

1 SECOND AMENDMENT

2 BILL NO. 2023-28

3 ORDINANCE NO. _____

4 AN ORDINANCE TO AMEND LVMC TITLE 6 TO ADD A NEW CHAPTER PERTAINING TO THE
5 LICENSING AND REGULATION OF SIDEWALK VENDORS, AS AUTHORIZED AND DIRECTED
6 BY STATE LAW, AND TO PROVIDE FOR OTHER RELATED MATTERS.

6 Proposed by: Seth T. Floyd, Director of
7 Community Development

Summary: Amends LVMC Title 6 to add a new
chapter pertaining to the licensing and regulation
of sidewalk vendors, as authorized and directed by
State law.

8
9 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS
10 FOLLOWS:

11 SECTION 1: Title 6, of the Municipal Code of the City of Las Vegas, Nevada, 1983
12 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 96 and consisting of
13 Sections 10 to 120, inclusive, reading as follows:

14 **6.96.010:** As used in this Chapter, unless the context otherwise requires, the following terms shall have
15 the meanings which are ascribed to them, as follows:

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

18 "Food establishment" means a City-licensed establishment that operates in the capacity of a
19 restaurant or has an alcoholic beverage license that includes the operation of a restaurant, in each case as the
20 term "restaurant" is defined by LVMC 6.50.020.

21 "Health District" means the Southern Nevada Health District.

22 "Licensee" means the holder of a sidewalk vendor business license issued by the Department.

23 "Public sidewalk or other pedestrian path" means that portion of a public right-of-way which has
24 been improved for pedestrian traffic.

25 "Sidewalk vendor" means a person who, from a conveyance, sells food or beverages upon a public
26 sidewalk or other pedestrian path. The term includes without limitation a nonstationary sidewalk vendor (one

1 who moves from place to place with occasional stops for the purpose of vending) and a stationary sidewalk
2 vendor (one who vends from a fixed location). The term does not include a person operating as a vendor, or
3 a vending operation, located on property other than a public sidewalk or other pedestrian path.

4 "Vend" means to sell or offer to sell food or beverages from a conveyance.

5 **6.96.020:** Except as otherwise provided in this Chapter, it is unlawful for a person to:

6 (A) Operate as a sidewalk vendor within the City without a license issued pursuant to this
7 Chapter; or

8 (B) Operate as a sidewalk vendor within the City in violation of this Chapter.

9 **6.96.030:** This Chapter does not apply to a person, business or vehicle to the extent that the person,
10 business or vehicle is operating pursuant to and in compliance with the provisions of LVMC Chapter 6.47
11 relating to ice cream trucks or Chapter 6.55 relating to mobile food vendors.

12 **6.96.040:** An application for a sidewalk vendor license must be made upon forms provided by the
13 Department. In addition to the information required under LVMC Chapter 6.02, the applicant shall provide
14 the following:

15 (A) A health permit for each conveyance, documentation that the conveyance is eligible for such
16 permit, and a health card for each operator or vendor, in each case as issued by the Health District and to the
17 extent required by the Health District;

18 (B) A description of the selling methods to be used, a description of the type and size of the
19 conveyance to be used, and a description of the items offered for sale;

20 (C) The name and current mailing address of the sidewalk vendor; and

21 (D) If the applicant is an agent of an individual, or is an officer, agent or employee of a business
22 entity, the name and business address of the principal office of the individual or entity.

23 **6.96.050:** (A) Each sidewalk vendor shall pay, in advance, an annual license fee of one hundred
24 fifty dollars.

25 (B) A sidewalk vendor license is not transferable.

26 **6.96.060:** Each sidewalk vendor shall:

1 (A) Comply with all applicable Health District regulations, including without limitation those
2 regarding the disposal of waste and, as applicable, the collection and disposal of grease and waste cooking
3 oil. To the extent not otherwise required by Health District regulations that pertain to the operation of a
4 sidewalk vendor, each sidewalk vendor must:

5 (1) Provide waste receptacles that are adequate for the collection of waste generated by
6 the sidewalk vendor and the vendor's customers, and continuously remove such waste from locations within
7 a ten-foot radius surrounding the location of the vendor's conveyance; and

8 (2) Clean and remove drips or spills before they enter any stormwater conveyance
9 system, including curbs, gutters and storm drains.

10 (B) Prominently display on any conveyance used by the vendor for vending purposes:

11 (1) All health permits issued to the vendor by the Health District; and

12 (2) The vendor's business license certificate issued by the Department.

13 (C) Before commencing operations and, if required by the Department as a prerequisite to
14 licensing, file with the Department a certificate of, and thereafter maintain, public liability and property
15 damage insurance to protect the public against any and all claims for personal injury damages, including
16 death, and property damages which may arise out of or in connection with any operations or activities of the
17 sidewalk vendor. The amount of such insurance shall not be less than two hundred fifty thousand dollars for
18 injuries, including death, to any one person, and subject to the same limit for each person in an amount of
19 not less than five hundred thousand dollars for injuries, including death, to more than one person on account
20 of any one occurrence, and property damage insurance in an amount not less than fifty thousand dollars for
21 each occurrence. Such insurance must be issued by an insurer licensed to provide such coverage in Nevada,
22 and the City shall be named as an additional insured party. Any insurance coverage provided under this
23 Section shall also contain a provision that any cancellation or material change in the coverage shall not
24 become effective until the City has been given thirty days prior written notification.

25 **6.96.070:** (A) Except as otherwise provided in Subsection (B) of this Section, no sidewalk vendor
26 shall:

1 (1) Have any exclusive right to any particular location upon a public sidewalk
2 or pedestrian path;

3 (2) Vend at a location where the operation will impede pedestrian traffic or
4 other normal use of the public sidewalk or pedestrian path, or hinder access or accessibility required by the
5 Americans with Disabilities Act;

6 (3) Vend at a location that is adjacent to or within five hundred feet of a farmer's
7 market during the market's operating hours;

8 (4) Vend at a location that is adjacent to or within five hundred feet of any area
9 designated by the City Council for a temporary special event for the duration of the event.

10 (B) The provisions of Subsection (A) do not apply to the operation of a sidewalk vendor
11 at a particular location if and to the extent the vendor is operating at that location pursuant to a contractual
12 arrangement with the City or by means of an approved special event permit.

13 (C) While operating as a nonstationary sidewalk vendor, a sidewalk vendor may not
14 remain in the same location for longer than thirty minutes at a time and may not vend within one hundred
15 fifty feet of another sidewalk vendor (whether that other vendor is stationary or nonstationary). For purposes
16 of the preceding sentence, the "same location" means a particular vending location and any location within
17 a distance of one hundred fifty feet from that location. The prohibitions of this Subsection (C) do not apply
18 to a sidewalk vendor to the extent the vendor is operating pursuant to a contractual arrangement with the City
19 or pursuant to the provisions of a special event permit.

20 **6.96.080:** Except as otherwise provided in LVMC 6.96.090, it is unlawful for any sidewalk vendor to:

21 (A) Vend food or beverages within fifteen hundred feet of:

22 (1) A resort hotel;

23 (2) An event facility that has seating capacity for at least twenty thousand people and is
24 constructed to accommodate a major or minor league sports team;

25 (3) A convention facility operated by a county fair and recreation board; or

26 (4) A median of a highway that is adjacent to a parking lot.

- 1 (B) Vend within one thousand feet of:
- 2 (1) An establishment that holds a nonrestricted gaming license described in subsections
- 3 1 or 2 of NRS 463.0177, to the extent not governed by a larger distance separation;
- 4 (2) The City's pedestrian mall, which qualifies as a pedestrian mall pursuant to NRS
- 5 268.811 and is particularly described in LVMC Chapter 11.68; or
- 6 (3) The Downtown Entertainment Overlay District, as described in LVMC 19.10.120.
- 7 (C) Vend or park a conveyance to be used for vending within five hundred feet of the outside
- 8 perimeter of school property:
- 9 (1) During the hours the school is in session;
- 10 (2) During the one-hour period preceding the start of the first session of the day; or
- 11 (3) During the one-hour period after the final session has ended;
- 12 (D) Consume alcoholic beverages while vending;
- 13 (E) Vend at a location immediately adjacent to a City park, unless otherwise permitted under a
- 14 contractual arrangement with the City regarding a specific location or by an approved special event permit;
- 15 (F) Except as otherwise permitted under a contractual arrangement with the City regarding a
- 16 specific location or by an approved special event permit, vend or park a conveyance to be used for vending
- 17 within five hundred feet of any of the following owned or operated by the City:
- 18 (1) Swimming pool;
- 19 (2) Community center (including a center for senior citizens or active adults); or
- 20 (3) Recreation center;
- 21 (G) Vend in any residential neighborhood as a stationary sidewalk vendor;
- 22 (H) Vend on any public sidewalk between the hours of nine p.m. and eight a.m., or at any time
- 23 or place where the noise of the conveyance being used constitutes a disturbance of peace and violates any
- 24 prohibition outlined in LVMC Chapter 9.16;
- 25 (I) Vend within five hundred feet of the primary public entrance of a food establishment during
- 26 the hours the establishment is open for business, unless the vendor is operating:

1 (1) On a public sidewalk or pedestrian path that abuts the parcel on which the food
2 establishment is located and is operating with the written consent of the operator of the food establishment;
3 or

4 (2) At a location concerning which such vending has been specifically approved by
5 means of a special event permit issued pursuant to LVMC Chapter 12.02;

6 (J) Vend within one hundred fifty feet of each vehicle entrance to or exit from a fire station,
7 police station, hospital or other structure offering or providing emergency response services;

8 (K) Operate or park a conveyance to be used in vending in violation of applicable statutes or
9 ordinances governing traffic parking or the use of public rights-of-way;

10 (L) Place one or more advertising signs or devices, tables, chairs or similar items on a public
11 sidewalk or pedestrian path in connection with a vending operation. This prohibition does not prohibit
12 signage that is placed upon, attached to, or an integral part of the conveyance from which the vending
13 operation takes place;

14 (M) Vend from a conveyance that occupies an area greater than twenty-five square feet, inclusive
15 of equipment, food, operation-related materials and signage; or

16 (N) Sell or offer to sell services or items of merchandise other than food or beverage items.

17 **6.96.090:** A sidewalk vendor may sell food or beverages within fifteen hundred feet of a location
18 described in Subsection (A) of LVMC 6.96.080 if the conveyance from which the person is selling food or
19 beverages is located in an area which is zoned exclusively for residential use, unless the area is on a public
20 sidewalk or pedestrian path that is immediately adjacent to a location described in Subsection (A) of LVMC
21 6.96.080.

22 **6.96.100:** The City is authorized to:

23 (A) Enforce this Chapter by means of a criminal prosecution or a civil proceeding, except as
24 otherwise specified or limited by Subsections (B), (C) and (D).

25 (B) In connection with a criminal prosecution, request the imposition of a criminal fine, which,
26 if imposed by the court, shall not exceed five hundred dollars per violation.

1 (C) Impose a civil (but not criminal) penalty, in an amount not to exceed five hundred dollars,
2 on a licensee that engages in sidewalk vending in a prohibited residential area or for any violation of the
3 terms or conditions of the license in accordance with LVMC Chapter 6.02;

4 (D) Impose a civil (but not criminal) penalty, in an amount not to exceed five hundred dollars,
5 on a person who engages in sidewalk vending without a license in accordance with LVMC Chapter 6.02;

6 (E) Suspend or revoke a sidewalk vendor license for any violation of this Chapter or this Title
7 or of the terms or conditions of the license in the same manner as such suspensions or revocations are imposed
8 for other types of businesses; and

9 (F) Undertake any other action to prevent the sale or consumption of any food or drink that
10 violates any requirements established by the Health District pursuant to NRS Chapter 446.

11 **6.96.110:** (A) Independent of any license-related requirement of this Chapter, and in accordance
12 with State law, it is unlawful for any person to sell food, beverages or merchandise within fifteen hundred
13 feet of:

14 (1) A resort hotel;

15 (2) An event facility that has seating capacity for at least twenty thousand
16 people and is constructed to accommodate a major or minor league sports team;

17 (3) A convention facility operated by a county fair and recreation board; or

18 (4) A median of a highway that is adjacent to a parking lot.

19 (B) Notwithstanding the provisions of Subsection (A), a person may sell food or
20 beverages within fifteen hundred feet of a location described in Subsection (A) if the conveyance from which
21 the person is selling food or beverages is located in an area which is zoned exclusively for residential use,
22 unless the area is on a public sidewalk or pedestrian path that is immediately adjacent to a location described
23 in Subsection (A).

24 **6.96.120:** (A) Nothing in Subsection (A) of LVMC 6.96.080 or in LVMC 6.96.110 that prohibits
25 vending within fifteen hundred feet of certain facilities or locations shall be deemed, by itself, to authorize
26 vending beyond those distances. The ability to vend at any particular location depends on the operation and

1 effect of other provisions of this Chapter and of State law.

2 (B) Nothing in this Chapter shall be deemed to authorize vending within a City park,
3 which is subject to other Code provisions and limitations.

4 (C) Nothing in this Chapter shall be deemed to authorize the vending of products whose
5 sale is governed by LVMC Chapters 6.50, 6.82 or 6.95.

6 SECTION 2: Title 6, Chapter 62, Section 30, of the Municipal Code of the City of Las
7 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

8 **6.62.030:** This Chapter does not apply to:

9 (A) Charitable solicitations conducted in compliance with Chapter 11.62, Chapter 6.78 or the
10 provisions of NRS Chapters 82 and 598 that pertain to such solicitations.

11 (B) Temporary merchants, sidewalk vendors and mobile food vendors to the extent they are
12 subject to and in compliance with, the provisions of this Title which govern those businesses.

13 (C) The selling, offering for sale or soliciting of orders for goods or services from licensed
14 wholesale or retail businesses located within the City, except with regard to the provisions of
15 LVMC 6.62.020(B).

16 SECTION 3: Title 13, Chapter 32, Section 10, of the Municipal Code of the City of Las
17 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

18 **13.32.010:** (A) Except as otherwise provided in this Section, it shall be unlawful for any person to
19 occupy any part or portion of any street, alley, sidewalk, sidewalk space, court, public park or grounds within
20 the City for the purpose of keeping or maintaining any newspaper stand, drinking stand, popcorn stand,
21 weighing machine, automatic vending machine, sandwich wagon or any stand for the sale of notions or any
22 other article of goods, wares, or merchandise, or any similar obstructions.

23 (B) News racks may be permitted within sidewalk areas in accordance with LVMC
24 Chapter 13.24.

25 (C) Ice cream trucks and mobile food vendors may vend within public rights-of-way in
26 accordance with LVMC Chapters 6.47 and 6.55, respectively.

1 (D) Other vending activities may be approved within public rights-of-way and sidewalk
2 areas by means of an encroachment agreement or permit, or by means of a special event permit issued
3 pursuant to LVMC Chapter 12.02.

4 (E) Vending activities may be approved in public parks and on other public grounds by
5 means of permit, license, or contractual arrangement.

6 (F) Sidewalk vending is permitted if in accordance with LVMC Chapter 6.96.

7 SECTION 4: Title 13, Chapter 32, Section 20, of the Municipal Code of the City of Las
8 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

9 **13.32.020:** (A) Except as otherwise provided in this Section or another provision of this Code, it is
10 unlawful for any person to erect, place or maintain any obstruction, or to cause or permit any obstruction to
11 encroach within, upon, or over any public right-of-way, including any public street, public sidewalk, or public
12 alley. Each day any unauthorized obstruction is allowed to remain after ten days' notice to remove the
13 obstruction shall constitute a separate offense. Such notice may be provided by:

14 (1) Any officer of the Las Vegas Metropolitan Police Department;

15 (2) Any officer or employee of the Department of Community Development or
16 the Department of Public Works; or

17 (3) Any other officer or employee of the City who has been specifically
18 authorized to enforce this Section.

19 (B) An obstruction otherwise prohibited by Subsection (A) may be permitted by means
20 of an encroachment agreement approved by the City in accordance with this Section. The agreement must be
21 in a form prepared by, or otherwise acceptable, to the City. Approval by the City of an encroachment
22 agreement:

23 (1) Is entirely within the City's discretion;

24 (2) Is contingent upon a determination by the Director of Public Works (or
25 designee) that the obstruction or encroachment can be accomplished without negatively impacting traffic,
26 public safety, pedestrian safety, or the use of and access to utility facilities; and

1 (3) May be denied based on plans for future improvements to the affected right-
2 of-way, street, sidewalk or alley.

3 (C) An encroachment agreement under this Section:

4 (1) May include conditions reasonably calculated to mitigate any impact,
5 including without limitation a time limit, provisions regarding ongoing maintenance, and appropriate
6 remedial measures; and

7 (2) May be required to be recorded against property that is benefitted by the
8 agreement.

9 (D) Except as otherwise provided in Subsections (E) and (F), the approval authority for
10 an encroachment agreement under this Section shall be the Director of Community Development (or
11 designee). Typical items qualifying under this Subsection (D) include:

- 12 (1) Encroachments related to a Site Development Plan Review under Title 19;
13 (2) Encroachments for monitoring wells;
14 (3) Encroachments necessary for compliance with a building-related code; and
15 (4) Other minor encroachments related to signage, outdoor dining, landscaping,
16 fencing, and similar minor intrusions into public right-of-way.

17 (E) The approval authority for the following items shall be the City Council:

18 (1) Encroachments which, in the judgment of the Director of Community
19 Development (or designee), are of a significant nature, character or size so as to warrant consideration by the
20 City Council; and

21 (2) Encroachments concerning which a member of the City Council, prior to
22 administrative approval of an agreement pursuant to Subsection (D), has requested that the encroachment be
23 considered by the City Council.

24 (F) In the case of encroachment agreements to be forwarded to the City Council for
25 consideration pursuant to Subsection (E), the Director of Community Development (or designee) shall
26 schedule the encroachment agreement for Council consideration at the next regular meeting of the City

1 Council that is reasonably available.

2 (G) If the Director of Community Development (or designee) denies administrative
3 approval of an encroachment agreement pursuant to Subsection (D), the person seeking encroachment
4 approval may appeal the decision to the City Council within ten days after the denial decision is made. The
5 appeal shall be in writing, shall be filed with the Director or designee, and shall state the factual basis for the
6 appeal. The Director or designee shall schedule the matter for consideration by the City Council within thirty
7 days following receipt of the appeal. The decision by the City Council shall be final.

8 (H) Encroachment agreements approved administratively pursuant to Subsection (D)
9 shall be signed by the Director of Community Development (or designee). Agreements approved by the City
10 Council shall be signed by the Mayor.

11 (I) Nothing in this Section shall apply to obstructions or improvements installed or
12 made available:

13 (1) By or on behalf of the City, or pursuant to a franchise or formal regulatory
14 action by the City; or

15 (2) By another governmental agency acting in accordance with an interlocal or
16 cooperative agreement with the City, if the Director of Community Development determines that the
17 provisions of that agreement are an adequate substitute for the requirements of this Section.

18 (J) For purposes of this Section, "obstruction" means a structure, installation, amenity
19 or improvement of any kind. The term also includes a bicycle, scooter or similar means of conveyance that
20 is made available for consumer use as part of a commercial enterprise. For purposes of this Section, as well
21 as other provisions of this Title and the Municipal Code, "encroachment agreement" includes any document
22 or agreement, however named, that by its terms authorizes an encroachment within or obstruction upon a
23 public right-of-way. Any such document or agreement may be called an encroachment agreement,
24 encroachment permit, occupancy agreement, occupancy permit, license agreement, or similar term, whether
25 or not in each case preceded by the term "right-of-way," and designed in each case to correspond to the rights
26 being granted. Unless otherwise provided in the document or agreement:

1 (1) The rights granted by, and limitations described in, the document or
2 agreement are intended as, and shall be deemed to be, an exercise of the City's Charter authority and
3 responsibility to regulate the use of public rights-of-way, prevent the unlawful use thereof, and minimize the
4 extent to which they are encumbered by encroachments or obstructions.

5 (2) The rights granted by, and limitations described in, the document or
6 agreement are not intended, and shall not be deemed to be, an exercise of the City's authority to convey an
7 interest in land or to authorize any use of a public right-of-way that interferes with, or is inconsistent with,
8 the principal purposes and intended use of that right-of-way.

9 (3) Any document identified as a license agreement or granting a license does
10 not constitute a real property license as recognized at common law and shall be deemed to grant only those
11 rights specified in the document.

12 (4) The document or agreement does not constitute or substitute for any
13 building or construction-related permit that is otherwise required by or under the Municipal Code.

14 (K) The Director of Community Development (or designee) is authorized to create and
15 disseminate such materials and publications as deemed necessary or appropriate in order to reduce confusion
16 among the public and City staff regarding the relationship and roles of encroachment agreements under this
17 Section and construction-related permits governed by other provisions of this Code.

18 (L) Except as otherwise provided in this Subsection (L), this Section does not apply to
19 sidewalk vending operating in accordance with LVMC Chapter 6.96. However, this Section may be applied
20 by the City regarding any vending activity that is not authorized by or in accordance with that Chapter.

21 SECTION 5: Title 13, Chapter 32, Section 40, of the Municipal Code of the City of Las
22 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

23 **13.32.040:** Except as otherwise permitted pursuant to and in accordance with LVMC Chapter 6.96
24 regarding sidewalk vending, [It] it shall be unlawful for any person to obstruct entirely or in part any sidewalk
25 or street of the City by placing thereon any boxes, barrels, crates or other obstruction for displaying, offering
26 for sale or selling any goods, wares or merchandise thereon.

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the ____ day
2 of _____, 2023, and referred to a committee for recommendation, the committee being
3 composed of the following members _____;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2024, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council as
7 amended and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED:

12
13 By _____
CAROLYN G. GOODMAN, Mayor

14 ATTEST:

15 _____
16 DR. LUANN D. HOLMES, MMC
City Clerk

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