



City Council Staff Report

Subject: Sidewalk Vending Regulations

Date: September 12, 2023

Submitted By: David Mohlebrok, Director of Community Development
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Department: Community Development

Recommendation:

- A. Conduct a Public Hearing to consider testimony.
- B. Introduce, Waive the Full Reading and Read by Title Only, an Ordinance of the City Council of the City of Rocklin Adding Chapter 5.26 to Title 5 of the Rocklin Municipal Code to Establish Sidewalk Vending Regulations.

Background:

As this item includes the introduction of an Ordinance, a two-meeting process is required. At the first meeting the City Council shall conduct a public hearing, complete deliberation, provide staff with direction (if appropriate) as to any desired modification(s) to the draft Ordinance (Attachment 1).

This Ordinance would add Chapter 5.26 to Title 5 of the City of the Rocklin Municipal Code to establish sidewalk vending regulations citywide.

Senate Bill (SB) 972, passed in 2022, created a new regulatory framework that completely decriminalizes sidewalk food vending. Previously, criminal enforcement of sidewalk food vending was a valuable tool in combatting what cities may have perceived as a public health nuisance. Now, violations are no longer misdemeanor or infraction offenses and are only subject to administrative citations.

SB 946, passed in 2018, was the first step in decriminalizing sidewalk vending. However, it left cities the ability to enforce county health codes adopted by reference through the California Retail Food Code. This allowed cities to criminally cite sidewalk food vendors for failing to have the required county health permits for vending food. Now, SB 972 closes that gap by decriminalizing the California Retail Food Code. Cities can still conduct routine inspections of carts and preparation kitchens – though they are only able to issue administrative citations for violations.

The law creates a new category, a “compact mobile food operation,” or CMFO, which is

defined as a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack or other nonmotorized conveyance. However, such an operation would still be restricted to limited food preparation. Limited food preparation is generally limited to heating, frying, baking, roasting, shaving of ice, blending, steaming of hot dogs or assembly of non-prepackaged food. It also includes the holding, portioning and dispensing foods that are prepared at a catering operation. Under these regulations, potentially hazardous foods would be considered raw meats, milk or items that normally require refrigeration. It is possible that limited food preparation includes the preparation of raw meats, but such an operation would have to meet further sanitary guidelines, such as having a three-compartment sink with an adequate potable water supply. Preparing potentially hazardous foods on a compact mobile food operation that does not meet specific sanitary requirements for potentially hazardous foods would be a violation and subject to an administrative citation.

SB 972 also affects existing regulation of cottage food operations and microenterprise home kitchens. A cottage food operation can sell home-cooked foods directly to the public and a microenterprise home kitchen allows an individual to operate a restaurant in their private residence. With SB 972, a cottage food operation or microenterprise home kitchen can now be used as a commissary or mobile support unit for up to two compact mobile food operations. However, they would still be subject to public health enforcement to ensure protection from contamination and adequate cooling and storage.

SB 972 attempts to facilitate greater access for food vendors to get the required county and city approvals for food vending permits. The bill provides that counties may approve a food cart design which meets safety requirements, in lieu of approving individually manufactured carts. The legislature's hope was that by easing the process to come into compliance with the law, it will incentivize greater compliance than that which currently exists.

Local jurisdiction still retains their authority to criminally enforce against food vendors operating on private property and not in the public right of way.

The following is a summary of local regulations that are, and are not allowed per SB 946.

Prohibited	Allowed
Cannot require a sidewalk vendor to operate within specific parts of the public right of way except when the restriction is directly related to objective health, safety or welfare concerns.	May prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but cannot prohibit roaming sidewalk vendors.

<p>Cannot prohibit a sidewalk vendor from selling food or merchandise in a City park except, the City may prohibit stationary sidewalk vendors from vending in the park if the City has signed an exclusive concessionaire agreement.</p>	<p>Requirements regulating the time, place, and manner of sidewalk vending in a City park if:</p> <ul style="list-style-type: none"> • Directly related to objective health, safety, welfare concerns. • Necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities. • Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with scenic and natural character of the park.
<p>Cannot restrict the overall number of sidewalk vendors permitted to operate within the City unless the restriction is directly related to objective health, safety or welfare concerns.</p>	<p>Can require:</p> <ul style="list-style-type: none"> • Limitations on hours that are not unduly restrictive. If non-residential, must not be more restrictive than imposed on other businesses or uses on the same street. • Vendors to maintain sanitary conditions. • Compliance with the “American Disabilities Act” and other disability access standards. • Permits for sidewalk vending and/or a valid business license. • State Department of Tax and Fee Administration seller’s permit. • Additional licenses from other state or local agencies to the extent required by law. • Information about operations (name, mailing address, description of items for sale, name and business address of business principal).
<p>Cannot require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before selling food or merchandise.</p>	<p>Can prohibit vendors in areas located within the immediate vicinity of a certified farmers’ market during the market’s hours of operation, or in area designated for a temporary special permit, for the limited duration of the temporary special permit.</p>

The following is a summary of the local regulations that are, and are not allowed per SB 972.

SB 972 Changes	
Before January 1, 2023	After January 1, 2023

Food carts or other unenclosed Mobile Food Facilities (MFFs) could only heat and hot hold specific foods such as hot dogs, tamales, and corn on the cob.	CMFO may dispense and portion for immediate service, any temperature-controlled foods (hot or cold).
Food carts or other unenclosed MFFs may not slice or chop any food unless on a heated cooking surface.	CMFO may slice or chop non-potentially hazardous food such as baked goods and produce that has been previously washed.
Food carts or other unenclosed MFFs must be fully contained.	<p>CMFO not handling raw meats, poultry or fish may utilize a permitted auxiliary conveyance at a site-specific location containing handwashing and ware-washing sinks.</p> <p>CMFO may operate from a stand or individual (carry product) if the CMFO only sells non-potentially hazardous food or produce. CMFO with under 25 ft² of display area selling only non-potentially hazardous food or whole, uncut produce are exempt from permitting with PCEH.</p>
MFFs must be operated in conjunction with a permitted commissary kitchen.	CMFO may operate in conjunction with a permanent food facility or commissary or a permitted Cottage Food Operation.
MFF must be stored at the approved commissary when not operating.	Unless prohibited by local ordinance CMFO may be stored in a private home or permitted Cottage Food Operation when not operating.

In order to better regulate sidewalk vending in the City of Rocklin, and based upon recent state legislation, staff has drafted the following regulations for City Council's review and consideration (Attachment 1, Sidewalk Vending Ordinance):

RMC Title 5, Chapter 5.26 –Sidewalk Vending

In summary, the proposed regulations provide the following:

1. Purpose – establishing a street and sidewalk vendor permitting and regulatory program that complies with Senate Bill 946 and Senate Bill 972.
2. Definitions - various terms and phrases used in the chapter.
3. Business License and Sidewalk Vending Permit Required – every person who engages in sidewalk vending is a vendor and shall, first obtain, and at all times maintain, a valid business license and permit.

4. Requirements for Permit Application – required documentation and information from sidewalk vendor’s subject to review and potentially denial.
5. Identification Number; Confidentiality – requirement for vendors to provide identification that will be treated as confidential and not open to public records request, unless, as required, to comply with state law or state or federal court.
6. Issuance of Sidewalk Vending Permit – this section provides the ability for the City to apply appropriate conditions on sidewalk vending permits.
7. Operational Requirements – sidewalk vending activities shall be conducted in a time, place and manner outlined within the operational requirements.
8. Location of Carts –locations where vending activities are prohibited and allowed.
9. Special Requirements for Sale of Food – special requirements to ensure vendor is not only in compliance with the City ordinance, but follows all county and state permitting and licensing.
10. Exceptions – activities and businesses not applicable to this chapter.
11. Penalties – establishes penalties for vendors conducting business without a valid permit or license, and a separate set of penalties for vending in violation of conditions of the permit.
12. Denials, Suspension or Revocation of Sidewalk Vending Permit – conduct requiring the denial of an application or revocation or suspension of a permit.
13. Appeals – ability for the vendor to appeal penalties or suspension and revocation of street and sidewalk vending permit.

Fiscal Impact:

There would be no fiscal impact if the City Council adopts an Ordinance establishing sidewalk vending regulations. The monitoring and enforcement of such are considered to be functions of existing City staff.

ATTACHMENTS:

1. [Ordinance - Sidewalk Vending Regulations](#)