

ORDINANCE NO. 23-004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DIXON, AMENDING SECTION 6.02.020, BUSINESS LICENSE REQUIRED AND SECTION 6.02.030, DEFINITIONS, AND ADDING CHAPTER 6.13, SIDEWALK VENDING TO TITLE 6, BUSINESS LICENSES AND REGULATIONS, OF THE DIXON MUNICIPAL CODE TO ESTABLISH A SIDEWALK VENDING PROGRAM

WHEREAS, Senate Bill No. 946 ("SB 946") became effective on January 1, 2019, and provides that cities may not regulate sidewalk vending except in accordance with its provisions which are codified in Government Code sections 51036 through 51039; and

WHEREAS, the City of Dixon ("City") seeks to adopt an enforceable sidewalk vending program which will govern sidewalk vendors operating within the City and impose sidewalk vending regulations that are consistent with state law, while maintaining regulations that are directly related to, and furthers, the objective health, safety, and welfare of the City; and

WHEREAS, regulating sidewalk vending will benefit the City as a whole by promoting entrepreneurship and a dynamic streetscape, and providing economic opportunity for people to support themselves and their families, while ensuring the protection of the public health, safety, and welfare; and

WHEREAS, unless properly regulated, the act of vending on sidewalks and other areas of the public right-of-way also creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic; and

WHEREAS, the licensing and permitting requirements to vend on sidewalks and other areas of the public right-of-way are necessary to collect adequate information about vending operations within the City's limits, to facilitate contact between the City and vendors, and to ensure that vending does not adversely affect public welfare; and

WHEREAS, regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant; and

WHEREAS, restrictions on sidewalk vending in public parks is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks; and

WHEREAS, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner of the regulations and requirements provided herein are directly related to the City's purpose of protecting the health, safety, and welfare of its residents, businesses, and visitors.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DIXON DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 6.02.020, Business License Required, of Chapter 6.02, Business License Required, of Title 6, Business Licenses and Regulations, of the Dixon Municipal Code is amended to read as follows:

Subject to the provisions of this chapter, all businesses engaged in or carried on in the City shall obtain and maintain in force a business license. It is unlawful for any person to commence, transact, engage in, or carry on any business in the City without obtaining a valid license and paying the license fee therefore, or without complying with any and all applicable provisions of this chapter. Compliance with such requirements shall not be construed to be a condition precedent to engaging in any business or corporation within the City where the imposition of such a condition precedent would be contrary to law. When any person, by use of signs, circulars, cards, telephone book, or newspapers, advertises, holds out, or represents that he/she is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that he/she is in business in the City, and the person fails to deny by a sworn statement given to the Collector that he/she is not conducting a business in the City, after being requested to do so by the Collector, then these facts shall be considered prima facie evidence that he/she is conducting a business in the City. It shall be unlawful for any sidewalk vendor, peddler, or solicitor to sell, display or offer for sale any food, beverage, goods, or merchandise without first obtaining a business license and a sidewalk vending or peddler's permit from the City.

SECTION 2. Section 6.02.030, Definitions, of Chapter 6.02, Business License Required, of Title 6, Business Licenses and Regulations, of the Dixon Municipal Code is amended to read as follows:

For the purpose of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Business" means professions, trades, occupations, gainful activities, and all and every kind of calling whether or not carried on for profit.

"Charitable purposes" means and includes activities for the benefit of nonprofit philanthropic, social service, benevolent, patriotic, educational, or religious activities, including, but not limited to, nonprofit organizations, tax-exempt organizations, and public and private schools.

"City" means the City of Dixon, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

"Collector" means the Director of Finance or other City officer or employee charged with the administration of this chapter.

"Commercial purposes" means and includes any and all activities excepting activities for charitable purposes, as defined in this section.

"Fixed place of business" means the premises occupied in the City for the particular purpose of conducting a business there and regularly kept open for that purpose with a competent person in attendance for the purpose of attending to such business.

"Living accommodations" shall mean hotels, motels, apartment buildings, and multifamily structures with four (4) or more dwelling units, or boarding houses with three (3) or more rooms to let.

"Peddler" means any person who, for commercial purposes, goes from place to place, from house to house, or from street to street or who by telephone seeks to make sales and/or deliveries of the goods, wares, merchandise, or services in which he deals.

"Peddler" shall not include vendors of milk, dairy products, newspapers, or other goods, who distribute their goods to regular customers on established routes. "Peddler" shall not include any person who meets the criteria for "sidewalk vendor."

"Person" means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, or common law trusts, societies and individuals transacting and carrying on any business in the City.

"Police Chief" means the Chief of Police or his or her designee.

"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. A sidewalk vendor may be either a:

- (a) "Roaming sidewalk vendor," which means a sidewalk vendor who moves from place to place and stops only to complete a transaction; or
- (b) "Stationary sidewalk vendor," which means a sidewalk vendor who vends from a fixed location.

"Solicitor" means any person who, for commercial purposes, goes from place to place, from house to house, or from street to street or who by telephone solicits or takes or attempts to take orders for the sale of goods, wares, merchandise or property of any

nature for future delivery, or for services to be performed in the future for making, manufacturing, or repairing any article whatsoever for future delivery or subscriptions to periodicals or tickets or admission or entertainments or memberships in any club.

"Solicitor" shall not include any person who meets the criteria for "sidewalk vendor."

"Sworn statement" means an affidavit sworn before a person authorized to take oaths or declaration or certification made under penalty of perjury.

"Temporary vendors" shall mean any person who engages in temporary or transient business in the City, selling goods, wares, merchandise, or any other thing of value with the intention of conducting such business in the City for a period of less than six (6) months and who, for the purpose of carrying on such business, hires, leases or occupies any room, vacant lot, building or other place for the exhibition or sale of goods, wares, merchandise or other thing of value for a period of less than six (6) months.

SECTION 3. Chapter 6.13, Sidewalk Vending, is added to Title 6, Business Licenses and Regulations, of the Dixon Municipal Code and shall read as follows:

**Chapter 6.13
SIDEWALK VENDING**

Sections:

- 6.13.010** **Definitions.**
- 6.13.020** **License Required.**
- 6.13.030** **Application Procedure.**
- 6.13.040** **Grounds for Denial.**
- 6.13.050** **Term and Renewal.**
- 6.13.060** **License Nontransferable.**
- 6.13.070** **Revocation.**
- 6.13.080** **Appeals.**
- 6.13.090** **Operating Requirements.**
- 6.13.100** **Penalties.**

6.13.010 **Definitions.**

For the purpose of this Chapter, the following definitions shall apply:

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

"City" means the City of Dixon.

"Collector" means the Director of Finance or other City officer or employee charged with the administration of this chapter.

"Park" means a public park owned or operated by the City.

"Person" means any natural person, firm, association, organization, partnership, joint venture, business trust, corporation, or company.

"Sidewalk" means a public sidewalk or paved pedestrian path specifically designed for pedestrian travel. A sidewalk shall not include streets, alleys, plazas, or City-owned parking lots or structures.

"Sidewalk vendor" or "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. A sidewalk vendor may be either a:

- (a) "Roaming sidewalk vendor," which means a sidewalk vendor who moves from place to place and stops only to complete a transaction; or
- (b) "Stationary sidewalk vendor," which means a sidewalk vendor who vends from a fixed location.

"Vend" or "vending" means to sell, offer for sale, expose, or display for sale, solicit offers to purchase, or to barter 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.

"Swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

"Temporary special permit" shall mean a permit issued by the city for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts, and issued pursuant to, but not limited to, 6.01, 6.05, 6.06, and 6.07

6.13.020 License Required.

No person may conduct or engage in sidewalk vending in the City without first obtaining and having in his or her possession a sidewalk vending permit issued by the City in accordance with this Chapter and obtaining a business license. The issuance of a business license is a prerequisite to the issuance of a sidewalk vending permit.

No permit granted herein shall confer any vested right to any person or business for more than the permit period. All sidewalk vendors subject to this Chapter shall comply with the provisions of this Chapter as they may be amended hereafter.

6.13.030 Application Procedure.

Any person applying for a sidewalk vending permit under this Chapter must file with the Police Chief a sworn statement, on a form provided by the City Clerk, and pay an application fee in an amount set from time to time by resolution of the City Council. The application shall contain or be accompanied by the following:

- A. A copy of the applicant's valid California driver's license or identification number, an individual taxpayer identification number, or an identification card issued by another municipality. Such information is not a public record and will remain confidential as required by Government Code section 51038(c)(4);
- B. Current address and telephone number of the applicant;
- C. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- D. A description of the food or merchandise offered for sale;
- E. A statement of the days and hours of proposed vending operations;
- F. A statement as to whether the applicant intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
- G. For stationary sidewalk vendors, a description, map, or drawing of the location(s) in which the applicant proposes to operate;
- H. A copy of a valid business license issued by the City;
- I. Proof the person possesses a valid California Department of Tax and Fee Administration seller's permit which notes the City as a location or sub location, which shall be maintained for the duration of the sidewalk vendor's permit;
- J. In the event the proposed activity involves the sale of any food products or substances for human consumption which can be contaminated by handling, a statement by a reputable physician in the County, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of contagious, infectious, or communicable disease;

- K. Prior convictions of a crime, felony, or misdemeanor, or violation of any ordinance, the nature, place and date of such offense and disposition of same;
- L. A certification that, to their knowledge and belief, the information contained within the application is true;
- M. An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, state, and federal laws;
- N. An acknowledgement that use of public property is at the sidewalk vendor's own risk, the City does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at their own risk;
- O. An agreement by the applicant to indemnify and hold harmless the City and its officers, agents, employees, contractors, and volunteers, for any damage or injury caused as a result of the sidewalk vending conduct or activity;
- P. An acknowledgment that the applicant will obtain and maintain throughout the duration of any permit issued under this Chapter any insurance required by the City;
- Q. Any other reasonable information regarding the time, place, and manner of the proposed vending.

6.13.040 Grounds for Denial.

The Collector, or his or her designee, may deny issuance of a permit if it is found that the applicant has:

- (a) been convicted of any felony offense involving the sale of a controlled substance specified in California Health and Safety Code sections 11054, 11055, 11056, 11057, or 11058 within five (5) years of the date of the application, or is otherwise on probation or parole for any offenses set forth in this section;
- (b) been convicted of any felony offense involving a person under eighteen (18) years of age;
- (c) made any false statements on the application form; or
- (d) failed to demonstrate ability to conform to the operating standards sets forth in Section 6.13.090

6.13.050 Term and Renewal.

- (a) The permit may be issued for such period as the applicant requests, but in no event longer than the end of the calendar year of issuance.
- (b) A person may apply for a permit renewal on a form provided by the City prior to the expiration of his or her active sidewalk vending permit.
- (c) An application to renew a permit issued pursuant to this Chapter may be denied by the Collector upon the grounds set forth in Section 6.13.040.

6.13.060 License Nontransferable.

No permit issued pursuant to this Chapter may be transferred by contract, operation of law, or otherwise. Any such attempted transfer shall be grounds for revocation of the permit.

6.13.070 Revocation of Permit.

A sidewalk vending license may be revoked after the licensee's fourth violation or subsequent violation of the requirements set forth in this Chapter. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending temporary use permit upon the expiration of the term of the rescinded permit.

6.13.080 Appeals.

Any person whose application for such a permit has been denied or whose permit has been suspended or revoked by the Police Chief shall have the right to appeal to the City Council pursuant to DMC 6.02.140.

6.13.090 Operating Requirements.

Sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:

- (a) No sidewalk vendor shall vend in any of the following locations:
 - (1) Upon or within any roadway, median strip, or dividing section;
 - (2) Along sidewalks, pathways, courtyards, and grounds adjacent to the any hospital, clinic, fire station, police station, or other medical or emergency facility;

- (3) Within two hundred (200) feet of a permitted certified farmers' market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the market or swap meet, or the limited duration of the temporary special permit;
- (4) Within three hundred (300) feet of any school or childcare center;
- (5) Within one hundred (100) feet of a public picnic area, playground area, playground equipment, or athletic field or court;
- (6) Within one hundred (100) feet of another sidewalk vendor;
- (7) Within twenty-five (25) feet of any street or alley intersection;
- (8) Within ten (10) feet of a fire hydrant or other emergency facility;
- (9) Within ten (10) feet of a curb that has been designated as a white, yellow, green, blue, or red zone, or a bus zone;
- (10) Within twenty-five (25) feet of any driveway approach or entrance to a parking lot or parking garage;
- (11) Within ten (10) feet of any public trash receptacle, bike rack, bench, bus stop, or similar public use item;
- (12) Within ten (10) feet of an entrance or exit of any building or structure;
- (13) Within five (5) feet of any traffic signal controller, traffic signal pole, power pole, street light pole, general utility pole, above ground cabinet, general utility facility, manhole, parking meter, regulatory and directional signs, street furniture, or street art sculptures;
- (14) In any City parking lot;
- (15) On private property without the consent of the property owner.

(b) Sidewalk vendors in public parks shall comply with the following regulations:

- (1) Stationary sidewalk vendors shall not vend at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
- (2) Sidewalk vending is prohibited in nature areas, recreation areas, sports fields, grass areas, landscaped areas, swimming pool areas, picnic areas, and playground areas.

- (3) Sidewalk vendors must stay on paved pedestrian paths.
- (4) Sidewalk vendors must abide by all other applicable park rules, including, but not limited to, park closure hours.
- (c) Stationary sidewalk vendors shall not vend in areas that are zoned exclusively residential.
- (d) No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians, bicycles, or vehicles. Sidewalk vendors must at all times provide a clearance of not less than four (4) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices.
- (e) Sidewalk vending is permitted between the hours of 9:00 a.m. to 5:00 p.m., daily, except in non-residential areas, the hours of operation shall not be more restrictive than the hours of operation imposed on other businesses or uses located on the same block.
- (f) Sidewalk vendors shall provide a trash receptacle for customers and ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resort to existing trash receptacles located on any block for use by the general public.
- (g) Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor's customers within a fifteen (15) foot radius of the vending location. Sidewalk vendors shall not throw, deposit, or leave, or permit to be thrown, deposited, or left, any trash, food, or other discarded or abandoned objects, in or upon any street, sidewalk, path, gutter, storm drain, inlet, catch basin, or other drainage structure, or upon any public or private lot of land in the City, so that the same might be or become a pollutant.
- (h) Sidewalk vendors shall possess and display in plain view on the vending cart a valid sidewalk vending permit issued pursuant to this chapter and business license. Sidewalk vendors shall possess at all times while vending any other permit required by any governmental agency. A sidewalk vendor engaged in sidewalk vending shall possess, on their person, identification.
- (i) Vending carts shall not be chained, fastened, or affixed at any time to any building or structure, including, but not limited to, lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trashcans, street signs, trees, or other objects within the public-right-of-way. No vending cart shall become a permanent fixture on the vending site or be considered an improvement to real property.

- (j) Vending carts shall not be left unattended or stored on public property or within the public right-of-way.
- (k) Sidewalk vendors shall comply with all applicable State and local laws, including, without limitation, State food handling, labeling, and preparation requirements; fire codes and regulations; and the Americans with Disabilities Act of 1990 and other disability access standards (both State and Federal).
- (l) No tables, chairs, fences, shade structures, balloons, flags, banners, on-site furniture, or any freestanding signs shall be permitted in conjunction with the sidewalk vendor's vending activities.
- (m) The vendor shall not attach or use any water line, electrical line, or gas line during vending operations.
- (n) Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the vendor is prohibited.
- (o) No sound amplification equipment, music or live entertainment may be used in conjunction with any sidewalk vendor sales.
- (p) A vending cart shall not be wider than four (4) feet at its widest point (exclusive of waste containers) and no longer than seven (7) feet at its longest point (exclusive of waste containers). A canopy or other similar overhead cover may be used but no portion of this cover (exclusive of vertical support poles or struts) shall be lower than seven (7) feet above the sidewalk. Any and all vertical supports for this cover shall be totally confined within the horizontal dimensions (width and length) of the vending cart.
- (q) Any power used in a vending cart shall be contained wholly within the cart. No cords, hoses, pipes, bottles, canisters, or other conductors or containers of power or fuel shall extend from any source external to or detached from the vending cart while the vending cart is in operation upon a City sidewalk. (§ 1, Ord. 1171, eff. June 14, 2019)

6.13.100 Penalties.

- (a) A violation of this Chapter by a sidewalk vendor who has a valid sidewalk vending permit from the City is punishable only by an administrative citation pursuant to Chapter 1.07 of Title 1 of this Code in amounts not to exceed the following:
 - (1) One hundred dollars (\$100) for a first violation.
 - (2) Two hundred dollars (\$200) for a second violation within one year of the first violation.

- (3) Five hundred dollars (\$500) for each additional violation within one year of the first violation.
- (b) A person engaged in sidewalk vending without a valid City sidewalk vending permit is punishable by an administrative citation pursuant Chapter 1.07 of Title 1 of this Code in amounts not to exceed the following, in lieu of the amounts set forth in paragraph (a):
- (1) Two hundred fifty dollars (\$250) for a first violation.
 - (2) Five hundred dollars (\$500) for a second violation within one year of the first violation.
 - (3) One thousand dollars (\$1,000) for each additional violation within one year of the first violation.
 - (4) Upon proof of a valid sidewalk vending permit issued by the City, the administrative citations set forth in this paragraph shall be reduced to amounts set forth in paragraph (a).
- (c) A violation of this Article shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.
- (d) Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
- (e) When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The City 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 adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.
- (f) If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, twenty (20) percent of an administrative citation imposed pursuant to this Article.
- (g) The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.

SECTION 4. 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.

SECTION 5. This Ordinance shall be published by one insertion in The Dixon Tribune, a newspaper of general circulation, printed and published in the City of Dixon, within fifteen (15) days after its final passage and shall take effect, and be in force, thirty (30) days after its final passage.

This Ordinance was introduced at a regular meeting of the City Council of the City of Dixon, held on the 18th day of July, 2023, and given its first reading at said meeting. Said Ordinance was given a second reading at a regular meeting of the City Council held on 15th day of August, 2023, and after such reading, Councilmember Ernest, who moved its adoption, seconded by Vice Mayor Hendershot, said Ordinance was thereupon adopted by the following vote:

AYES: Bogue, Ernest, Hendershot, Bird
NOES: None
EXCUSED: None
ABSENT: Johnson

APPROVED:



Steve Bird
Mayor of the City of Dixon

ATTEST:





Kristin Janisch
Elected City Clerk