



City of Sonora

Community Development Department
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DATE: October 7, 2019
TO: Honorable Mayor and City Council Members
FROM: Rachele Kellogg, Community Development Director
SUBJECT: Ordinance 861 - Sidewalk Vending/Motorized Food Vendors/Intermittent Vendors

RECOMMENDATIONS:

City Staff recommends that the City Council approve the following:

- 1) Introduce by title Ordinance No. 861, Sidewalk Vending/Motorized Food Vendors/Intermittent Vendors, and waive the first reading.

BACKGROUND:

In 2018, California enacted Senate Bill 946, the Safe Sidewalk Vending Act, establishing requirements for local regulation of sidewalk vending. It became effective on January 1, 2019 and requires cities to establish a permit process in order to regulate sidewalk vendors. SB 946 defines sidewalk vending as occurring on public sidewalks and pedestrian paths. It also authorizes sidewalk vending in public parks however it does not authorize sidewalk vending in other public areas.

SB 946 prohibits criminal penalties for sidewalk vending violations and requires that they are only punishable by administrative fines. There must also be a process in place for determining a person's ability to pay. These regulations do not alter local, state, or federal laws regarding the accessibility of the public right-of-ways, the sale of counterfeit or dangerous goods, or food and fire safety laws.

Under SB 946 a "sidewalk vendor" is a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack or other non-motorized conveyance, or from one's person, on a public sidewalk or other pedestrian path. A sidewalk vendor can be "a roaming sidewalk vendor" defined as moving from place to place and stopping only to complete a transaction or "a stationary vendor", which is defined as vending from a fixed location.

DISCUSSION:

Under SB 946 the City's sidewalk vending regulations must comply with the following standards:

- 1) Cannot require a sidewalk vendor to operate within specific parts of the public right-of-way, except when restrictions relate to objective health, safety, or welfare concerns. However, the vendor can request, and the City grant, approval for a specific location.
- 2) Cannot prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the City, except the City can prohibit stationary sidewalk vendors from vending in a

park if there is an existing agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire. The City may adopt additional requirements regulating the time, place, and manner of sidewalk vending in parks, if the requirements:

- a. directly relate to objective health, safety, or welfare concerns, or
 - b. are necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, or
 - c. are necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.
- 3) Cannot require a sidewalk vendor to obtain the consent or approval of any nongovernmental entity or individual, such as a nearby business, before the vendor can sell food or merchandise.
 - 4) Cannot restrict sidewalk vendors to designated neighborhoods or areas, except when the restriction is directly related to objective health, safety or welfare concerns. However, the City may prohibit stationary sidewalk vendors in areas zoned exclusively residential where no commercial activity is permitted but the City cannot prohibit roaming sidewalk vendors in such areas.
 - 5) Cannot restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction, unless the restriction is directly related to objective health, safety, or welfare concerns.

The City may adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to object health, safety, or welfare concerns. The City can prohibit sidewalk vending within the immediate vicinity of a certified farmers' market, during operating hours. The City can also restrict or prohibit sidewalk vending within the immediate vicinity of an area designated for a temporary special permit issued by the City, such as a permit for filming, a parade, special event, or outdoor concert. Sidewalk vendors can be required to obtain a permit or valid business license, possess a State seller's permit, and obtain additional licenses from State or local agencies to the extent required by law.

Currently motorized and non-motorized vending within the City are regulated under Chapters 5.06, Portable Food Vendors, and 5.12, Intermittent Vendors, of the Municipal Code. Working with the City Attorney's Office, City staff has revised these Chapters to bring the City into compliance with SB 946. Additional text amendments have been included to address the operations of Motorized Food Vendors and Intermittent Vendors.

CEQA DETERMINATION:

The Text Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) - General Rule.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Sonora City will conduct a public hearing at 5:00 PM, or shortly thereafter, on the 7th day of October, 2019, in the Sonora City Council Chambers, 94 North Washington Street, Sonora, CA for the purpose of considering the following:

1. **Code Amendment.** Text Amendment amending in its entirety Chapter 5.06, Portable Food Vendors, and Chapter 5.12, Intermittent Vendors.

The above projects are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule.

At the above time and place, all persons interested in the above, either for or against, will be given the opportunity to be heard. Pursuant to State law, challenges in court to actions on the above proposal may be limited to issues raised at public hearings or meetings conducted on the matter, or in correspondence submitted at, or prior to, the hearing or meeting.

The project staff reports and all supporting documents are available for review at the City of Sonora Community Development Department, 94 North Washington Street, Sonora CA 95370 Monday through Friday, between the hours of 8:00 AM and 4:00 PM. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to insure accessibility to this meeting (28CFR35.102-35.104ADA Title II). Questions regarding the project may be directed to Community Development Director Rachelle Kellogg at (209) 532-3508.

Rachelle Kellogg
Community Development Director

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Publication Date: September 27, 2019

The Union Democrat
Sonora, CA

ORDINANCE NO. 861

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA Sidewalk Vending/Motorized Food Vendors/Intermittent Vendors

Amending in its entirety Chapter 5.06, Portable Food Vendors, and Chapter 5.12, Intermittent Vendors, of the Sonora Municipal Code.

WHEREAS, on September 17, 2018, California Governor Edmund G. Brown signed Senate Bill 946 (“SB 946”) into law, which adds Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the California Government Code to regulate sidewalk vendors throughout the state, including within the City of Sonora (“City”); and

WHEREAS, SB 946 took effect January 1, 2019, and limits the authority of cities and counties in the state to regulate sidewalk vendors, except as otherwise specifically and expressly provided; and

WHEREAS, the City Council adopts this Ordinance in accordance with the authority granted by SB 946; and

WHEREAS, regulation of sidewalk vending and motorized food vending will benefit the City as a whole by leading to orderly commerce, encouraging entrepreneurship, and providing economic opportunity for the citizens of the City; and

WHEREAS, the City Council declares that the regulations enacted by this Ordinance are intended to promote and protect the health, safety, and welfare of the City’s residents, businesses, and visitors and are in furtherance of the City’s police powers; and

WHEREAS, the City Council further declares that the provisions of this Ordinance are intended to regulate the time, place, and manner of sidewalk vending directly relating to public health, safety, and welfare objectives and concerns; and

WHEREAS, the City Council further declares that the regulations enacted by this Ordinance, including, but not limited to those governing minimum sidewalk widths, sidewalk vending receptacle sizes, distance requirements, and food and merchandise storage, are intended and necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards; and

WHEREAS, the City Council further declares that the regulations enacted by this Ordinance are intended and necessary to ensure public access to and enjoyment of public streets, parks, plazas, and to protect the public from injury or interference, and allow a clear exit path from commercial businesses on to public sidewalks; and

WHEREAS, the City Council desires to retain the ability for local enforcement of sidewalk vendor regulations, including the imposition of fines for violations, to the extent consistent with State law.

Now, Therefore, the City Council of the City of Sonora does hereby ordain as follows:

SECTION ONE: Chapter 5.06, Portable Food Vendors, is amended in its entirety to read as follows:

Chapter 5.06

PORTABLE FOOD VENDORS **SIDEWALK VENDING/MOTORIZED FOOD VENDORS**

Sections:

- 5.06.010 Purpose.
- 5.06.010~~1~~ Definitions.
- 5.06.012 ~~Portable food vendors~~— License/Permit Required.
- 5.06.020 Number of licenses Permits – Motorized Food Vendors (benefit zones).
- 5.06.022 Permit Applications.
- 5.06.024 Term of License Permit.
- 5.06.030 Permit Issuance.
- 5.06.040 ~~Vendor Location and Hours~~.
- 5.06.040 Operating Conditions.
- 5.06.050 ~~Trash Containers required~~.
- 5.06.050 Prohibited Activities.
- 5.06.060 ~~Portable food vehicle construction~~.
- 5.06.060 Vending Locations – Sidewalk Vendors.
- 5.06.065 Vendor Location and Hours – Motorized Food Vendors.
- 5.06.070 ~~License fee~~.
- 5.06.070 Public Parks.
- 5.06.080 ~~Increase in fee~~.
- 5.06.080 Penalties.
- 5.06.090 ~~Business license provisions~~.
- 5.06.090 Appeals – Sidewalk Vendors.

5.06.010 Purpose.

- A. The purpose of this Chapter is to establish a permitting and regulatory program for motorized food vendors and 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 merchandise sales, while still permitting regulation and enforcement of unpermitted motorized food vendors and 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 and motorized food vending are necessary to:
 - 1. Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, 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, manholes, storm drains, mailboxes or other utilities or appurtenances, 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; and
4. Ensure sidewalk vending activities occur only in locations where such activities would not restrict sidewalk and pathway access and enjoyment to all users, particularly individuals with disabilities.

5.06.0101 Definitions.

~~The following words are defined as set forth in this section:~~

- A. ~~“Catering trucks” means any mobile unit howsoever propelled, upon which or from which any food or beverage is vended, displayed or given away.~~
- B. ~~“Pedestrian food vendor” means any person vending, displaying or giving away any food or beverage from any wagon, cart, stand, portable box, tray, bag, or similar container, not a vehicle as defined in the California Vehicle Code.~~
- C. ~~“Portable food vendors” means catering trucks and pedestrian food vendors as defined in this chapter.~~

For the purposes of this Chapter, terms shall have the following meanings:

“Cannabis” shall have the same meaning as set forth in Business and Professions Code Section 26001(f) as it may be amended from time to time.

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

“City” means the City of Sonora.

“Code” means the City Code of the City of Sonora.

“County” means the County of Tuolumne.

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

“Director” means the Administrative Services Director or his or her designee.

“Emergency vehicle access” means the roadway path or other surface that provides police, fire, or other safety vehicle 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 edible substance.

“Goods” or “merchandise” means any item that is not food.

“Hearing officer” means an impartial individual designated by the City Administrator to determine appeals pursuant to and in accordance with Section 1.24.120.

“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.

“Motorized Food Vendor” means any mobile unit howsoever propelled, upon which or from which any food or beverage is vended, displayed or given away.

“Park” means a public park owned and operated by the City.

“Public property” means all property owned or controlled by the City, including, but not limited to, alleys, parks, pathways, plazas, streets, parking lots, sidewalks, and walking trails.

“Residential” means any area zoned exclusively as residential in Title 17, Zoning Ordinance, of this Code.

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

“Sidewalk” means a public sidewalk or paved pedestrian path or walkway specifically designed for pedestrian travel.

“Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“Special event” means any temporary permitted event approved by the City or sponsored by the City.

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

“Vend” or “vending” means to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase, food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

“Vendor” means a person who vends.

“Vending cart” means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

5.06.012 Portable food vendors— License/Permit Required.

~~No portable food vendor shall sell or offer for sale any food or beverage on any street, sidewalk or parkway, or on any unenclosed area held open to the general public without having first obtained a business license as provided in Section 5.06.022.~~

- A. No person shall engage in, conduct, or carry on the business of vending on a sidewalk or in a park without a Sidewalk Vendors Permit issued under the provisions of this Chapter and obtaining a City business license.

- B. No person shall engage in, conduct, or carry on the business of motorized food vending within the City without a Motorized Food Vendor Permit issued under the provisions of this Chapter and obtaining a City business license.

5.06.020 Number of licenses Permits – Motorized Food Vendors (benefit zones).

~~The council finds that the reasonable regulation of the streets, sidewalks and parkways within benefit zone A boundaries requires that the number of portable food vendor licenses shall be limited to five, and within benefit zone B (all areas within the city other than zone A), shall be limited to eight. Only one license shall be issued per applicant per zone. Food catering truck (vehicle) licenses are considered separate from portable food vendors and will be limited to three permits within the incorporated city limits.~~

Motorized Food Vendor Permits issued will be limited to six (6) within the City. Of those, no more than three (3) Motorized Food Vendor Permits will be issued within Zone A. No more than two (2) permits shall be issued per Applicant.

5.06.022 Permit Applications.

~~Applicants for a portable food vendor license must comply with and be subject to all of the provisions of this chapter as well as Chapter 5.12, with respect to the licensing of intermittent vendors.~~

Every person, prior to engaging in, conducting, or carrying on the business of a Sidewalk Vendor or Motorized Food Vendor, shall file an application for a permit with the Director accompanied by a two hundred dollar (\$200.00) permit fee. The permit fee may be amended by resolution or ordinance by the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

1. The legal name, current mailing address and telephone number of the Applicant;

2. If the Applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;

3. A copy of a California’s driver’s license or identification number, an individual taxpayer identification number, or a social security number. The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order;

4. The names, addresses, and telephone numbers of all persons that will be employed as a sidewalk or motorized food vendor by the Applicant;
5. A description of the food and/or merchandise for vending;
6. A description, map, or drawing of the area(s) in which the sidewalk or motorized food vendor proposes to operate;
7. A description and photograph of any vending cart to be used in the operation of the business by sidewalk vendors;
8. The make, model, license plate number and photograph of all vehicles to be used in the operation of the business. The name and address of the vehicle owner. Applicant must provide a copy of the current registration certificate and evidence of insurance;
9. The hours per day and the days per week during which the sidewalk or motorized food vendor proposes to operate;
10. Sidewalk vendors must indicate whether he or she intend to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
11. Proof of comprehensive general liability insurance protecting the permittee and the City from all claims against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee. Such insurance shall name as additional insured the City and its officers, officials, employees, agents, and volunteers and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the City. Proof of Workers Compensation insurance, if applicable;
12. An agreement by the Applicant to indemnify and hold harmless the City, its officers, officials, employees, agents, and volunteers, for any claim, damages, actions, or causes of action which may arise from or in any manner relate to the permit or the vendor's sidewalk vending activities;
13. Food vendors must also comply with the following requirements:
 - a) Provide a copy of the certification of completion of a County-approved food handler's course and copies of all required approvals from the County's Food Safety Program;
 - b) Provide a copy of a valid Mobile Food Permit issued by the Tuolumne County;
 - c) Indicate whether food is prepacked or to be prepared on site;
 - d) Indicate whether the vendor requires a heating element to prepare food.
14. Certification by the Applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and
15. Any other reasonable information required by the Director.

Applications for permits shall be filed a minimum of thirty (30) days prior to the date requested for issuance of the permit.

5.06.024 Term of License Permit.

The term of any license permit issued hereunder under this Chapter shall be for a period of one (1) year, or the remaining balance of the calendar year, commencing on January 1st of each year and ending on December 31st. Licensees may Applicants shall apply in-person for renewal of his or her permit license not more than a minimum of thirty (30) days prior to the expiration date. The two hundred dollar (\$200) permit fee must be submitted with the renewal application. A Business License Fee is also required as covered under Chapter 5.10, Business Licenses (Ordinance No. 654)

5.06.30 Permit Issuance.

A. Not later than thirty (30) days after the filing of a completed application for a vendor's permit, the Applicant shall be notified of the decision on the issuance or denial of the permit.

B. The Director may issue a Sidewalk Vendor Permit or a Motorized Food Vendor Permit, with appropriate conditions, if he or she finds based on all of the relevant information that:

1. The conduct of the 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 such vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;
3. The 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;
4. The vendor has not had a permit revoked within the same calendar year;
5. The vendor's application contains all required information;
6. The vendor has not made a materially false, misleading, or fraudulent statement of fact to the City in the application process;
7. The vendor has satisfied all the requirements of this Chapter;
8. The vendor has paid all applicable fees as set by City Council resolution or ordinance.

C. Vendor permits and business licenses are non-transferable. Any change in ownership or operation of a motorized food vendor, sidewalk vendor or sidewalk vending cart requires a new permit and license under this Chapter.

5.06.040 — Vendor Location and Hours.

A. ~~No portable food vendor shall have any exclusive right to any location within the area authorized for portable food vendor sales, nor shall any such licensee be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purposes of the ordinance codified in this chapter, the decision of a peace officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.~~

B. ~~All sales by portable food vendors pursuant to this chapter shall be made from one location. Once a portable food vendor has chosen a sale location, he/she must remain stationary for the remainder of the business day.~~

C. ~~Location. No person shall engage in the portable food vending business within one hundred feet or less of a restaurant, or like business, open to the public, without written permission of the business owner(s). Distances provided for in the ordinance codified in this chapter shall be measured by airline from the closest edge of the restaurant, or like business, to the closest edge of the portable vending machine.~~

D Hours. Portable food vendors may operate between the hours of seven a.m. and nine p.m.

5.06.040 Operating Conditions.

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

1. All vendor permits shall be displayed conspicuously at all times on the vending cart or the sidewalk vendor's person.
2. Sidewalk vendors shall not leave their sidewalk vending cart unattended. Sidewalk vending carts shall not be stored on public property.
3. All sidewalk vendors shall allow a City police officer, firefighter, or code enforcement officer, at any time, to inspect their sidewalk vending cart for compliance with the size requirements of this Chapter and to ensure the safe operation of any heating elements used to prepare food.
4. All operations must conform to Federal, State, County, and local safety regulations as directed by the Sonora Fire Department. Vendor must have a certified and charged 2A10BC fire extinguisher on the vending cart.
5. Vending carts and vehicles used for the carrying, transporting, storage and serving of food shall be in accordance with all City, County and State health codes and licensing.
6. Every sidewalk vending cart shall not exceed a total length of six (6) feet, a total width of four (4) feet, or a total height, including a roof, umbrella, or awning of eight (8) feet.
7. No sidewalk vending cart shall be motorized.

8. All food and merchandise shall be stored either inside or affixed to the sidewalk vendor cart 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 cart, the overall space taken up by the sidewalk vendor cart shall not exceed the size requirements provided in this Section.
9. Sidewalk vendors that sell food shall maintain a trash container in or on their sidewalk vending cart and shall not empty their trash into public trashcans or City refuse container. The trash container must remain in position until all purchasers have departed. The size of the vendor's trash container shall be taken into account when assessing the total size limit of a sidewalk vending cart. Sidewalk vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation.
10. Sidewalk vendors shall immediately clean up any food, grease, or other fluid or item related to sidewalk vending activities that falls on public or private property.
11. Sidewalk vendors shall maintain the vending location in a clean, orderly, and sanitary condition.
12. Vending carts shall not be accompanied by accessories, including, but not limited to, tables, chairs, benches, and umbrellas except that one (1) chair and one (1) umbrella may be provided for the purpose of allowing the vendor or an employee to be seated in shade.
13. Sidewalk vendors shall maintain a minimum four (4) foot clear accessible path free from obstructions, including sidewalk vending carts, and customer queuing area.
14. 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.

B. All motorized food vendors are subject to the following operating conditions when conducting vending activities:

1. All vendor permits shall be displayed conspicuously at all times on the vehicle used for vending.
2. The vehicle used for vending shall not be stored on public property.
3. All vendors shall allow a City police officer, firefighter, or code enforcement officer, at any time, to inspect their vehicle for compliance with this Chapter and to ensure the safe operation of any heating elements used to prepare food.
4. All operations must conform to Federal, State, County, and local safety regulations as directed by the Sonora Fire Department. Vendor must have a certified and charged 2A10BC fire extinguisher on the vehicle.
5. All food and equipment shall be stored inside the vehicle.

6. Vehicles used for the carrying, transporting, storage and serving of food shall be in accordance with all City, County and State health codes and licensing.
7. Vendors shall maintain a trash container and shall not empty their trash into public trashcans or City refuse container. The trash container must remain in position until all purchasers have departed. Vendors shall not leave the vending location without first picking up, removing, and disposing of all trash or refuse from their operation.
8. Vendors shall immediately clean up any food, grease, or other fluid or item related to their vending activities that fall on public or private property.
9. Any vending accessories, including, but not limited to, tables, chairs, benches, and umbrellas must be shown on the vending application and approved by the City.
10. 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.

5.06.050 — ~~Trash Containers required.~~

~~At the site of each sale the vendor must place a trash container beside the food vending vehicle prior to making any sale. The trash container must remain in position until all purchasers have departed. All trash accumulating in the container must be removed from the sale site by the vendor.~~

5.06.050 Prohibited Activities.

A. Sidewalk vendors and motorized food vendors shall comply with all operating conditions as set forth in this Chapter.

B. Sidewalk vendors and motorized food vendors shall not engage in any of the following activities:

1. Operating on public property that does not meet the definition of a sidewalk or pathway, including but not limited to an, alley, street, open space trail, or parking lot. As required under this Chapter and to ensure the health and safety of the vendor and the public.
2. Renting merchandise to customers;
3. Displaying merchandise or food that is not available for immediate sale;
4. Selling of adult-oriented material, cannabis, alcohol, tobacco, or electronic cigarette products;
5. Using an open flame on or within any sidewalk vending receptacle;

6. Using sound amplification equipment, music or live entertainment in conjunction with any vending activity, including but not limited to the use of bells, whistles and horns or bright/flashing lights;
7. Using free standing, flashing, wind powered or animated signs in conjunction with any sidewalk vending activities;
8. Setting up tents, canopies, or erecting any structure.
9. In areas not zoned exclusively for residential use, all sidewalk vendors are prohibited from conducting sidewalk vending activities between the hours of 9:00 p.m. and 7:00 a.m. daily, except that the hours of operation shall not be more restrictive than the hours of operation imposed on other businesses or uses on the same street;
10. In areas zoned exclusively for residential use, roaming sidewalk vendors are prohibited from conducting sidewalk vending activities between the hours of 6:00 p.m. and 9:00 a.m. daily;
11. Knowingly making false statements or misrepresentations during the course of offering food or merchandise for sale;
12. Impeding or obstructing ingress to or egress from any public or private property or any structure, parking space, driveway, or loading facility;
13. Obstructing the view of parking lot entrances or exits.
14. Selling or otherwise conducting transactions with persons in moving vehicles or vehicles illegally parked or stopped;
15. Causing vehicles to stop in traffic lanes or causing persons to stand in traffic lanes or parking spaces;
16. Vending in a manner that blocks or obstructs the free movement of vehicles, including parked vehicles;
17. Damaging public or private property, including trees, shrubs, grass, flowers, plants, or vegetation.

5.06.060 — ~~Portable food vehicle construction.~~

~~— Vehicles used by portable food vendors for carrying, transportation, storage and serving of food shall be in accordance with all city, county and state health codes and licensing.~~

5.06.060 Vending Locations – Sidewalk Vendors.

A. Stationary sidewalk vending is prohibited in the following areas:

1. Any residential zone in the City.

B. Sidewalk vendors shall not engage in sidewalk vending activities at the following locations:

1. On any private property without the express written consent of the owner or lessee of the property.

2. On any designated emergency vehicle access way.

3. Within twelve (12) inches of any curb face on all roads.

4. Within fifteen (15) feet of any entrance or exit to a building, structure or facility.

5. Within fifty (50) feet of another sidewalk vendor.

6. Within twenty-five (25) feet of a:

a. Fire hydrant;

b. Curb which has been designated as yellow or red zone, or a bus zone;

c. Trash or recycling containers, bike racks, benches, bus stops, or similar public use items.

d. A street or roadway intersection or crosswalk.

7. On any sidewalk where vending equipment and queuing patrons would restrict access requirements under the Americans with Disabilities Act.

8. Within two hundred (200) feet of the Sonora Certified Farmers' Market or any other permitted certified farmers market or swap meet during the limited operating hours of that certified farmers' market or swap meet.

9. Within two hundred (200) feet of a school.

10. Within two hundred (200) feet of any area designated for a special event permit issued by the City or any sponsored City event, during the limited duration of the special permit. If the City provides any notice, business interruption mitigation, or other rights to affected businesses or property owners under the City's special permit, such notice will also be provided to any sidewalk vendors specifically permitted to operate in the area, if applicable.

11. The Dragoon Gulch Trail. Such restriction is necessary to ensure the public's use and enjoyment of the natural resources and recreational activities provided at the Trail.

C. Locations for vending shall be approved by the Director. In addition to any restrictions provided by this Section, vending locations may be further limited by the Director only if the limitation is directly related to objective health, safety or welfare concerns, including, but not limited to,:

1. The ability of the site to safely accommodate the use;
2. Pedestrian safety.

D. Vending locations may change only upon written request by an Applicant and written approval by the Director.

5.06.065 Vendor Location and Hours – Motorized Food Vendors.

A. All sales by motorized food vendors shall be conducted on private property with the express written consent of the owner or lessee of the property.

B. All sales by motorized food vendors pursuant to this chapter shall be made from City approved locations.

C. No person shall engage in the motorized food vending business within one hundred (100) feet or less of a restaurant, or like business, open to the public, without written permission of the business owner(s). Distances provided for in this Chapter shall be measured by airline from the closest edge of the restaurant, or like business, to the closest edge of the vending vehicle.

D. Motorized food vendors may operate between the hours of 7:00 a.m. and 9:00 p.m.

E. Vending locations may change only upon a written request by the Applicant that is approved by the Director.

5.06.070 License fee.

~~Every person engaged as a portable food vendor or operating a catering truck (vehicle) shall pay a license fee of two hundred dollars per calendar year, plus the City's applicable benefit zone charge.~~

5.06.070 Public Parks.

In addition to the conditions, restrictions, and prohibited activities provided in this Chapter, sidewalk vendors operating in a public park shall not:

- A. Operate outside the park's hours of operation;
- B. Operate on, or within twenty-five (25) feet of, any sports field or playground equipment area;
- C. Utilize any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park in any way as part of the sidewalk vending operation;

D. Operate within twenty-five (25) feet of any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park;

E. A stationary sidewalk vendor shall not sell food or merchandise or engage in any sidewalk vending activities at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.

5.06.080 — Increase in fee.

~~— Fees, interest, penalties and the license tax shall be amended by resolution.~~

5.06.080 Penalties.

A. Any Motorized Food Vendor violating any of the provisions of this Chapter shall be deemed guilty of an infraction and upon conviction shall be punished as provided under Chapter 1.08 of this Code.

B. Sidewalk vendor violations of this Chapter shall not be prosecuted as infractions or misdemeanors and shall only be punished by the following administrative fine and rescission provisions:

1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation;
2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year of the first violation; and
3. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year of the first violation.

C. If a sidewalk vendor violates any portion of this Chapter and cannot present the citing officer with a proof of a valid permit, the sidewalk vendor may be punished by:

1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation;
2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation; and
3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.

D. Upon proof of a valid sidewalk vendor permit issued by the City, the administrative fines set forth in subsection (B) shall be reduced to the administrative fines set forth in subsection (A), or any successor sections.

E. The Director may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

F. The Director may deny, suspend, or revoke any vendor permit for any of the following reasons:

1. Fraud or misrepresentation contained in the application for the permit;
2. Fraud or misrepresentation made in the course of carrying on the business of vending;
3. Conduct of the permitted business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, or welfare.

G. Denial, void, or revocation of the business license shall result in revocation of the vendor permit.

5.06.090 — Business License provisions.

~~When not specifically identified in Chapter 5.06, Chapter 5.10(business licenses) shall be the applicable authority relating to portable food vendors and catering trucks (vehicles), however, should the provisions of this ordinance conflict with an provisions of Chapter 5.10, Sections 5.06.00 through 5.06.090 shall be controlling.~~

5.06.090 Appeals – Sidewalk Vendors

A. Decisions to deny an application for a Sidewalk Vendor 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 (21) calendar days of the decision or imposition of administrative fine. Notwithstanding any other provision of law, a person appealing an administrative fine is not required to pay the administrative fine as a prerequisite to filing an appeal.

C. Appeals of decisions or administrative fines shall be made in writing to the hearing officer on forms provided by the City. The appeal shall state the facts and basis for the appeal.

D. Appeals of a decision to deny an application for a permit shall be accompanied by a fifty dollar (\$50) fee.

E. Decisions regarding administrative fines that are appealed shall not become effective until the appeal is resolved.

F. An appeal shall be scheduled for a hearing before the hearing officer within thirty (30) calendar days of the filing of the appeal unless both the appellant and the hearing officer consent to a later date.

G. 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 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 for a sidewalk vendor 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 a sidewalk vendor 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 (20%) of the administrative fine imposed pursuant to this Chapter.

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

H. After the hearing, the hearing officer shall affirm, modify or reverse the original decision 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.

SECTION TWO: Chapter 5.12, Intermittent Vendors, is amended in its entirety to read as follows:

Chapter 5.12

INTERMITTENT VENDORS

Sections:

5.12.010	Definitions.
5.12.020	Intermittent vendor event coordinator – Permission to conduct business.
5.12.030	Letter of acknowledgement required.
5.12.0430	Application for letter of acknowledgement.
5.12.0540	Letter—Issuance—Operating Conditions.
5.12.0650	Letter and <u>Intermittent vendor</u> business license - Nontransferable.
5.12.0760	<u>Intermittent vendor</u> bBusiness license issuance and display.
5.12.0870	Revocation or suspension of business license.

- 5.12.0980** **Immunity Exemptions from this eChapter.**
- 5.12.1090** **Engaging in business upon streets and highways prohibited.**
- 5.12.1400** **Violation - Penalty.**
- 5.12.1210** **TaxFee - Increases.**

5.12.010 **Definitions.**

As used in this Chapter:

~~A.~~ “Business” means professions, trades, occupations of all and every kind of calling, carried on for profit.

~~B.~~ “Event coordinator” means any intermittent person who is organizing an event in which two or more individuals are participating.

~~C.~~ “Intermittent vendor” means any individual who has no permanently established place of business in the eCity nor and is part of a specific event, ~~and who goes from place to place, or from door to door, or sets up a temporary stand or place,~~ for the purpose of selling any food, goods, wares, merchandise or service, or one who solicits orders for the sale of goods, wares, merchandise or services to be delivered at some time or date.

~~D.~~ “Intermittent vendor business license” means the license issued to either an intermittent vendor or an event coordinator which authorizes them to do business in the eCity for a specific period of time.

~~E.~~ “~~Intermittent vendor letter of acknowledgement~~” means ~~a letter issued by the city police department authorizing city administration to issue an intermittent vendor business license.~~

~~F.~~ “Non-Profit” means any intermittent vendor who has organized for charitable or religious purposes engaging in fundraising activities for such organization, providing the proceeds do not inure to the benefits of any private person for the personal gain of the individual, firm or organization.

~~G.~~ “Participant” means any individual/person coming under the business license of an event coordinator, including the event coordinator. It does not mean a booth or concession.

5.12.020 **Intermittent vendor event coordinator – Permission to conduct business.**

A. Those business activities that are conducted in a group setting (two or more individuals/persons) will be permitted to conduct business under one business license. ~~The event coordinator is required to obtain a letter of acknowledgement from the chief of police or his/her designee authorizing such business.~~ All other individuals associated with said event are not required to have a separate business intermittent vendor license ~~or letter of acknowledgement.~~

B. Applicant must have written proof from the property owner or ~~business owner~~ Lessee that they are authorized to conduct business in the location indicated on application.

5.12.030 **~~Letter of acknowledgement required.~~**

~~It is unlawful for any intermittent vendor or event coordinator to engage in business in any are of the city, whether for themselves or as agent or employee of some person, firm, eorporation or association, without having received from the chief of police or his/her designee a letter of acknowledgement for such purpose.~~

5.12.0430 Application for letter of acknowledgement.

~~Before the chief of police or his/her designee will issue a letter of acknowledgement, the applicant must provide information a city form which shall include the name of the applicant, their address, their physical description and complete information regarding the goods, wares, merchandise or services which he/she intends to sell and location where such business will be transacted. The application shall include the description and license numbers of any vehicles used in the applicant's business. The application shall be accompanied by a recent three inch by five inch colored portrait-style photograph of the applicant. If the applicant does not have an appropriate photograph, the police department personnel will take a polaroid phot for a fee of five dollars. If the applicant is other than self-employed, the application shall include the name and address of the person, firm or corporation by which he/she is employed, or which he/she represents, and the nature of the business carried on by such person, firm or corporation.~~

Every person, prior to engaging in, conducting, or carrying on the business of a Intermittent Vendor, shall file an application for a permit with the Administrative Services Director accompanied by the permit fee. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

1. The legal name, current mailing address and telephone number of the Applicant;
2. The event name and description;
3. If the Applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
4. A copy of a California's driver's license or identification number, an individual taxpayer identification number, or a social security number. The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order;
5. The names, addresses, and telephone numbers of all persons that will be employed as a sidewalk or motorized food vendor by the Applicant;
6. A description of the food, goods, wares, merchandise, or services to be sold;
7. A description, map, or drawing of the area(s) in which he or she proposes to operate;
8. The make, model, license plate number of all vehicles to be used in the operation of the business. The name and address of the vehicle owner. Applicant must provide a copy of the vehicle registration and insurance;
9. The requested hours and day(s) per which he or she proposes to operate;
10. Proof of comprehensive general liability insurance protecting the permittee and the City from all claims against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee. Such insurance shall name as additional

insured the City and its officers, officials, employees, agents, and volunteers and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the City. Proof of Workers Compensation insurance, if applicable;

11. An agreement by the Applicant to indemnify and hold harmless the City, its officers, officials, employees, agents, and volunteers, for any claim, damages, actions, or causes of action which may arise from or in any manner relate to the permit or the vendor's activities;
12. Food vendors must also comply with the following requirements:
 - a. Provide a copy of the certification of completion of a County-approved food handler's course and copies of all required approvals from the County's Food Safety Program;
 - b. Provide a copy of a valid Mobile Food Permit issued by the Tuolumne County;
 - c. Indicate whether food is prepacked or to be prepared on site;
 - d. Indicate whether the vendor requires a heating element to prepare food.
13. Certification by the Applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and
14. Any other reasonable information required by the Director.

Applications for permits shall be filed a minimum of ten (10) days prior to the date requested for issuance of the permit.

5.12.0540 — Letter — Issuance Operating Conditions:

~~— The chief of police or his/her designee may delay the issuance of a letter of acknowledgement for such time as is reasonably needed to verify the contents of the application. Upon acceptance, the chief of police or his/her designee shall issue a letter of acknowledgement. All intermittent vendors are subject to the following operating conditions when conducting vending activities:~~

1. Intermittent vendors shall allow a City police officer, firefighter, or code enforcement officer, at any time, to inspect their vending operations.
2. All operations must conform to Federal, State, County, and local safety regulations as directed by the Sonora Fire Department.
3. Vending carts and vehicles used for the carrying, transporting, storage and serving of food shall be in accordance with all City, County and State health codes and licensing.
4. Intermittent vendors shall maintain a trash container and shall not empty their trash into public trashcans or City refuse container. Intermittent vendors shall not leave any

location without first picking up, removing, and disposing of all trash or refuse from their operation.

5. Intermittent vendors shall immediately clean up any food, grease, or other fluid or item related to vending activities that falls on public or private property.
6. Intermittent vendors shall maintain the vending location in a clean, orderly, and sanitary condition.
7. Intermittent vendors located on a sidewalk or pathway shall maintain a minimum four (4) foot clear accessible path free from obstructions, including sidewalk vending carts, and customer queuing area.
8. Intermittent vendors who will be serving or selling alcohol must obtain an ABC Liquor License from the California Department of Alcohol Beverage Control, if required.

5.12.0650 Letter and Intermittent vendor business license - Nontransferable.

~~A. No letter issued under this chapter shall be transferable and shall be used only by the person to whom it was issued. The letter shall include the name and description of the business, address, the name and address of principal place of business and where they will be conducting business in the city, and the nature of the business for which the letter was issued. The letter of acknowledgement shall be valid through the calendar year in which it was issued.~~

B. No intermittent vendor business license issued under this ~~e~~Chapter shall be transferable.

5.12.0760 Intermittent vendor ~~b~~Business license issuance and display.

~~A. Once a letter of acknowledgement has been issued, the intermittent vendor must obtain a city business license for the city administration office.~~

B. Every person issued an intermittent vendor business license shall, while engaged in the business for which issued, keep in their possession and display at all times said license. City Administration shall provide a copy of each issued intermittent vendor business license to the Sonora Police Department.

5.12.0870 Revocation or suspension of business license.

~~—The chief of police or his/her designee is authorized to revoke, or temporarily suspend, the business license of any person whenever it appears that the intermittent vendor has engaged in any unlawful business or activities. The intermittent vendor may appeal any such revocation or suspension to the city council who shall hold a hearing on the matter and shall affirm, modify or rescind such revocation or suspension. The licensee shall be given notice by certified mail of the time, date of such hearing and may appear and present evidence in their own behalf. No such determination by the council shall conflict with any substantive provision of this chapter. The council shall make findings thereon, which shall be final.~~

The Administrative Services Director may rescind an intermittent vendor business license for violations of this Chapter or if the intermittent vendor has engaged in any unlawful business or activities.

5.12.0980 Immunity Exemptions from this eChapter.

The provisions of this Chapter shall not apply to the following:

- A. Merchants having an established place of business in the eCity;
- B. ~~Members of an organization, organized for charitable or religious purposes, engaged in fund-raising activities for such organization, provided the proceeds from such activities do not inure to the benefits of any private person, firm or corporation.~~ A non-profit intermittent vendor. Such organizations non-profit vendor may be required to show proof of non-profit status.

5.12.1090 Engaging in business upon streets and highways prohibited.

Notwithstanding any other provision of this eChapter, it is unlawful for any intermittent vendor to engage in business upon any of the streets, highways, and roads within the eCity without prior approval from the eCity council.

5.12.1100 Violation - Penalty.

Any person, firm or corporation violating any of the provisions of this eChapter shall be deemed guilty of ~~an misdemeanor~~ infraction and upon convictions shall be punished as provided under Chapter 1.08 of this Code. ~~by a fine of not more than one thousand dollars, or by imprisonment in the county jail of Tuolumne County for a period not to exceed six months, or both such fine and imprisonment.~~

5.12.1210 TaxFee - Increases.

- A. The following intermittent business license ~~taxes~~ fees shall apply to intermittent vendors:

<u>TaxFee</u>	<u>Type of Vendor</u>	<u>Number of Days Covered</u>
\$30.00	Individual	One to four consecutive days
\$60.00	Event coordinator Participants (30 or less)	One to four consecutive days
\$100.00	Event coordinator Participants (31 or more)	One to four consecutive days
\$150.00	Carnival, circus, etc.	One day

- B. Increases to intermittent business license ~~taxes~~ fees shall be amended by a resolution of the City Council.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this ordinance, and each and every section,

subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

This Ordinance shall take effect thirty (30) days after its passage and shall be published within (15) days after its final passage as required by law.

Said Ordinance was introduced at a regular meeting of the City Council of the City of Sonora held on October 7, 2019, and passed and adopted as an Ordinance of said City at a regular meeting of said Council held on October 21, 2019, by the following vote:

AYES: _____

NOES: _____

ABSENT OR ABSTAIN: _____

James M. Garaventa, Mayor

ATTEST: _____
Colette Such, City Clerk Pro Tem

Approved as to Form:

Douglas L. White, City Attorney

Publish: The Union Democrat, Sonora
 _____, 2019