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December 5, 2023

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Receive and File a Report on Current County Sidewalk Vending Regulations and Recent State Laws Regarding Sidewalk Vending Including Senate Bill (SB) 946 and SB 972; and Direct Staff to Draft a Revised Sidewalk Vending Regulations to Align with the State Law and Return to the Board for Consideration.

RECOMMENDATION:

1. Receive and file a report on current County sidewalk vending regulations and recent state laws regarding sidewalk vending including SB 946 and SB 972.
2. Direct staff to draft revised sidewalk vending regulations to align with state law and return to the Board for consideration.

FISCAL/MANDATES IMPACT:

Mandatory:	No
Source of Funding:	General Fund
Funding Match Required:	\$0
Impact on Other Departments:	County Counsel, County Executive Office, Public Works Agency, Resource Management Agency, Sheriff's Office, Ventura County Fire District

There is no fiscal impact associated with this item. If staff is directed to return to your Board, associated fiscal impacts, if any, will be presented at that time. The Resource Management Agency (RMA) will work with the CEO's office and may return to your Board with a mid-year adjustment should additional appropriations be needed.

STRATEGIC PLAN:

The sidewalk vending regulations support multiple priorities in the County Strategic Plan including Priority – *Healthy, Safe, and Resilient Communities* under the goal of maintaining high-performing public safety services. These regulations would protect public health and safety through enforcement of public right-of-way, ensuring access to public pathways and sidewalks, and

mitigation of food-borne illnesses. Additionally, these regulations support Priority - *Fiscal Responsibility and Economic Vitality* under the goal of creating a customer service-focused and business-friendly environment while stimulating entrepreneurship and industry growth. This request ensures economic livelihood for the local permitted business community by enforcing fair business practices while identifying permitting pathways for entrepreneurs and vendors.

DISCUSSION:

The Ventura County Ordinance Code (Code) currently provides general regulations for business activities including the requirement for business licenses and the payment of fees and taxes. The County's existing sidewalk vendor-related regulations, under the authority of the Sheriff, are contained in several areas of the Code, including those pertaining to "peddlers" which are set forth in the Code at Section 2342 et seq. and date back to 1971. Section 2342-1 defines "peddler" as "any person who travels from place to place or temporarily occupies a stand or structure upon any public street, alley, or other public place, in the doorway of any room or building, or upon any lot or parcel of land, who sells or offers for sale any goods, wares, merchandise, or product, of any nature or description, in his or her possession."

Food vendors, with some exceptions, are required to obtain a Permit to Operate from the RMA Environmental Health Division (EHD) under Code Section 4606. The Permit to Operate also serves as the permit required by Section 114387 of the California Health and Safety Code (Retail Food Code). The Retail Food Code prescribes operational requirements and sanitation standards required for food vendors and other food facilities.

Senate Bill 946 Relating to Sidewalk Vendors

California Senate Bill 946 (SB 946) took effect on January 1, 2019, adding Chapter 6.2, titled "Sidewalk Vendors", to the Government Code. (See Gov. Code, §§ 51036 – 51039.) It established parameters for the local regulation of sidewalk vendors and only allows local authorities to regulate sidewalk vending in accordance with the provisions of the law. The law's primary intent was to decriminalize sidewalk vending by limiting municipalities to penalizing violations with administrative citations rather than criminal citations, in turn promoting entrepreneurship and economic opportunity for sidewalk vendors. Sidewalk vending encourages entrepreneurship and accessibility into the local economy as well as economic opportunities for people to support themselves and their families.

SB 946 defines a "Sidewalk vendor" as 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. It does not include the sale of services or rentals.

SB 946 allows jurisdictions to regulate sidewalk vending where the objective is directly related to public health, safety and welfare. SB 946 specifically states that perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern. SB 946 also allows jurisdictions to establish regulations within parks that are necessary to prevent an undue concentration of commercial activity which would unreasonably interfere with the scenic

and natural characteristics of the park. It also allows regulations that would ensure the public's use and enjoyment of natural resources and recreational opportunities with parks.

Roaming and stationary sidewalk vendors are subject to different rules. Roaming sidewalk vendors stop only to make a sale while stationary sidewalk vendors vend from a fixed location. Under SB 946, the County is allowed to prohibit stationary sidewalk vendors from vending within residential areas but cannot prohibit roaming sidewalk vendors from vending within residential areas.

Summary of County Authority Under SB 946

Allowed	Prohibited
<ul style="list-style-type: none"> • Limit hours of operation. • Prohibit stationary sidewalk vending in residential areas. • Prohibit sidewalk vending near farmers' markets, swap meets, and temporary special permit areas. • Require sanitary conditions. • Require vendors to comply with the Americans with Disability Act (for example, vendors cannot block curb ramps) • Require a permit or license. • Request certain information about the business' operations (name, mailing address, type of sale). 	<ul style="list-style-type: none"> • Require sidewalk vendors to operate in a specific area, unless the local authority is restricting vending to protect the community's health, safety, or welfare. • Require vendors to ask permission from businesses or anyone besides the government. • Prohibit sidewalk vendors from operating in public parks, unless the park has a concession agreement, or the park is restricting vending to protect the community's health, safety, or welfare. • Restrict the number of sidewalk vendors, unless the city or county must restrict the number of vendors to protect the community's health, safety, or welfare.

Senate Bill 972 Relating to Compact Mobile Food Operations

Governor Newsom signed Senate Bill 972 (SB 972) in September 2022 modifying the California Retail Food Code (see Health & Safety Code, §§ 11370 et seq.) to, among other things, establish a new Chapter 11.7 titled "Compact Mobile Food Operations". These changes were intended to promote economic inclusion while modernizing the regulations so that sidewalk food vendors can obtain a permit and join the regulated vending economy.

The new type of food facility recognized by SB 972 is called a Compact Mobile Food Operation (CMFO) and is defined as a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance that must report to a commissary for daily cleaning and storage. CMFOs are currently regulated by the EHD.

Proposed New Ordinance

In accordance with state law and your Board's direction today, staff can develop a comprehensive framework for the regulation of sidewalk vendors within the unincorporated area of Ventura County, which includes the issuance of a vending permit. Based on a review of state law and recent vending ordinances in various cities and counties across the state, staff may include the following parameters in a draft ordinance with the objective of balancing economic entrepreneurship and public health, safety, and welfare:

1. Vending on public right of way will only be allowed to take place with the issuance of a County-authorized vending permit which must be obtained prior to vending and renewed annually.
2. Distance requirements from various public locations and facilities.
3. Limit vending in certain areas such as parks and beaches based not only on public safety, health, and welfare concerns, but also to ensure that recreation opportunities are not unreasonably affected by commercial vending and that the scenic and natural characteristics of the park are maintained by preventing an undue concentration of commercial activity.
4. Differentiate between stationary sidewalk vendors, who vend from fixed locations, and roaming sidewalk vendors who move from place to place and stop to complete a transaction.
5. Outline the application and permit process, and escalating fines in accordance with state law.
6. Prohibit vending from a parked vehicle or to any individuals traveling within motor vehicles along a public roadway to avoid interference with traffic, motor vehicles, and to protect public safety.
7. Compliance with all Ventura County Environmental Health requirements related to food service and preparation and other applicable law.
8. Require an application even if an individual is employed or engaged by another individual or a business or will use vending equipment owned by another individual or a business.
9. Prohibit using amplified or non-amplified sound-making devices in conjunction with vending, including loudspeakers, microphones, public address systems, bells, and chimes.
10. Allow stationary sidewalk vendors to use an open flame but away from structures and vegetation at a distance recommended by the Fire Marshall.
11. Prohibit from vending the following goods: alcoholic beverages, tobacco products, vaping products, smoking and drug related paraphernalia not including apparel, cannabis products, weapons, pharmaceuticals, live animals, or other products prohibited by local, state, and federal laws.

12. Require defense and indemnity of the County and its officers, employees, and others but carefully review insurance requirement to ensure the cost of insurance would not create an undue barrier to economic entrepreneurship for sidewalk vendors.

Additional parameters may be included as staff develops the ordinance and incorporates part of the public outreach process.

Outreach

Education and outreach to sidewalk vendors is paramount. Staff will work with the County Executive Office's Public Information Officer and community-based organizations to assist in providing information in various languages to work with the diverse group of vendors.

Over the last several years, unpermitted food vending activities have increased throughout the State of California. Although SB 972 made it easier for food vendors to meet the operational and construction standards to obtain a Permit to Operate, EHD has not seen an increase in applications for permits in the CMFO category. Unpermitted food vending activity continues to be prevalent and challenging to regulate and enforce.

Enforcing a sidewalk vending ordinance can require considerable resources. Recently, large, well-organized groups are operating multiple unpermitted food stands ("pop-up" stands) and food carts throughout the county. Most of these groups have operations based outside of Ventura County. Equipment, food, and labor are delivered to various sites. Many individuals who work at these stands and carts do not carry identification, making administrative enforcement ineffective.

Most unpermitted food vending activity is concentrated in our incorporated cities and often occurs outside normal work hours and on weekends. EHD has been partnering on enforcement with several local cities in response to public complaints about unpermitted vending, but despite these efforts, unpermitted food vendors continue to return. A public outreach campaign promoting the rules and standards for sidewalk vending, in support of entrepreneurship and public safety, will be essential to help sidewalk vendors and local community members understand the benefits to the economic vitality of our local businesses and health and safety of our community.

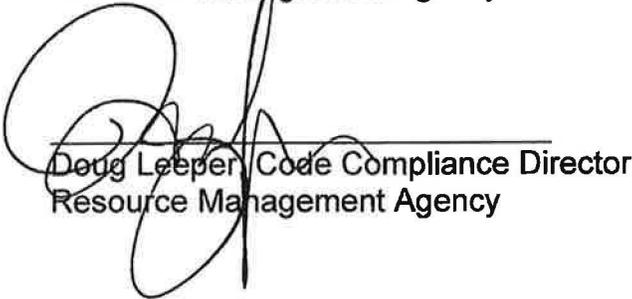
Summary

To balance economic entrepreneurship and public health, safety, and welfare, the County needs to repeal and replace sections of the existing Ventura County Municipal Code that relate to sidewalk vending. To regulate sidewalk vending consistent with the provisions of state law, the County also needs to adopt new regulations. These regulations will replace regulations that do not substantially comply with state law and will be placed in a new Chapter of the Ventura County Municipal Code. Staff will return to your Board with the proposed ordinance for your consideration in Spring 2024.

This letter has been reviewed by the County Executive Office, the Auditor-Controller's Office, and County Counsel's Office. If you have any questions regarding this item, please contact Kim Prillhart at (805) 654-2661 or via e-mail at kim.prillhart@ventura.org or Doug Leeper at (805) 654-2466 or via e-mail at doug.leeper@ventura.org



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