

ORDINANCE NO. 5521

**AN ORDINANCE TO CREATE A SIDEWALK VENDOR PERMIT BY AMENDING
SUBSECTION 12.20.020 OF THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the State of South Dakota has given municipalities the general police power to promote the health, safety, morals, and general welfare of the community; and

WHEREAS, the City of Rapid City currently may authorize the placement of certain signs and facilities upon public sidewalks subject to certain conditions; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to adopt an ordinance to allow the sidewalk vendors on certain sidewalks.

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that

Subsection 12.20.020 (F) is hereby amended to read as follows:

12.20.020 Public rights-of-way–Unlawful obstructions–Exclusion of tree planters and benches.

- F. Notwithstanding any other provision of this section or § 12.20.030 of this code, the Common Council may authorize sidewalk vendors to operate upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth. A sidewalk vendor located on the sidewalk in the public right-of-way is allowed to sell cut flowers, food and/or non-alcoholic beverages at specific locations as authorized herein.
1. An application for a sidewalk vendor permit shall be filled with the Growth Management Department at least 14 days prior to the Planning Commission meeting at which the request shall be considered. There shall be a one-time application fee of \$250. The application for a sidewalk vendor permit shall include the following items:
 - (a) Name, address and contact information.
 - (b) Type of items sold or services rendered.
 - (c) A valid copy of all necessary permits required by State and County health authorities.
 - (d) Means to be used in conducting business, including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.
 - (e) A site plan indicating the location and dimensions of the proposed use and device or pushcart.
 - (f) A detailed scale drawing, picture or diagram and material specifications of the device or pushcart to be used.
 - (g) A valid sidewalk vendor license approved by the Rapid City Council per Chapter 5.56.
 2. Permitted Vending Products and Goods. - All goods being sold from sidewalk vendors shall be located within the permitted area and be attended at all times, not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk, involve a short transaction period to complete the sale or render the service, not cause undue noise or offensive odors and be easily carried by pedestrians.

The City of Rapid City permits the following types of goods for street vending in approved locations:

- (a) Cut Flowers;
 - (b) Food ; and,
 - (c) Non-Alcoholic Beverages.
3. Location Requirements. Sidewalk vendors are permitted in specific locations in the Rapid City Central Business District within the following boundary: Commencing from the intersection of East Omaha and East Boulevard, west to West Boulevard, south to the alley between Kansas City Street and Quincy Street, east to Ninth Street, south to Quincy Street, east to 4th street, north to the alley between Quincy Street and Kansas City Street, east to 1st Street, north to Kansas City Street, east to East Boulevard, and north to the point of origin. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Maps of approved locations are available in the Growth Management Department.
4. Requirements. - Sidewalk vendors conducting business on the sidewalks of the City of Rapid with a valid permit issued under this Chapter must comply with the following conditions:
- a) Vending units must be self-contained and portable, and no longer than four (4) feet wide by six and one-half (6 1/2) feet high and six (6) feet long;
 - b) Maximum of sixty (60) square feet of space can be occupied by vending unit;
 - c) No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the element of the vending unit;
 - d) Mobile generators are prohibited;
 - e) No more than two (2) ice chests, coolers or other accessory containers. The containers must be placed on or immediately next to the vending unit, and not in the way of pedestrian or vehicular traffic. Coolers must be hard-plastic or hard metal finish, no Styrofoam, and be no larger than ninety-four (94) quarts;
 - f) Any cooking, heating, or warming units must be an integral part of the vending unit;
 - g) Vendors shall provide a receptacle for all waste material generated by the said vending operations;
 - h) All sidewalk vendors must pick up and remove from the site all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Litter may not be placed in City trash receptacles. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval;
 - i) Vending unit may not be moved from assigned area;
 - j) Vendor cannot receive electricity or water from any adjoining buildings by means of wires, hoses, or other connections;
 - k) No sidewalk vendor may conduct business on a sidewalk in any of the following places:
 - i. Within 10 feet of the intersection of the sidewalk with any other sidewalk; Sidewalk intersections shall be kept clear for pedestrian safety;
 - ii. Within 10 feet of any handicapped parking space, or access ramp;
 - iii. Within 15 feet of a fire hydrant; and,
 - iv. Within 15 ft. of an entrance to a building.
 - l) Street vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 6 a.m. and 2 a.m.;
 - m) All vending units shall be removed from the public right-of-way during non-operational hours;
 - n) Sidewalk vendors shall display in a prominent and visible manner the license issued by the City of Rapid City in accordance with § 5.56;

- o) The Rapid City Fire Department shall inspect and approve any vending unit to assure the conformance of all cooking or heating apparatus with the provisions of the currently adopted building and fire codes;
 - p) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval through the State Department of Health for food related establishments. A copy of the permit issued by the State, shall be supplied to the Growth Management Department prior to Planning Commission approval;
 - q) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the purpose of advertising or attracting attention to his wares. No audible amplified music or sound shall be permitted;
 - r) Sidewalk vendors are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. Sidewalk vendors must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way. All applicable sight triangle requirements shall be met at all times by sidewalk vendors. No sidewalk vendor element may be located within 2 feet of the curb face;
 - s) Umbrellas must be designed to be secure during windy conditions. Umbrellas must be at least 7 feet above the sidewalk when open.
 - t) Lighting for sidewalk vendors is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Lighting may include battery-operated fixtures;
 - u) Any signs authorized hereunder shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property.
5. The permit holder is responsible for proper supervision of the sidewalk vending in order to ensure the requirements of this section are met.
 6. Every sidewalk vendor permit holder shall furnish a certificate of insurance proving commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk vendor. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.
 7. All areas within and surrounding a sidewalk vending unit must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations.
 8. An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection 2.a. through u. and the decision of the Planning Commission is appealable to the Common Council.
 10. Any person or party has the right to appeal the decision of the Planning Commission regarding a sidewalk vendor permit. Appeals must be made in writing and submitted to the Planning Commission by close of business on the seventh full calendar day following action by the Planning Commission. Appeals shall be reviewed and acted upon by the Common Council within 30 calendar days.
 - 11 All permit holders shall be required to abide by all federal, state, and local laws.

12. A sidewalk vendor permit may be revoked for cause, consisting of failure to maintain the standards required for the initial permit. A notice of intent to revoke a sidewalk vendor permit shall be given in writing 10 days prior to actual revocation, except in the case of insurance cancellation, and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the permit, the permit may be permitted to be continued in force. If a hearing has been requested following receipt of notice to revoke, the Planning Commission shall hold a public hearing on the matter and shall make a determination whether to revoke. A permit holder may appeal the Planning Commission's decision in accordance with subsection F.10.
14. The sidewalk vendor permit shall automatically expire if the sidewalk vendor license required per Chapter 5.56 is suspended, revoked or expired..

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: