



losangeleswalks.org

hello@losangeleswalks.org
508.916.7863
830 Traction Ave. #3
Los Angeles, CA 90013

Honorable Members of the Los Angeles City Council
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

February 6, 2018

RE: Sidewalk Vending Policy – CF 13-1493

Dear Honorable Members:

Los Angeles Walks has a number of concerns with the proposed Sidewalk Vending Program, as described in [CF-13-1493](#). While we applaud the City’s effort in developing a permit program, to move street vending from just being decriminalized to full legality, we are worried that, due to the regulations and program design as proposed, this program, if implemented, would have deleterious effects on street vending, pedestrian vitality, and most importantly, on the vendors themselves.

Overall, we have a number of general concerns with the current proposed program design, and have suggestions as to a better framing to help serve street vendors and pedestrians alike.

- **Rather than being restrictive, the City should seek to learn from on-the-ground activity.**

Similar to how informal “goat paths” indicate where people actually walk, to the chagrin of park planners, the City should learn where current areas with vending exist and seek to enhance the safety and comfort of vendors, patrons, and passersby, through *expansion of pedestrian public space* and through the *normalization of current operating practices*.



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To this end:

- **The City should look to high areas of vending as good locations for expansion of the pedestrian realm.**

Bureau of Street Services (BSS) should work in concert with the Bureau of Engineering (BOE), LA Department of Transportation (LADOT), and respective City Council Districts so that if a certain area is noted as having a high level of vending activity (possibly through sidewalk vending permit location data), relevant agencies would collaborate to enhance the pedestrian space. Oftentimes, areas of high vending activity correspond to streets in the Pedestrian Enhanced Network as laid out in Mobility 2035 as well as streets and intersections in the High Injury Network (HIN). Rather than restrict activity, the City should seek to implement, along with the roll-out of any City-wide Street Vending Ordinance, engineering enhancements to the pedestrian space.

For example, rather than restrict vending near Hollywood/Highland or Dodger Stadium (being longstanding and established) – as laid out in Attachment 3 to CF-13-1493, CLA Report, “Proposed Sidewalk Vending Regulations” Section 5.J. – BSS, BOE, and LADOT should work in concert, along with city councilmembers, to expand and enhance the pedestrian space there. Possibilities include closing Hollywood Blvd. between Highland Avenue and Orange Drive to private vehicular traffic, greatly expanding the pedestrian realm at this major tourist attraction. Similarly, the bulbing out of certain points along Vin Scully Avenue would allow for locations of increased space for vendors. Locations suitable for such improvements could be located and prioritized by pairing vending permit data with Vision Zero and other data.

- **Restrictions and regulations should be in line with current established vending practices.**

In all matters, to the extent possible, rather than a long list of restrictions, the City should rather enumerate the conditions that a compliant vendor would meet. These should have to do with pedestrian and consumer safety, and should be reasonable.

As such, we support the changes proposed in the Los Angeles Street Vendor Campaign’s (LASVC) letter to the City Council from November 6, 2017 (Attachment B), and especially their call for a simpler, and less restrictive set of placement requirements (Attachment B, p 8).

Notwithstanding our support for LASVC’s proposed Placement Requirements, we want to make sure we share our concerns regarding specific operating requirements and placement requirements as proposed in the CLA Report, Attachment 3, which we have included in Attachment A to this letter.



- **The City Council should NOT require that vendors obtain permission letters from adjacent businesses.**

We strongly oppose giving private property owners veto power over a vendor's ability to work on the public sidewalk (a proposal from City Council, CLA Report, Attachment 1, p2). Protecting certain favored businesses from perceived competition exceeds the appropriate scope of any sidewalk vending permit program.

There is no need to pit one type of small business directly against another. Reasonable rules for responsible vending will already prevent vendors from obstructing the entrance to a brick and mortar business, and will require vendors to help keep the sidewalks clean. The Council could consider other procedures to resolve conflicts between businesses without discriminatory bans and unjust exclusions.

And furthermore, in general, allowing private businesses to in essence dictate who can, and cannot be on a public sidewalk, and what they can and cannot do is an unconscionable giveaway of the public right-of-way, and cuts against the idea of what public space is and how it should be managed.

- **Include safeguards in the establishment of Special Sidewalk Vending Districts to mitigate exclusion of vending.**

In general, we are opposed to the establishment of Special Sidewalk Vending Districts due to the fact that we prefer a more flexible, city-wide policy that would be responsive to different streets' different typologies. That being said, if Special Sidewalk Vending Districts are to be part of any program, safeguards should be included to mitigate against unjust, uncalled for, and unnecessary restrictions and exclusions on sidewalk vending.

- Special Sidewalk Vending Districts should not be allowed to ban vending altogether. While individual streets may exhibit unique factors that would make vending unsafe or infeasible, a nearby street, without the same constraints could just as well serve perfectly fine. Vending should only be prohibited due to actual and demonstrable health, safety, or accessibility risks associated with vending.
- There should be a limit of the size of Special Sidewalk Vending Districts. They should not become a backdoor for special interest to cause entire communities to "opt-out" of the Program. Small-sized districts will ensure that they are tailored for the specific issues they are meant to address.



- Sidewalk vendors and other neighborhood stakeholders should be able to initiate Special Sidewalk Vending Districts that expand vending opportunities, and should be able to petition to expand vending opportunities in established Special Sidewalk Vending Districts.
 - The creation of Special Sidewalk Vending Districts should require City Council approval based on findings related to public health, safety, and accessibility. Furthermore, the creation of such districts should enable opportunities for the public to weigh in on the boundaries, rules, and processes being proposed. Approval of any Special Sidewalk Vending District should include findings that any restrictions are necessary to protect health, safety, or accessibility, or that more permissive vending rules will not negatively affect health, safety, or accessibility.
 - Special Sidewalk Vending Districts should be established with “review” clauses, so that if on-the-ground realities change – say a new development is built on a block, or a sidewalk is expanded – the area can be reviewed and findings can again be made as to any actual and demonstrable health, safety, or accessibility issues.
- **The City should not be able to cite pedestrian volume without first gathering the relevant data and establishing clear and transparent thresholds – if at all.**

We are opposed to the use of pedestrian volume in any findings as to the safety or accessibility of streets for sidewalk vending and would rather see the City make determinations based on sidewalk clearance. We are especially opposed to the use of pedestrian volume or “visitor pedestrian traffic” (as used in CLA Attachment 2, p 2) as a finding to establish a Special Sidewalk Vending District that would restrict vending – as such areas are likely where vending historically occurs, and indeed are areas where vending can improve the pedestrian experience.

However, if the City were to cite pedestrian volumes in determining “pedestrian safety” in making decisions regarding vending, we are **adamantly opposed** to such usage in any Program without changes to present practices as well as clear and transparent methodologies for any future data gathering. We are opposed for a number of reasons:

- **LADOT does not do regular pedestrian counts.**

While LADOT does do ad hoc pedestrian counts whenever a manual traffic count is conducted, neither the City, nor any other government agency, currently conducts regular city-wide pedestrian counts. Without having an ongoing dataset that would provide reliable numbers for foot traffic, we do not believe that context can be given for what a “high” pedestrian volume is for Los Angeles.



- **There are not objective measurements in place to say what would be, or would not be safe.**

There currently are not any objective measurements in place to say what would be, and would not be safe in regard to pedestrian volume. A Level of Service or other scorecard or threshold would have to be created in regard to vending. Furthermore, any such measurements would have to be contextual, and the City would have to take into account issues like time of day, sidewalk widths, possible expansion improvements, and other issues.

As such, before adoption of any Special Sidewalk Vending Districts, we would urge that:

- The City, or the City in partnership with another agency like SCAG, conducts regular pedestrian counts.
- The City establish objective baseline measurements and thresholds that have a demonstrable and proven link to safety as a prerequisite to using any claims of pedestrian volume in regard to findings of safety.
- The City be as clear and transparent as possible with any data gathered as well as any findings made using data.

In closing, while again, we are encouraged by the decriminalization of street vending under LAMC Section 42.00(b) earlier this year, we are worried, that, as currently written, the proposed Sidewalk Vending Program is too restrictive and does not work for vendors, their patrons, or in the end, for passersby who get the ancillary benefits of security, culture, and pleasure, that an active streetscape provides. We must build up the strengths of Los Angeles' street vending sector, not seek to regulate it in pedantically restrictive, unproductive ways.

Sincerely,



Emilia Crotty
Executive Director
Los Angeles Walks



ATTACHMENT A: SPECIFIC RESPONSES TO “PROPOSED SIDEWALK VENDING REGULATIONS”

Responses to Attachment 3 “Proposed Sidewalk Vending Regulations” Section 5: Operating Requirements

- A. Limiting approved vendors to “two carts per block face” is an arbitrary number to implement as city-wide policy. It does not take into account differences in block lengths or types. This requirement should be eliminated.
- B. Assuming that this requirement references commercial and industrial *zones*, it doesn’t make sense to restrict vending from residential zones. As of now, most vendors do not operate in residential zones, and those that do, do so for specific reasons – usually they are serving specific clientele that have come to rely on their proximity. For example, sometimes vendors sell fresh produce. Oftentimes, these vendors may be the closest source of fresh produce for residents. It would be callous and self-harming to root out these vendors.
- C. This requirement would be very difficult to enforce at all, let alone equitably. No limits should be placed on transaction time.
- D. There must be measures for a temporary Certificate of Operation to a) grandfather in existing vendors while they obtain certificates, and to b) make sure vendors can start their operation as soon as possible upon beginning a venture – something that can be crucial to vendor finances.
- E. Rather than restrictions on size, regulations should be placed on carts entering into pedestrian “through-space”.
- F. No issue, with the earlier caveat about temporary or probationary Certificates of Operation being available.
- G. No issue as long as FilmLA develops an infosheet for permit holders to give to vendors in the event of co-location, as well as creates a directive for how FilmLA permit holders are to behave.
- H. Restricting vending hours to 7AM-9PM is wholly untenable. Besides event-based vending that can occur after 9PM, street vendors cater to people at all hours specifically because Angelenos operate at all hours. Most notably, third shift workers would be left out in the cold if it was made illegal for any street vendors to service them late at night – especially since most brick-and-mortar restaurants are not open at such hours.
- I. This should be clarified to make sure that the restriction is only talking about affected streets.
- J. This is a restriction that has the potential to be abused, with venues across the city petitioning the Board of Public Works to eliminate vending based on no reason related to public health or safety. Furthermore, it seems unnecessary as for the most part existing vending already *does occur* outside of 500’. Case in point, 500’ from Dodger Stadium puts one in the middle of the Dodger Stadium parking lot – no one vends there now in any event.
- K. No issue.
- L. No issue as long as the roadway surface, if applicable, is omitted.
- M. No issue



N. No issue as long as this is clarified to “Trash and trash receptacles may not be left in the public right of way *after vending operations have ceased.*” As currently worded, the requirements is vague and could be read as a trash receptacle not being allowed in the public right of way *at any time.* Which would, of course, contradict Requirement M.

O. No issue.

P. No issue.

Q. No issue.

R. No issue.

Responses to Attachment 3 “Proposed Sidewalk Vending Regulations” Section 6: Placement Requirements

A. Vending should also be permissible in public parks and also in privately owned public spaces, considering of course, that the owner allows it.

B. This requirement seems unneeded if Placement Requirement D.17 (below) is in place.

C. No issue.

D. See below:

1. No issue.

2. No issue.

3. No issue.

4. Not recommended, as oftentimes vendors sell to customers waiting for buses (examples such as Wilshire/Vermont and Santa Monica/Western). Indeed after the fire in the building on the SE corner of Western and Santa Monica two years ago, the vendors on that corner were the only “eyes on the street” as well as option for bus riders for two years.

5. No issue.

6. No issue.

7. This should just be 5 feet.

8. No issue.

9. No issue.

10. No issue.

11. No issue.

12. This is overly restrictive, as eliminating the space within 5 feet of a tree well could very well eliminate whole blocks.

13. This should be three feet.

14. No issue.

15. This should be eliminated or reduced to 5 feet. People exist in front, and indeed inside, Historic Cultural Monuments all the time – vending is no different. Our historical buildings are not mausoleums, in fact life continues in and around them.

16. This should be eliminated or reduced to 5 feet.



17. This requirement should be 5 feet rather than 6 feet.
18. No issue.
19. No issue.
20. No issue.
21. This is overly restrictive, and should be replaced with an Operational Requirement that provides for the temporary relocation of a cart if it impedes the access to a parked vehicle.

**ATTACHMENT B: LA Street Vendor Campaign letter to City Council, November 6, 2017
(following page)**



January 11, 2017

Honorable Members of the City Council
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: Sidewalk Vending Policy - CF 13-1493

Dear Honorable Members:

The Los Angeles Street Vendor Campaign (LASVC) writes in response to the November 8, 2017 Economic Development and Public Works and Gang Reduction Committees' Report (Committees' Report), and the corresponding November 3, 2017 Report of the Chief Legislative Analyst (CLA Report), relative to the proposed City Sidewalk Vending Program (program). After more than four years of considering this issue and over a dozen public hearings, the Council is now poised to adopt a comprehensive program to legalize and regulate sidewalk vending in the City of Los Angeles. We appreciate this opportunity to provide input on the specific, important details of such a program. While we urge the Council to adopt a comprehensive Street Vending Program, we believe that certain changes to the proposals in the Committees' Report and CLA Report are necessary. We provide the following recommendations to help achieve an effective, equitable and inclusive policy that will uplift and protect *all* entrepreneurs, stakeholders, and consumers in our city.

The LASVC is a broad and diverse coalition of street vendors and 65 organizations from across the city. Individually, our member organizations are leading experts in the fields of community development, immigrant rights, civil rights, public interest law, public health, municipal law, food equity, small business development, safe and vibrant streets, and economic development. Collectively, we work to protect the rights of street vendors and enhance economic opportunities for low-income entrepreneurs. We have worked directly with thousands of vendors in all corners of the city to build leadership and strengthen networks. We have created and implemented a robust vendor-driven policy development process, culminating in a series of thoughtful and pragmatic policy recommendations. We have coordinated legal clinics and provided direct legal services to vendors enduring the unjust impacts of complete criminalization. We have created financial tools and technical assistance programs to promote and sustain vendor business development. All of this supports a broader movement to establish a comprehensive permit system to allow vending on City sidewalks and parks.

This movement to legalize street vending has always been led by those most impacted by the City's criminalization policies: low-income vendors. Over the course of several years, hundreds of vendor leaders have collectively developed a policy platform that is rooted in the experiential knowledge of the vending community and further informed by legal and policy analysis and robust stakeholder input. The LASVC policy platform balances equity, opportunity, fairness, safety and accessibility.

The following recommendations derive from this platform, and are further shaped by a series of focused feedback sessions with vendors. A short summary of LASVC recommendations is provided first, followed by a more detailed set of recommendations in response to various elements of the Committees' Report and the CLA Report. We appreciate your careful consideration, and urge the Council to adopt a Sidewalk Vending Program consistent with the recommendations outlined below.

SUMMARY OF LASVC RECOMMENDATIONS DESCRIBED HEREIN.

The following is a short summary of the specific changes that we recommend the Council include when adopting a Sidewalk Vending Program. Each is described in greater detail in this letter.

- Do not allow private property owners to disallow otherwise safe vending on the public right-of-way. We can uplift all small businesses without giving one type of business veto or extortion power over another.
- Allow program flexibility without unjust exclusion of vendors. Special Sidewalk Vending Districts should not devolve into tools of exclusion. Any prohibition on vending should be strictly limited and based on actual and demonstrable safety concerns, not business discrimination or perceived community animus toward vending.
- Do not attempt to regulate sidewalk vending with Location Restrictions that were developed for news racks— as currently proposed in the CLA Report. Instead, create location restrictions that actually account for vending practices and sidewalk accessibility. Specific recommendations are provided on page 5 of this letter.
- Promote safe, shared access to public space. An arbitrary limit of two vendors per block undermines this goal. Instead, commonsense location restrictions can impose appropriate limits on vending, but in a way that is actually tailored to the different street typologies across our city.
- Expand hours of operation in non-residential areas.
- Utilize existing County DPH Route Sheets in the application process to avoid the creation of an added layer of requirements that will add costs to the program, and allow vending without a cart, where permitted by the Department of Public Health.
- Advance a program to provide retroactive relief to vendors with pending prosecutions, prior convictions and criminal justice debt.
- Implement a first warning for street vending violations, clarify increases in penalties for subsequent offences within a year, reduce base fines, and avoid seizing vendors' property.
- Include additional incentives for Healthy Food Carts.
- Identify resources for low-income vendors and ensure an inclusive application process.

PREVENT UNNECESSARY AND UNJUST RESTRICTIONS ON VENDING LOCATION.

The recommendations in the Committees' Report would impose at least four distinct layers of restrictions on vending location: (1) allowing private property owners to disallow (veto) vending on the public right-of-way near their property; (2) allowing Council Offices to create Special Sidewalk Vending Districts where vending could be further restricted or outright prohibited; (3) limiting vending in all cases to no more than two vendors per block face regardless of the size of the street; and (4) imposing overly burdensome sidewalk spacing restrictions that were created to regulate news racks, not sidewalk vendors. The cumulative effect of combining these four separate layers of restrictions will be a dramatic reduction of viable vending opportunities across wide swaths of the city. We fear this exclusionary package of policies will prevent vendors from obtaining permits, further relegating vending to the shadow economy and undermining the core objectives of this policy.

The success of the program requires a more thoughtful approach. We ask for your careful consideration of the following recommendations:

DO NOT require that vendors obtain permission from a private property owner.

Recommendation number 8 in the Committees' Report is to "request the City Attorney, in conjunction with the CLA, CAO, and EWDD, to establish a process which property owners can affirmatively opt or disallow street vending on sidewalks fronting on their property." Such an exclusionary and discriminatory requirement should absolutely not be included in the Sidewalk Vending Program, and we implore the Council to remove this recommendation.

Conditioning approval of a vending permit on permission from a private property owner blatantly favors one type of small business at the expense of another. There is no reasonable relationship between such a discriminatory policy and any legitimate health and safety interests. The CLA Report appropriately underscores the City Attorney's opinion that "***limiting vending by suggesting that one form of economic activity is favored over another would not be advisable.***" (CLA Report Attachment 1, p. 2.)

In addition to being an improper regulatory restraint on competition, such a requirement would be difficult to administer. Are vendors expected to obtain permission from national or international companies that own and lease retail space in the City? What if a vendor is unable to discover the owner of a multi-tenant retail or manufacturing property? Who gives consent if a property is owned by multiple entities? Beyond these concerns, as has been discussed extensively, it is likely that increased instances of extortion of vendors would result from such a requirement.

The implicit message of this provision is deeply troubling as well. Handing property owners the authority to veto otherwise legal sidewalk vending businesses would only reinforce a hierarchy that values street vending less than other types of small businesses. It would elevate property ownership over micro-entrepreneurship and would classify street vending as something "other" than the type of small business that deserves our support.

We support policies to uplift *all* small businesses, and believe that vendors and brick and mortar businesses can mutually thrive under a set of commonsense regulations. Neighboring brick-and-mortar businesses will already be protected by the ordinance's other health and safety restrictions on location, including a prohibition on blocking an entrance or obstructing access and keeping sidewalks clean. In addition, the City should pursue a human relations approach that resolves any conflicts between sidewalk vendors, brick and mortar businesses and other stakeholders without implicating discriminatory bans and unjust enforcement practices. Such an approach has been successfully implemented in other regulatory contexts.

Allow program flexibility without unjust exclusion of vendors.

The Program Design proposes to allow Council Offices to create additional restrictions to "expand, limit or prohibit" sidewalk vending in their district, and calls for such provisions to be submitted and incorporated into NavigateLA within the first 90 days after approval of the program. (CLA Report, Attachment 2, p. 2; recommended for approval in Committees' Report Recommendation 1). We acknowledge the need for flexibility to respond to unique local dynamics within an overall citywide program. But we also strongly urge the Council to avoid exclusions that will undermine the impact and integrity of the program. We agree with the November 25, 2017 LA Times Editorial that additional restrictions should be "driven by legitimate safety concerns as determined by city officials, not by anti-competitive or NIMBY motives." Please consider the following recommendations:

Prioritize comprehensive citywide standards. Baseline, citywide standards with commonsense regulations will maximize economic opportunity *and* better address safety and accessibility concerns. We urge the Council to maintain its commitment to citywide program, with built-in flexibility as described below.

Criteria for imposing additional restrictions should be strictly related to health and safety considerations. The CLA Report offers a list of possible criteria for imposing additional restrictions in Special Sidewalk Vending Districts (CLA Report Attachment 2, p. 2.) We support guidelines to ensure that Special Sidewalk Vending Districts do not function as tools for arbitrary exclusion. However, some of the criteria listed do not appear to be correlated with safety concerns over vending. Specifically, “inadequate parking” and “commercial activity and pedestrian traffic” should not be presumed to be inconsistent with safe and accessible vending. It is also very unclear how “compliance with Community Plans” could be interpreted to require restrictions on vending. Community Plans must not become a tool to exclude vending based on perceived animus toward vending or favoring one sector of the small business economy over another.

Include safeguards to mitigate against unjust and unnecessary exclusion. While individual streets may exhibit unique dynamics that make vending unsafe or unworkable, a Special Vending District should not be a backdoor tool to “opt-out” of the City’s program. Efforts to expand or restrict vending should include the following safeguard provisions:

- No Special Sidewalk Vending District should result in complete exclusion of vending. If vending is deemed unworkable on a certain street, then a District should allow vending on an adjacent or nearby street that does not demonstrate the same constraints.
- There should be a limit on the size and boundaries. The Special Sidewalk Vending District should not become a backdoor for special interests to cause entire communities to “opt-out” of the Program. Appropriate size limitations will ensure that Special Sidewalk Vending Districts are tailored to the specific issues they are intended to address.
- Some neighborhoods have embraced vending as a core element of a thriving cultural and economic hub, and could support expanded vending opportunities. Vendors should have the same ability to initiate and structure a Special Sidewalk Vending District that reflects historical vending practices, provided they can demonstrate that the refined and more permissive rules will not negatively affect health, safety and accessibility.
- The creation of Special Sidewalk Vending Districts should require review and approval based on findings related to public health, safety and accessibility. We strongly believe that deviation from the baseline rules should require duly noticed opportunities for the public to weigh in on the boundaries, rules and processes being proposed. Approval of any Special Sidewalk Vending District should include findings that such restrictions are necessary to promote health, safety and accessibility, or that more permissive vending rules will not negatively affect health or safety.

Do not prohibit vending on certain streets unless necessary due to a demonstrable safety risk. The Program Design suggests that each City Council Office will be able to identify “no vending areas” to be incorporated into the NavigateLA map. (CLA Report Attachment 2, p. 2.) On sidewalks where vending would otherwise be permitted under the placement requirements, any prohibition should be limited in scope and occur only where there are actual and demonstrable safety risks associated with vending. Economic protectionism or perceived community animus should never be a reason to prohibit vending.

Establish Placement Requirements that are tailored to vending practices and safety considerations – NOT copied directly from the City’s regulation of news racks.

We recommend commonsense sidewalk placement restrictions, applied citywide and without further limitation by arbitrary caps. Appropriately crafted, these restrictions can promote opportunities for vendors while protecting public safety and avoiding congestion.

Unfortunately, the CLA Report’s Proposed Placement Requirements (CLA Report Attachment 3, p. 8-9) appear to be lifted directly from LAMC 42.00(f)(6) governing the placement of **news racks**. Needless to say, vendors are people and not inanimate objects like news racks, and sidewalk vending has distinct regulatory considerations. Several of these restrictions, if applied to vending, would have unintended results. For example, Proposed Requirement no. 21 could effectively prohibit vending on streets with parking meters. Proposed Requirement no. 4 would prohibit vending within a full 45 feet to the rear of any sign marking a bus stop. Surely these restrictions could be better tailored to vending operations.

We sincerely hope the Council will consider placement requirements that respond to the unique characteristics of the vending trade, rather than recycling regulations from an entirely different issue. We propose the following Placement Requirements for sidewalk vending:

No vending shall occur:

- (1) In such a way that would restrict or interfere with the ingress or egress of the abutting owner or tenant or to create or become a nuisance, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police, or sanitation vehicles.
- (2) Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than 5 feet or, impedes access to or the use of abutting property, including, but not limited to, residences and places of business.
- (3) Immediately in front of buildings, houses, structures, or public stairs such that it causes a violation of ADA guidelines for pedestrian passage.
- (4) On any part of the public right-of-way that is improved with lawn, flowers, shrubs, trees, other plants or decorative landscaping.
- (5) On the roadway portion of any street, except that vending shall be permitted within a People St. Plaza or other areas reserved exclusively for pedestrian use.
- (6) On medians of divided highways, unless such median is intended as a pedestrian walkway.
- (7) Within ten feet of a fire hydrant.
- (8) Within twenty feet of any hospital or emergency room entrance.
- (9) Where exigent circumstances exist and a police officer or other authorized officer or employee of the city gives notice to a vendor to temporarily move from a location such vendor shall not vend from such location. For the purpose of this subsection, exigent circumstances shall include but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space at or near such location, an accident, fire or other emergency situation at or near such location, or a parade, demonstration, or other such event or occurrence at or near such location.

Promote safe sidewalks without arbitrary restrictions.

Do NOT include an across-the-board maximum of two vendors per block face. The Proposed Operating Requirements would limit vending to “two carts per block face” regardless of the size of the block. (CLA Report, Attachment 3, p. 6.) Two vendors per block may be appropriate for *some* streets. In fact, some

streets might only safely accommodate one vendor, or even none. However, our major boulevards can safely accommodate more than two vendors per block face. An arbitrary limit fails to account for these variations. Instead, the program should rely on location restrictions that more accurately reflect safety priorities. Spatial regulations will create a de-facto cap on the number of vendors that may legally operate on each street, but in a way that is driven by the unique safety and accessibility dynamics of that street. This program should boost the entrepreneurship that drives our city forward. A two-vendor-per-block face limit achieves the opposite. It is arbitrary, unnecessary, and an unduly burdensome restraint on entrepreneurship. Rather, the Program should increase vending opportunities on large boulevards and allow vendor applicants to petition for additional spaces where it can be demonstrated that the additional location would not reduce public safety.

Expand Hours of operation in non-residential areas. The proposed Operating Requirements would limit all forms of vending in all locations to the hours of 7:00am to 9:00pm. (CLA Report, Attachment 3, p. 6.) Many vendors work before 7:00am and after 9:00pm in order to accommodate other pressures on their schedules, such as childcare and supplemental employment, and to cater to consumer preferences. In order for this program to be successful, hours of operation need to take into account where vending already occurs and avoid excluding vendors from the permit process. The hours of 7:00a to 9:00pm may be appropriate for residential areas. But on non-residential zoned streets, vendors should have the same legal hours of operation as brick and mortar businesses in that area.

Do not create additional restrictions for food vending not imposed by the County. The proposed Operating Requirements would allow stationary and mobile vending of food products only from “Public Health Department approved **mobile pushcarts**...” (CLA Report Attachment 3, p. 6, Operating Requirements (A) and (C), emphasis added). However, in some limited cases, the California Retail Food Code and County regulations do not actually require a mobile pushcart. For example, LA County Code Section 8.04.230 allows for a “personal hawker” to vend packaged, non-hazardous food “on his person or in a container such as a pack, bag, box, or basket.” This is the least expensive public health permit available, and does not require expensive equipment. By requiring all food sales to occur from “approved pushcarts,” the Operating Requirements could be interpreted to prohibit this type of vending in the city, thereby eliminating an accessible start-up opportunity for low-income vendors to operate in compliance with County health regulations. These Operating Requirements should be revised to require sales from approved pushcarts, *to the extent such pushcarts are required by the Department of Public Health.*

Clarify where stationary vending is permitted. The proposed Operating Requirements would allow stationary vending in “commercial and industrial areas of the city.” (CLA Report, Attachment 3, p. 6.) For clarity, we recommend that the program allow permitted stationary vending in “non-exclusively-residential zones,” so as to ensure that vending is permitted on sidewalks in mixed-use areas, areas zoned Public Facilities, as well as Commercial and Industrial zones.

Allow flexibility and choice in vending location. The General Program Provisions state that the Sidewalk Vending Coordinator “shall develop a lottery system to allocate sidewalk vending permits based on the availability of locations, and with a percentage of permits reserved for low income individuals.” (CLA Report, Attachment 3, p. 2.) We support prioritizing low income vendors in the permitting process, but it is unclear how a lottery would work. Several questions need to be resolved, including:

- Is a lottery triggered only if multiple applicants propose to vend in the same location?
- Will a lottery system acknowledge an applicant’s history of vending in a certain area?
- Will unique locations be allocated to multiple vendors if proposed days and times do not overlap (e.g., one vendor proposes to work at an intersection on the weekend only, while another vendor proposes to work that the same location during the weekdays only)?

Assigning a single fixed location is counter to the standard practice of many stationary vendors who choose to operate at different locations on different days/times depending on their schedules and consumer demands (e.g. selling in one location on the weekend, and another location on certain weekday mornings). And when an assigned space sits vacant, there will be missed opportunities for trade. Requiring such a deviation from standard practices may improperly inhibit the natural flexibility of vending to the detriment of vendors and customers, and may ultimately discourage some vendors from participating in the program. We believe vendors should be able to select a route or series of locations/times, provided they adhere to the commonsense location rules. For food vendors, the County Route Sheet (described below) offers an instructive model.

Align location selection with County Process. The Proposed Regulations would require applications for stationary vending in commercial and industrial areas to indicate the proposed “location or area marked by major cross streets, and either north, south, east or west side of the street.” (CLA Report, Attachment 3, p. 5.) To obtain a County Health Permit, food vendors are already required to submit a Route Sheet as part of their application to the County, which outlined the proposed vending location by day and time. Rather than imposing an unnecessary duplicative layer of requirements, the City should accept the County Route Sheet as adequate indication of proposed location in an application.

END THE UNJUST CRIMINALIZATION OF LOW-INCOME ENTREPRENEURS.

The Sidewalk Vendor Coordinator should collaborate with the City Attorney and others to establish a meaningful program to provide retroactive relief for vendors with pending citations and convictions.

Many individuals have been unjustly cited and prosecuted in the years that the City imposed a complete criminal ban on sidewalk vending. These individuals and their families are vulnerable to the frightening consequences of changing federal immigration policy, as well as all the other collateral consequences of a criminal history. In January, 2017 the Council indicated its intent to create an amnesty program. To date, the full range of options available to help support low-income vendors with convictions and/or other criminal justice debt has not been resolved.

Many legal options are available (*see, e.g. In re Dapper*, 71 Cal. 2d 184, 188 (1969) (retroactively applying the repeal of a local ordinance to pending cases)). We need bold and creative strategies to support vendors and their families facing the consequences of years of unjust criminalization. We recommend a comprehensive program for retroactive relief that would include: (1) City Council action to clarify that decriminalization actions affect pending prosecutions; (2) legislation and/or program coordination to enable dismissal of convictions under LAMC Sections 42.00, 80.73 and 63.44; (3) City Attorney discretion to dismiss pending cases in the interest of justice; and (4) intentional coordination within the Sidewalk Vending Program to assist vendor-applicants access expungement and other resources available to dismiss convictions and citations and eliminate criminal justice debt.

As an initial matter, in adopting the Sidewalk Vending Program, we recommend the Council request the City Attorney, in conjunction with the CLA, to report on options to provide relief to sidewalk vendors with citations under Los Angeles Municipal Code Sections 42.00 and 80.73, including but not limited to expungement, dismissal, and providing referrals and resources through the Proposed Sidewalk Vending Program; and on the applicability of *In re Dapper*, 71 Cal. 2d 184 (1969), *Spears v. Modoc City*, 101 Cal. 303 (1894), and *In re Estrada*, 63 Cal. 2d 740 (1965) to the City Council’s ability to affect ongoing prosecutions.

Ensure humane strategies for monitoring and compliance in the new Sidewalk Vending Program.

The City's long-standing practice of allowing criminal prosecutions for street vending violations carried devastating consequences for low-income workers and their families, and heightened the risk of detention and deportation proceedings for immigrant vendors. We wholeheartedly support the elimination of criminal penalties as part of the enforcement regime in the new Sidewalk Vending Program. While we are pleased to see this commitment to decriminalization, we also recommend the following important changes to the proposed compliance program:

Include a warning for a first violation in each enforcement tier. The proposed two-tier penalty system does not include a warning. (Attachment 3, p. 10.) Vendors should be given a first warning and an opportunity to correct violations as a matter of course. This will enable education and invite vendors into the program more effectively than issuing fines and penalties right out of the gate.

Clarify the timeframe for increased penalties for subsequent violations. The current proposed ACE fines do not have a time limit for subsequent offenses. (Attachment 3, p. 10.) Standard practice is to increase penalties for subsequent violations occurring within one year. (*See, e.g.* LAMC Section 11.2.04(a)(1), Government Code Section 36900(b)). Accordingly, the Regulations should clarify that escalating fines should only be applied to subsequent violations occurring **within one year** of the first violation.

Align the penalties for vending without a Certificate of Operation with existing law. We support a policy that allows vendors to cure citations for vending without a Certificate of Operation by obtaining a permit and having previous citations significantly reduced or eliminated. However, the proposed base fines will cause undue financial hardship for low-income vendors. ACE fines for violations of the Sidewalk Vending Program without a Certificate of Operation should be \$100 for a first violation (after a warning), \$200 for a second violation within one year, and \$500 for a third or subsequent violation within one year. This range is consistent with fines relating to infractions (*see, e.g.*, LAMC Section 11.2.04(a)(1) and Government Code Section 36900(b)).

Avoid property seizure. Confiscation of vendors' property - which has proven to be a procedural and legal morass - is an ineffective and inappropriate deterrent. The City is already facing lawsuits from civil rights groups about the unlawful seizure of property from street vendors. It is antithetical to the values of justice and economic mobility, and is inconsistent with an otherwise balanced and humane enforcement program.

PRIORITIZE HEALTHY FOOD VENDING AND THE INCLUSION OF LOW-INCOME VENDORS.

The Program should Incentivize Healthy Food Carts.

We strongly support the inclusion of healthy food incentives, as proposed in the General Program Provisions. The LASVC, under the leadership of the LA Food Policy Council, has long championed a healthy food cart program and has performed significant research and analysis regarding such a program. In addition to the permit fee waivers and renewal extensions outlined in the General Program Provisions, we recommend that incentives include special authorization to vend near schools, at designated "Healthy Food Corners," and a right of first refusal for vending opportunities at City-sponsored events. We also recommend the City distinguish and support healthy food carts with signage and marketing support. We hope to collaborate closely with the Sidewalk Vending Coordinator as this important program is implemented.

The Application Requirements should be inclusive and aligned with existing requirements.

We support inclusive identification options for a Sidewalk Vending Operator License and Sidewalk Vending Certificate of Operation. The list of acceptable identification included in the CLA Report (CLA Report, Attachment 3, p. 5) should be expanded to be consistent with the Proof of Identify provisions in AB 60. The Regulations should also clearly prohibit any inquiry into immigration or citizenship status within any part of the permitting or enforcement process.

The Sidewalk Vendor Coordinator should provide technical assistance and education/outreach.

We support the creation of a Sidewalk Vendor Coordinator position and the establishment of one-stop service centers where plan check and other County-related functions could occur. The Sidewalk Vendor Coordinator should prioritize language access and individualized technical support and coaching, offered to vendors free of charge. The Sidewalk Vendor Coordinator should coordinate closely with community-based organizations as necessary to create and implement an effective outreach and education program.

Program costs and budget should account for economic impact of vending and should allocate enforcement resources according to need.

A successful Sidewalk Vending Program requires resources for full implementation. As the Council considers various program costs and budgeting strategies, careful attention should be given to the impacts on low-income vendors. Fees should be set at levels that will help offset costs, without discouraging full participation. The Council should consider different fee levels for different types of vending.

While we appreciate the CLA Report's analysis of cost recovery based on enforcement models, we wish to point out that the revenue analysis is based only on permit fees. (CLA Report, Attachment 2, p. 3-7.) Legalized sidewalk vending will contribute to the City's coffers in significant other ways, including tax revenue, recirculation of local capital, stimulation of local economies and supply chains, reduction in costs targeting illegal vending, and other economic multipliers (*See*, Economic Roundtable, "Sidewalk Stimulus: Economic and Geographic Impact of Los Angeles Street Vendors." 2015).

We recommend the City Council direct the Sidewalk Vending Coordinator to concentrate on streamlining the permit program by making the application process more affordable and providing effective outreach and education efforts for vendors during the first year of the program. Creating a working system for lawful vending will significantly decrease the amount of illegal vending, which will in turn reduce the enforcement burden. We recommend the City maintain current enforcement levels for the first year and subsequently decide on the appropriate enforcement model based on number of permits issued, and lessons learned during the first year of implementation.

The City should prioritize cost reduction strategies for vendors.

We applaud the CLA and Council for investigating strategies to reduce the high costs to vendors, which could serve as barriers to full compliance. We support changes to State and County regulations to be more narrowly tailored to mobile food facilities, thereby reducing food vending startup costs. We also strongly support the recommendation to explore options relating to cooperatives and incubators. The City should also support micro-lending and other programs to improve access to capital for low-income vendors who are excluded from mainstream capital. We urge the City to coordinate closely with community-based lenders and other organizations focused on building opportunities for low-income entrepreneurs. The Council should direct the Sidewalk Vending Coordinator to immediately convene a cost reduction task force - consisting of street vendors, City, County and State agencies, and community-based organizations

working with street vendors - to develop and implement additional recommendations to remove barriers to entry for vendor participation.

As we enter the fifth year of this effort to legalize street vending in LA, our city and our country are now facing challenges many of us could never have predicted at the outset. Finally adopting a thoughtful, citywide street vending program is an important moment– an opportunity to show that Angelenos are committed to inclusion, racial equity, and economic opportunity for everyone, especially low-income families. We urge the Council to consider the above recommendations, incorporate them into the Sidewalk Vending Program, and expeditiously approve the drafting and adoption of an ordinance to legalize sidewalk vending.

Sincerely,

The Los Angeles Street Vendor Campaign