



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 18-0227  
JUL 02 2018

REPORT RE:

**AN ORDINANCE AMENDING SECTION 42.13 OF THE LOS ANGELES MUNICIPAL CODE TO CREATE A NEW SIDEWALK VENDING PROGRAM, AMENDING SECTION 42.00(b) AND DELETING SECTION (b)(5) TO REMOVE THE PROHIBITION AGAINST VENDING, AND ADDING SECTION 42.15.D.8 TO CLARIFY THAT THE NEW SIDEWALK VENDING PROGRAM WILL EXCLUDE FIRST AMENDMENT ACTIVITIES**

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

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Section 42.13 of the Los Angeles Municipal Code (LAMC) to create a new Sidewalk Vending Program (Program) in the City of Los Angeles. The draft ordinance also amends LAMC Section 42.00(b) to remove the prohibition against vending and deletes Section 42.00(b)(5) to remove the penalties associated with the prior ban. Finally, this draft ordinance also adds Section 42.15.D.8 to clarify that the new Sidewalk Vending Program will exclude activities protected by the First Amendment, including traditional expressive speech, performing or petition gathering.

#### The Program

The draft ordinance sets forth a Sidewalk Vending Program containing the criteria established by the City Council in its Official Action dated April 17, 2018. Generally, the program will allow two vendors on a single block face within commercial

and industrial areas. Vendors in residential neighborhoods must be mobile, rather than stationary, moving continuously except during transactions. The Program will be administered by the Department of Public Works, Bureau of Street Services (Department), the Board of Public Works (Board) and a Vending Service Provider (retained through a competitive process) with oversight by the Economic and Workforce Development Department. The ordinance allows the City Council to form Special Sidewalk Vending Districts, which can expand, restrict or prohibit vending, with public safety justifications in certain areas. The formation of these districts, as well as other regulations needed to fully effectuate the Program, will be specified in Rules and Regulations to be developed by the Department and be approved by the Board and City Council by resolution.

#### Fee Notice Requirement

Because this draft ordinance requires the Rules and Regulations to establish a new fee, notice of the proposed Rules and Regulations should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that, prior to adoption of a new or increased fee, a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

#### California Environmental Quality Act (CEQA)

The Bureau of Engineering (BOE) has determined that the adoption of the Ordinance is not a project under State CEQA Guideline 15061(b)(3) because it can be determined with certainty that there is no possibility that the activity in question may have a significant effect on the environment. BOE has further concluded that even if adoption of the ordinance were considered a project under CEQA, the activity would nonetheless be exempt under: (1) State CEQA Guideline 15301(c) as a minor alteration of existing public facilities, sidewalks and similar facilities, involving negligible or no expansion of use; and (2) State CEQA Guideline 15324 as a workplace regulation involving no demonstrable physical changes outside of the place of work.

BOE's analysis is set forth in the Notice of Exemption and accompanying narrative attached hereto as Attachment A. If you concur in BOE's analysis, you may comply with CEQA by determining that adoption of the ordinance does not constitute a project under the CEQA, but even if considered a project, the action qualifies for one or more exemptions, all as set forth in the Notice of Exemption and accompanying narrative attached hereto as Attachment A. This Office recommends that the City Council direct BOE to file the Notice of Exemption with the County Recorder's Office following adoption of the ordinance.

Urgency Clause

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

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Board of Public Works, Bureau of Street Services 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

  
DAVID MICHAELSON  
Chief Assistant City Attorney

DM:BJ:ac  
Transmittal