

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIALTO, CALIFORNIA, AMENDING, ADDING AND REPEALING
VARIOUS CHAPTERS AND SECTIONS OF THE RIALTO
MUNICIPAL CODE TO IMPLEMENT SIDEWALK VENDOR
REGULATIONS**

WHEREAS, effective January 1, 2019, Chapter 6.2 of the Government Code, commencing at Section 51036, now authorizes sidewalk vending and limits a local authority's scope of regulation of vending upon a sidewalk; and

WHEREAS, the City Council desires to implement sidewalk vending requirements for the regulation of sidewalk vendors to be consistent with the new State law.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO ORDAINS, AS FOLLOWS::

Section 1. Subdivision N. of Section 2.45.050 of the Rialto Municipal Code (RMC) is hereby amended to read as follows:

N. Solicitation or Sale. Other than youth leagues or as may be permitted pursuant to Chapter 11.20, no person shall solicit in any manner or for any purpose, or sell or offer for sale, any food, goods, wares or merchandise in any park or facility, unless upon prior written authorization by the department or other department of the city.

Section 2. The title of Chapter 5.28 of the RMC is hereby amended to read as follows:

Chapter 5.28 - CANVASSING, PEDDLING, SIDEWALK VENDING AND SOLICITING

Section 3. Section 5.28.010 of the RMC is hereby amended by adding a new definition, thereto, in correct alphabetical order, to read as follows:

"Sidewalk vendor," as defined in Section 11.20.010 of this code, is also known as a "peddler" and "solicitor," as described in this section.

Section 4. Chapter 5.28 of the RMC is hereby amended by adding a new Section 5.28.035, thereto, to read as follows:

5.28.035 Sidewalk vending permits.

Any person applying for a permit to operate as a sidewalk vendor shall include the following information:

- A. The name and current mailing address of the applicant;
- B. A description of the type of food, beverage, or merchandise to be sold, as well as hours of operation, a description of the cart, and any additional information that will explain proposed use;
- C. A description and photograph (including signage and colors) of any stand to be used in the operation of the business;
- D. A certification, signed by the sidewalk vendor, stating, to his or her knowledge and belief, the information contained on the application is true;
- E. The California Department of Tax and Fee Administration sales tax number, if any, of the sidewalk vendor;
- F. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, then the name and business address of the principal;
- G. A policy of general liability and, when applicable, automobile insurance with coverage in the amounts and with the named additional insured as required by the city's risk manager;
- H. A valid permit issued by the San Bernardino County Health Department.

Section 5. Section 10.28.120 (Peddlers – Vendors) of the RMC is hereby amended in its entirety to read as follows:

10.28.120 – Property Transporter-Peddlers—Vendors.

~~A. Except as otherwise provided in this chapter, no person shall stand or park any vehicle, wagon or pusheart from which goods, wares, merchandise, fruits, vegetables or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any portion of any street within this city except that such vehicles, wagons or pushearts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten minutes at any one place. The provisions of this subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.~~

~~B. No person shall park or stand on any street any lunch wagon, eating cart or vehicle, or pusheart from which tamales, peanuts, popcorn, candy, ice cream or other articles of food are sold or offered for sale without first obtaining a written permit to do so from the city engineer which shall designate the specific location in which such cart shall stand.~~

~~A. C.~~ No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the city engineer which shall designate the specific location where such vehicle may stand.

~~B. D.~~ Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, or wagon, ~~or pusheart~~ on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating

any of the provisions of this section, such permit shall be forthwith revoked by the city engineer upon the filing of the record of such conviction with such officer and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation.

Section 6. The RMC is hereby amended by adding Chapter 11.20 (Regulation of Sidewalk Vendors), thereto, to read as follows:

Chapter 11.20 REGULATION OF SIDEWALK VENDORS

11.20.010 Definitions

As used in this chapter:

- A. “Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- B. “Sidewalk vendor” means 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, upon a public sidewalk or other pedestrian path.
- C. “Stationary sidewalk vendor” means a sidewalk vendor who vends from a fixed location.

11.20.020 Selling food or merchandise - operational requirements.

- A. No sidewalk vendor shall operate without a sidewalk vending permit pursuant to Chapter 5.28 and a valid business license pursuant to Chapter 5.04 of this code, a valid California Department of Tax and Fee Administration seller’s permit, and a permit issued by the San Bernardino County Health Department.
- B. All permits shall be displayed in a visible and conspicuous location at all times during the operation of the vending business.
- C. Each sidewalk vendor shall maintain general liability insurance with coverage in the amounts and with the named additional insured as required by the City’s risk manager.
- D. It shall be prohibited for any sidewalk vendor to operate under any of the following conditions:
 - 1. Vend between 7:00 p.m. and 8:00 a.m. in residential zones;
 - 2. Leave any stand unattended;
 - 3. Store, park, or leave any stand overnight on any public street, sidewalk, or park;
 - 4. Sell food or beverages for immediate consumption, unless there is a litter receptacle available for patrons’ use;
 - 5. Leave any location without first disposing all trash or refuse remaining from sales conducted. Trash and refuse generated by the vending cart operations shall not be disposed of in public trash receptacles;
 - 6. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand;
 - 7. Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described by his or her application;
 - 8. Solicit or conduct business with persons in or on motor vehicles;
 - 9. Sell anything other than that which he or she is licensed to vend;

10. Sound or permit the sounding of any device that produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public;
 11. Operate within 50 feet of a fire hydrant or 25 feet of a transit stop;
 12. Operate within 15 feet of the outer edge of a driveway or vehicular entrance to public or private property;
 13. Operate in a manner that does not maintain 4 feet of clear space on a public sidewalk, in any manner that restricts 10 feet of clearance from any operational and utilizable entrance, exit, driveway or loading dock, or in a manner that restricts passage as required by the Americans with Disabilities Act (ADA);
 14. Operate on any street that does not have a public sidewalk;
 15. Operate as a stationary sidewalk vendor in residential zones;
 16. Operate as a stationary sidewalk vendor cart in any city park that has a concessionaire operating under an exclusive concessionaire agreement with the City during the hours the concessionaire is open;
 17. Operate within 50 feet of an abutting residential zone within a city park;
 18. Operate within a parking lot within a city park;
 19. Operate as a stationary sidewalk vendor within 500 feet of a certified farmers' market or swap meet during the operating hours of that certified farmers' market or swap meet; and
 20. Operate in violation of any other generally applicable law.
- E. No advertising shall be permitted, except to identify the name of the product or the name of the vendor and the posting of prices.

11.20.030 Violation - Penalty.

- A. Violations of Section 11.20.020, other than failure to possess a valid sidewalk vending permit, is punishable by the following:
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 year of the first violation.
 3. An administrative fine not exceeding Five Hundred Dollars (\$500) for each additional violation within one year of the first violation.
 4. Rescission of a sidewalk vending permit for the term of that permit upon the fourth violation or subsequent violations within one year of the first violation.
- B. Violations of Section 11.20.020 by vending without a license or permit issued by the City is punishable by the following:
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 year of the first violation.
 3. An administrative fine not exceeding One Thousand Dollars (\$1,000) for each additional violation within one year of the first violation.
- C. Upon proof of a valid permit issued by the City, any administrative fines imposed under this subsection for vending without possessing a copy of the permit shall be reduced to the administrative fines set forth in Section 11.20.030(A) of this code.

- 1 D. All fines imposed pursuant to subsections (A) or (B) above shall be subject to
2 an ability-to-pay determination as described in California Government Code
3 section 51039(f). Concurrently with issuing a citation for such fines to a
4 person, the City shall provide the person with notice of his or her right to
5 request an ability-to-pay determination and shall make available instructions
6 or other materials for requesting an ability-to-pay determination.
7 E. Infractions. Each and every person who violates a provision of this Section
8 11.20.020 is further guilty of an infraction. Each and every person convicted
9 of an infraction shall be punishable pursuant to the provisions of Section
10 11.16.010, B.
11 F. Except as specifically provided in this Section 11.20.030, administrative fines
12 shall be subject to the provisions of Chapter 1.10 and infractions subject to the
13 provisions of Chapter 1.16 of this code.
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1 **11.20.040 Inapplicability of this Chapter to Day Labor Activities.**

2 This Chapter shall not apply to day labor activities regulated by Chapter 11.16.

3 **Section 7.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this
4 Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of
5 competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this
6 Ordinance. The City Council hereby declares it would have adopted this Ordinance and each section,
7 subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any
8 one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared
9 invalid or unconstitutional.

10 **Section 8.** The City Council hereby finds and determines that it can be seen with certainty that
11 there is no possibility that this ordinance may have a significant adverse effect on the environment.
12 Thus, the adoption of this ordinance is exempt from the requirements of the California Environmental
13 Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.

14 **Section 9.** The City Clerk shall certify to the adoption of this Ordinance and cause the same
15 to be published in the local newspaper; and the same shall take effect thirty (30) days after its date of
16 adoption:

1 **PASSED, APPROVED AND ADOPTED** this ____ day of _____, 2019, by the following vote:

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3 _____
4 DEBORAH ROBERTSON, Mayor

5 ATTEST:

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7 _____
8 BARBARA McGEE, City Clerk

9 APPROVED AS TO FORM

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11 _____
12 FRED GALANTE, City Attorney

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5 Ordinance No. _____ was duly passed and adopted at a regular meeting of the City Council of
6 the City of Rialto held on the _____ day of _____, 2019.

7 Upon motion of Councilmember _____, seconded by Councilmember
8 _____, the foregoing Ordinance No. _____ was duly passed and adopted.

9 Vote on the Motion:

10 AYES:

11 NOES:

12 ABSENT:

13 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
14 Rialto, this _____ day of _____, 2019.

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Barbara A. McGee, City Clerk
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