

ORDINANCE NO. 3208

AN ORDINANCE AMENDING TITLE 5 OF THE MUNICIPAL CODE OF THE CITY OF NORTH LAS VEGAS RELATING TO BUSINESS LICENSES GENERALLY TO INCLUDE PROVISIONS FOR SIDEWALK VENDORS AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the Nevada Legislature passed and enacted SB92 during the 2023 Nevada Legislative Session, which provided parameters for municipal regulation of sidewalk vendors;

WHEREAS, the City Council of the City of North Las Vegas does hereby declare that the regulation and licensing of sidewalk vendors operating in the City is necessary to promote the health, safety, and welfare of the residents of the City due to the possible negative impacts to traffic, pedestrian safety, mobility, unsanitary conditions, food contamination, excessive noise and nuisance, and consumer protection.

NOW THEREFORE, the City Council of the City of North Las Vegas does ordain:

SECTION 1: Chapter 02, Section 001 of Title 5 of the North Las Vegas Municipal Code is hereby amended by adding a new definition as follows:

“Conveyance” means, without limitation, a pushcart, stand, display, pedal driven cart, wagon, showcase or rack that is used by a sidewalk vendor for purposes of selling food, beverages or merchandise.

“Entertainment District” means an area located within the City of North Las Vegas that:

1. Is zoned for or customarily used for commercial purpose; and
2. Contains any number and combination of restaurants, bars, entertainment establishments, music venues, theaters, art galleries or studios, dance studios or athletic stadiums.

“Food establishment” means a City-licensed establishment that operates in the capacity of a restaurant or has an alcoholic beverage license that includes the operation of a restaurant.

“Health District” means the Southern Nevada Health District.

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

“Sidewalk Vendor” means a person who sells food or beverages upon a public sidewalk or other pedestrian path from a conveyance, including, without limitation, a pushcart, stand, display, pedal-driven cart, wagon, showcase, or rack. The term includes, without limitation, a roaming sidewalk vendor and a stationary sidewalk vendor.

“Vend” means to sell or offer to sell food or beverages from a conveyance.

SECTION 2: Chapter 02, Section 270 of Title 5 of the North Las Vegas Municipal Code is hereby amended by adding a new license classification as follows:

5.02.270 S-License fees.

Sidewalk vendor. For each sidewalk vendor, one hundred and fifty dollars (\$150.00) annually.

A sidewalk vendor license is not transferable.

SECTION 3: Title 5 of the North Las Vegas Municipal Code is hereby amended to include a new Chapter 5.60 that adds new license classification as follows:

5.60 - Sidewalk Vendors

5.60.010 - Applicability.

This Chapter does not apply to a person, business or vehicle to the extent that the person, business or vehicle is operating pursuant to and in compliance with the provisions of NLVMC 5.30 – Mobile Food Vendors.

5.60.020 - Definitions.

“Conveyance” has the meaning found in NLVMC 5.02.001

“Entertainment District” has the meaning found in NLVMC 5.02.001

“Food establishment” has the meaning found in NLVMC 5.02.001

“Health District” has the meaning found in NLVMC 5.02.001

“Roaming Sidewalk Vendor” has the meaning found in NLVMC 5.02.001

“Sidewalk Vendor” has the meaning found in NLVMC 5.02.001

“Vend” has the meaning found in NLVMC 5.02.001

5.60.030 - Sidewalk Vendors – License required.

Pursuant to Chapter 5.02 of this Code, to operate as a sidewalk vendor, an application must be submitted and approved in accordance with the ordinances and regulations of this Title as amended.

Business license applications for a sidewalk vendor shall include the following:

1. The business name and current mailing address of the sidewalk vendor.
2. Name, home address, and date of birth for all owners, partners or corporate officers.
3. Description of the products the applicant intends to sell.
4. Photos of the conveyance to be used.
5. A certification by the sidewalk vendor that, to the best of his or her knowledge and belief, the information submitted pursuant to this section is true.
6. Provide a health permit and health card issued by the Southern Nevada Health District.
7. Provide a copy of the current Nevada State Business License or registration from the Nevada Secretary of State.
8. Provide a copy of the current State Sales Tax Permit/Business Use Tax Permit or exemption from the Nevada Department of Taxation.

The application form may include additional questions as determined by the director. Acceptance of a license under this chapter constitutes an agreement on the part of such licensee to be bound by all of the regulations of the City as the same now are, or may hereafter be amended or promulgated. It is the sole responsibility of the licensee to keep himself or herself informed of the content of all such rules and regulations, and ignorance thereof will not excuse violations.

5.60.040 - License Fee.

The license fee for each sidewalk vendor shall be one hundred and fifty dollars (\$150.00) paid annually.

5.60.050 - Compliance with health district regulations.

Each sidewalk vendor shall maintain compliance with the regulations enacted by the Southern Nevada Health District throughout the duration and each renewal of the sidewalk vendor's license.

5.60.060 - Hours of operation.

It is unlawful for any sidewalk vendor to operate within the times of 9:00 p.m. and 8:00 a.m. The provisions of this subsection shall not apply to sidewalk vendors vending at a commercial place of business pursuant to an agreement with the owner, resident, occupant or person legally in charge of the premises.

5.60.070 - Unlawful Activity.

1. Except as otherwise provided in this Chapter, it is unlawful to engage in sidewalk vending:
 - A. Without a business license issued by the department.
 - B. Without a health permit issued by the Southern Nevada Health District.
 - C. Within 1,500 feet of:
 - a. A Resort Hotel as defined in NRS 463.01865;
 - b. An event facility, in any jurisdiction, that has a seating capacity for at least 20,000 people and is constructed to accommodate a major or minor sports team;
 - c. A convention facility;
 - d. A median of a highway if the median is adjacent to a parking lot.

The restrictions in subsection (A) shall not apply to areas zoned exclusively for residential use, unless the area is on a public sidewalk or pedestrian path that is immediately adjacent to a location described in subsection (A).

- D. Within 1,000 feet of:
 - a. A Pedestrian Mall, Entertainment District or Convention Center.

E. Within 500 feet of:

- a. A City park, unless otherwise permitted under a contractual arrangement with the City regarding a specific location or by an approved special event permit;
- b. A community center or recreation center;
- c. The outside perimeter of school property during school hours, within a one-hour period prior to the start of the first session of the day, or within a one-hour period following the end of such sessions. This includes but not limited to the Clark County School District, publicly funded charter schools and all privately funded schools.
- d. A of a farmer's market during the market's operating hours;
- e. A special event permitted by the City.

F. Within 150 feet of:

- a. A licensed food establishment during the hours the establishment is open for business.
- b. An establishment that holds a non-restricted gaming license as described in NRS 463.0177.

G. In any residential neighborhood as a stationary sidewalk vendor.

H. While consuming alcoholic beverages.

I. In a manner that is in violation of an applicable right of way, traffic laws, parking laws and/or ordinances.

2. Further, it is unlawful for a sidewalk vendor to place one or more advertising signs or devices, tables, chairs or similar items on a public sidewalk or pedestrian path in connection with a vending operation. This prohibition does not prohibit signage that is placed upon, attached to, or an integral part of the conveyance from which the vending operation takes place.

3. The provisions of this chapter shall not be construed to affect the rights of a private property owner to use or authorize or limit the use of a sidewalk that is owned by the private property owner, including, without limitation, a privately-owned sidewalk that is subject to an easement for public access.

5.60.080 - Operating Requirements.

1. Sidewalk vendors shall prominently display on any conveyance used by the vendor for vending purposes:
 - A. All health permits issued to the vendor by the Southern Nevada Health District; and
 - B. The vendor's business license issued by the department.
2. All employees or anyone operating as a sidewalk vendor must hold a valid Health Card from the Southern Nevada Health District.

3. Sidewalk vendors shall not vend at a location where the operation will impede pedestrian traffic or other normal use of the public sidewalk or pedestrian path, or hinder access or accessibility required by the Americans with Disabilities Act.
4. Sidewalk vendors shall not have any exclusive right to operate from any location upon public sidewalks, pathways, or alleys.
5. Sidewalk vendors shall not operate during the hours of 9:00 pm to 8:00 am.

5.60.090 - Enforcement.

1. The director, agents or officers of the division, code enforcement, the police department, or any state or county regulatory agency shall be entitled to enforce the provisions of this chapter and impose disciplinary action as set forth in this section. The penalties and remedies shall be cumulative and may be exercised in any order or combination and at any time.
 - A. Civil penalties. Any person, firm, or corporation in violation of this chapter, state law, or other government regulation may be subject to disciplinary action including, but not limited to, notices of violations, civil citations with associated fines, penalties, and fees as set forth in NLVMC 8.70.020, or the suspension or revocation of the business license pursuant to chapter 5.02 of this code.
 - a. Pursuant to NRS 446.883, a City license issued under this chapter shall be automatically revoked in the event the sidewalk vendor's permit is revoked by the Southern Nevada Health District, and no new license may be issued until such person again possesses an unrevoked (valid) permit from the health district.
 - b. The director may summarily revoke a sidewalk vendor business license if the license is in violation of any condition of approval, requirement of this code or other state or local regulations pursuant to NLVMC 5.02.440. Sidewalk vendors have the right to appeal such decision in accordance with NLVMC 5.02.445 and the applicable provisions of Chapters 5.02 and 5.03 of this Title.
 - B. Criminal penalties. The director, agent or officers of the division, code enforcement, the police department, or any state or county regulatory agency, or any other person as authorized by law, shall also have the authority to issue misdemeanor citations to enforce the provisions of Section 5.60.070(1)(C) herein or a violation of any state or local law otherwise punishable by misdemeanor citation, if the violation is otherwise unrelated to the sidewalk vendor provisions set forth in this chapter or NRS Chapter 268, including any legal prohibition on unlicensed business activities.
 - C. To prevent the consumption of unsafe food and avoid public health threats, the City may immediately destroy or dispose of any food that has been cooked, prepared or unsealed from the original packaging by a sidewalk vendor that does not possess a valid permit issued by the Health District.
2. Any person who operates a sidewalk vendor business without a license to do so under this Title shall be subject to the penalties outlined herein.

5.60.100 - Licensee Duties and Responsibilities.

1. It is the sole responsibility of the licensee to keep informed of the content of all of the applicable provisions of this code, state statutes, rules, and regulations pertaining to sidewalk vendors and ignorance thereof does not excuse violations. Every licensee has a duty to cooperate with the City and personnel from any other state or county regulatory agencies, including the Health District and the Nevada Department of Taxation.
2. It is further the affirmative duty of each licensee to strictly comply with all of the applicable provisions in this code, state statutes, rules and regulations pertaining to sidewalk vendors.
3. Any person or entity who employs, contracts, or otherwise engages another to conduct sidewalk vendor activities, is responsible for the acts or omissions of his or her employees or agents committed during the course of employment or performance of activities governed by this chapter. In any suspension, limitation, or revocation proceeding, the fact that the person or entity who employed, contracted, or engaged another did not have actual knowledge of the violation shall be no defense.

5.60.110 - License does not provide defense for noncompliance with other laws.

The provisions of this chapter and the statutory provisions related to sidewalk vendors set forth in NRS Chapter 268 shall not be construed to a) exempt any person from complying with any state or local law or regulation; or b) provide a defense to any criminal charge unrelated to the act of sidewalk vending.

SECTION 4: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 5: SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas and, after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of RS, as amended from time to time.

SECTION 7: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the Councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED THIS _____ day of _____, 2024.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED:

PAMELA A. GOYNES-BROWN, MAYOR

ATTEST:

JACKIE RODGERS, CITY CLERK