

STAFF REPORT

Date: January 17, 2024

To: Mayor and City Council

Thru: Doug Thornley, City Manager

Subject: Staff Report (For Possible Action): Ordinance Adoption - Bill No. 7257 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.

From: Lance Ferrato, Director of Business Licensing

Department: Business Licensing

Summary:

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 established 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 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 adopt Ordinance No. _____.

Alignment with Strategic Plan:

Economic and Community Development

Previous Council Action:

December 13, 2023 – After discovering a material error, staff revised the draft ordinance and reintroduced the items under Bill No. 7256 to create RMC Chapter 4.08 and Bill No. 7257 to repeal RMC Chapter 5.15, which were ultimately referred (6-1) for second readings and adoption.

November 15, 2023 – Council referred (5-1) Bill No. 7251 to repeal RMC Chapter 5.15 and Bill No. 7252 to create RMC Chapter 4.08 for second readings and 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:

Topic	Explanation
<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">- A resort hotel, as defined in NRS 463.01865;- 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;- A convention facility operated by a county fair and recreation board; or- A median of a highway that is adjacent to a parking lot.

Topic	Explanation
	<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>
<i>Remove Operational Time Restrictions</i>	<p>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.</p>

The table below summarizes discretionary regulation pursuant to NRS:

Topic	Explanation
<i>Location Restrictions</i>	<p>Statute gives Council the discretion to restrict or prohibit sidewalk vendors from operating:</p> <ul style="list-style-type: none"> - Within the immediate vicinity of a farmer’s market or permitted special event; - Within a set distance from: <ul style="list-style-type: none"> o A nonrestricted gaming license; o A food establishment; o 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; o A highly trafficked pedestrian mall, convention center, or designated entertainment district. <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> <p>And</p> <p>Sec. 5.15.080 (d) “... 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.”</p>

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

Topic	Rationale
<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>	Staff recommends moving sidewalk vending regulation from Title 5 to Title 4. 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.
<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 repeal RMC Chapter 5.15 (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 adopt Ordinance No. _____.

Proposed Motion:

I move to adopt Ordinance No. _____.

Attachments:

Exhibit A – Senate Bill 92 (2023) as Enrolled

Exhibit B – Draft Ordinance - Repeal Chapter 5.15