

ORDINANCE NO. _____

An ordinance amending Section 42.13 of the Los Angeles Municipal Code to authorize creation of a Vending Program consistent with state law, amending Sections 42.00(b), 42.00(b)(5), 42.15.I, 63.44.B.3 and 66.44.R, deleting Sections 41.43 and 42.00(m), adding Sections 42.15.D.8 and 66.34.B.3(i) and deleting Article 11 of Chapter 13 of the Los Angeles Administrative Code.

WHEREAS, a well-regulated vending program would enliven the City's streetscape by creating a vibrant marketplace;

WHEREAS, because vending has a relatively low barrier to entry, vending encourages entrepreneurship;

WHEREAS, providing economic opportunity for people to support themselves and their families is one of the most important goals for the City;

WHEREAS, there is a need to regulate the sale of food and merchandise in the public right-of-way and in parks to protect the public's health, safety and welfare;

WHEREAS, vending within 500 feet of popular tourist attractions and concert and sport venues on event days impacts pedestrian, tourist and vendor safety due to overcrowding on sidewalks, which results in pedestrians walking in the street and along the sidewalk to keep moving forward. These venues also experience a high amount of traffic, affecting the safety of pedestrians and motorists, due to a high concentration of visitors at one time;

WHEREAS, El Pueblo de Los Angeles Historical Monument is listed on the National Register of Historic Places because of its status as the birthplace of the City of Los Angeles, and El Pueblo is visited by two million tourists annually who are already served by more than 70 vendors, many of whom are the descendants of the original El Pueblo merchants;

WHEREAS, pursuant to Los Angeles Municipal Code Section 42.15.B, the space limitations, high volume of tourists and historic presence of First Amendment protected vending on the Venice Beach Boardwalk requires a ban on commercial vending to protect the health, safety and welfare of the public;

WHEREAS, requiring licenses and permits to vend on sidewalks and parks benefits the health and safety of the public because it increases vendor accountability in following the City's rules and regulations by identifying vendors out of compliance with the City's vending program and protects vendors assigned to vend in certain locations;

WHEREAS, regulation of vending benefits the City as a whole as it leads to orderly commerce; and

WHEREAS, the City Council seeks to create a vending program which will provide regulation of sidewalk and park vendors in Los Angeles.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 41.43 of the Los Angeles Municipal Code is deleted.

Sec 2. Section 42.00(b) of the Los Angeles Municipal Code is amended to replace the title and amend the first sentence to read as follows:

(b) **First Amendment Protected Vending.** Sections 42.13.A through 42.13.C and E of this Code do not apply to First Amendment protected vending as set forth below:

Sec. 3. Section 42.00(b)(5) of the Los Angeles Municipal Code is amended to read as follows:

(5) **Penalty.** Any violation of this Subsection (b) shall be punishable pursuant to Section 42.13.D. of this Code.

Sec. 4. Section 42.00(m) of the Los Angeles Municipal Code is deleted.

Sec. 5. Section 42.13 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 42.13. SIDEWALK VENDING PROGRAM.

A. **Definitions.** For purposes of this section, the following words or phrases shall have the following meanings:

1. **Citation.** An Administrative Citation issued pursuant to Article 1.2 of Chapter 1 of this Code.

2. **City.** The City of Los Angeles, a municipal corporation.

3. **Food.** Any type of edible substance or beverage.

4. **Goods or Merchandise (Merchandise).** Any item that is not Food.

5. **Park.** A "park" shall include every public park or other recreational facility in the City of Los Angeles which is owned, controlled, operated or managed by the Board of Recreation and Parks Commissioners.

6. **Person or Persons.** One or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.

7. **Rules and Regulations.** Detailed requirements concerning the Vending Program meant to clarify and aid in the administration and enforcement of this section.

8. **Sidewalk.** Any surface in the public right-of-way intended for use by pedestrians.

9. **Vending Program.** The Vending Program regulates Vendors on Sidewalks and in Parks for the sale of Food or Merchandise.

10. **Vend, Vends or Vending.** To sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter Food or Merchandise, or to require someone to negotiate, establish or pay a fee before providing Food or Merchandise, even if characterized as a donation.

11. **Vendor.** A Person who Vends.

B. Administration.

1. Rules and Regulations to implement the Vending Program on Sidewalks shall be developed and recommended by the Department of Public Works, Bureau of Street Services. The Rules and Regulations for Sidewalks shall be approved by the Board of Public Works and adopted by the City Council through resolution. The Rules and Regulations to implement the Vending Program in Parks shall be developed and approved by the Board of Recreation and Parks Commissioners and adopted by the City Council through resolution. The Bureau of Street Services and the Department of Recreation and Parks shall post the Rules and Regulations on their websites.

2. The Bureau of Street Services or its designee is authorized to issue Licenses and Permits for Vending Food or Merchandise and the use of carts on Sidewalks. In consultation with the Board of Recreation and Parks Commissioners, the Bureau of Street Services or its designee is authorized to issue Licenses and Permits for Vending Food or Merchandise and the use of carts in Parks.

3. On or after January 1, 2020, Vending without a license or cart permit shall be unlawful. Before the City makes available licenses and cart

permits to Vendors on or after January 1, 2020, Vendors must Vend in accordance with this section and the Rules and Regulations.

4. The City Council shall select a vending service provider through a competitive process, consistent with City law. The Bureau of Street Services shall monitor and assist the vending service provider with its duties and responsibilities.

C. Restricted Vending Locations.

1. The City may establish through the adoption of Rules and Regulations certain limited areas where Vending may be restricted or prohibited. The Bureau of Street Services shall determine restrictions or prohibitions on Sidewalk Vending based directly on objective health, safety and welfare concerns. The Department of Recreation and Parks shall determine restrictions or prohibitions on Park Vending based on whether it is: 1) directly related to objective health, safety or welfare concerns; 2) necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; 3) necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the Park; or 4) necessary to comply with a condition in a deed conveying the property to the City. These restrictions or prohibitions shall be detailed in the Rules and Regulations and adopted by the City Council through resolution. For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety or welfare concern, pursuant to applicable state law.

2. Restricted Vending locations, as well as all conditions applicable in each restricted Vending location, shall be detailed in the Rules and Regulations and include, but are not limited to, the following:

(a) Vending is prohibited within the immediate vicinity of an area designated for a temporary special permit issued by the City, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the City's temporary special permit are also provided to a Vendor permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition on Vending pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(b) Vending is prohibited within 500 feet of: 1) the Hollywood Walk of Fame, Universal Studios and the El Pueblo de Los Angeles Historical Monument (as described in Chapter 25 of Division 22 of the Los Angeles Municipal Code); 2) Dodger Stadium, the Hollywood Bowl, the Staples Center and the LA Coliseum on event days; and 3) any other venue as determined by the Board of Public Works or Board of Recreation and Parks Commissioners and published in the Rules and Regulations.

(c) Vending at Venice Beach is limited to First Amendment protected expressive activities as set forth in Section 42.15.A.

3. The procedure for measuring the 500 foot vending restriction shall be specified in the Rules and Regulations. The Department of Public Works, Bureau of Engineering shall develop interactive maps available to the public disclosing locations with any restriction on Vending.

D. Enforcement.

1. A Vendor who is issued a Citation shall be subject to the following fines:

(a) Vending which violates a requirement in this section or in the Rules and Regulations, other than failure to possess a valid license or permit:

(1) An administrative fine of \$100 for a first violation.

(2) An administrative fine of \$150 for a second violation.

(3) An administrative fine of \$200 for a third violation and each subsequent violation.

(4) A violation occurring after 12 consecutive months with no violation shall be considered a first violation.

(5) A Vendor's license and/or permit may be revoked or suspended for the remainder of its term upon a fourth or subsequent violation.

(b) Vending without a valid license or permit:

(1) An administrative fine of \$250 for a first violation.

(2) An administrative fine of \$500 for a second violation.

(3) An administrative fine of \$1000 for a third violation and each subsequent violation.

(4) A violation occurring after 12 consecutive months with no violation shall be considered a first violation.

(5) The administrative fines listed in this paragraph may be reduced from \$250 to \$100, \$500 to \$150 and \$1000 to \$200 upon submission of proof of license and/or permit to the City Attorney's ACE citation processing center, as specified in the Rules and Regulations.

2. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in Subsection D.1 shall not be assessed.

3. Unless otherwise specified herein, all Citations issued for violations of this section and the Rules and Regulations shall be enforced by the provisions set forth in Article 1.2 of Chapter 1 of this Code.

4. When issuing a Citation, the adjudicator shall take into consideration the Vendor's ability to pay the fine using the criteria described in Subdivision (a) or (b) of California Government Code Section 68632. Notice shall be given to the Vendor of his or her right to request an ability-to-pay determination and instructions or other materials for requesting an ability-to-pay determination shall be available. The Vendor may request an ability-to-pay determination at the adjudication stage or while the citation remains unpaid, including when a citation is delinquent or has been referred to a comprehensive collection program. If the Vendor meets the criteria set forth herein, the City shall accept, in full satisfaction, 20 percent of the administrative fine, imposed pursuant to Subsection D.1.

E. **Services.** Unpermitted vending of services or anything other than Food or Merchandise in the City is unlawful and subject to the provisions of Section 11.00 of the Los Angeles Municipal Code. Vending of services is unlawful even if the vending of services is combined with the Vending of Food or Merchandise, and even if the services are deemed to be free of charge with the purchase of Food or Merchandise.

F. **Extortion.** Any extortion of a Vendor will be punishable under Section 518 of the California Penal Code and any attempted extortion of a Vendor will be punishable under Section 524 of the California Penal Code.

G. **Severability.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance that can be implemented

without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each provision hereof irrespective of whether any one or more of the provisions are judicially determined to be invalid, unconstitutional or otherwise unenforceable.

Sec. 6. A new Section D.8 is added to Section 42.15 of the Los Angeles Municipal Code to read as follows:

8. Section 42.13 is not applicable to the First Amendment protected vending listed in this section.

Sec. 7. Section 42.15.I of the Los Angeles Municipal Code is amended to read as follows:

I. **Violations.** Any violation of this section shall be punishable pursuant to Section 42.13.D. of this Code.

Sec. 8. Section 63.44.B.3 of the Los Angeles Municipal Code is amended to read as follows:

3. **Vending.** Vending in a public Park is governed by Section 42.13, except First Amendment protected vending as specifically allowed below:

Sec. 9. Section 63.44.B.3(i) is added to the Los Angeles Municipal Code to read as follows:

(i) **Violations.** Violations of Subsection B.3 are governed by Section 42.13.D of this Code.

Sec. 10. Section 63.44.R of the Los Angeles Municipal Code is amended to read as follows:

R. **Violations.** Except for Subsection 63.44.B.3, a violation of this subsection is subject to the provisions of Section 11.00 of the Los Angeles Municipal Code.

Sec. 11. Article 11 of Chapter 13 of the Los Angeles Administrative Code is deleted.

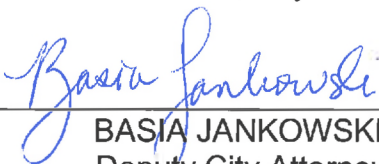
Sec. 12. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate protection of public peace, health and safety for the following reason: The California legislature adopted a new law, effective on January 1, 2019, regulating vending statewide. The state law provides that local authorities may adopt additional vending regulations restricting or prohibiting vending under certain circumstances. The City Council finds that additional vending regulations are needed to

be operational by January 1, 2019, to preserve the health, safety and welfare of the public. For this reason, the ordinance shall become effective upon publication pursuant to Los Angeles Charter Section 253.

Sec. 13. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
BASIA JANKOWSKI
Deputy City Attorney

Date November 15, 2018

File No. _____

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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____