his/her immediate possession the permit issued under the provisions of this section and when so peddling or soliciting shall display the same upon demand of any law enforcement officer and upon demand of any person to whom the peddler or solicitor is peddling or soliciting.
- (i) Every vehicle used for peddling or soliciting shall display the permit issued pursuant to this article in a conspicuous place in said vehicle.

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.04 Permit Denial or Revocation.**

- (a) The Police Chief may deny a permit application if it is inaccurate, incomplete or unable to meet the requirements of Section [5-27.2.03](#), or if no application fee has been submitted.
- (b) The Police Chief may revoke a permit if any of the following are determined and found after permit issuance:
- (1) The application was inaccurate;
  - (2) Any violation of this article;
  - (3) Conviction of the permit holder of any felony or crime involving moral turpitude; or

(4) Peddling or soliciting in an unlawful manner or in such a manner which is detrimental to public health, safety or the general welfare of the City.

(c) Any revocation of a permit or denial of a permit application may be appealed to the City Council pursuant to the provisions of Chapter [4](#) of Title [1](#).

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.05. Peddling or Soliciting Locations.**

A peddler or solicitor with a valid permit shall be permitted on public streets and sidewalks from the hours of 8:00 a.m. until 7:00 p.m. daily, subject to the conditions set forth below:

(a) No peddler or solicitor shall operate within three hundred feet (300') of the grounds of any elementary or secondary school on any school day;

(b) No peddler or solicitor shall locate within five hundred feet (500') of a freeway entrance or exit;

(c) No peddler or solicitor shall locate within fifty feet (50') of any street or roadway intersection, crosswalk, fire hydrant, or bus stop;

(d) No peddler or solicitor shall locate their operation in such a way that would restrict the ingress to or egress from the adjoining property;

(e) No peddler or solicitor shall locate on any public sidewalk or within any public street adjacent to a curb which has been duly designated by the City as a white, yellow, blue or red zone;

(f) No peddler or solicitor shall locate within two hundred feet (200') of any other peddler or solicitor operating during the vending hours specified in this section;

(g) Peddlers and solicitors shall not operate in the RM Medium Density Residential Zone or the S-M Shoreline Management Zone, as those zones are described in Chapter [6](#) of Title [9](#), or any successor provision.

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.06. Hours When Prohibited.**

It is unlawful for any person to peddle or solicit before 8:00 a.m. or after 7:00 p.m. of any day.

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.07. Certified Farmers' Markets.**

Notwithstanding the provisions of this article, peddlers and solicitors operating within a certified farmers' market, permitted by this code, shall comply with all of the provisions of Chapter [35](#) of Title [5](#).

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

**5-27.2.08. Penalties.**

Any violations of this article shall be punishable as an infraction as provided in Chapter [2](#) of Title [1](#). Every day of peddling or soliciting without a valid permit constitutes a separate offense.

(Sec. 3 (part), Ord. 11-005, eff. June 2, 2011; Sec. 2 (part), Ord. 12-006, eff. Mar. 8, 2012)

---

Home

<

>

The Emeryville Municipal Code is current through Ordinance 16-003, passed February 2, 2016.

Disclaimer: The City Clerk's Office has the official version of the Emeryville Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.emeryville.ca.us>

City Telephone: (510) 596-4300

[Code Publishing Company](#)