



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-5035

## Growth Management Department

300 Sixth Street

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### MEMORANDUM

TO: Legal and Finance Committee

FROM: Monica Heller, Community Planning Coordinator

DATE: July 22, 2009

RE: An Ordinance to create a Sidewalk Vendor Permit in the Central Business District by amending Section 12.20.020 of the Rapid City Municipal Code.

The first reading of Ordinance No 5521, an Ordinance to Create a Sidewalk Vendor Permit by Amending Subsection 12.20.020 of the Rapid City Municipal Code was approved at the July 1, 2009 Legal and Finance Committee meeting and the July 6, 2009 City Council meeting. At the Legal and Finance Committee meeting, Dakota Dogs, LLC provided suggested changes to the proposed Ordinance No 5521, an Ordinance to Create a Sidewalk Vendor Permit by Amending Subsection 12.20.020 of the Rapid City Municipal Code. Staff has reviewed the suggested changes and has the following recommendations:

#### Section 12.20.020 (F) 2

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.

**Suggestion:** Consider including "with the exception of orderly customer sales lines"

**Staff Recommendation:** no change, the primary purpose of the sidewalks is for pedestrian travel and the operation of a sidewalk vendor should not interfere with pedestrian travel



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**Section 12.20.020 (F) 4 (d)**

- d) Mobile generators are prohibited;

Suggestion: Clarify electric gasoline generators verses propane heat generators, etc. The use of propane heat generators will be needed for year round vending.

Staff Recommendation – Revise language to allow use of propane area heaters. The prohibition of mobile electric generators is recommended due to noise and odor issues associated with mobile electric generators. The addition of propane area heaters will allow for year round sidewalk vending with no negative impacts. d) Mobile electric generators are prohibited; however, propane area heaters may be used.

**Section 12.20.020 (F) 4 (e)**

- 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;

Suggestion: A minimum of three coolers are needed, in addition allow for larger coolers.

Staff Recommendation – Revise language to allow up to three coolers and remove size limitation as long as they do not encroach outside the 60 square foot area. This will allow a cooler for meat products, a cooler for drinks and a cooler for ice.

e) No more than three (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.

**Section 12.20.020 (F) 4 (f)**

- f) Any cooking, heating, or warming units must be an integral part of the vending unit;

Suggestion: Topping heaters, bun warmers, grills and other add-on features for street vending carts are sold separately from the vending unit, thus allowance for such add-ons to be used within the 60 sf allotted space should be allowed.

Staff Recommendation – Revised language to allow add-ons to the street vending carts, if they are attached to the unit and within the 60 square foot area.

f) Any unit used for cooking, heating, or warming of food much be attached to the vending units and located within the 60 square foot area.

**Section 12.20.020 (F) 4 (l)**



- 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.;

Suggestion: This time frame would prohibit after-bar closing time (2 a.m.) sales which has proven popular in Rapid City; both to bar patrons and bartenders. Please change to 2:30 a.m.

Staff Recommendation: Revise language to extend operation hours to 2:30 a.m. The additional 30 minutes of operation will allow the sidewalk vendors to serve the

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 2:30 a.m

**Section 12.20.020 (F) 4 (q)**

- 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;

Suggestion: Please clarify the use of a small personal radio or MP3 player would be allowed as long as the volume is not loud enough to be heard from "x" distance for personal/employee use and entertainment verses soliciting potential customers.

Staff Recommendation: No Change

**Section 12.20.020 (F) 4 (s)**

- s) Umbrellas must be designed to be secure during windy conditions. Umbrellas must be at least 7 feet above the sidewalk when open.

Suggestion: Please include the wording for a canopy to be used instead of an umbrella, if the vendor chooses. A canopy is necessary in inclement weather.

Staff Recommendation: Revised language to allow canopies. A canopy is not significantly different than an umbrella and serves the same purpose of providing shade and shelter

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. Umbrellas and canopies must not extend beyond the 60 square foot area.

**Section 12.20.020 (F) 4 (u)**

- 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.

Suggestion: Please clarify this does not exclude the use of branded/trademarked product logos (i.e. Nathan's Famous hot dogs, Coca-cola, Red Bull, etc) that the vendor may have made in an exclusive agreement with.

Staff Recommendation: No change. This form of advertisement in public right-of-way is not permitted by the City's Sign Code Regulations. The use of product names (Nathan's Famous hot dogs, Coca-cola, Red Bull, etc) may be used on the menu board that identifies items for sale and prices, but may not be used for advertising purposes.

**Staff Recommendation:** Staff recommends that Ordinance No 5521, an Ordinance to Create a Sidewalk Vendor Permit by Amending Subsection 12.20.020 of the Rapid City Municipal Code be approved with the above recommended changes.



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