



July 23, 2024

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

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Building and Safety Division

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SUBJECT: Public Hearing on First Reading of Amendments to Provisions of the Ventura County Ordinance Code Regarding Sidewalk Vending; Find that the Ordinance Amendments are Exempt from the California Environmental Quality Act; Approve and Establish a Vending Permit Fee; and Adoption of a Resolution Establishing One Regular Full-Time Equivalent Position of Sr. Code Compliance Officer to Support Sidewalk Vending Enforcement Activities; All Supervisorial Districts

RECOMMENDATIONS:

1. Conduct a public hearing on and introduce the proposed ordinance amending the Ventura County Ordinance Code regarding sidewalk vending attached as Exhibit 1, read in title only and waive further reading, and schedule the adoption of the ordinance for September 10, 2024.
2. Find that the ordinance amending the sidewalk vending provisions in the Ventura County Ordinance Code is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3).
3. Approve and establish a Vending Permit Fee and direct Staff to add the fee category and specifics to the next Code Compliance Division Fee Schedule Update.
4. Adopt a resolution (Exhibit 3) establishing one regular full-time position allocation to support sidewalk vending enforcement activities in the Resource Management Agency Code Compliance Division Budget Unit 2953 effective July 23, 2024, as follows:

Class Code	Classification Title	FTE	Range	Annual Salary	Unit
00283	Sr. Code Compliance Officer	1.0	\$3,271.86 - \$4,588.55	\$85,068.28 - \$119,302.41	2953

5. Direct staff to return to your Board in approximately twelve months to provide an update on the status of the enforcement phase of the Sidewalk Vending Ordinance.

FISCAL/MANDATES IMPACT:

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

A 20-month pilot program for the enforcement of the sidewalk vending regulations is proposed, with the pilot program commencing in approximately November 2024. The total FY 2024-25 costs for eight months of staffing and equipment is \$672,000, as detailed in Exhibit 4. This cost includes staffing resources for one new full-time Senior Code Compliance Officer position at a prorated cost of \$74,000, contract staffing for a Senior Code Compliance Officer, Code Compliance Officer, and Technician at a cost of \$178,000, and extra duty assignment for two Senior Deputies with the Sheriff's Department for \$265,000.

The Senior Code Compliance Officer position would supervise and direct the program including contract staff, and the Senior Deputies would keep the peace during enforcement activities. Facilities, equipment, and contract resources are estimated at \$155,000, and include services for hauling and disposal of vendor equipment and hazardous waste; traffic safety and control services; lease for secure impound storage yard/ containers; and body cameras for Code Officers.

The 12-month remainder of the pilot program would occur in FY 2025-26 and is estimated to require \$957,200. The estimated costs of the pilot program do not include Environmental Health Division's (EHD) Consumer Food Protection Program costs for staffing and outreach resources. Such EHD-related costs are largely contingent on whether EHD assumes a lead role in collaboration and coordination of enforcement and outreach response with local city and county code compliance staff through implementation of a new GIS-based sidewalk vendor monitoring tool, including law enforcement, as discussed in more detail under Intra- and Inter-Agency Cooperation. Should EHD staff take this lead role in coordination, it is anticipated that this would require an additional part- or full-time staffing position (0.5 to 1.0 FTE), at an estimated additional cost of \$60,000 to \$120,000 per year.

RMA staff are proposing a Vending Permit fee of \$190.00, which is calculated based on 1.5 hours of staff time. County staff could also assess a fee for the retrieval of vending equipment once seized and impounded. However, as discussed below, little to no revenue is anticipated to be generated from these new fees. As such, the estimated revenue is not anticipated to offset program costs. Instead, it is proposed that the pilot program be supported by the General Fund. The current Code Compliance Division (CCD) FY 2024-25 budget is sufficient to fund initial program costs. As program

implementation progresses, Resource Management Agency staff will work with the CEO's office on mid-year budget adjustments as needed.

<u>Summary of Revenues and Costs:</u>	<u>FY 2024-25</u>	<u>FY 2025-26</u>
Revenues:	\$ -	\$ -
Costs:		
Direct	\$ 672,000	\$ 957,200
Indirect-Agency/Dept.	\$ -	\$ -
Indirect-County CAP	\$ -	\$ -
Total Costs	\$ 672,000	\$ 957,200
Net Costs:	\$ 672,000	\$ 957,200
Recovered Indirect Costs:	\$ -	\$ -

FY 2024-25 Budget Projection for Code Compliance – Division 2950				
	Adopted Budget	Adjusted Budget	Projected Actual	Estimated Savings/(Deficit)
Appropriations	\$ 2,948,288	\$ 2,948,288	\$ 2,948,288	\$ -
Revenue	\$ 746,048	\$ 746,048	\$ 746,048	\$ -
Net Cost	\$ 2,202,240	\$ 2,202,240	\$ 2,202,240	\$ -

STRATEGIC PLAN:

The sidewalk vending regulations support multiple priorities in the County Strategic Plan including:

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 traffic and pedestrian safety on County roadways/shoulders by addressing illegal encroachments that present safety issues, access to public pathways and sidewalks, and prevention or mitigation of food-borne illnesses.

Additionally, these regulations support *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:

On December 5, 2023, your Board received a report and presentation regarding unpermitted vending on sidewalks and road rights-of-way in the unincorporated area, and

provided direction to staff to prepare an ordinance that would strictly regulate sidewalk vending and to provide a staffing and budget proposal that would allow it to be strictly enforced. On March 26, 2024, the proposed Sidewalk Vending Ordinance was introduced. On April 9, 2024, the Sidewalk Vending Ordinance was adopted and became effective on May 9, 2024. In mid-May, Code Compliance staff began the education and evaluation phase of the enforcement program.

Code Compliance staff worked ten Friday and Saturday evening shifts in the unincorporated areas of the County looking for sidewalk (and streetside) vendors. Staff surveyed 770 miles of public right-of-way and noted a total of 170 illegal vendor operations, with 70 of these derived from repeat violators week after week. Based on that information, Code Compliance identified 100 individual vendors, of which 60 were food-related. It should be noted that the education/evaluation period included Mother's Day weekend which contributed to a higher number of non-food related vendors on that weekend. It should also be noted that during the County education/evaluation period, the City of Ventura had suspended its enforcement of illegal sidewalk/streetside vendors, and the City of Oxnard increased their enforcement. Both factors had an impact on the number of vendors located in the County. When the City of Ventura suspended their enforcement, vendors that had been located in the County just outside the Ventura city limit, moved back into Ventura. The opposite was found in Oxnard where vendors who had previously been operating in the city moved, in some cases, just across the street from the City into the unincorporated area of the County.

Outreach/Evaluation

Over approximately the past two months, Code Compliance staff conducted evening and weekend surveys to collect information on sidewalk and streetside vendors operating within the County jurisdiction in the unincorporated areas. These efforts involved surveying and contact with vendors along approximately 770 miles of roads in the unincorporated County. Areas within city limits and within Caltrans/CHP's jurisdiction along State highways were excluded, as these areas are outside the County's authority for enforcement of the Sidewalk Vending Ordinance. Similarly, vending regulations are already in place and being enforced within County parks and the County's Channel Island Harbor by the appropriate divisions/departments. These areas were not included in Code Compliance staff's outreach and evaluation efforts.

A total of 170 vendors were observed/contacted. Of that total, approximately 15 were of such configuration that the cart/device could be permitted, but not one vendor observed or contacted was at a location that would be permissible under the ordinance. Most of the locations identified were unpaved road shoulders dangerously close to the roadway to the point that staff felt unsafe while conducting their inspection. This safety concern was compounded by the number of vehicles parked at/near the vending operation.

Enforcement

Having completed the education/evaluation phase of the Sidewalk Vending Enforcement Program, Code Compliance has put together an assessment the time and effort required to effectively address the issue of illegal vending within the unincorporated areas of the

County. This included conferring with Environmental Health as well as the cities of Ventura and Oxnard to establish a better understanding of what equipment is needed and approximately how much staff time is required to safely and efficiently inspect, enforce, and, in some instances, impound the merchandise and equipment associated with the illegal vending operation.

From initial contact, to disposing of perishables and storing the impounded merchandise and equipment on the larger operations, it takes approximately four hours to complete with the following staff.

- One Sr. Code Compliance Officer
- One Code Compliance Officer II/III
- One Registered Environmental Health Specialist (remote)
- One Fire Inspector (possibly remote)
- Two VCSD Deputies (keep the peace)
- Two contract haulers (load, transport, and store)
- One Traffic Safety/Control Services contractor

The above estimate of time and staffing does not include the after-action duties of the Code Compliance Technician which would involve, but not be limited to 1) impound inventory verification, 2) impound and disposal notification and scheduling, 3) impounded property reclamation by owner, 4) administrative citation data entry and notification, and 5) receiving and processing appeals.

With the anticipated staffing and resources needed in mind, the program will typically only be able to address two large vending operations per shift work during each ten-hour shift on a four-days-per-week basis. With an estimated 40 larger vending operations identified in the unincorporated area of the County, it will take staff a minimum of five weeks to address these large operations. This would also leave little to no capacity to address the smaller operations.

In addition, the experience during the investigation and outreach phase has been that even once equipment from these larger operations is seized, these operations return with new equipment within the next few hours or days. As such, we do not anticipate that required enforcement actions will be “one and done.” These vendors with new equipment will likely be back, which requires that County staff return to address the issue anew. This has been the experience from code compliance and other staff from nearby jurisdictions, including the counties of, and jurisdictions within, the counties of San Bernardino, Riverside, Orange and Los Angeles.

Code Compliance staff have also observed this directly for recent operations in the cities of Ventura and Oxnard. In one location in the City of Ventura, the entire operation was impounded, and the next day two vendors returned – both identified as the same operator whose equipment and goods were impounded earlier. A few weeks later, Ventura staff again impounded the goods and equipment at the same location from the same operator. The operation was back up and running in the same spot in less than two hours. Such rapid return and resumption of illegal vending operations for repeat violators will be a challenge for County staff.

An education program focused on the operators would continue as part of the Sidewalk Vending Ordinance implementation. However, given the enforcement experiences in the jurisdictions noted above, the effectiveness of such education may be limited. It may be beneficial to implement other education and enforcement efforts that focus on the patrons of these illegal and/or unsafe operations. Such a patron-based education and enforcement program may have an impact on the demand, in terms of the number of customers. A drop in demand may affect the number of illegal vendors setting up operations in the County. The education efforts focused on the patrons should include basic food health safety information and the risks associated with food served from these vendors. County staff could also provide information on the potential traffic safety risks.

A potential new component of the enforcement program would be the installation of “NO PARKING” signs for locations where vendors are perilously close to the roadway or in other hazardous locations. This would provide another enforcement tool for certain locations, and it would likely dissuade patrons from frequenting such vending operations to avoid being issued a parking citation. This component, if implemented, would require assistance from the Public Works Agency in posting the signs and from the Sheriff’s Department in issuing citations.

Another necessary component of the enforcement program is the storage of the impounded equipment involved with these operations. All the jurisdictions noted above have impounded equipment, and each has conveyed that very few operators have attempted to reclaim that equipment. As such, we will require a storage facility or lot large enough to accommodate storage of the equipment from up to 22 larger vendors. Although much of this equipment can be stored outside, all non-perishable merchandise impounded would need to be stored out of the elements. In both cases, the items need to be secured against theft and vandalism. We have not identified an adequate location that is centrally located close to the Hall of Administration. Utilizing a location farther from the County Government Center means additional staff time in driving to a more remote location to facilitate inventory verification, retrieval and disposal. Impoundment will also require the proper and lawful disposal of food waste, keeping in line with State Senate Bill 1383 regulations.

Intra- and Inter-Agency Cooperation

The Code Compliance Division was created in 2009 for the enforcement of zoning and building code violations on private property. The division receives its authority under designation from the Planning Director and the Building Official, with most enforcement tools and remedies geared toward violations on private property. For violations on public property, such as sidewalks, road shoulders, rights-of-way, and other public land such as beaches, enforcement actions typically require close coordination with other Departments and Agencies, and in particular the Sheriff’s Department, Harbor Department, and the Public Works Agency. The Fire District is also involved and helps enforce violations of the Fire Code. For locations with the incorporated limits of the cities, City Code Compliance, Public Works, and Police are responsible for enforcing their own Sidewalk Vending

regulations. For locations within the Caltrans ROW, Caltrans and the California Highway Patrol have jurisdiction.

The Code Compliance Division was asked to take the lead on enforcement of the County's Sidewalk Vending Ordinance. The estimated program costs are tabulated in Exhibit 4. These costs reflect direct and contracted staffing costs for the Code Compliance Division, overtime costs for staffing assistance by the Sheriff's Department and the costs for various other contracted services that would be coordinated by Code Compliance staff. There may be opportunities to leverage existing contracts maintained by other County Departments and Agencies, such as contracts maintained by the Public Works Agency for loading, hauling, and unloading confiscated vending equipment. Similarly, for the implementation of temporary traffic control measures, it may be more efficient to have direct staffing support and/or contracted support from Public Works through an existing contract. Such support may also better align key components of the sidewalk vending enforcement with the core functions of these other agencies and departments.

Unlawful sidewalk vending is a County-wide issue that is inclusive of our local cities, and EHD-issued health permits are required for most food vendors in both County unincorporated areas and local incorporated cities. As the County and its cities develop and implement sidewalk vending ordinances, EHD may need to dedicate more staffing and resources toward this effort. In addition, EHD would be well-positioned to develop and share with County and City team members a GIS Survey tool to better track vendor locations, personnel, and vehicles, as well as type of wares, type of equipment, and other data. This would allow for more effective tracking of vending operations and operators and would provide for more effective cross-jurisdictional monitoring and enforcement.

Proposed Amendments to the Sidewalk Vending Ordinance

For consistency with the terminology used in the corresponding State law addressing sidewalk vending, there have been a few amendments to the wording within the enforcement provisions changing the term "notice of violation" to "administrative citation." In addition, the language addressing an individual's right to appeal an administrative citation has been added. All appeal provisions in sections 2805, 2810, and 2811 have been coordinated to authorize written appeals to be filed and reviewed. Other provisions of the Ordinance make various technical corrections.

In addition, the length of time that impounded merchandise and equipment has been reduced from 90 days to 30 days so as to accommodate space in an impound area. The amended ordinance is included as Exhibit 1, and a legislative version of the ordinance amendments is included as Exhibit 2.

Staff has determined and recommends that your Board find that adoption of the ordinance amending the sidewalk vending provisions is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that the enforcement-related amendments and other technical corrections have no possibility for causing a significant impact on the environment.

Sidewalk Vending, Environmental Health Permits, and Potential Permit Fee Subsidies

Your Board has previously asked about the process for legalizing vendors through a permit process. The vast majority of vendors noted to be operating in the unincorporated portions of the County set up equipment in places that do not meet the requirements of the Sidewalk Vending Ordinance, and as such cannot obtain a vending permit. For the few operations that may be eligible, these would be encouraged to obtain vending and environmental health permits. The proposed Vending Permit fee of \$190.00 is calculated based on 1.5 hours of staff time. In addition, an equipment retrieval fee was identified during the consideration of the Sidewalk Vending Ordinance. These fees would need to be adopted as part of the next update to the Code Compliance Division and Environmental Health Division's fee schedules. However, given the past few months of observation and outreach, it is unlikely that vendors will obtain permits to legalize their operations. It is also unlikely that vendors will pay fees to retrieve equipment from impound. This has not been the experience of other jurisdictions that have taken such measures. The persons staffing the vending equipment are typically not the owners of such equipment, and the on-site workers are reluctant to share information that would be required in a permit application. As such, little to no revenue is anticipated to be generated from this program. While fines may be levied per the ordinance, the estimated revenue will not offset program costs, and therefore, it is proposed to be supported by the General Fund.

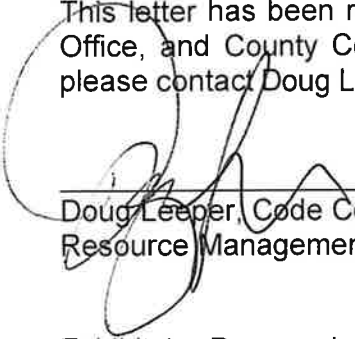
For sidewalk vendors – including those able to operate legally in the County's jurisdiction and those operating within city limits and hence not subject to the County's land use jurisdiction – a reduced fee for the requisite EHD permit(s) could be established as an incentive for these operators to bring their operations, if otherwise meeting the pertinent city sidewalk vending regulations, into compliance. However, this would result in assistance from the County's General Fund for the amount of the permit fee subsidy, and as noted in the prior paragraph, the experience of other jurisdictions is that vending operators and/or owners are reluctant to provide information required to obtain a permit.

Recommended Pilot Program

It is suggested that the aforementioned enforcement of sidewalk vending be taken forward as a 20-month pilot program to evaluate the effectiveness of enforcement efforts, as informed by data collected by County staff. Staff recommends periodic status reports back to your Board reporting on impact on the program and resource needs. The first status report would be provided in approximately nine months into the pilot program, or in July 2025. Staff would also return to your Board with a second status report in May 2026 with a recommendation to continue, modify, or end the program.

Upon direction of your Board, and the approval of the budget required to safely and adequately move forward, enforcement will commence within the parameters outlined in the ordinance to include warnings, administrative citations, and impoundment authorized in certain circumstances under the ordinance. In each instance of enforcement, due process will be afforded. Staff will return to your Board on or about the second meeting in April 2025.

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 Doug Leeper at (805) 654-2446 or via e-mail at doug.leeper@ventura.org.



Doug Leeper, Code Compliance Director
Resource Management Agency

- Exhibit 1 – Proposed ordinance
- Exhibit 2 – Legislative version of proposed ordinance
- Exhibit 3 – Resolution establishing one full-time position for the Resource Management Agency
- Exhibit 4 – Estimated Program Costs