

ORDINANCE NO. 2025 – 01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS
AMENDING CHAPTER 5.36 (FOOD VENDORS) OF THE WINTERS
MUNICIPAL CODE RELATING TO FOOD VENDORS**

WHEREAS, the City of Winters ("City") has authority to adopt this ordinance pursuant to the general police power granted to cities by Article XI, Section 7 of the California Constitution.

WHEREAS, Chapter 5.36 of the Winters Municipal Code regulates food vendors; and

WHEREAS, sidewalk vendors often seen in the City do not have a health permit issued by Yolo County and can present a health concern; and

WHEREAS, unregulated food vendors in the City can be problematic for traffic safety for motorists and pedestrians; and

WHEREAS, the City Council of the City of Winters ("City") finds that the City has a legitimate and compelling interest in protecting the public health, welfare and safety of its residents by regulating sidewalk vendors and stationary food vendors that can operate within the City; and

WHEREAS, the City Council desires to amend the Winters Municipal Code to address issues related to food vendors and also be consistent with state law.

**THE CITY COUNCIL OF THE CITY OF WINTERS DOES ORDAIN AS
FOLLOWS:**

Section 1. Purpose. The purpose of this ordinance is to amend various sections of the text in the Winters Municipal Code necessary to regulate mobile and sidewalk food vendors.

Section 2. Amendments to Chapter 5.36. Chapter 5.36 (Food Vendors) of Title 5 (Business Regulations) of the Winters Municipal Code is hereby amended in its entirety to read as set forth in Exhibit 1 attached hereto and incorporated herein by reference:

Section 3. Conflicting Laws. To the extent that there is any conflict between the provisions of this Ordinance and any provision of the Winters Municipal Code, an ordinance, or a resolution or policy, all such conflicting provisions shall be superseded by this Ordinance.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective

of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 5. CEQA. The City Council finds that no further environmental review is necessary for the project under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (Common Sense Exemption) of Title 14 of the California Code of Regulations (State CEQA Guidelines) because adoption of the ordinance has no potential for resulting in physical change in the environment, directly or indirectly, as it clarifies and furthers the intent and scope of the City's existing not permit or authorize new or increased intensity of uses.

Section 6. Effective Date and Publication. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance to be posted or published as prescribed by law. This Ordinance shall take effect thirty (30) days following its adoption.

INTRODUCED on the 1st day of July, 2025, and **PASSED AND ADOPTED** by the City Council of the City of Winters on this 15 day of July, 2025, by the following vote:

AYES: Council Members Loren, Scianna, Mayor Pro Tem Biasi, Mayor Vallecillo

NOES: Council Member Casavecchia

ABSENT: None

ABSTAIN: None

CITY OF WINTERS

A handwritten signature in blue ink, appearing to read "A. Vallecillo", is written over a horizontal line.

Albert Vallecillo, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Jeremy Craig", is written over a horizontal line.
Jeremy Craig, City Clerk

Exhibit 1

Proposed Ordinance

Exhibit 1
Chapter 5.36
FOOD VENDORS

Sections:

- 5.36.010 Purpose.**
- 5.36.020 Definitions.**
- 5.36.030 Permit.**
- 5.36.040 Application for permit.**
- 5.36.050 Revocation of permit.**
- 5.36.060 Food vending vehicles.**
- 5.36.070 Sidewalk vendors.**
- 5.36.080 Violation—Nuisance.**
- 5.36.090 Insurance for Food Vending Vehicles.**
- 5.36.100 Fees.**
- 5.36.110 Renewals.**
- 5.36.120 Enforcement.**
- 5.36.130 No preemption.**
- 5.36.140 Violation—Penalty.**
- 5.36.150 Nuisance—Injunction.**

5.36.010 Purpose.

The city recognizes the right of its citizenry to be relatively free from noise and obstruction when traversing the city streets. The city also recognizes the right of its citizenry to purchase reliable products from responsible vendors without a fixed place of businesses. The city by this regulatory chapter seeks to balance those competing interests. The city finds that the cost of this regulation should be borne by those individuals, companies and groups which seek to benefit financially from street vending or mobile food vending, since it should be their burden to ensure to the Winters citizens that their sales of goods shall be done in a manner least obstructive to their right to travel.

5.36.020 Definitions.

As used in this chapter, the following terms shall have the following meanings, unless

the context clearly indicates that a different meaning is intended:

“City” means the City of Winters.

“Department” shall mean the Community Development Department.

“Food vending vehicle” includes any motor vehicle from which food or beverages are sold directly to a customer, and does not include vehicles that involve the delivery of food or beverages ordered by home delivery customers.

“Mobile food vendor” means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle on any public street.

“Public street or sidewalk” includes all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, and any other public way.

“Roaming sidewalk vendor” means a sidewalk vendor who moves from place to place and stops only for a brief time to complete a transaction.

“Sidewalk vendor” means a person who sells food, beverages or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, in a public park, upon a public sidewalk or other pedestrian path.

“Stationary food vendor” means any person, including an agent or employee of another, who sells or offers to sell food or beverages from a motor vehicle, truck, trailer, cart, pop-up tent, or stand located on private property.

“Stationary sidewalk vendor” means any person who sells food, beverages or merchandise from a fixed location 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.

“Vendor” means any person who operates a food vending vehicle, stand or cart.

5.36.030 Permit.

It is unlawful for any sidewalk vendor, mobile food vendor, or stationary food vendor to sell or attempt to sell any commodity by means of vending such commodity upon any street or on private property in the city without first securing a permit and paying the fee therefor.

5.36.040 Application for permit.

The applicant shall apply for a permit by submitting an application provided by the city and the required fee. The applicant shall truthfully state in full the information requested on the application:

A. Name, address of current residence, and business address if different than residence;

B. Address of place of residence during the past three years if other than present address;

C. Age of applicant;

D. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents, and the length of time of such employment or representation;

E. Name and address of employer during the past three years if other than the present employer;

F. Description of the commodities to be sold;

G. Period of time for which the permit is applied;

H. The date, or approximate date, of the last previous application for a permit under this chapter, if any;

I. If any permit issued to the applicant under this chapter has ever been revoked;

J. Names of the three most recent communities where the applicant has engaged in street vending;

K. Proposed method of operation;

L. Signature of applicant;

M. Social Security number of applicant.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The applicant shall submit to fingerprinting by the police department of the City in connection with the application for the permit.

The Department shall keep an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued or denied under this chapter.

Applications for permits shall be numbered in consecutive order as filed, and every permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

No permit shall be issued to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided.

5.36.050 Revocation of permit.

Any permit issued hereunder shall be revoked by the chief of police or Department if the holder of the permit is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter. Immediately upon such revocation, written notice thereof shall be given by the chief of police or Department to the holder of the permit in person or by certified United States mail addressed to his or her residential address set forth in the application.

Immediately upon the giving of such notice, the permit shall become null and void.

The permit shall state the expiration date thereof.

5.36.060 Food vending vehicles.

The following rules and regulations shall be complied with by each person operating a food vending vehicle.

A. Food Vendors. It shall be unlawful for any food vendor to:

1. Sell or attempt to by means of any outcry, sound, speaker or amplifier, or any instrument which violates the City of Winters noise ordinance contained in Chapter 8.20.
2. Sell within five hundred feet (500') of any school.

B. Mobile Food Vendors.

1. Mobile food vendor permits shall be issued for a calendar year and may be renewed upon Department approval.

2. Mobile food vendors shall have a certificate of compliance from the county health department, as appropriate. Additionally, vendors must apply for and participate in the Reciprocity Program if required and meet all applicable County requirements.

3. Mobile food vendors shall prominently display or affix the certificate of compliance from the Yolo County Health Department and City of Winters business license on the food vending vehicle.

4. Mobile food vendors shall obtain a seller's permit with the California Department of Tax Fee Administration, and issue resale certificates when applicable.

5. Hours of operation shall be from 8 a.m. to 10 p.m. daily.

6. It shall be unlawful for any mobile food vendor to:

- a. Exceed a speed of twelve (12) miles an hour when driving through neighborhoods seeking sales or when attempting to make a sale;
- b. Make more than two (2) stops in any one (1) block to make any sale;

- c. Stop anywhere within twenty-five feet (25') of an intersection when making a sale or attempting to make a sale;
- d. Double park, or park in any manner contrary to any ordinance relating to parking when making a sale or attempting to make a sale;
- e. Make a U-turn on any block;
- f. Drive a vehicle backwards in order to make or attempt or make a sale;
- g. Sell to any person who is standing in the street;
- h. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;
- i. Remain standing or stopped at any place for a period of time exceeding ten (10) minutes; or
- j. Conduct business within twenty feet (20') of any disabled parking space or access ramp.

C. Stationary Food Vendor. Stationary food vendors shall comply with the following:

1. A property owner shall obtain a use permit from the planning commission to allow a stationary food vendor to operate on the owner's property except as allowed by subsection (C)(2) below. The permit shall be processed in accordance with and subject to the use permit requirements contained in Chapter 17.20. The planning commission can issue a conditional use permit for stationary food vendors in accordance with the Land Use/Zone Matrix in Section 17.52.020 and Table 17.58-2 of Section 17.58.050. A stationary food vendor must separately obtain a stationary food vendor permit under Sections 5.36.030 and 5.36.040.
2. A special permit shall be obtained from the City to allow a stationary food vendor to participate in an event approved by the City.
3. Locate on privately owned land not within enclosed buildings with property owner's consent. The stationary food vending vehicle shall be located in a place where it can safely operate.
4. Stationary food vending vehicles should be designed so they add aesthetic value to the vicinity. Design elements should include the use of umbrellas, overhangs, or other attractive shading devices, and temporary landscaping.
5. Hours of operation shall be from 8 a.m. to 10 p.m. daily.
6. Provide a trash container immediately adjacent to the food vending vehicle. Trash container must be removed from the site during non-vending hours. Additionally, vendors must maintain the cleanliness of their site within twenty-five feet (25') surrounding their site.
7. Be limited to one (1) freestanding, non-illuminated sign, not exceeding four feet (4') in any dimension to be placed within ten feet (10') of the stationary food vendor. These regulations do not include any graphics or signs painted directly

onto the vehicle. No sign shall impede vehicle traffic, pedestrian right of way, or bike lane, or vehicle traffic. No stationary food vendor signs shall be located within the Caltrans right-of-way.

8. Have a certificate of compliance from the county health department, as appropriate. Additionally, vendors must apply for and participate in the Reciprocity Program if required and meet all applicable County requirements.

9. Stationary food vendors shall not be permitted within two hundred (200) feet from another stationary food vendor on the same parcel.

10. Special events approved by the City may be exempt from the separation requirements.

11. The number of stationary food vendors that can operate on any one parcel shall be one stationary food vendor for every 5,250 sq. ft.

12. Stationary food vendors shall prominently display or affix the certificate of compliance from the Yolo County Health Department and City of Winters business license on the food vending vehicle.

13. Stationary food vendors shall obtain a seller's permit with the California Department of Tax Fee Administration, and issue resale certificates when applicable.

14. Stationary food vendors shall be prohibited from having chairs and tables.

15. Stationary food vendors must comply with the Americans with Disabilities Act and other accessibility access standards.

16. Stationary food vendors operating in parking lots must minimize the amount of parking spaces they are utilizing and cannot impede traffic flow entering, leaving, or within the parking lot.

17. Stationary food vendors operating adjacent to, or within close proximity to a traffic intersection cannot visually impair drivers utilizing said intersection.

18. Stationary food vendor permits shall be issued for a calendar year and may be renewed upon Department approval.

19. The City shall issue only six use permits for a Stationary Food Vendor use.

5.36.070 Sidewalk vendors.

The following provisions shall regulate sidewalk vending stands and carts or other operations deemed similar by the Department, which operate on publicly owned land or parks not within enclosed buildings. Nothing in this section shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

1. A sidewalk vendor shall obtain a sidewalk vendor permit and business license from the City. The business license permit shall be processed in accordance with the requirements contained in Chapter 5.04.
2. Stationary sidewalk vendors shall be prohibited from selling in residentially zoned neighborhoods.
3. Roaming sidewalk vendors are permitted to sell in residentially zoned neighborhoods between 9 am and 5 p.m. Hours of operation in nonresidential areas shall be between 8 a.m. to 10 p.m.
4. All sidewalk vending stands, carts, signs, refuse containers and other material set up or provided by the vendor must be removed from the vending site during non-vending hours.
5. Sidewalk vending stands and carts shall not exceed eight feet (8') in height, eight feet (8') in length and four feet (4') in width; not impede access to the entrance of any adjacent building or driveway; not impede pedestrian right of way, bike lanes, or vehicle traffic; and must comply with the Americans with Disabilities Act and other accessibility access standards.
6. Sidewalk vending stands and carts shall not be located within twenty feet (20') of a fire hydrant, fire escape, bus stop, loading zone, disabled parking space, access ramp, fire station or police department driveway.
7. Sidewalk vendors shall supply a way to dispose of trash if an existing trash container does not exist within twenty-five feet (25') of the stand or cart. Additionally, sidewalk vendors must maintain the cleanliness of their site and within twenty-five feet (25') surrounding their site.
8. Sidewalk vending stands and carts should be designed so they add aesthetic value to the vicinity. Design elements should include the use of umbrellas, awnings, or other attractive shading devices.
9. Sidewalk vending stands and carts shall be prohibited from having signs except those that are limited to one (1) freestanding, non-illuminated sign not exceeding four feet (4') in any dimension, to be attached to, or placed within ten feet (10') of, the stand or cart. These regulations do not include any graphics or signs painted directly onto the vending stand or cart. No sign shall impede vehicle traffic, pedestrian right-of-way, bike lane, or vehicle traffic. No sidewalk vendor signs shall be located within the Caltrans right-of-way.
10. Sidewalk vendors shall obtain a certificate of compliance from the county health department, as appropriate. Additionally, vendors must apply for and participate in the Reciprocity Program if required and meet all applicable County requirements.
11. Sidewalk vendors shall prominently display or affix the certificate of compliance from the Yolo County Health Department and City of Winters' business license in plain view on the food vending cart or stand.

12. Sidewalk vendors shall obtain a seller's permit with the California Department of Tax Fee Administration, and issue resale certificates when applicable.

13. Sidewalk vendors locating near an intersection shall not block the visibility of motorists and pedestrians.

14. Sidewalk vendors wanting to vend within a City park may vend only during hours the park is open. Sidewalk vendors may not vend within a City park during a City-approved event when there is an exclusive agreement with one or more concessionaires.

15. Sidewalk vendors shall be prohibited from having tables and chairs for customer use.

16. Sidewalk vendor permits shall be issued for a calendar year and may be renewed upon Department approval.

17. The City of Winters shall only allow for 10 active Roaming Sidewalk Vendor or Stationary Sidewalk Vendor permits during a calendar year.

5.36.080 Violation—Nuisance.

It is declared to be unlawful and shall constitute a nuisance for any person to violate the terms of this chapter.

5.36.090 Insurance for Food Vending Vehicles.

No permit shall be issued to an applicant with a food vending vehicle unless the applicant furnishes proof to the City of a public liability bond or insurance policy in an amount not less than one million dollars (\$1,000,000) for property damage and bodily injury liability, including injury resulting in death, caused by the applicant.

5.36.100 Fees.

The city shall by resolution establish fees for the issuance or renewal of permits sufficient to offset the city's cost of regulation of vendors under this chapter. These fees shall be supplemental to any business license fees charged to street vendors. These fees shall be payable upon application. The fees charged under this chapter shall be nonrefundable.

5.36.110 Renewals.

Renewals shall be done on an annual basis. Application for renewals of permits shall be received no later than thirty (30) days prior to the expiration of the applicant's permit, or

shall be processed as new applications. The City may review applications for renewal to determine that:

- A. The applicant is in full compliance with the provisions of this chapter;
- B. The applicant, if he or she is operating a food vending vehicle, has a current insurance policy in the minimum amount required in Section 5.36.090, or as amended by a subsequent resolution of the City Council. If the City finds that the applicant meets the above requirements, the city shall issue a new permit.

5.36.120 Enforcement.

Enforcement shall be implemented by the city manager or through a city staff person designated by him or her. In addition, any police officer or Department staff is authorized to enforce the provisions of this chapter. Such person shall have authority to issue citations based upon reasonable cause in a manner most suitable to the particular incident.

5.36.130 No preemption.

This chapter shall not be interpreted to permit soliciting, or the procedures thereof or redress therefrom, where restricted by state law.

5.36.140 Violation—Penalty.

A. It is unlawful for any person to violate any provision or fail to comply with any requirements of this chapter. A violation of this chapter shall be punished by:

- 1. An administrative fine not exceeding \$100 for a first violation.
- 2. An administrative fine not exceeding \$200 for a second violation within one (1) year of the first violation.
- 3. An administrative fine not exceeding \$500 for each additional violation within one (1) year of the first violation.

B. A violation of vending without a sidewalk vending permit may, in lieu of the penalties set forth in subsection (A) set forth above, be punishable by:

- 1. An administrative fine not exceeding two hundred fifty (\$250) dollars for a first violation.
- 2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one (1) year of the first violation.
- 3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one (1) year of the first violation.

C. Each violation shall constitute a separate offense.

D. Notwithstanding the above, the City may exercise its rights to pursue any other remedies authorized by state law.

5.36.150 Nuisance—Injunction.

Any violation of this chapter is declared to be a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.