

## Chapter 5.56 Regulation of Sidewalk Vendors

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### **5.56.010 Purpose**

A. The purpose of this Chapter is to establish a permitting and regulatory program for sidewalk vendors that complies with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this Chapter allow the City to encourage small business activities by removing total prohibitions on portable food stands and certain forms of solicitation while still permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety and welfare.

B. The City Council hereby finds that to promote the public's health, safety and welfare, restrictions on sidewalk vending are necessary to:

1. Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress or egress of any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles;

2. Provide reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, firefighting apparatus,

mailboxes, as well as access to locations used for public transportation services;

3. Reduce exposure to the City for personal injury or property damage claims and litigation;

4. Ensure sidewalk vending activities occur only in locations where such activities would not restrict sidewalk and pathway access and enjoyment to individuals with disabilities; and

5. The City Council finds and declares that the permitting requirements and standards set forth in Sections 5.56.030 and 5.56.040, the operating conditions set forth in Section 5.56.050 and the prohibited activities and locations regulations established in Section 5.56.060 are directly related to objective health, safety and welfare concerns as set forth herein.

### **5.56.020 Definitions**

As used in this Chapter, the following terms and phrases shall have the meaning ascribed to them in this part, unless the context in which they are used clearly requires otherwise. If a term or phrase is not defined in this part, or elsewhere in this Code, the most common dictionary definition is presumed to be correct.

“Alcoholic Beverage” shall have the same meaning as defined in Section [9.04.010](#) of this Code, or any successor section.

“Cannabis” means the substances defined in Section [8.24.020](#) of this Code, or any successor section.

“Certified farmers’ market” means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the [Food and Agricultural Code](#) and any regulations adopted pursuant to that chapter, or any successor chapter

“Curb face” means the vertical or sloping surface on the roadway side of the curb.

“Emergency vehicle access” means the roadway path or other surface that provides police or fire safety vehicular access from the dispatched point of origin to a facility, building, parcel, park or portion thereof. Emergency vehicle access includes, but is not limited to, fire lanes, public and private streets, parking lot lanes, access roadways, and walkways.

“Food” means any item provided in [Health and Safety Code](#) Section 113781, or any successor section.

“Hearing officer” means an impartial individual designated by the City Administrator to determine appeals pursuant to and in accordance with Section [5.56.080](#).

“Heating element” means any device used to create heat for food preparation.

“Merchandise” means any item(s) that can be sold and immediately obtained from a sidewalk vendor which is not considered food. Items for rent shall not be considered merchandise.

“Park” means any area dedicated or established as a public park, including, without limitation, active and passive parks.

“Pathway” means a paved path or walkway for pedestrian travel, other than a sidewalk.

“Person” means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, societies, and individuals transacting and carrying on any business in the City.

“Public property” means all property owned or controlled by the City, including,

but not limited to, alleys, parks, pathways, streets, parking lots, sidewalks, and walking trails.

“Residential” means any area zoned exclusively as residential in Title 16 of this Code, including, without limitation, R1-R, R1-E, R1-E(A), R1-C, R1-C(A), R1-L, R1-L(A), R1, R1(A), R1-UC, R1-U R1-U(A), R3, R4, and R4-U zoning districts and specific plan areas.

“Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk” means that portion of a highway, road or street, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

“Sidewalk vending receptacle” means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or non-motorized conveyance used for sidewalk vending activities.

“Sidewalk vendor” or “vendor” means a person(s) who sells food or merchandise from a sidewalk vending receptacle or from one’s person, upon a public sidewalk or pathway.

“Sidewalk vendor activities” or “sidewalk vending activity” means actions that qualify a person as a sidewalk vendor or actions done in anticipation of becoming a sidewalk vendor such as, but not limited to, installation, placement, or maintenance of any sidewalk vendor receptacles.

“Special event” means any temporary permitted event approved by the City as defined in Section 5.40.010 of this Code.

“Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location

“Street” means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

“Swap meet” means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the [Business and Professions Code](#), and any regulations adopted pursuant to that chapter, or any successor chapter.

### **5.56.030 City Business License and Permit Required**

A. It shall be unlawful for any Sidewalk Vendor to conduct business within the City without first obtaining a valid City Business License pursuant to Ripon Municipal Code Chapter 5.04.

B. Permit Required. No person, either for him or herself or any other person, shall engage in any sidewalk vendor activities within the City without first applying for and receiving a Sidewalk Vending Permit for each roaming sidewalk vendor or each stationary sidewalk vendor location from the City of Ripon Planning Department in accordance with this Chapter.

C. Application. A written application for a sidewalk vendor permit shall be filed with the City of Ripon Planning Department on a form provided by the City and shall contain the following information:

1. The name, address, and telephone number of the person applying to become a sidewalk vendor;
2. The name, address, and telephone number of the person who will be in charge of any roaming sidewalk vendors, sidewalk vending activity and/or be responsible for the person(s) working at the sidewalk vending receptacle;
3. The name, address, and telephone number of all persons that will be

employed as roaming sidewalk vendors or at a sidewalk vending receptacle;

4. The location(s) in the City where the sidewalk vendor intends to operate;

5. The day(s) and hours of operation the sidewalk vendor intends to operate at such location(s);

6. Whether the vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor and, if roaming, the intended path of travel;

7. The dimensions of the sidewalk vendor’s sidewalk vending receptacle(s), including a picture of the sidewalk vending receptacle operating under the permit and any signs that will be affixed thereto;

8. Whether the sidewalk vendor will be selling food, merchandise, or both;

9. If the sidewalk vendor is selling food, a description of the type of food to be sold, whether such foods are prepared on site, whether such foods will require a heating element inside or on the sidewalk vending receptacle for food preparation, and the type of heating element, if any;

10. If the vendor is selling merchandise, a description of the merchandise to be sold;

11. A copy of the health permit required for any sidewalk vendors selling food, as required by San Joaquin County Environmental Health Division;

12. Proof of his or her possession of a valid California Department of Tax and Fee Administration seller’s permit which notes the City as a location or sub-location, which shall be maintained for the duration of the sidewalk vendor’s permit;

13. An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, state, and federal laws;

14. A certification that, to his or her knowledge and belief, the information contained within the application is true and correct;

15. An acknowledgment by the permittee that acceptance of a Sidewalk Vendor Permit constitutes the permittee's agreement to defend, indemnify, release and hold harmless the City, its City Council, boards, Commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, City, and/or the parties initiating or bringing such proceeding;

16. An acknowledgement that the sidewalk vendor's use of public property is at their own risk, the City does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at his or her own risk;

17. An acknowledgment by the sidewalk vendor that he or she will obtain and at all times during the duration of the permit, maintain any insurance of such types and in such amounts as required by the City's risk manager;

18. If the sidewalk vendor has operated in the City in the past, proof of prior sales tax allocation to the City; and

19. Any other relevant information required by the Planning Director, or the Planning Director's designee.

D. Application and Permit Fees. Each application for a sidewalk vendor permit shall be accompanied by a nonrefundable application fee as established by resolution of the City Council. The application and permit is only applicable to the individual(s) named on the application.

#### **5.56.040 Issuance of Permit**

A. Within thirty calendar days of receiving a complete application, the Planning Director, or the Planning Director's designee, may issue a sidewalk vendor permit, with appropriate conditions, as provided for herein, if he or she finds based on all of the relevant information that:

1. The conduct of the sidewalk vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

2. The conduct of the sidewalk vendor will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the vendor;

3. The conduct of such sidewalk vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;

4. The conduct of such sidewalk vending activity will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection or prohibit first responders from providing their

essential life safety services for other areas of the City;

5. The sidewalk vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this Chapter;

6. The sidewalk vendor has not had a permit revoked within the past twelve (12) months;

7. The sidewalk vendor's application contains all required information;

8. The sidewalk vendor has not made a materially false, misleading, or fraudulent statement of fact to the City in the application process;

9. The sidewalk vendor has satisfied all the requirements of this Chapter;

10. The sidewalk vendor has paid all applicable fees as set by City Council resolution;

11. The sidewalk vendor's sidewalk vending receptacle and proposed activities conform to the requirements of this Chapter;

12. The sidewalk vendor has adequate insurance to protect the City from liability associated with the sidewalk vendor's activities, as determined by the City's Risk Management Authority, and, if required by the City, the City has been named as an additional insured; and

13. The sidewalk vendor has satisfactorily provided all information requested by the Planning Director, or the Planning Director's designee, to consider the vendor's application.

B. A sidewalk vendor permit is non-transferable. Any change in ownership or operation of a sidewalk vendor or sidewalk vending receptacle requires a new permit under this Chapter.

C. All permits issued under this Chapter, regardless of when issued, expire on December 31 of the year in which they were issued.

### **5.56.050 Operating Conditions**

All sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:

A. All food and merchandise shall be stored either inside or affixed to the sidewalk vendor receptacle or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the sidewalk vendor receptacle, the overall space taken up by the sidewalk vendor receptacle shall not exceed the size requirements provided in this section.

B. The sidewalk vendor permit shall be displayed conspicuously at all times on the sidewalk vending receptacle or the sidewalk vendor's person. If sidewalk vendor's are working as roaming sidewalk vendors, each person shall wear their permit on their person in a conspicuous manner.

C. Sidewalk vendors shall not leave their sidewalk vending receptacle unattended to solicit business for their sidewalk vending activities.

D. No Sidewalk vendor shall erect, place, or maintain any tent, canopy or other temporary shelter (excluding umbrellas) in the public right-of-way.

1. A sidewalk vendor may have one (1) umbrella. The use of an umbrella shall not exceed 10 feet in height as measured from ground level to its highest point and shall maintain a minimum clearance of 8 feet above any public right-of-way or sidewalk area. Additionally, umbrellas may not exceed forty (40) square

- feet in area. The umbrella cannot be attached to any public or private fixture such as the sidewalk, street furniture, fence, bench or trees. The umbrella must be made of a sturdy and safe material, and must be attached and anchored to the conveyance in such a way that sudden burst of wind will not dislodge it.
- E. No external power, piping, or plumbing is allowed. The cart must be entirely self-contained.
- F. All signage and advertising related in any way to the sidewalk vendor shall be attached to the sidewalk vending receptacle, if any, or the sidewalk vendor's person;
- G. Sidewalk vendors shall not use any electrical, flashing, wind powered, or animated signs, nor use any noise-making devices to attract the public;
- H. No cart or vending apparatus shall be chained or fastened to any pole, sign, tree, or other object in the public right-of-way;
- I. Sidewalk vending receptacles shall not be stored on public property and shall be removed when not in active use by a sidewalk vendor;
- J. All sidewalk vendors shall allow a police officer, firefighter, life safety services officer, code enforcement officer, health inspector, or other government official charged with enforcing laws related to street vendor's activities, at any time, to inspect their sidewalk vending receptacle for compliance with this Code and to ensure the safe operation of any heating elements used to prepare food;
- K. Sidewalk vending receptacles shall not exceed a total height of three feet, a total width of three feet, and a total length of three feet;
- L. No sidewalk vending receptacle shall contain or use a generator, propane, natural gas, wet cell batteries with removable fill caps, open flames or other explosive or hazardous materials;
- M. No sidewalk vending receptacle shall be motorized;
- N. If a sidewalk vending receptacle requires more than one person to conduct the sidewalk vending activity, all sidewalk vendors associated with the sidewalk vending receptacle shall be within five feet of the sidewalk vending receptacle when conducting sidewalk vending activities;
- O. Sidewalk vendors that sell food shall have in their possession at all times they are conducting sidewalk vending activities the health permit required by San Joaquin County Environmental Health Division;
- P. Sidewalk vendors that sell food shall maintain a trash container in or on their sidewalk vending receptacle and shall not empty their trash into public trash cans. The size of the vendor's trash container shall be taken into account when assessing the total size limit of a sidewalk vending receptacle. Sidewalk vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation;
- Q. Sidewalk vendors shall immediately clean up any food, grease or other fluid or item related to sidewalk vending activities that falls on public property;
- R. Sidewalk vendors shall maintain a minimum four-foot clear accessible path free from obstructions, including sidewalk vending receptacles and customer queuing area;
- S. Sidewalk vendors shall comply with the noise standards in the Ripon Municipal Code, including but not limited to, Chapter 16.156 and any successor Chapters;
- T. Sidewalk vendors shall not approach persons to sell food or merchandise and shall not interfere in any way with anyone engaged in an activity to sell food or merchandise

U. Sidewalk vendors shall not vend to or otherwise conduct transactions with persons in moving vehicles or vehicles illegally parked or illegally stopped; and

V. Sidewalk vendors shall ensure that all required insurance is in effect prior to conducting any sidewalk vendor activities and maintained for the duration of the permit.

### **5.56.060 Prohibited Activities and Locations**

A. Sidewalk vendors shall comply with all operating conditions, including those conditions set forth in Section [5.56.050](#).

B. Sidewalk vending receptacles shall not touch, lean against or be affixed at any time to any building or structure including but not limited to lampposts, parking meters (if any), mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands (if any), trashcans or traffic barriers.

C. Sidewalk vendors shall not engage in any of the following activities:

1. Renting merchandise to customers;
2. Displaying merchandise or food that is not available for immediate sale;
3. Selling of alcohol, marijuana, adult oriented material, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or marijuana;
4. Using an open flame on or within any sidewalk vending receptacle;
5. Using an electrical outlet or power source that is owned by the City or another person other than the sidewalk vendor;
6. All sidewalk vendors, regardless of whether a roaming sidewalk vendor or stationary sidewalk vendor, are prohibited

from conducting sidewalk vending activities between the hours of ten p.m. and seven a.m. daily. In residential areas, all stationary sidewalk vending is prohibited. In residential areas, roaming sidewalk vending activity is prohibited between the hours of six p.m. or sunset, whichever is earlier, and nine a.m. of the following day, Monday through Saturday, inclusive, and all day on Sundays and federal holidays.

7. Continuing to offer food or merchandise for sale, following, or accompanying any person who has been offered food or merchandise after the person has asked the vendor to leave or after the person has declined the offer to purchase food or merchandise;

8. Knowingly making false statements or misrepresentations during the course of offering food or merchandise for sale;

9. Blocking or impeding the path of the person(s) being offered food or merchandise to purchase;

10. Making any statements, gesture, or other communication which a reasonable person in the situation of the person(s) being offered food or merchandise to purchase would perceive to be a threat and which has a reasonable likelihood to produce in the person(s) a fear that the threat will be carried out;

11. Touching the person(s) being offered to purchase food or merchandise without that person(s)' consent;

12. Advertising any product or service that is not related to the food or merchandise being offered for immediate sale; or

13. Placing their sidewalk vending receptacles, storing material, or conducting transactions outside of any pathway or sidewalk when engaging in sidewalk vending activitie

D. Stationary sidewalk vendors shall not sell food or merchandise or engage in any sidewalk vending activities at the following locations:

1. Within twelve inches of any curb face on all roads;
2. On any designated emergency vehicle accessway;
3. On any public property that does not meet the definition of a sidewalk or pathway including, without limitation, any alley, park, street, street end, roadway or parking lot;
4. On any sidewalk that is not a minimum width of ten feet;
5. At any public park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire;
6. On sidewalks or pathways directly adjacent to or within residential areas;
7. Sidewalk vendors shall not engage in sidewalk vending activities that would violate provisions of this Code relating to visibility requirements for streets, alleys, driveways, and intersections;
8. On any sidewalk where vending equipment and queuing patrons would restrict access requirements under the Americans with Disabilities Act;
9. Within two hundred (200) feet of:
  - a. A police station;
  - b. A fire station;
  - c. A permitted certified farmers' market or swap meet during the limited operating hours of that certified farmers' market or swap meet; or
  - d. An area designated for a special event permit or park rental issued by

the City, during the limited duration of the special event.

10. Within one hundred (100) feet of:
  - a. Another sidewalk vendor;
  - b. A public or private school, place of worship or a large or general child day-care facility;
  - c. The intersection of a street and a sidewalk;
  - d. Any public picnic area, playground area or playground equipment; or
  - e. Any public community center, athletic field, softball/baseball diamond, basketball court, tennis court, soccer field, or volleyball court.
11. Within twenty-five (25) feet of a:
  - a. Fire Hydrant
  - b. Curb which has been designated as white, yellow, green, blue or red zone, or a bus zone;
  - c. Automated teller machine;
  - d. Driveway, alley, or entrance to a parking lot or parking garage;
  - e. Entrance or exit to a building, structure or facility; or
  - f. Trash receptacle, bike rack, bench, bus stop, restroom, or similar public use items.

#### **5.56.070 Penalties**

Violations of this Chapter shall not be prosecuted as infractions or misdemeanors and shall only be punished by the following administrative fine and revocation structure:

- A. Except as otherwise provided in subsection B of this section, any violation of this Chapter shall be assessed administrative fines in the following amounts

1. An administrative fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. An administrative fine not exceeding two hundred dollars (\$200.00) for a second violation within one year of the first violation; and
3. An administrative fine not exceeding five hundred dollars (\$500.00) for each additional violation within one year of the first violation.

B. If a sidewalk vendor violates any portion of this Chapter and cannot present the citing officer with proof of a valid permit, the sidewalk vendor shall be assessed administrative fines in the following amounts:

1. An administrative fine not exceeding two hundred fifty dollars (\$250.00) for a first violation;
2. An administrative fine not exceeding five hundred dollars (\$500.00) for a second violation within one year of the first violation; and
3. An administrative fine not exceeding one thousand dollars (\$1,000.00) for each additional violation within one year of the first violation.

C. Upon proof of a valid permit issued by the City, the administrative fines set forth in subsection (B) of this section shall be reduced to the administrative fines set forth in subsection (A) of this section, or any successor sections; and

D. The Planning Director, or the Planning Director's designee, may revoke a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations within one year of the first violation.

### **5.56.080 Appeals**

A. Decisions to deny an application for a permit, or to revoke a permit, or to impose

administrative fines may be appealed by any interested person. Appeals shall be heard and determined by the hearing officer.

B. Appeals shall be initiated within twenty-one calendar days of the decision to deny or imposition of an administrative fine. Appeals shall be made in writing to the Planning Director with a full explanation the facts and basis for the appeal. All appeals shall be accompanied by the following:

1. Appeals of a decision to deny an application for a permit or to revoke an existing permit shall be accompanied by an appeal fee as established by resolution of the City Council;

2. Appeals regarding an administrative fine shall be accompanied by an appeal fee as established by resolution of the City Council in addition to the amount of the administrative fine.

C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date that a completed request for administrative hearing is filed in accordance with the above provisions. No hearing shall be held until the fine and/or appeal fee has been deposited with the City Clerk.

D. The hearing officer shall give notice in writing to the appellant of the time and location of the appeal hearing. At the hearing, the hearing officer shall review the record of the decision to deny or administrative fine and hear testimony of the appellant, if any, the applicant and any other interested party. The appeal shall be reviewed and determined on a de novo basis.

1. If an administrative fine is the subject of an appeal, the hearing officer shall take into consideration the person's ability to pay the fine. The hearing officer shall

provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at or before the hearing or while the administrative fine remains unpaid.

2. If the person meets the criteria described in subdivision (a) or (b) of [Government Code](#) Section 68632, or any successor section, the hearing officer shall accept, in full satisfaction, twenty percent of the administrative fine imposed pursuant to this Chapter.

3. The hearing officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

E. After the hearing, the hearing officer shall affirm, modify or reverse the original decision to deny or administrative fine. When a decision or administrative fine is modified or reversed, the hearing officer shall state the specific reasons for modification or reversal. Decisions on appeals shall be rendered within thirty (30) calendar days of the close of the hearing. The hearing officer shall mail notice of a decision to the appellant. Such notice shall be mailed within five (5) working days after the date of the decision to the appellant. The decision of the hearing officer shall be final.

1. If the appellant is successful in their appeal, a full refund of their appeal hearing fee and/or administrative fine will be granted.