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Alameda County Sidewalk Vendor

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Section 1 – Authority for Regulations

These Regulations were developed under the authority of County of Alameda General Ordinance Code, Chapter 3.36, the Alameda County Sidewalk Vendor Ordinance (the “Ordinance”) to provide clarification and direction for its implementation.

Unless defined differently herein, the capitalized terms in these Regulations have the same meaning as set forth in the Ordinance.

Section 2 – Definitions

- A. “Certified Farmers’ Market” shall be as defined in Section 113742 of the Health and Safety Code.
- B. “Agricultural Commissioner” means the Alameda County Agricultural Commissioner.
- C. “Department” means the Alameda County Planning Department.
- D. “Director” means the Director of the Alameda County Planning Department.
- E. “Enforcement Official” means any County employee or agent of the County with the authority to enforce any provision of Chapter 3.36, including, but not limited to the Alameda County Planning Director or their designee, and the Alameda County Health Officer or their designee authorized under the California Retail Food Code to inspect food facilities as an enforcement officer. This definition also includes the Alameda County Sheriff or their designee only in the case that a violation of this Chapter involves criminal activity.
- F. “Food” means any raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, and chewing gum, and any item identified in Health and Safety Code Sections 113781, et seq.
- G. “Health Permit” shall have the same meaning as the term “permit” as defined in California Health and Safety Code Section 113851(a).

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- H. “Limited Food Preparation” shall be as defined in California Health and Safety Code Section 113818.
- I. “Merchandise” means any item that is not Food.
- J. “Park” shall include every public park or other recreational facility in the County of Alameda which is owned, controlled, operated or managed by the County.
- K. “Public Right-of-Way” means land, which by deed, conveyance, agreement, dedication, usage or process of law is used or reserved for use as a public roadway in the unincorporated area, and also includes, but is not limited to, the sidewalk.
- L. “Residential” means any area zoned exclusively as residential in Title 17 of the Code.
- M. “Roaming Sidewalk Vendor” means a Sidewalk Vendor who moves from place to place and stops only to complete a transaction.
- N. “Sidewalk” means the area of the public right-of-way that is designated or ordinarily used for pedestrian travel and does not include alleys.
- O. “Sidewalk Vending Unit” means a facility for the sale of Food and/or Merchandise that operates from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person.
- P. “Sidewalk Vendor Activities” or “Sidewalk Vending Activity” includes Vending and/or actions done in anticipation of being a Sidewalk Vendor such as, but not limited to, operation, installation, placement, or maintenance of any Sidewalk Vending Units.
- Q. “Sidewalk Vendor” means a person who Vends from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon the public right-of-way. The term “Sidewalk Vendor” does not include a person or entity that vends from a Mobile Food Facility as defined in General Ordinance Code Chapter 6.68.
- R. “Sidewalk Vendor Permit” means a permit issued by the County under the provisions of Chapter 3.36 and the rules, regulations, and policies issued under that Chapter.
- S. “Stationary Sidewalk Vendor” means a Sidewalk Vendor who Vends from a fixed location.

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- T. “Swap Meet” means as defined in Business and Professions Code Section 21661, and is interchangeable with “flea markets,” “indoor swap meets,” “open-air markets,” or other similar terms, regardless of whether these events are held either inside a building or outside in the open.
- U. “Temporary Event” means an event conducted for not more than 25 consecutive or nonconsecutive days in a 90-day period and that is of a civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other public gathering events approved by the County.
- V. “Vend” means to sell, offer for sale, expose or display for sale, solicit offers to purchase, or barter Food or Merchandise. Vending includes offering free samples of Food or Merchandise that are also for sale or negotiating fees for Food or Merchandise.

Section 2 – Compliance with California Retail Food Code

Any Sidewalk Vendor who intends to sell Food must comply with the requirements of Part 7 (commencing with Section 113700) of Division 104 of the California Health and Safety Code (California Retail Food Code) and Chapter 6.68 of Title 6 of the Alameda County Ordinance Code. If required by the California Retail Food Code or the Alameda County Ordinance Code, a Sidewalk Vendor must obtain a Health Permit from the Alameda County Environmental Health Department prior to applying for a Sidewalk Vending Permit under Section 3.

Section 3 – Sidewalk Vendor Permit Application

- A. Content of Permit Application.

A written application for a Sidewalk Vendor Permit shall be filed with the Department on a form provided by the County, and shall contain the following information:

1. The name, address, and telephone number of the person applying to become a Sidewalk Vendor;
2. The California driver’s license or identification number, individual taxpayer identification number, or municipal identification number (which shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order);
3. If the applicant for a Sidewalk Vendor Permit is an agent of an individual, company, partnership, corporation, or other entity (each a “Principal”), the name and business address of the Principal.
4. Whether the vendor intends to operate as a Stationary Sidewalk Vendor or a Roaming Sidewalk Vendor;

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5. The location(s) in the County where the Sidewalk Vendor intends to operate, as well as the day(s) and hours of operation the sidewalk vendor intends to operate at such location(s).
6. The dimensions of the Sidewalk Vendor's Sidewalk Vending Unit, including the square footage of any display area for food and/or merchandise, and a picture of the Sidewalk Vending Unit that would operate under the permit;
7. Whether the Sidewalk Vendor will be selling Food, Merchandise, or both;
8. Whether the Sidewalk Vendor will be using scales, measuring devices and or scanning/automated checkout devices in the course of doing business.
9. If the Sidewalk Vendor will be selling Food and is required to obtain a permit from the Alameda County Environmental Health Department per Section 2, a copy of the Sidewalk Vendor's Health Permit. The name on the Sidewalk Vendor Permit application must be the same name the Health Permit was issued under.
10. If the Sidewalk Vendor is selling Merchandise, a description of the Merchandise to be sold;
11. An acknowledgment that the Sidewalk Vendor must comply with all other generally applicable local, state, and federal laws;
12. A certification that, to the Sidewalk Vendor's knowledge and belief, the information contained within the application is true and correct;
13. An agreement by the Sidewalk Vendor to defend, indemnify, release and hold harmless the County, its Board of Supervisors, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the County, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, County, and/or the parties initiating or bringing such proceeding;
14. An acknowledgement that the Sidewalk Vendor's use of public property is at their own risk, and that the County does not take any steps to ensure public property is safe or conducive to the Sidewalk Vending Activities; and
15. Any other relevant information required by the Director.

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B. Sidewalk Vendor – Other Departmental Review.

1. If the permit application is for a Sidewalk Vendor that will sell fresh produce or nursery stock, the Department will forward the application to the Agricultural Commissioner for review, to ensure applicable rules and regulations are being followed.
2. If the permit application is for a Sidewalk Vendor that will sell by weight or measure, the Department will forward a copy of the application to the Agricultural Commissioner for review, to ensure applicable rules and regulations are being followed, including the use of sealed scales and all applicable license and registration fees.

C. Evaluation of Permit Application.

Upon receipt of a complete application for a Sidewalk Vending Permit, the Department shall review the application. Within ten (10) days of submittal of a complete application, the Department shall either:

1. Approve or conditionally approve the permit if all applicable requirements of Chapter 3.36 and these Regulations are satisfied; or
2. Deny the application if all applicable requirements of this Chapter are not satisfied. The reason for denial shall be noted on the application, along with any revisions or changes in the applicant's plan which if made would result in approval by the Department, as well as the Agricultural Commissioner, if applicable.

Section 4 – Operating Conditions

All Sidewalk Vendors are subject to the following operating conditions when conducting Sidewalk Vending Activities:

- A. All food and merchandise shall be stored either inside or affixed to the Sidewalk Vendor unit or carried by the Sidewalk Vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the Sidewalk Vendor Unit, the overall space taken up by the Sidewalk Vendor Unit shall not exceed the dimensions outlined in the Sidewalk Vendor Permit application.
- B. The Sidewalk Vendor Permit shall at all times be displayed conspicuously on the Sidewalk Vending Unit or the Sidewalk Vendor's person. If multiple Sidewalk Vendors are staffing a Sidewalk Vendor Unit or working as Roaming Sidewalk Vendors, each person shall wear their Sidewalk Vendor Permit on their person in a conspicuous manner.
- C. Sidewalk Vendors shall not leave their Sidewalk Vending Unit(s) unattended to solicit business for their Sidewalk Vending Activities. Sidewalk Vending Units shall not be stored on public property and shall be removed from public property when not in active use by a Sidewalk Vendor.

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- D. All Sidewalk Vendors shall allow an enforcement official, at any time, to inspect their Sidewalk Vending Unit for compliance with the requirements of this chapter.
- E. No Sidewalk Vending Unit shall be motorized.
- F. Stationary Sidewalk Vendors shall not operate in an area zoned exclusively Residential.
- G. Sidewalk Vendors shall not operate in public park(s) owned by the County for which the County has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a specific concessionaire.
- H. If a Sidewalk Vending Unit requires more than one (1) person to conduct the Sidewalk Vending Activity, all Sidewalk Vendors associated with the Sidewalk Vending Unit shall be within twenty (20) feet of the Sidewalk Vending Unit when conducting Sidewalk Vending Activities, except when transporting food and/or merchandise to and from the Sidewalk Vending Unit.
- I. Sidewalk Vendors that sell food shall maintain a trash container in or on their Sidewalk Vending Unit and shall not empty their trash directly into public trashcans. The size of the Sidewalk Vendor's trash container shall be taken into account when assessing the total size limit of a Sidewalk Vending Unit.
- J. Sidewalk Vendors are individually responsible for any garbage or debris that directly results from their vending activity. Sidewalk Vendors shall immediately clean up any trash related to Sidewalk Vending Activities, including but not limited to food, grease or other fluids or items.
- K. Sidewalk Vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation. Any food or food preparation byproducts related to Sidewalk Vending Activities must be removed at the end of the Sidewalk Vending Activity for the day at that location.
- L. Sidewalk Vendors shall not approach persons to sell food or merchandise and shall not interfere in any way with anyone engaged in an activity to sell food or merchandise.
- M. Sidewalk Vendors shall not Vend to or otherwise conduct transactions with persons in moving vehicles or vehicles illegally parked or stopped.
- N. Sidewalk Vendors shall not contribute to or exacerbate objective safety, health, and welfare community concerns, including but not limited to: undue interference with traffic or pedestrian movement, undue interference with the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, fire hazard, increased police activity that would interfere with normal police protection for other areas of the County, damage or detriment to public property, and/or other detriment to the public peace, health, safety or general welfare

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- O. Sidewalk Vendors are subject to all generally applicable laws, including but not limited to:
1. Public nuisance laws, as detailed in Civil Code sections 3479 et seq.;
 2. Public right-of-way encroachments, as detailed in Chapter 12.08; and
 3. Noise requirements as detailed in Chapter 6.60.

Section 5 – Prohibited activities and locations.

- A. Sidewalk Vendors shall not engage in any of the following activities:
1. Causing noise that violates the Noise Requirements as detailed in Chapter 6.60, including those produced by amplified sound;
 2. Renting merchandise to customers;
 3. Displaying merchandise or food that is not available for immediate sale;
 4. Selling of adult-oriented material, cannabis, or alcohol;
 5. Using an open flame on or within any Sidewalk Vending Unit;
 6. Stationary Sidewalk Vending in any area zoned exclusively Residential;
 7. Any behavior that could constitute harassment or deceit;
 8. In areas zoned exclusively residential, any roaming Sidewalk Vending Activity between the hours of 6:00 p.m. or sunset, whichever is earlier, and 9:00 a.m. of the following day; and
 9. Any other prohibited activities as established by the Director.

- B. Sidewalk Vendors shall not engage in Sidewalk Vending Activities at the following locations:
1. On any area of a sidewalk or pathway where vending equipment and queuing patrons would reduce clearance to less than four (4) feet;
 2. On any sidewalk where vending equipment and queuing patrons would restrict access requirements under the Americans with Disabilities Act, including without limitation access to loading zones, parking spaces, and curb ramps;
 3. Within twelve (12) inches of any curb face or parallel parking space on all roads;
 4. Within fifteen (15) feet of any entrance or exit to a building, structure or facility;

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5. On any designated emergency vehicle accessway;
6. On any public property that does not meet the definition of a sidewalk or pathway including without limitation any alley, street, roadway or parking lot;
7. Within two hundred (200 feet) of an area designated for a Temporary Event Permit issued by the County, during the limited duration of the Temporary Event. If the County provides any notice, business interruption mitigation, or other rights to affected businesses or property owners under the County's temporary special permit, such notice will also be provided to any sidewalk vendors specifically permitted to operate in the area, if applicable;
8. Within two hundred (200) feet of a school, a place of worship, or a child day-care facility;
9. Within two hundred (200) feet of a permitted certified farmers' market or swap meet during the limited operating hours of that certified farmers' market or swap meet;
10. Within twenty-five (25) feet of a:
 - a. Fire hydrant;
 - b. Curb which has been designated as yellow or red zone, or a bus zone;
 - c. Automated teller machine;
 - d. Bike racks, benches, bus stops or similar public use items;
 - e. Public art objects, items, and displays; and
 - f. County landmark or monument, as defined in Chapter 17.62 of the Alameda County Municipal Code.
11. Any location where Sidewalk Vending Activities would violate provisions of this code relating to visibility requirements for streets, alleys, driveways, and intersections;
12. On any sidewalk with a gradient in excess of five percent (5%);
13. Within two hundred (200) feet of any public safety facility, including without limitation police stations and fire stations; or
14. On any sidewalk where vending equipment and queuing patrons would present a fire hazard and/or jeopardize the safety of any person.

- C. To preserve pathways for residences, pedestrians, and emergency services,

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Sidewalk Vending Units shall not touch, lean against or be affixed at any time to any building or structure including, but not limited to lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans, or traffic barriers.

Section 6 – Fees

- A. Fees shall be charged based on an hourly rate that is approved by the Board of Supervisors. The Fee Schedule can be found at the Alameda County Planning web site at <https://www.acgov.org/cda/planning/>.
- B. The activities and estimated hours contained in the Fee Schedule may from time to time be amended by the Department and the hourly rate may from time to time be amended as approved by the Board of Supervisors.
- C. In addition to the fees and costs to the Department identified in the Fee Schedule, the County may also charge Sidewalk Vendors for actual costs incurred by other departments and agencies of the County that assist in administration and enforcement of this Ordinance.
- D. The fees collected by the County pursuant to the Ordinance or Regulations shall not exceed the County's actual cost of administering and enforcing the Ordinance and Regulations.

Section 7 – Communications with Department

- A. **Department Contact Information.** All applications and other materials should be submitted to the Department using the contact information below:
 - 1. Email: Planninginfo@acgov.org
 - 2. Mailing Address:

224 W. Winton Avenue, Rm 111
Hayward, CA 94544
- B. **Questions.** Questions regarding the Ordinance or Regulations should be directed to the Department at (510) 670-5400 or by sending an e-mail to the Department.
- C. **Department Consultation.** Department officials are available to discuss the requirements of the Ordinance and Regulations, to answer questions about the Ordinance and Regulations, and to assist Sidewalk Vendors with permit applications and compliance.

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Section 8 – General Provisions

- A. **Severability.** If any part or provision of these Regulations or the application thereof to any person or circumstances is held invalid, the invalid provision(s) shall be severed, and the remainder of the Regulations, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect.
- B. **Compliance with all Laws and Regulations.** All Sidewalk Vendors and those that employ Sidewalk Vendors are jointly and severally responsible for conducting Sidewalk Vendor Activities such that they comply with all federal and California laws and all city and County ordinances, rules, regulations, and policies. Approval of a Sidewalk Vendor Permit application by the Department does not constitute an opinion on compliance with other federal, state, city, or county laws, ordinances, or regulations. Any statement by the County, including the Department Liaison, that the permit application may contain a component that violates any federal, state, city, or County law, rule, regulation, or policy shall not be interpreted as an opinion that any other component of the permit application is in compliance with any federal, state, city, or County law, rule, regulation, or policy.
- C. **Separate and Distinct Compliance.** Adherence to the Ordinance, rules, regulations, and policies is not meant to replace or meet the requirements of any other federal, state, city, or County law, rule, regulation, or policy. Any review or approval pursuant to the Ordinance or Regulations is not meant to and shall not be indicative of compliance with or violations of any other federal, state, city, or County law, rule, regulation, or policy.

These Regulations are hereby adopted this _____ day of _____, 2024.

[Albert Lopez], Director
Planning Department