

ORDINANCE NO. 737

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES, CALIFORNIA, ESTABLISHING CHAPTER 12.10 (SIDEWALK VENDING) OF THE ROLLING HILLS ESTATES MUNICIPAL CODE

The City Council of the City of Rolling Hills Estates ordains as follows:

SECTION 1. Findings. The City Council of the City of Rolling Hills Estates finds as follows:

A. Senate Bill ("SB") 946, codified in Government Code 51036 and following, imposes limits on how local authorities, including cities, may regulate sidewalk vending.

B. Among other things, SB 946 limits city regulation of sidewalk vending to restrictions that are directly related to objective health, safety, or welfare concerns and prohibits punishment for street vending-related violations unless it is through a civil fine.

C. SB 946 recognizes, however, that local government has an interest in the regulation of traffic, including ensuring the appropriate flow of traffic and in ensuring the safety of pedestrians on the road or the sidewalk, and acknowledges that municipal regulations that are directly related to objective health, safety, or welfare concerns may be adopted, which include regulations concerning hours of operation, sanitation, sidewalk access, food and health permits, compliance with other generally applicable laws, and avoidance of interference with city-sponsored special events or permitted activities.

D. The City Council desires to amend the Rolling Hills Estates Municipal Code ("RHEMC") to implement sidewalk vending regulations within the city.

SECTION 2. Environmental Findings. The City Council exercises its independent judgment and finds that the proposed ordinance is not subject to California Environmental Quality Act (CEQA), pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the subject regulations have no potential for resulting in any significant physical change to the environment, either directly or indirectly.

SECTION 3. Addition of RHEMC Chapter 12.10. Chapter 12.10 is added to the RHEMC as set forth in the attached Exhibit A.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed 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. Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by law.

ADOPTED on November 9, 2021.

STEVEN ZUCKERMAN, MAYOR

ATTEST:

LAUREN PETTIT, CITY CLERK

I HEREBY CERTIFY that the foregoing Ordinance No. 737 was adopted by the City Council of the City of Rolling Hills Estates at a regular meeting held on November 9, 2021, by the following vote:

AYES: HUFF, SCHMITZ, STEGURA, ZERUNYAN, ZUCKERMAN

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

LAUREN PETTIT, CITY CLERK

EXHIBIT A

Chapter 12.10 – SIDEWALK VENDING

12.10.010 – Purpose.

12.10.020 – Definitions.

12.10.030 – Operational requirements.

12.10.040 – Vending in residential areas.

12.10.050 – Prohibitions on placement of stationary or roaming carts.

12.10.060 – Sidewalk vending related to parks and special events.

12.10.070 – Fines.

12.10.080 – Removal of cart.

12.10.010 – Purpose.

The purpose of this chapter is to regulate sidewalk vending within the city using objective regulations that are directly related to protecting the public health, safety, and welfare.

12.10.020 – Definitions.

The following definitions apply to this chapter:

“Cart” means any pushcart, pedal-driven cart, display, rack, showcase, stand, table, or other nonmotorized conveyance, and includes a stationary cart or a roaming cart.

“California Retail Food Code” means Part 7 of Division 104 of the California Health and Safety Code (commencing at Section 113700).

“Food” means any type of edible substance or beverage.

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

“Health Department” means the Los Angeles County Department of Public Health.

“Health Department Permit” means any and all licenses, permits, certifications, and courses required and issued by the Health Department of the County of Los Angeles to vend food within the city in accordance with this chapter.

“Person” or “persons” means one or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two or more

EXHIBIT A

individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.

“Roaming vending cart” means a pushcart, pedal-driven cart, wagon, or other nonmotorized conveyance used by a roaming sidewalk vendor, to be moved from place to place, and with stops only to complete a transaction.

“Roaming sidewalk vendor” has the same meaning as set forth in Government Code section 51036(b), and includes a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk” means any paved surface in the public right-of-way provided for the use of pedestrians and includes pedestrian paths.

“Sidewalk vendor” has the same meaning as set forth in Government Code section 51036(a), and includes a person who sells food or merchandise from a cart or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path.

“State seller’s permit” means a permit issued by the California Department of Tax and Fee Administration.

“Stationary vending cart” means a cart or other nonmotorized conveyance that is intended to be operated from a fixed location by a stationary sidewalk vendor.

“Stationary sidewalk vendor” has the same meaning as set forth in Government Code section 51036(c), and includes a sidewalk vendor who vends from a fixed location.

“Vend” means to sell, offer for sale, expose or display for sale, solicit offers to purchase, barter, or exchange anything of value, even if the transaction is characterized as a donation.

12.10.030 – Operational requirements.

- A. Every cart used to vend food must be approved by the Health Department. A cart may only vend the types of food that are listed and approved by the Health Department under the Health Department Permit.
- B. A cart used for sidewalk vending must obtain, possess, and prominently display any required permits that are issued by other public agencies such as a Health Department Permit.
- C. A cart used for sidewalk vending must be placed and used at all times in compliance with the terms and conditions of this chapter and all other applicable laws and regulations, including the California Retail Food Code if food is sold.

EXHIBIT A

- D. No cart that is used for sidewalk vending may exceed a length of 72 inches, a width of 54 inches, or a height, including roof or awning, of 78 inches, exclusive of a trash receptacle no larger than 20 gallons in capacity.
- E. Sidewalk vendors may not set up chairs.
- F. All merchandise, including banners, feather flags, flags and pennants must be displayed directly on the cart and may not extend above or beyond the cart.
- G. For sidewalk vending in residential areas, a vending cart may only operate between the hours of 10 a.m. to 6 p.m. For sidewalk vending in nonresidential areas, a vending cart may only operate within the operational hours consistent with other businesses or uses on the same street(s) in those nonresidential areas.
- H. No vending cart or trash receptacle may be left on the sidewalk after the sidewalk vendor closes.
- I. A sidewalk vendor must maintain a clean and trash-free 10-foot radius from a stationary cart during hours of operation and must leave the area clean at the closing time.
- J. Sidewalk vendors that vend food items must provide a trash receptacle for customers and must ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resorting to existing trash receptacles located on any block for use by the general public.
- K. A stationary vending cart that vends food must be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility. If the facility is located on private property, the vendor must possess a copy of an enforceable contract between the private property owner and the vendor allowing the vendor to utilize such facilities, including the days and hours of operation.
- L. All signs must be attached to the vending cart and no sign may extend above or beyond the vending cart. Airborne signs such as balloons, banners, feather flags, flags and pennants are prohibited.
- M. Vending carts must be self-contained, including any power, cooking, and heating equipment. Sidewalk vendors may not access a city or private power source without authorization from the city or such private property owner or agent.
- N. No sidewalk vendor or vending cart may use any device that produces a loud noise, nor may the vendor use or operate any loud speaker, public address system, radio, sound amplifier, or other similar device.

EXHIBIT A

- O. Before non-electric generators or auxiliary power may be used to power a vending cart, the sidewalk vendor must obtain permission, as applicable, from the Los Angeles County Air Pollution Control District.
- P. Vending of services is prohibited.
- Q. Vendors must comply with all applicable federal, state, and local laws, regulations, and ordinances.

12.10.040 – Vending in residential areas.

No stationary vending cart may be used to vend within a residential zoned area. However, a roaming sidewalk vendor may use a roaming vending cart within a residential zone, and must move continuously except when necessary to complete a sale.

12.10.050 – Prohibitions on placement of stationary or roaming carts.

- A. No sidewalk vendor may place or leave any vending cart:
 - 1. Within 5 feet of a marked crosswalk.
 - 2. Within 5 feet of the curb return of an unmarked crosswalk.
 - 3. Within 5 feet of any fire hydrant.
 - 4. Within 5 feet ahead and 45 feet to the rear of a sign designating a bus stop.
 - 5. Within a marked bus zone.
 - 6. Within 10 feet of a bench or shelter used for public transit.
 - 7. Within 5 feet of a driveway or driveway apron.
 - 8. Within 20 feet of an outdoor dining or patio dining area.
 - 9. Within 18 inches from the edge of the curb.
 - 10. Where placement impedes ingress to or egress from any doorway.
 - 11. Where placement impedes the flow of vehicular traffic such as on public streets or public highways.
- B. No vending cart may be chained or fastened to any utility pole, sign, tree, or other object in the public right-of-way or left unattended.

EXHIBIT A

- C. No vending cart may impede the flow of pedestrian traffic by reducing the path of travel to less than 4 feet, or impede access to or restrict the use of abutting property, including, but not limited to, residences and places of business, in accordance with the Americans with Disabilities Act (ADA).
- D. Notwithstanding any specific regulations in this chapter, no sidewalk vendor may install, use or maintain a vending cart where placement endangers the safety of persons or property.

12.10.060 – Sidewalk vending related to parks and special events.

- A. No sidewalk vending is allowed within 300 feet of a city-permitted event within the time period commencing one hour before until one hour after the event. Permitted events include certified farmers' markets, and any event that requires an encroachment permit or special event permit, or any other permit or authorization required by the city.
- B. The city may by resolution adopt additional requirements consistent with Government Code section 51038(b)(2)(B) for city-owned or operated parks, effective after signs are posted giving notice of such additional requirements.

12.10.070 – Fines.

- A. Sidewalk vending in violation of this chapter will not be punishable as a criminal infraction or misdemeanor, but will be subject to an administrative citation as follows:
 - 1. An administrative fine of \$100 for a first violation.
 - 2. An administrative fine of \$200 for a second violation within one year of the first violation.
 - 3. An administrative fine of \$500 for each additional violation within one year of the first violation.
- B. The city will provide the person subject to the fine notice of his or her right to request an ability-to-pay determination and will make available instructions or other materials for requesting an ability-to-pay determination.
- C. All citations issued for violations of this chapter are subject to the administrative hearing and appeal process under Chapter 1.25 of this code and the city's authority to use any civil remedy available to collect any unpaid administrative fine.
- D. Fines assessed pursuant this section may be reduced to 20 percent of the original fine amount upon submission of proof of inability to pay at an adjudication hearing if requested by the person pursuant to Government Code section 51038(f).

12.10.080 – Removal of cart.

EXHIBIT A

The city may request a sidewalk vendor remove any cart that is in violation of this chapter. If the sidewalk vendor refuses to remove the cart, or if a cart has been abandoned, the city may cause the cart to be removed and may subsequently dispose of the cart (including any associated merchandise and food) if not claimed by the vendor within 30 days of removal by city, or if an administrative appeal is filed related to the cart removal, then 30 days after a final decision in the administrative appeal (including the payment of any outstanding administrative fine).