

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

BILL NO. _____

ORDINANCE NO. _____

ORDINANCE TO AMEND TITLE 5 OF THE RENO MUNICIPAL CODE ENTITLED "PRIVILEGED LICENSES, PERMITS AND FRANCHISES," BY REPEALING CHAPTER 5.15 ENTITLED "SIDEWALK VENDORS," TOGETHER WITH MATTERS WHICH PERTAIN TO OR ARE NECESSARILY CONNECTED THEREWITH.

SPONSORED BY: BUSINESS LICENSING DEPARTMENT

THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

SECTION 1 Title 5, Chapter 5.15 of the Reno Municipal Code is hereby repealed:

~~CHAPTER 5.15. SIDEWALK VENDORS~~

~~Sec. 5.15.010. Definitions.~~

- (a) — ~~City means the City of Reno, a municipal corporation of the State of Nevada.~~
- (b) — ~~City council or council means the present governing body of the city or any future council constituting the legislative body of the city.~~
- (c) — ~~Chief of police means the city's chief of police, or designee.~~
- (d) — ~~City manager means the city manager, or designee.~~
- (e) — ~~Fire chief means the city's fire chief, or designee.~~
- (f) — ~~Vending cart or cart means any wagon, stand, table, bench, booth, rack or any food service device, whether stationary or moveable, wherein or wherefrom any merchandise, food or foodstuffs are sold, served, distributed, offered for sale, or given away to the public, whether foodstuffs are consumed at said cart or elsewhere.~~
- (g) — ~~RMC means the Reno Municipal Code.~~
- (h) — ~~Sidewalk vendor or vendor means any person, including an employee or agent of another, engaged in the business of operating a vending cart within the City of Reno.~~
- (i) — ~~Sidewalk vendor permit or permit means a permit issued under this chapter.~~
- (j) — ~~Special event means any event, activity or assembly duly authorized by the city pursuant to the Reno Municipal Code.~~

- (k) — Special event organizer means the person(s) responsible for organizing, managing, and conducting a special event.
- (l) — Special event permit means a permit issued under RMC § 5.13.010, et seq.
- (m) — Special event venue means that area for which a special event permit has been issued.
- (n) — First Amendment artisan means any person who has been certified as a First Amendment artisan pursuant to the applicable provisions of the Reno Municipal Code.

Sec. 5.15.020. Purpose.

It is the purpose of the city council to establish a process for permitting sidewalk vendors to operate within the City of Reno. The activities of sidewalk vendors impact the public health, safety, good order and general welfare of the inhabitants of the city and its visitors. It is recognized that sidewalk vendors, in conjunction with sidewalk artists, speakers and special events, promote the increased use and enjoyment of the city by making the area more interesting and attractive to tourists and northern Nevada residents through the creation and enhancement of an activity-oriented environment. Sidewalk vending adds variety, interest, color, charm and a human touch to the city, particularly in the Truckee River Corridor. All permits issued pursuant to this chapter shall be privileged licenses and not occupational licenses. No applicant for a privileged license or permit has any right to such license or permit. Any license or permit issued pursuant to this chapter is a revocable privilege, and no holder acquires any vested right therein or thereunder.

Sec. 5.15.030. Permit required.

It shall be unlawful for any person, firm or corporation to engage in or carry on the business of sidewalk vendor, or to operate, or cause or permit to be operated any vending cart upon any public street, sidewalk, alley, or any other public place in the city, without first having obtained a permit from the city manager.

Excluded from the provisions of this chapter are areas where First Amendment artisan display, elicit or accept contributions for, sell, offer for sale, expose for sale, or solicit offers to purchase any craft or work of his or her own creation pursuant to RMC § 5.14.010, et seq.

Sec. 5.15.040. Permit fee.

Each application for a permit to conduct business pursuant to this chapter shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. In addition, a permit fee shall be collected prior to issuance of the permit. A sidewalk vendor permit shall commence April 1st, and expire at midnight, March 31st of each year. The application fee and permit fee shall be established by city council.

Sec. 5.15.050. Application for permit.

When an application is submitted for a sidewalk vendor permit, or for addition of products or change of location of an existing permit, under this chapter, the city manager shall make or cause to be made an investigation into the applicant's proposed sidewalk vending operation for the purpose of determining that said operation conforms with the provisions of this chapter and to all

applicable state and local laws. An application for a sidewalk vendor's permit shall contain all information deemed relevant and necessary to evaluate the proposed vending business, including but not limited to:

- (a) — The name and address to which notice, when required, is to be sent or mailed, and the name and address of a person authorized to accept service of process, if not otherwise set forth herein.
- (b) — A brief description of the food, beverages, goods and/or merchandise to be sold.
- (c) — A specific location of the proposed vending business, including a to-scale map showing details of the specific place where the applicant intends to conduct such business in relation to the proposed site, adjacent buildings, street furnishings, curbs, fire hydrants, driveways, door openings and any other encumbrances. Sidewalk dimensions must be shown in relation to proposed cart. Each permit issued pursuant to this chapter shall be valid for only one specific sidewalk vending location.
- (d) — If applicable, proof of registration of fictitious name with Washoe County Clerk.
- (e) — The Reno Police Department background investigation form.
- (f) — A valid copy of all necessary permits required by state or local health authorities.
- (g) — The nature of the application including whether the application is for a new permit, a change of location, or the addition of products to an existing permit.
- (h) — A photograph of the cart and all other equipment to be used.
- (i) — Such additional information deemed pertinent to the operation of the proposed activity not inconsistent with this chapter as the chief of police or city manager may require in addition to the other requirements of this section.

Sec. 5.15.060. Inspections.

- (a) — No sidewalk vendor shall sell food products for human consumption unless the vendor has been issued a health permit by the Washoe County District Health Department. Certificates of health permit shall be properly and conspicuously displayed at all times during the operation of the vending business.
- (b) — The vendor must have any temporary or permanent changes in his food product line approved by the health department.

Sec. 5.15.070. Location selection and public hearing.

- (a) — Applications for a new sidewalk vendor permit, and all applications to modify existing sidewalk vendor permits, shall cause the city manager to fix a time and place for a public hearing. The public hearing shall be scheduled no more than 60 days from the date of submission of said application.
- (b) — Not less than ten days before the date of such hearing, the city manager shall cause to be published a notice of such hearing in the official newspaper of the city. The cost of

~~publishing said notice shall be borne by the applicant. The city manager shall maintain a file of the names and addresses of all persons wishing to receive notice by mail of any application filed pursuant to this chapter. Not less than ten days before the date of such hearing, the city manager shall cause to be mailed notice of such hearing to all persons requesting to be so notified, and to all business owners with a business entrance or exit located within a 300-foot radius of the proposed location. Such notices published or mailed pursuant to this section shall contain the following:~~

- ~~(1) — The name and business address of the applicant;~~
 - ~~(2) — The product or products to be sold;~~
 - ~~(3) — The location of the proposed sales activity, the days and hours of operation; and,~~
 - ~~(4) — The nature of the application including whether the application is for a new permit, a change of location, or the addition of products to an existing permit.~~
- ~~(c) — The city manager is authorized to establish and conduct a lottery whereby sidewalk vendors shall be assigned a designated selling location.~~

Sec. 5.15.080. Issuance of sidewalk vendors permit.

~~The city manager may issue a sidewalk vendor permit pursuant to this chapter within ten business days following a hearing as provided herein, based on his investigation and the investigation of the chief of police, if he finds:~~

- ~~(a) — That the sidewalk vending operation, as proposed by the applicant:
 - ~~(1) — Would comply with all applicable laws, including but not limited to, the provisions of this chapter; the Reno Municipal Code; and, the City of Reno's Vendor Cart Design Regulations;~~
 - ~~(2) — Does not adversely impact businesses in the area;~~
 - ~~(3) — Is compatible with the nature and character of the area in which it located; and,~~
 - ~~(4) — Promotes the purposes and policies of this chapter.~~~~
- ~~(b) — That the applicant who will be directly engaged in the operation of the business of sidewalk vending has not been convicted of a felony.~~
- ~~(c) — That the applicant has not made any false, misleading or fraudulent statements of facts in the permit application or any other document submitted to the city.~~
- ~~(d) — That the applicant's proposed operation is not located within 100 feet of an established business which sells the same type of food product or other merchandise or similar service as intended by the applicant.~~

Sec. 5.15.090. Form and condition of permit.

~~The permit issued shall be in a form deemed suitable by the city manager. In addition to naming~~

the vendor and other information deemed appropriate by the city manager, the permit shall contain the following conditions:

- (a) — Each permit will expire at midnight, March 31st of each year;
- (b) — The permit issued shall be personal only and not transferable in any manner;
- (c) — The permit is valid only when used at the specific location designated on the permit;
- (d) — The permit is valid for one cart only;
- (e) — The applicant shall furnish a certificate of insurance showing coverage under an insurance policy issued by an insurance company licensed to do business in the State of Nevada, protecting the vendor and the city from all claims or damages to property and bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000.00 combined single limit for bodily injury and property damage. Such certificate of insurance shall name as additional insured the city and shall provide the policy shall not terminate or be canceled nor the coverage hereunder amended or reduced prior to the expiration date without 30 days advance written notice to the city.
- (f) — The location within the permit operating area may be changed, either temporarily or permanently, by written notice of the city manager; and,
- (g) — The permit is subject to the further restrictions of this chapter.

Sec. 5.15.100. Restrictions.

- (a) — Vendors shall not:
 - (1) — Allow carts to impede access to the entrance of any adjacent building or driveway;
 - (2) — Occupy more than half of the available sidewalk width, or leave a space for pedestrian passage less than five feet wide;
 - (3) — Make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic;
 - (4) — Locate any cart within ten feet of a fire hydrant, fire department standpipe connection, fire escape, driveway of a fire station, police station, hospital, bus stop, any entrance or exit doorway, loading zone, or obstruct a commercial business sign;
 - (5) — Permit any cart or its products to be leaned against or hung from any building or any other structure, including, but not limited to, structures such as lamp posts, parking meters, mail boxes, traffic signal stanchions, fire hydrants, fire department standpipe connections, trees, tree boxes, benches, bus shelters, or traffic barriers which lawfully occupy public space;
 - (6) — Engage in or carry on the business of sidewalk vending between the hours of 10:00 p.m. and 7:00 a.m. Vending cart and all related equipment/merchandise must be

removed from public property during non-vending hours.

- (7) — Be allowed to sell alcoholic beverages, used goods, any controlled substance or paraphernalia, dangerous weapons, or pyrotechnics; and
 - (8) — Use or permit the use of lights, noisemakers, bells, whistles, horns or similar devices to attract customers. A vendor may use battery-operated lights with appropriate protective shields for the purpose of illuminating merchandise.
 - (9) — Use or permit the use of adjacent city or privately-owned trash receptacles.
 - (10) — Engage in or carry on the business of sidewalk vending within a 300-foot radius of any designated entrance or exit of a special event venue, without the prior express written permission of the event organizer.
- (b) — The city council shall adopt by passage of a resolution vendor cart design regulations for the purpose of providing design standards for carts. These regulations may be amended by passage of a resolution by the city council.

Sec. 5.15.110. Identification.

The chief of police shall issue to each vendor and vendor employee an identification card which shall contain a photograph of the vendor with the number of the permit in figures plainly discernible. The chief of police shall determine the manner and form of any other information that may be placed upon this identification card. Such identification card shall be in the possession of the vendor or vendor employee at all times while operating, and shall be immediately produced upon request to any enforcement official. Vendor and vendor employees shall return to the police department the identification card upon discontinuance of operation, revocation or suspension of permit, or upon termination of the vendor employee.

Sec. 5.15.120. Renewal.

- (a) — Application for renewal of permits shall be received from February 1st through March 1st each year. Application shall be on a form deemed suitable by the city manager. Applications received after March 1st shall be treated and processed as new applications. The city manager shall review each application to determine that:
- (1) — The applicant has a currently effective insurance policy in the minimum amount provided in section 5.15.090 naming the city as an additional insured;
 - (2) — All applicable required permits are current; and,
 - (3) — The vending cart is in conformance with the City of Reno's Vendor Cart Design Regulations.
 - (4) — For the year prior, sidewalk vendor was in full compliance with all the terms conditions of its permit, this chapter, and applicable local, state and federal law and regulations.
- (b) — If the city manager finds that the application meets the requirements set forth in subsection

(a) above, the city manager shall issue a new permit. The city manager shall have the authority to modify the terms and conditions of the permit consistent with his or her findings set forth in subsection (a) above.

Sec. 5.15.130. Denial, suspension or revocation of permit.

(a) — [Grounds for denial.] Any application or renewal submitted to the city pursuant to this chapter may be denied for the following causes:

- (1) — The application or any other document is incomplete or contains false, misleading or fraudulent statements;
- (2) — The applicant or any of its principals fails to satisfy any qualification or requirement imposed by this chapter, or other local, state or federal laws or regulations that pertain to the particular permit;
- (3) — The applicant or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required;
- (4) — The applicant or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business;
- (5) — The applicant or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business;
- (6) — The applicant or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years;
- (7) — The applicant or any of its principals suffers from a legal disability or capacity under state or federal laws;
- (8) — The cart and/or location on which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed; or
- (9) — The applicant or any of its principals is in default on any payments owed to the city.

(b) — Grounds for suspension or revocation. Any permit issued pursuant to this chapter may be revoked or suspended by the city, after notice and opportunity to be heard as provided in this chapter, for any of the following causes:

- (1) — Any fraud, misrepresentation or false statement contained in the application for license or renewal;

- (2) — Any fraud, misrepresentation or false statement made in connection with conducting the business licensed under this chapter;
 - (3) — Any violation of the provisions of the Reno Municipal Code, or any local, state or federal law or regulation relating to the operation of vendor's business;
 - (4) — Any act or omission by the licensee or his employees or his agents, related to the operation of the business licensed, which is a threat to the public health, safety, morals or welfare or constitutes a breach of the peace or nuisance under Reno Municipal Code, Chapter 8.22.
 - (5) — The non-payment of any amounts owed to the city or any special event organizer.
- (c) — Grounds for summary suspension. Any permit issued pursuant to this chapter shall be subject to summary suspension by order of the chief of police or by the fire chief whenever there is probable cause to believe that extraordinary circumstances have arisen which are an immediate threat to the public health, safety, morals or welfare.

Sec. 5.15.140. Appeal.

- (a) — Denial of permit. Upon the denial of a permit or renewal application under this chapter, the applicant is prohibited from conducting any business for which approval was denied until such time as an appeal has been heard and the denial has been reversed as provided herein. Any person aggrieved by the action of the city in the denial of an application for a permit shall have the right of appeal to the administrative hearing officer. Such appeal shall be taken by filing with the administrative hearing officer at the city clerk's office within ten business days after notice of the denial has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The administrative hearing officer shall set the matter for hearing within ten business days and cause notice of the time and place to be given to the applicant. Notice shall be given to the applicant no less than five business days prior to the date of such hearing. The hearing shall be conducted in the manner set forth in RMC § 4.04.170. The decision and order of the administrative hearing officer shall be final and conclusive. Both the city and the applicant shall have the right to appeal the decision of the administrative hearing officer to municipal court, or to another tribunal if required by law. Any appeal from the hearing officer's decision must be taken within 30 calendar days after notice of the final decision.
- (b) — Revocation or suspension. The decision of the administrative hearing officer following a show cause hearing for revocation or suspension under section 5.15.130 may be appealed by the city or any aggrieved party to municipal court, or to another tribunal if required by law, within 30 days after notice of the final decision. If the permit is revoked or suspended, no business shall be conducted under that permit until such time as an appeal has been heard and the revocation or suspension has been reversed.
- (c) — Summary suspensions. Upon the summary suspension of any permit issued under this chapter, the vendor shall have the right to a hearing to appeal the aggrieved action before the administrative hearing officer within 72 hours of such action. The hearing shall be conducted in the manner set forth in RMC § 4.04.170. It shall be the responsibility of the aggrieved vendor to subpoena any and all witnesses relevant to such vendor's case. The

decision and order of the administrative hearing officer shall be final and conclusive. Both the city and the vendor shall have the right to appeal the decision of the administrative hearing officer to municipal court, unless appeal to another tribunal is required by law. Any appeal from the summary suspension must be taken within 30 calendar days after notice of the summary suspension.

- (d) — Fee dispute or other grievance. Any person aggrieved by the action of the city in the determination of a permit fee or any other grievance under this chapter shall have the right of appeal to the administrative hearing officer. Such appeal shall be taken by filing with the administrative hearing officer at the city clerk's office within ten business days after notice of the aggrieved action has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The administrative hearing officer shall forthwith set the matter for hearing and cause notice of the time and place to be given to the applicant. Notice shall be given to the applicant no less than five business days prior to the date of such hearing. The hearing shall be conducted in the manner set forth in section 4.04.170. The decision and order of the administrative hearing officer shall be final and conclusive. Both the city and the vendor shall have the right to appeal the decision of the administrative hearing officer to municipal court, or to another tribunal if required by law. Any appeal from the hearing officer's decision must be taken within 30 calendar days after notice of the final decision.

Sec. 5.15.150. Enforcement.

- (a) — Any person violating any of the provisions of this chapter:
- (1) — Upon conviction, shall be guilty of a misdemeanor and punished as provided in RMC § 1.04.010; or
 - (2) — Shall be subject to provisions of RMC Chapter 1.05, et seq.
- (b) — The application of the above penalty referenced provisions shall not preclude the enforced removal of any condition violating this chapter or any permit issued pursuant to this chapter ("prohibited condition"), or the closing of the place in which the prohibited conditions exist.
- (c) — The enforced removal of prohibited conditions or the closing of the place in which the prohibited conditions exist shall not preclude the application of the above penalty referenced provisions.

Sec. 5.15.160. Violation a nuisance, summary abatement.

The placement of any cart or device on any sidewalk in violation of the provisions of this chapter is declared to be a public nuisance. In addition to any other legal remedies, the chief of police may cause the removal of any cart or device found on a sidewalk in violation of this chapter and is authorized to store such cart or device until the owner thereof shall redeem it by paying the applicable removal and storage charges.

Sec. 5.15.170. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more section, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.