



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 18 - 0340
NOV 15 2018

REPORT RE:

REVISED DRAFT ORDINANCES 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 63.44.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

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Council File CF 13-1493-S5

Honorable Members:

Pursuant to City Council's request, this Office transmitted on July 2, 2018, a draft ordinance amending Section 42.13 of the Los Angeles Municipal Code (LAMC) to create a new Sidewalk Vending Program in the City of Los Angeles. While the draft ordinance was pending City Council's review, the Governor signed into law new state vending requirements (SB 946) on September 17, 2018. The new state law requires that municipalities allow vending in the public right-of-way, as well as public parks, and imposes limitations on how municipalities may regulate vending. In response to the change in state law, Council requested that this Office present a revised Sidewalk Vending Ordinance that conforms with the requirements in the new state vending law. Specifically, Council requested two versions of the revised draft ordinance, one version which establishes a regulatory system but contemplates a license and permit program in the City to be effective on January 1, 2020, and one version with a regulatory program only.

For your consideration, we present the two requested alternative draft ordinances creating a Vending Program, approved as to form and legality. The revised draft ordinances also amend LAMC Sections 42.00(b) and 66.44.B.3 to remove the prohibitions against vending; amend Sections 42.00(b)(5), 42.15.I and 66.44.R and add Section 66.44.B.3(i) to clarify penalties related to the vending program; delete Sections 41.43 and 42.00(m) for consistency; add Section 42.15.D.8 to clarify that the new vending program will exclude activities protected by the First Amendment, including traditional expressive speech, performing or petition gathering; and delete Article 11 of Chapter 13 of the Los Angeles Administrative Code as obsolete.

California Environmental Quality Act (CEQA)

The effect of the revised draft ordinances is to implement state law, and make other changes to the LAMC that relate solely to organizational and administrative activities. As such, you may determine that your adoption of the ordinance is not a "project" under CEQA because it can reasonably be determined that there is no possibility that the activity may have a significant effect on the environment (State CEQA Guideline Sections 15061(b)(3) and 15378(b)).

Urgency Clause

As requested by the City Council, the revised draft ordinances contain an urgency clause which will allow their provisions to go into effect upon publication. As explained in the ordinance, an immediate effective date is necessary to regulate vending for the health, safety, and welfare of the public.

Council Rule 38 Referral

Copies of the revised draft ordinances were sent, pursuant to Council Rule 38, to the Board of Public Works, Board of Recreation and Parks Commissioners, the Los Angeles Police Department and the Chief Legislative Analyst with a request that comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Basia Jankowski at (213) 978-8130. She or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By

A handwritten signature in black ink, appearing to read "D. Michaelson", written over a horizontal line.

DAVID MICHAELSON
Chief Assistant City Attorney

DM:BJ:ac
Transmittal