

## STAFF REPORT

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**Date:** December 13, 2023

**To:** Mayor and City Council

**Thru:** Doug Thornley, City Manager

**Subject:** Staff Report (For Possible Action): Ordinance Introduction - Bill No. \_\_\_\_\_ Ordinance to amend Title 4 of the Reno Municipal Code entitled “Business License Code,” by creating Chapter 4.08 entitled “Sidewalk Vendors,” together with matters which pertain to or are necessarily connected therewith.

**From:** Lance Ferrato, Director of Business Licensing

**Department:** Business Licensing

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**Summary:**

On November 15, 2023, Council referred Bill No. 7252, the creation of Chapter 4.08 entitled “Sidewalk Vendors,” for a second reading and adoption. Subsequent review and preparation for the second reading revealed a clerical error requiring a revision that was deemed to be a material change by the City Attorney’s Office and therefore must be addressed.

The word “merchandise” is used throughout the ordinance draft; however, it was omitted from one section of the proposed language while the subparagraph immediately following referenced merchandise sales in a duplicative manner. As a result, one subsection was updated, and the other was deleted. The change does not impact the intent of the ordinance as it was presented to Council; however, the language introduced would have impacted regulation. Additionally, as a matter of timing and coincidence, discussions with Northern Nevada Public Health (NNPH) led to a request to amend language referring to their previous moniker “health department” to reflect “health district.” To avoid future discrepancies, the language was updated to “health authorities” and the section was modified and condensed for clarity. Lastly, other minor clarifications, references, and grammatical corrections were made.

The following report remains substantially unchanged from the report previously submitted to Council:

This report provides information relative to the passage of Senate Bill (SB) 92 during the 2023 Nevada Legislative Session and Council’s subsequent direction to proceed with amendments to Reno Municipal Code (RMC) Chapter 5.15 “Sidewalk Vendors.”

Effective January 1, 2024, the bill establishes requirements for the regulation of sidewalk vendors. The City currently regulates this activity under RMC Chapter 5.15; however, modifications are required to be compliant with the new statutory language. Furthermore, SB92 aims to lessen the barrier to entry for sidewalk vendors; therefore, staff recommended and Council agreed that regulations should be modified accordingly.

Staff supports the proposed amendments described in this report and recommends Council refer Bill No. \_\_\_\_\_ for a second reading and adoption.

**Alignment with Strategic Plan:**

Economic and Community Development

**Previous Council Action:**

November 15, 2023 – Council referred (5-1) the proposed ordinance to create RMC Chapter 4.08 to be known as “Sidewalk Vendors” for a second reading and possible adoption.

September 13, 2023 – Council heard a staff presentation regarding SB92 including new statutory requirements, discretionary provisions, and staff recommendations consistent with legislative intent and ultimately gave direction to staff to proceed with drafting an ordinance.

**Background:**

At the 2023 Nevada Legislative Session, SB92 (Exhibit A) was enacted. Effective January 1, 2024, the bill establishes a framework for the regulation of sidewalk vendors including provisions relative to licensing requirements, geographical operation limitations and allowances, enforcement guidelines, and permitting conditions.

The City currently regulates sidewalk vending activity through RMC Chapter 5.15; however, in order to become compliant with Nevada Revised Statutes (NRS), multiple amendments will be necessary. Additionally, staff has identified topics and suggested changes consistent with the intent of SB92 such as reclassification of sidewalk vending as a standard license, not a privileged one, and the removal of assigned locations.

**Discussion:**

After review of current code and the newly established NRS requirements, several sections of RMC Chapter 5.15 have been identified as needing to be added, removed, or amended. Further, staff has identified topics and suggested changes consistent with the intent of SB92.

The table below summarizes the changes required by NRS:

<b>Topic</b>	<b>Explanation</b>
<i>Location Restrictions</i>	<p>Statute restricts the sale of food, beverages, or merchandise upon a public sidewalk or pedestrian path from a conveyance, including, without limitation, a pushcart, stand, display, pedal-driven cart, wagon, showcase, or rack, within 1,500 feet of:</p> <ul style="list-style-type: none"> <li>• A resort hotel, as defined in NRS 463.01865;</li> <li>• An event facility that has seating capacity for at least 20,000 people and is constructed to accommodate a major or minor league sports team;</li> <li>• A convention facility operated by a county fair and recreation board; or</li> <li>• A median of a highway that is adjacent to a parking lot.</li> </ul> <p>Note: A person may sell food, beverages, or merchandise within 1,500 feet of said locations if selling from an area that is zoned exclusively for residential use unless the area is on a public sidewalk or pedestrian path that is immediately adjacent to a location.</p>
<i>Definitions</i>	<p>Definitions need to be modified to be consistent with NRS.</p>
<i>Enforcement Provisions</i>	<p>NRS requires that criminal enforcement shall not be imposed on the act of sidewalk vending in residential areas.</p> <p>Criminal, civil, or administrative penalties may be imposed when violating required distancing restrictions. (Will not constitute a crime of moral turpitude.)</p>
<i>Map</i>	<p>Required to create and post a map on the City website of the zones where a person may engage in the act of sidewalk vending.</p>

Topic	Explanation
<i>Remove Operational Time Restrictions</i>	NRS requires that hours of operation may not be more restrictive than any restriction on the hours of operation imposed on home-based businesses that are similar to sidewalk vending. For context, the City does not currently have an operational time restriction for home-based businesses.

The table below summarizes discretionary regulation pursuant to NRS:

Topic	Explanation
<i>Location Restrictions</i>	<p>Statute gives Council discretion to restrict or prohibit sidewalk vendors from operating:</p> <ul style="list-style-type: none"> <li>• Within the immediate vicinity of a farmer’s market or permitted special event;</li> <li>• Within a set distance from: <ul style="list-style-type: none"> <li>○ A nonrestricted gaming license;</li> <li>○ A food establishment;</li> <li>○ A school, childcare facility, community center, polling place, religious institution or place of worship, or a park or recreational facility owned by the city school;</li> <li>○ A highly trafficked pedestrian mall, convention center, or designated entertainment district.</li> </ul> </li> </ul> <p>Staff recommends maintaining the following two standards that sidewalk vendors are currently subject to under RMC Chapter 5.15:</p> <p>Sec. 5.15.100  “(a) Vendors shall not: ...  (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.”</p>

<b>Topic</b>	<b>Explanation</b>
	<p>And</p> <p>Sec. 5.15.080 (d)</p> <p>“... the applicant's proposed operation is not located within 100 feet of an established business that sells the same type of food product or other merchandise or similar service as intended by the applicant.”</p>

The table below summarizes items identified by staff to be included in the amendment:

<b>Topic</b>	<b>Rationale</b>
<i>Remove Vending Cart Design Regulations</i>	Vending cart design requirements are duplicative; the City can rely on health authority standards and approval.
<i>Classify Sidewalk Vending as a Standard License, not a Privileged License</i>	<p>Staff recommends moving sidewalk vending regulation from Title 5 to Title 4.</p> <p>Current Code classifies sidewalk vending as a privileged activity; however, one of the primary goals of this legislation was to create a less restrictive environment with regard to licensure and activity. By moving regulation to Title 4, background checks, public hearings, and Council approval would be eliminated.</p>
<i>Remove Location Assignment</i>	Current Code requires a specific location assignment for each licensed sidewalk vendor. In order to create less restrictive oversight, staff suggests eliminating this requirement and allowing sidewalk vendors to roam. This would also eliminate the need for a public hearing to discuss and approve the assigned location.
<i>General Clean-up</i>	Staff has identified administrative clean-up in the current language that should be addressed.

Based on these items and the direction given by Council, a draft ordinance to create RMC Chapter 4.08 (Exhibit B) has been attached to this report.

***Business Impact Statement:***

Based upon the requirements of NRS Chapter 237, no Business Impact Statement (BIS) is required. The recommended modifications are mandated by the 2023 Nevada Legislature with the passage of SB92; no other changes are being brought forward that are inconsistent with current code.

**Financial Implications:**

No financial implications at this time.

**Legal Implications:**

Legal review completed for compliance with City procedures and Nevada law.

**Recommendation:**

Staff recommends Council refer Bill No. \_\_\_\_\_ for a second reading and adoption.

**Proposed Motion:**

I move to refer Bill No. \_\_\_\_\_ for a second reading and adoption.

**Attachments:**

Exhibit A – Senate Bill 92 (2023) as Enrolled

Exhibit B – Draft Ordinance - Create Chapter 4.08