

ORDINANCE NO. _____ (New Series)

AN ORDINANCE AMENDING TITLE 7 OF THE COUNTY CODE OF REGULATORY ORDINANCES TO
ESTABLISH ROADSIDE VENDING REGULATIONS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1: The Board of Supervisors of the County of San Diego finds that the regulation of vending on public rights-of-way within the unincorporated area of the County is necessary to promote the public health, safety, and welfare. The purpose of this ordinance is to establish a clear, consistent, and lawful framework for vending that ensures the free flow of pedestrian and vehicular traffic, protects public property, and complies with all applicable provisions of California Government Code section 51036, *et seq.*

Section 2: Chapter 1 of Division 1 of Title 7 of the San Diego County Code of Regulatory Ordinances is hereby amended to add Section 71.120 as follows:

71.120. ROADSIDE VENDING PERMITS.

Notwithstanding the applicability of the other provisions in this chapter,

(a) Every person applying for a roadside vending permit required by and Chapter 4 of Division 4 of Title 7 of this Code shall:

1) At the time of applying for the permit, pay an issuance fee. The amount of said fee shall be prescribed by the Board of Supervisors.

2) Provide all required information and remain in conformance with all requirements as outlined in Chapter 4 of Division 4 of Title 7 of this Code.

Section 3: Chapter 4 of Division 4 of Title 7 of the San Diego County Code of Regulatory Ordinances is hereby added and titled "VENDORS IN THE PUBLIC RIGHT-OF-WAY":

CHAPTER 4. VENDORS IN THE PUBLIC-RIGHT-OF-WAY

74.401. PURPOSE.

(a) The purpose of this Chapter is to establish a permitting and regulatory program for sidewalk vendors that complies with California Government Code section 51036, *et seq.* The provisions of this Chapter generally allow portable food stands and certain forms of solicitation while imposing regulation of unpermitted sidewalk vending activities and related enforcement to protect the health, safety, and welfare of the public.

(b) The Board of Supervisors finds that to promote the public health, safety and welfare, regulating sidewalk vending is necessary to ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, place of business, park, areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, an area designated by a temporary special permit issued by the County, street to the sidewalk, and by persons exiting or entering parked or standing vehicles.

(c) Prohibiting sidewalk vending in streets and medians is necessary to protect the health and safety of vendors and their patrons, because they are at risk of being struck by vehicles and/or causing vehicular accidents if vending occurs in streets or medians.

(d) Limiting sidewalk vending hours of operation within residential neighborhoods to specific daylight hours consistent with a residential atmosphere is necessary to protect the safety of vendors and residents who would be more vulnerable to criminal activities during evening hours, and to promote the welfare of the residents by prohibiting commercial activities and associated noise and traffic during hours when residents should be able to enjoy peace and quiet.

(e) These regulations ensure continuous access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, firefighting apparatus, mailboxes, as well as access to locations used for public transportation services.

(f) These regulations ensure such activities occur only in locations where they will not restrict sidewalk and pathway access and enjoyment by individuals with disabilities pursuant to the American with Disabilities Act of 1990 and other disability access standards.

74.402. DEFINITIONS.

(a) "COMPACT MOBILE FOOD OPERATION" (CMFO) has the same definition as in the Health and Safety Code section 113831 and means 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 and is subject to requirements in addition to those established by this Chapter for permitting and operation.

(b) "COUNTY OFFICIALS" means the Directors of the Department of Public Works and/or Department of Environmental Health & Quality of the County of San Diego who are hereby authorized to enforce this Chapter and any person that a Director appoints or hires to enforce this Chapter.

(c) "DARKNESS" shall mean any time from one-half hour after sunset to one-half hour before sunrise.

(d) "PUBLIC PARK" means any park, open space, or recreational area owned, operated, or controlled by the County of San Diego.

(e) "PUBLIC RIGHT-OF-WAY" means a publicly dedicated road right-of-way accepted into the County maintained system of roads pursuant to California Streets & Highways Code section 941, *et seq.*, inclusive of any sidewalk, pavement, travelled way, bridges, culverts, curbs, drains, pathways, bridle paths, trails, landscaped areas, medians, shoulders, and/or other improved or unimproved areas therein.

(f) "ROADSIDE VENDOR" means a person who sells or offers for sale food and/or merchandise from a vending apparatus or from their person while located within a public right-of-way. This does not include vending machine operators or persons who have a concession agreement with the County.

(g) "ROAMING VENDOR" means a roadside vendor who moves from place to place and stops only to complete a transaction.

(h) "STATIONARY VENDOR" means a roadside vendor who vends from a fixed location.

(i) "VEND" or "VENDING" means to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase food or merchandise. Vend and vending does not include the offering of services.

(j) "VENDING APPARATUS" means any pushcart, stand, display, container, vehicle, other conveyance, or other device, structure, or object, of any kind, used to display, sell, distribute, transfer, or trade food and/or merchandise.

74.403. PERMIT REQUIRED.

Except as otherwise provided, no person shall engage in vending within the public right-of-way without first obtaining a Roadside Vending Permit from the County of San Diego Department of Public Works pursuant to the provisions of Title 7, Division 1, Chapter 1 of the San Diego County Code of Regulatory Ordinances. Said Roadside Vending permit shall comply with the criteria for Roadside Vending set forth in this Chapter and conditions made a part thereof.

Issuance of a permit for a roadside vendor who sells food shall be conditioned upon first obtaining a Health Permit from the Department of Environmental Health and Quality and a Food Handler Training Certificate as required by Title 6, Division 1, Chapter 1 of the San Diego County Code of Regulatory Ordinances and in accordance with Part 7 of Division 104 of the California Health and Safety Code.

Each individual roadside vendor must hold a valid permit. The permit shall be prominently displayed on the roadside vendor's vending apparatus or person at all times while vending. For the avoidance of doubt, if a roadside vendor is an agent of an individual, company, partnership, corporation, or any other entity (collectively referred to as "principal"), the roadside vendor may not rely upon the permit of its principal.

74.404. APPLICATION REQUIREMENTS.

An applicant for a permit for vending in the public right-of-way shall provide, at a minimum:

(a) The applicant's contact information, including:

- 1) full legal name,
- 2) current mailing address,
- 3) electronic mailing address, and
- 4) telephone number.

If the applicant is an agent of an individual, company, partnership, or corporation, the name and business address of the principal is also required.

(b) The roadside vendor's contact information, including:

- 1) full legal name,
- 2) current mailing address,
- 3) electronic mailing address, and
- 4) telephone number.

The telephone number shall be of the cellular device used by the roadside vendor on-site.

(c) A description of the food and/or merchandise to be sold.

(d) A copy of a valid California Department of Tax and Fee Administration (CDTFA) Seller's Permit.

(e) If conducting vending under a name other than full legal name, a copy of the Fictitious Business Name Statement filed with the Office of the County Clerk.

(f) For roadside vendors selling food, a valid Health Permit and Food Handler Training Certificate(s), as required from the San Diego County Department of Environmental Health and Quality, or proof of exemption under state law.

- (g) A description of the vending apparatus (e.g., cart, stand, vehicle) and its dimensions.
- (h) Whether the applicant will operate as a roaming or stationary vendor and, for a stationary vendor, the proposed location.
- (i) For stationary vendors, details of any proposed signage for directional guidance to be used including:
 - 1) Wording to be used on the sign,
 - 2) Total number of signs (limit 2),
 - 3) Locations of signs,
 - 4) Sign dimensions (36" x 36" maximum), and
 - 5) Sign and mount materials.

All signs used must have prominently shown the valid permit number. All sign details and locations shall be approved by the Road Commissioner.

72.405. GENERAL OPERATING RULES.

All roadside vendors shall:

- (a) Be responsible for the proper disposal of all trash, litter, and refuse generated by their operation or by their customers.
- (b) Not use amplified sound or public address systems to attract customers.
- (c) Not use or obtain electrical or water hookups from any public or private source without the express permission of the property owner or utility provider.
- (d) Shall remove all related trash, litter, refuse, vending apparatuses, vehicles, and other vending related objects, equipment, or persons from the public right-of-way immediately after vending hours conclude.

72.406. ROADSIDE VENDING RULES.

All roadside vendors shall:

- (a) Operate only on a public shoulder where parking is permitted or on a sidewalk, pathway, or trail.
- (b) Not operate on any street with a speed limit greater than 35 miles per hour.
- (c) Ensure their vehicle or conveyance is legally parked at all times while vending.
- (d) Not operate within 500 feet of a freeway on-ramp or off-ramp.
- (e) Not operate within 100 feet of any other roadside vendor.

- (f) Not obstruct the clear path of any vehicular traffic, including bicycles, or create a traffic hazard.
- (g) Maintain a minimum clear pedestrian path of travel on the sidewalk, pathway, or trail, and ensure minimum access standards established by applicable law or regulations such as the Americans with Disabilities Act of 1990, 42 USC § 12101 *et seq.* are maintained.
- (h) Ensure their vending operations do not block or obstruct the entrance to any building, fire escape, driveway, or utility access point.

72.407. LOCATION-BASED RESTRICTIONS.

A roadside vendor shall not vend in any of the following locations within the public right-of-way:

- (a) Any location within 25 feet of any intersection, crosswalk, fire hydrant, driveway, bus stop, bus bench, or public transit waiting area.
- (b) Within 50 feet of the entrance to any business during its hours of operation.
- (c) On a median or dividing section of any street.
- (d) For locations where curbs do not exist: where less than 20 feet of width between the travelled lane or bike lane, if one exists, and the edge of the public right-of-way or an unobstructed view 200 feet in each approach to the vending location does not exist.
- (e) Within 1,000 feet of a permitted certified farmers' market, swap meet, or permitted special event (e.g., fair, parade) during the limited operation of said certified farmer's market, swap meet or permitted special event.
- (f) Any location that obstructs traffic signals or other official traffic control devices.
- (g) Adjacent to a public park, or other public facility, where such vending can occur, except for any public park where the County has a valid concession agreement that provides written authorization for vending to a concessionaire, provided that the County has also made a reasonable determination that the agreement is necessary to prevent undue public safety hazards.
- (h) In any location where the vending operation creates an immediate and substantial threat to the public health, safety, or welfare, as determined by County officials, and/or any law enforcement officer, or officer of those authorizing persons named herein.

72.408. HOURS OF OPERATION.

- (a) In residential zones, vending is permitted only between the hours of 7:00 a.m. and 7:00 p.m. Notwithstanding the foregoing, vending in darkness shall not be permitted.
- (b) In non-residential zones, hours of operation for vending shall follow the hours of operation for other businesses on the same street. Vending in darkness shall not be permitted in Zone A or Zone C as defined in Chapter 2 of Division 1 of Title 5 of the County Code of Regulatory Ordinances.

If operating in darkness the vending apparatus must have adequate lighting to ensure visibility for passing vehicles or other equipment shall be provided to create such adequate lighting. Further, any such lighting shall not have a lumen value greater than that described in Chapter 2 of Division 1 of Title 5 of the County Code of Regulatory Ordinances.

72.409. FOOD VENDING AND HEALTH REQUIREMENTS.

All roadside vendors selling food must comply with all applicable regulations required by Title 6, Division 1, Chapter 1 of the San Diego County Code of Regulatory Ordinances and with Part 7 of Division 104 of the California Health and Safety Code. This includes, but is not limited to, the requirement to possess a valid Health Permit for all Compact Mobile Food Operations (CMFOs) and to maintain proper food safety and sanitation practices. Any violations relating to said requirements shall be subject to enforcement by the County of San Diego Department of Environmental Health and Quality.

72.410. ENFORCEMENT.

Violations of this ordinance shall be subject to administrative fines in compliance with Section 51039 of the California Government Code. County officials issuing administrative fines shall include with the fine notice of the right to seek an ability-to-pay determination in lieu of paying the fine. Fines must be paid in full or an ability-to-pay request received within thirty (30) days of the issuance of the fine. Failure to request an ability-to-pay determination within the thirty (30) day period shall be deemed a waiver of the right to seek a reduction of the administrative fine. Ability-to-pay requests must include evidence of inability to pay such as documented annual income and expenses, whether the payor meets any of the criteria set forth in Government Code section 68632 (a) or (b), or such other evidence as may be provided showing paying the fine would be a substantial burden on the payor to be considered. The determination of the County official receiving the ability-to-pay request shall be final. If the person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code, the County official shall accept, in full satisfaction, twenty (20) percent of the administrative fine.

72.411. ABATEMENT.

The Chief Administrative Officer or his or her designee ("Chief Administrative Officer") may remove vending apparatus, inventory, and all other items found at a vending location where the activity is not fully permitted in accordance with applicable requirements or the continued presence of the vending creates a substantial public safety or health hazard in compliance with the following procedures:

(a) Notification

(1) A minimum of 24 hours before the scheduled abatement, a written Notice to Vacate must be posted in a conspicuous manner at a prominent location at the vending location. The notice shall provide the scheduled date of the abatement, notify individuals to remove their property before that date, and explain how property removed and stored after that date can be retrieved.

(2) The Chief Administrative Officer may conduct abatement of the site on the posted date. If abatement is delayed or rescheduled by more than 24 hours, the Chief Administrative Officer shall repost a Notice to Vacate with a new date.

(b) The Chief Administrative Officer shall ensure that photographs or video are taken of: (1) the site before and after the abatement; (2) the removal process; and (3) all items to be stored.

(c) When the owner of the property cannot be identified or an individual is unable to remove their property, that property may be stored or disposed of as described in subdivisions (d) and (e). If a person intentionally leaves their property behind or requests that it be discarded, it will be deemed abandoned. The Chief Administrative Officer may accommodate reasonable requests for additional time or assistance to remove items.

(d) An item not removed from the site by an individual shall be eligible for storage if it:

- (1) has apparent utility;
- (2) is recognizable as belonging to a person;
- (3) is not an item described in subdivision (e).

(e) The following items may be discarded or otherwise disposed of:

- (1) hazardous items, including but not limited to weapons, drug paraphernalia, or any items contaminated with human waste, animal waste, or blood;
- (2) items likely to become hazardous in storage, including but not limited to perishables and items that are wet or covered in mud;
- (3) items that are not practical to store due to size, weight or other characteristic;
- (4) Items that are stolen or illegal to possess.

(e) The Chief Administrative Officer shall keep a record of all stored items including location and date of storage. Items will be kept in storage for a minimum of 90 calendar days, at which point they are subject to disposal pursuant to County policy.

72.412. SUMMARY ABATEMENT

(a) In a summary abatement, the Chief Administrative Officer or his or her designee shall follow the same abatement and storage procedures in section 72.411 but shall only be required to provide as much notice to vacate as reasonable under the circumstances.

(b) The Chief Administrative Officer or his or her designee may conduct summary abatement if they observe or reasonably suspect it is necessary to address an immediate threat or unreasonable risk of harm to public health or safety, or to prevent obstruction of a public right of way or entrance to a public or private building or area.

72.413. PERSONALLY IDENTIFIABLE INFORMATION & IMMIGRATION ENFORCEMENT.

All personally identifiable information, as defined in Section 51036 of the California Government Code, shall be maintained in confidence and only distributed in accordance with applicable State laws. County officials authorized to enforce this ordinance shall not engage in immigration enforcement in connection with the enforcement of this ordinance in accordance with applicable State law, including without limitation SB 635 (Approved by Governor October 7, 2025).

Section 4: This ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of San Diego.