

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND THE SIDEWALK VENDOR REGULATIONS  
BY REPEALING SECTION 12.20.020 F., AND ADDING SECTION 12.20.025 TO THE  
RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City has adopted an ordinance authorizing and regulating sidewalk vendors operating on public sidewalks; and

WHEREAS, the Common Council of the City of Rapid City finds that it is in the best interests of the City to amend the sidewalk vendor regulations by repealing Section 12.20.020 F. and adding Section 12.20.025 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 12.20.020 F. of the Rapid City Municipal Code is hereby repealed and that Section 12.20.025 is added to read as follows:

**12.20.020**

~~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.~~

~~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; shall not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk; shall involve a short transaction period to complete the sale or render the service; shall not cause undue noise or offensive odors; and shall 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 City 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 4 feet wide by 6 1/2 feet high and 6 feet long;~~

~~b. A maximum of 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 electric generators are prohibited; however, propane area heaters may be used;~~

~~e. No more than 3 ice chests, coolers or other accessory containers may be utilized. 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 must be located within the 60 square foot area;~~

~~\_\_\_\_\_ f. Any unit used for cooking, heating, or warming of food must be attached to 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 30 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 6:00 a.m. and 2:30 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 Chapter 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 and canopies must be designed to be secure during windy conditions. Umbrellas and canopies 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 permittee.~~

~~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 per occurrence 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.~~

~~9. 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.~~

~~10. All permit holders shall be required to abide by all federal, state, and local laws.~~

~~11. 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 allowed 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.9.~~

~~12. The sidewalk vendor permit shall automatically expire if the sidewalk vendor license required per Chapter 5.56 is suspended, revoked or expired.~~

#### **12.20.025 Public rights-of-way-Sidewalk Vendors.**

Notwithstanding any other provision of this section or §§ 12.20.020 or 12.20.030 of this code, the City of Rapid City may authorize sidewalk vendors to operate upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth.

1. *Approved Vending Cart Area and Vending Cart Sites.* The City Council has approved a vending cart area and individual vending cart sites located within the Rapid City Central Business District. Additional vending cart sites may be approved by the Director of the Community Planning & Development Services Department.

- a. The vending cart area shall be an area with a 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.
- b. Within the vending cart area the City has approved vending cart sites that have adequate sidewalk width and pedestrian traffic flow to minimize potential conflicts with existing businesses. Maps of approved vending cart sites are available at the Community Planning & Development Services Department. Additional vending cart sites may be approved by the Director of the Department of Community Planning and Development Services Department, provided the applicant can demonstrate through the application process that the proposed vending cart site complies with the application procedures and requirements defined in this section.

2. Permitted Vending Products and Goods. The City of Rapid City permits the following types of goods for street vending in approved locations:

- a. Cut flowers;
- b. Food;
- c. Non-alcoholic beverages; and
- d. Current newspapers and magazine periodicals.

3. Application Procedure. An individual applicant is allowed to have no more than four (4) sidewalk vending cart sites during a calendar year and must file an initial application and receive approval by the Community Planning & Development Services Department for the specific location(s) prior to operation. The initial application is valid from the date the application is approved and expires on December 31 of the same year. Following the initial permit term under this section 12.20.025, an applicant on an annual basis will have the first right to renew application(s) for each sidewalk vending cart site permit held by that applicant. An applicant who held a permit prior to the enactment of this section shall have the first right to renew as to no more than four (4) sidewalk vending cart sites held by the applicant. The following shall apply to annual first right to renew applications:

- a. The Director of the Community Planning & Development Services Department shall have the authority to issue sidewalk vendor permits.
- b. An application for a sidewalk vendor permit shall be filed with the Community Planning & Development Services Department and be approved or denied within 14 business days by the Director.
- c. In order to maintain the right-to-operate at a specific location, an application to renew the permit shall be filed during the first calendar week in January of the following year. Failure to file an application for renewal by the end of the first week in January will allow the vending cart site to become available to a different applicant. The date and time that an application is filed shall be noted on the application form by the Community Planning & Development Services Department.
- d. Application for sidewalk vending cart site permit(s) is limited to an individual who holds a valid, current sidewalk vending license, issued pursuant to § 5.56 of this code.
- e. Processing fees for the initial application and annual application renewal shall be set by City Council by resolution.

4. Application Contents. Application for a sidewalk vendor permit shall include the following items:

- a. Vendor name, address and contact information;
- b. A narrative description of the type of items to be sold and written operations plan 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.
- c. A site plan drawn to scale on an 8 ½ inch by 11 inch sheet of paper indicating that the vending cart and other items permitted on the Vendor Cart Site comply with Section 5 of this ordinance.

- d. A detailed scale drawing, picture or diagram and material specifications of the device or vending cart to be used including manufacturers identification number.
- e. A copy of the permit issued by the State Department of Health for vendors who sell food and beverage.
- f. A written letter of consent from an adjacent restaurant owner where applicable.
- g. A valid sidewalk vendor license approved by the Rapid City Council per Chapter 5.56.

5. Vendor Cart Site Requirements. Sidewalk vendors conducting business on the sidewalks of the City of Rapid City with a valid permit issued under this chapter must comply with the following site requirements:

- a. Vending units must be self-contained and portable, and no longer than 4 feet wide by 6 1/2 feet high and 6 feet long. A maximum of 60 square feet of space can be occupied by the vending unit;
- b. 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;
  - ii. Within 10 feet of any handicapped parking space, or access ramp;
  - iii. Within 15 feet of a fire hydrant;
  - iv. Within 15 feet of an entrance to a building;
  - v. Within 2 feet of a curb face; and
  - vi. Within the site distance triangle area defined by Rapid City Municipal Code;
- c. 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;
- d. No more than 3 ice chests, coolers or other accessory containers may be utilized. 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 must be located within the 60 square foot vending unit area;
- e. Vendors shall provide a receptacle for all waste material generated by the said vending operations and remove all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) from the vending cart site and surrounding sidewalk area within 30 minutes of the end of daily operations. Litter may not be placed in City trash receptacles;
- f. 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 permittee;

- g. Umbrellas and canopies must be designed to be secure during windy conditions. Umbrellas and canopies must be at least 7 feet above the sidewalk when open; and
- h. 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.

6. General Requirements. All goods being sold by sidewalk vendors shall be located within the bounds of the site plan area approved as part of the permit issued by the City and be attended by the permittee at all times. In addition to the specific Vendor Cart Site requirements the following general requirements shall apply to vendor cart operations:

- a. 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 6:00 a.m. and 2:30 a.m. All vending units shall be removed from the public right-of-way during non-operational hours;
- b. Sidewalk vendors shall display in a prominent and visible manner the license issued by the City of Rapid City in accordance with Chapter 5.56;
- 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 vendor or any element of the vending unit;
- d. Mobile electric generators are prohibited; however, propane heating devices may be used for cooking, heating, or warming of food and must be attached to the vending unit. 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;
- e. A vendor cannot receive electricity or water from any adjoining buildings by means of wires, hoses, or other connections;
- f. A single vending unit can be approved for up to four (4) approved vending locations and can be moved from one approved location to another approved location;
- g. 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;
- h. The vendor shall not cause congestion or blocking of pedestrian traffic on the sidewalk; shall involve a short transaction period to complete the sale or render the service; shall not cause undue noise or offensive odors; and shall sell items that can be easily carried by pedestrians.
- i. 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.
- j. All permit holders shall be required to abide by all federal, state, and local laws, rules, and regulations.

7. Restriction on Subleasing. Subleasing, transfer or assignment of an approved vendor permit is not allowed. The permit holder may hire employees to operate on up to four (4) approved vending cart sites. The permittee is responsible for proper supervision of employees hired to

operate at an approved vending cart site in order to ensure the requirements of this section are met.

8. *Restriction on Adjacency to Restaurants.* Vending carts shall not be located along the linear street frontage of any restaurant without the written consent of the restaurant owner. Written consent shall be in the form of a letter from the restaurant owner or designee and provided with the initial application and annually with an application for renewal. The consent letter shall include the days and hours that a restaurant owner will allow a vendor to operate in front of the restaurant. Should a restaurant become operational in a commercial space that was formally not a restaurant adjacent to an approved vendor cart site, the written consent will not be required until such time as the next renewal application is made.

9. *Certificate of Insurance.* Every sidewalk vendor permit holder shall furnish a certificate of insurance proving commercial liability insurance coverage of at least \$2,000,000 aggregate and \$1,000,000 per occurrence 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.

10. *Exceptions.* An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection 5, and the decision of the Planning Commission is appealable to the Common Council. Any person or party has the right to appeal the decision of the Planning Commission regarding an exception for 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 thirty (30) calendar days.

11. *Permit review.* The Planning Commission shall have the power to review any permit issued hereunder at any time.

12. *Permit – Revocation or suspension.*

- a. The Planning Commission, in its discretion, may revoke or suspend any permit(s) for reasons including, but not limited to the following: failure to maintain the standards required for the initial permit and annual permit renewal; sidewalk vending outside of the location(s) for which a sidewalk vendor licensee holds a permit(s); expiration, revocation or suspension of the required sidewalk vendor license issued under chapter 5.56; violation of any applicable federal, state or local statute, ordinance, rule or regulation; or violation of any provision of this Rapid City Municipal Code section.
  - i. The penalty of permit revocation shall continue for a period of one year from the date the revocation became effective. Once the period of revocation has ended a former permit holder upon which the penalty of permit revocation has been imposed may apply for a new permit, subject to the requirements of this

- section 12.20.025. Permit revocation shall result in the loss of the specific location renewal process outlined in this section 12.20.025(3)(b).
- ii. The penalty of permit suspension shall continue for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Planning Commission may, at its discretion, require re-application for any suspended permit(s). Permit suspension shall not result in the loss of the specific location renewal process outlined in this section 12.20.025(3)(b).
- b. The penalties of permit revocation or suspension shall be imposed only after the permit holder has had notice and an opportunity to be heard.
- i. The notice of intent to impose penalty shall be sent by first class mail to the permit holder's address of record on file with the Finance Office. The notice of intent to impose penalty shall be mailed no later than 14 days prior to the hearing date.
  - ii. The penalty hearing will take place at a regular or special Planning Commission meeting, at the discretion of the Planning Commission, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Planning Commission members present shall be required to impose penalty.
  - iii. The Planning Commission shall provide written notice of its decision, to be sent by first class mail to the permit holder's address of record on file with the Finance Office. The effective date of any penalty imposed shall be 14 days from the date of mailing of the Planning Commission's written notice of decision.
- c. Should any applicant or permit holder be aggrieved by a decision of the Planning Commission, he or she may, within 10 days, provide written notice to the Director of Community Planning and Development Services of his or her intent to appeal the decision to the Council. After the aggrieved applicant or permit holder has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Planning Commission. All decisions of the Council shall be final.
- d. Any permit holder subject to investigation by the Planning Commission shall cooperate fully with the Planning Commission. Failure to cooperate fully with the Planning Commission is a basis for permit revocation or suspension.

13. Criminal penalty. Any person violating this chapter 12.20.025 shall be subject to the general penalty provision of § 1.12.010.

CITY OF RAPID CITY

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Mayor

ATTEST:

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Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: