

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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May 13, 2014

TO: Honorable Members of the Economic Development Committee

FROM: Gerry F. Miller  
Chief Legislative Analyst

Council File No.: 13-1493  
Assignment No.: 14-05-0361

## City of Los Angeles Street Vending Policy

### SUMMARY

On November 6, 2013, Motion (Huizar-Price-Buscaino) was introduced instructing our Office to work with City departments to prepare and present a report with recommendations on possible regulation that could effectively permit and regulate food and non-food street vending on City sidewalks and parkways. The Motion specifically requested: 1) the history and status of the Special Sidewalk Vending District Program administered by the Economic and Workforce Development Department; 2) a review of policies in other jurisdictions; 3) recommendations to improve public safety; 4) the number of citations that have been issued in recent years and locations where citations were issued; 5) current regulations on street vending and how such regulations are enforced; and, 6) potential legal constraints for regulating street vending (C.F. 13-1493).

To effectively respond to the Motion, our Office consulted with the City Attorney, the Los Angeles Police Department, the Department of Public Works, Bureau of Street Services, the Office of Finance, the City Clerk's Office and the Mayor's Office. Additionally, our Office met with the County Health Department, representatives from various Business Improvement Districts, advocacy organizations and street vendors from South LA, Leimert Park and Boyle Heights<sup>1</sup>.

### Background

In January 1994, the City Council adopted the Special Sidewalk Vending District (SSVD) Ordinance (No. 169319) enforced under the Los Angeles Municipal Code (LAMC) Section 42.00 (b) which prohibits the sale of goods, wares or merchandise on City sidewalks (street vending) and Section 42.00 (m) of the LAMC which allows for the formation of SSVD. While the SSVD program was initially approved as a two-year pilot program and only in eight pre-designated areas of the City, the sunset clause was removed after the first two years thereby extending the possibility of creating sidewalk vending districts indefinitely. The eight original areas designated for the potential formation of SSVDs included East Los Angeles, Central City, Our Lady Queen of Angels Church, Pico-Union, MacArthur Park, Hollywood, Northeast San Fernando Valley and Venice Beach.

In 1995, the City Council approved a petition by the *Asociacion de Vendedores Ambulantes (AVALA)* to form the SSVD at MacArthur Park which allowed for a total of 50 vendors. In March 1996, the Board of Public Works released a Request for Proposals (RFP) to select a contractor to manage the vending district. Due to poor response to the RFP and other conflicts, CDD identified Cathedral Housing Economic Development Corporation as a potential contractor and issued a sole source contract for \$235,308 for a one year period. According to a July 1999 Community Development Department Report, over \$140,000 was paid to a local manufacturer to design and create vending carts. Fifteen fully permitted vendors generated \$3,589 in permit fees in six months and \$1,500 in business tax certificates for the City. The Community Development Department also reported that vendors operated as micro-businesses with attractive colorful carts and were drawing more families with children to the park which was seen as a sign that the area was being revitalized. To date, the MacArthur Park SSVD has been the only vending district formed and it is no longer in existence. According to a January 9, 1992 City Administrative Officer report, approximately \$1.1 Million would be required to fund the operation of both a Citywide and a SSVD vending program for a six-month period. Operation of an SSVD-only program would require approximately \$500,000 in funding.

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<sup>1</sup> Council District 14, Council District 9, Mayor's Office, City Attorney, City Clerk, Public Works Bureau of Street Services, Los Angeles Police Department, Office of Finance, Los Angeles County Health Department, Central City Association, Street Vending Steering Committee, Downtown BID, LURN, South Park BID, Los Angeles Food Policy Council, Highland Park BID, East LA Community Corporation (ELAC), LA Fashion District BID, Public Counsel, Occidental College, Coalition for Humane and Immigrant Rights LA, Los Angeles Metropolitan Churches, RISE LA, Downtown Neighborhood Council and street vendors from South LA, Leimert Park and Boyle Heights.



The requirements for the formation of Special Sidewalk Vending Districts as identified in LAMC Section 42.00 (m) are summarized below:

- 1) The endorsement of 20 percent of businesses and 20 percent of residents within the proposed district boundaries were required to propose establishment of the district.
- 2) A review and recommendation by a Community Advisory Committee, appointed by the Council District Office in which the proposed district is located. The Committee was required to include merchants, residents, proponents of the district, Street Use Inspectors, the Sidewalk Vendor Administrator, representatives from the Council Office and the Los Angeles Police Department.
- 3) A hearing before the Board of Public Works to allow merchants and residents to oppose establishing the district.
- 4) City Council vote to approve or disapprove a district.
- 5) If the Council voted to establish the district, the merchant immediately adjacent to the proposed vending site must sign a petition to allow a vendor to sell.
- 6) Either the applicant or any other person affected by the issuance of a vending permit may request reconsideration by the Community Development Department of its decision to grant or deny an application for permit within a 45-day period.

As instructed by the Motion, our Office conducted a review of street vending programs in other cities including Portland, New York, Philadelphia, and Chicago. We found that all four cities require permits to sell goods or services on city sidewalks and streets in pre-designated areas of the city. In New York City, the Department of Consumer Affairs regulates and issues licenses required for vending general merchandise and the Department of Public Health regulates and issues licenses and permits for food-related vending. A limited number of general merchandise and food permits are issued in designated areas of the city. Additionally, an unlimited number of permits are issued to war veterans. The City of Portland permits street vending on a citywide basis and provides guidelines with regard to location and distance from specified buildings and properties. While the City of Philadelphia offers two types of permits (food trucks and food carts), there is only one district for food trucks where street vending can occur, University City.

Cities, such as Portland and New York procured a professional consultant to study the benefits and negative consequences of allowing street vending and to determine which economic opportunities could be gained particularly by street vending among low-income and minority entrepreneurs. The studies found that street vending had a positive impact on street vitality and neighborhood life. Additional information about each city is provided in the Discussion section of this report.

### Conclusion

The City currently allows for the formation of Special Sidewalk Vending Districts citywide with the exception of commercially zoned areas of the City. A preliminary review of the history of the SSVD formation process indicates that the process may have been too cumbersome for districts to form. Additionally, with the exception of funding provided for the MacArthur Park SSVD, no subsequent funding allocation has been provided for street vending. Our review of other cities found that cities which experienced positive economic impacts resulting from street vending, had also received funding and dedicated staff to operate and enforce their respective street vending programs.

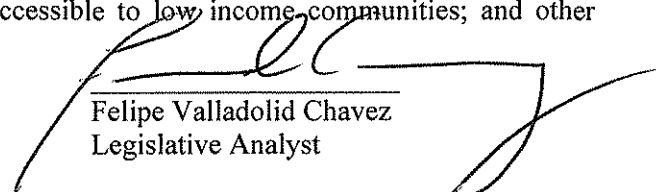
An effective operation of a citywide legalized street vending program in Los Angeles would require coordination among law enforcement, Bureau of Street Services, City Attorney, Office of Finance, the County Health Department, and community stakeholders. Should the Council wish to proceed with implementation of a citywide street vending program within pre-designated districts, the necessary amendments would have to be made to the Los Angeles Municipal Code to streamline the district-based citywide street vending formation requirements. Additionally, the Council may wish to instruct City departments to report on the personnel and budget required to operate an effective citywide street vending program in the City of Los Angeles.

Our Office recommends that the Council adopt, in concept, a citywide street vending policy and instruct staff to review Sections 42.00 (b) and (m) of the LAMC and provide recommendations to facilitate and improve the formation and implementation of Special Sidewalk Vending Districts Citywide. Staff should also be instructed to develop guidelines and procedures; examine enforcement and administrative costs; evaluate potential revenues derived from fees, sales tax, business licenses, and enforcement penalties; identify geographic areas to be exempted from street vending ordinance; coordinate with the County Health Department to ensure consumer safety and compliance; work with the Food Policy Council to identify food desserts and to encourage healthy food vending in such areas of the City; and work with the business community to minimize potential negative impacts.

## RECOMMENDATIONS

That the City Council:

- 1) Adopt, in concept, a Citywide street vending program and instruct the City Administrative Officer, Office of the Chief Legislative Analyst, City Attorney, Economic and Workforce Development Department, Department of Public Works, Bureau of Street Services, Los Angeles Police Department and any other appropriate department to, as an initial step, review Sections 42.00 (b) and (m) of the Los Angeles Municipal Code and provide recommendations to facilitate, fund and improve the formation and implementation of Special Sidewalk Vending Districts citywide.
- 2) Instruct the Los Angeles Police Department and the Bureau of Street Services, Department of Transportation, and request the assistance of the County Health Department, to report on current street vending enforcement efforts and provide recommendations to improve the enforcement of street vendors including personnel and budget impacts.
- 3) Instruct the Economic and Workforce Development Department to:
  - a) Work with the City Administrative Officer and the Office of the Chief Legislative Analyst, with the assistance of the City Attorney, LAPD and BSS, to report on the impacts of establishing a street vending program, including personnel, guidelines and procedures, operational budget, vendor fee structure, revenue projections, implementation schedule, evaluation procedure, and best practices.
  - b) Provide technical assistance through the BusinessSource Centers and, in conjunction with community stakeholders, develop an educational campaign to assist street vendors with compliance with city, county and state requirements.
  - c) Work with the Food Policy Council to identify food desserts throughout the city and specifically encourage healthy food vending in such areas; and address other issues as necessary.
  - d) Work with the Department of Public Works, Bureau of Street Services and the Los Angeles Police Department to report on current enforcement efforts and develop an effective enforcement strategy that can enable and promote street vending as an economic development tool that complies with safety, traffic and health requirements.
  - e) Partner with the Los Angeles County Health Department to explore other potential economic development programs that can be encouraged concurrently with street vending. Specifically provide a comparative analysis of the types of permits issued and consider microbusiness programs and activities that can be more accessible to low income communities; and other issues as needed.



Felipe Valladolid Chavez  
Legislative Analyst

- Attachments: 1. Discussion: public Input, current Regulation of Street Vending, number of Street Vendor Citations throughout the City, County Health Department, Review of Policies and Programs in other Jurisdictions.
2. Motion (Huizar-Price-Buscaino)

DISCUSSION

Public Input

Many of the concerns that are currently voiced for and against street vending are similar to those voiced when the SSVD model was originally adopted. According to street vendor advocates, in the past, street vendors were predominantly recent immigrants who were searching for a source of income to pay for basic necessities such as rent, bills and food. However, advocates note that, as a result of the economic crisis, many previously employed individuals, including older adults, war veterans and single mothers now turn to street vending as a source of income. According to testimony provided by street vendors and advocates, street vendors often face harassment by law enforcement and business owners. In some cases, street vendors have also reported possible violations of human and civil rights.

In the same manner, opponents of street vending are concerned with the potential negative impacts of a legalized street vending program. In particular, the business community has expressed concerns with the City’s inability to enforce current law or any potential expansion of a legalized street vending program. Opponents have also cited issues and concerns related to increased costs associated with trash pick-up; blocked sidewalks and compliance with the American Disability Act (ADA); potential liability assumed by nearby merchants relative to sidewalk accidents; food contamination; quality of life issues; and, the lack of collection of sales, property and business taxes from street vendors.

Current Regulation of Street Vending

Los Angeles Municipal Code (LAMC) Section 42.00(b) prohibits the sale of goods, wares or merchandise on City sidewalks. However, Section 42.00(m) allows for the establishment and regulation of special sidewalk vending districts. The code provides the requirements for establishing a vending district, enforcement guidelines, vendor application process, utilization of a commissary to store and sanitize the carts and associated equipment, district boundaries, and the number of vending sites. The Los Angeles Police Department and the Department of Public Works, Bureau of Street Services are the agencies responsible for enforcing this law. The types of citations issued by BSS are Notice to Appear, Notice of Violation and Arrests. The LAPD reports that while not all encounters with street vendors end with an arrest, 795 arrests were made in 2012 and 1,235 in 2013. The Police Divisions with the highest number of arrests include Central, Rampart, Newton and Hollywood.

Number of Street Vendor Citations throughout the City of Los Angeles

As demonstrated in Table 1, BSS reports that in Fiscal Year (FY) 2012-13, there were 271 citations issued and as of March 2014, 286 citations have been issued in FY 2013-14. The BSS indicates that there are no fees for a criminal citation or arrest. The citation is a release from custody based on a promise to appear. Any potential fine is set by the courts. The violation is a misdemeanor and the judge may impose a penalty ranging from \$0 to \$1,000 and/or jail.

**Table 1 – Citations by the Bureau of Street Services**

| Street Vending Citations by Council District |             |          |          |              |          |          |
|--|-------------|----------|----------|--------------|----------|----------|
| Council District                             | Fiscal Year |          |          |              |          |          |
|  | FY 2012-13  |          |          | FY 2013-14 * |          |          |
|  | NTA         | NOV      | AR       | NTA          | NOV      | AR       |
| 1  | 23          | 0        | 0        | 46           | 0        | 0        |
| 2  | 0           | 0        | 0        | 0            | 0        | 0        |
| 3  | 2           | 0        | 0        | 1            | 0        | 0        |
| 4  | 0           | 1        | 0        | 1            | 0        | 0        |
| 5  | 0           | 0        | 0        | 4            | 0        | 1        |
| 6  | 0           | 0        | 0        | 0            | 0        | 0        |
| 7  | 0           | 0        | 0        | 1            | 0        | 0        |
| 8  | 40          | 1        | 0        | 31           | 0        | 0        |
| 9  | 61          | 0        | 0        | 78           | 0        | 0        |
| 10   | 2           | 0        | 0        | 27           | 0        | 0        |
| 11   | 5           | 0        | 0        | 5            | 0        | 0        |
| 12   | 0           | 0        | 0        | 0            | 0        | 0        |
| 13   | 9           | 0        | 0        | 22           | 0        | 0        |
| 14   | 54          | 0        | 0        | 50           | 0        | 2        |
| 15   | 75          | 5        | 0        | 20           | 0        | 0        |
| <b>TOTAL</b>                                 | <b>271</b>  | <b>7</b> | <b>0</b> | <b>286</b>   | <b>0</b> | <b>3</b> |

Source: Board of Public Works, Bureau of Street Services

### County Health Department

Pursuant to Los Angeles County Code Title 8, Public Health licenses and permits are required of any business or activity within the area in which the county health officer enforces any state statute, order, quarantine, rule or regulation relating to public health, whether within or outside and incorporated city.

Under the Health Department, the County operates the Street Vending Compliance program which consists of ten inspectors who respond to and investigate complaints from the public. According to the Health Department, due to limited resources, the size of the County, and the number of complaints received each day, not all complaints are addressed. The food vendors must abide with operational requirements related to employee practices, access to toilet facilities, cooking and holding temperatures, and foods protected from contamination and adulteration. In addition to street vending permits, the County also issues health permits for food vending at special events and farmer's markets. The sale of general merchandise does not require a health permit.

### Review of Policies in Other Jurisdictions

As requested by the Motion, our Office reviewed street vending programs in other major cities. We note that this is only a preliminary review and additional information related to cost of implementation may be needed to determine how the programs are implemented, funded, formed and enforced.

#### Portland

In the City of Portland, operating a sidewalk vending cart requires a city permit from the Office of Transportation. Vending on private property does not require a vending cart permit from the Office of Transportation, however, permits from the County Health Office or other types of licenses may be required.

A pre-approved list of items for vending was created. The list includes food and beverages for immediate consumption, fresh cut flowers, inflated balloons, jewelry, maps, shoe shining, and umbrellas. The City requires that all items or services to be sold comply with certain restrictions related to the cart and location dimensions and in cases where there could be competition with brick and mortar businesses. A certificate of liability insurance and a letter of consent from adjacent businesses are also required. Depending on the location and type of item sold, the following types of licenses are required: Business License, Oregon Food Handler Card, Health Inspection Certificates, Office of Transportation Permit, Propane Permit Fee, and City Permit. Permits renewed prior to expiration do not require a fee. Violations of the City Charter may be punishable by a fine not to exceed \$500 and/or six-month imprisonment.

#### Urban Vitality Group (UVG) Study

The UVG partnered with the City of Portland to study the effects that food carts have on street and neighborhood vitality. The purpose of the study was to assess the benefits and negative consequences of allowing food carts within the city and to determine what economic benefits may there be for low-income and minority entrepreneurs.

Prior to the study, the City of Portland lacked information regarding the food cart industry, as carts were not included in the City's annual business inventory because of their temporary and mobile nature.

Push carts in the public right-of-way have different regulations than stationary mobile carts that located on private property. The Portland Department of Transportation (PDOT) regulates temporary structures in the right-of-way, including push carts. While the City of Portland does not currently restrict the number of food carts in the region, PDOT strictly specifies how many push carts can locate on each block, the appropriate distance between carts, and minimum distance from the road and surrounding buildings. As long as stationary mobile carts have functional wheels, an axle for towing, and are located in a commercial zone, they are considered vehicles and are not required to conform to the zoning or building code.

The UVG study made the following findings:

1. Food carts have positive impacts on street vitality and neighborhood life in lower density residential neighborhoods as well as in the high density downtown area.
2. When a cluster of carts is located on a private site, the heightened intensity of use can negatively impact the surrounding community; primarily from the lack of trash cans.
3. A cart's exterior appearance does not affect social interactions or the public's overall opinion of the carts; seating availability is more important for promoting social interaction than the appearance of the cart's exterior.

### New York

A report by the Columbia University Graduate School of Architecture, Planning and Preservation (GSPP), reports that there are generally five types of street vendors representing approximately 13,000 people that operate on the streets and sidewalks of New York City. The types of vendors include: Food Vendor, General Merchandise Vendors, 1<sup>st</sup> Amendment Vendors, Veteran Vendors and Unlicensed Vendors

Unlicensed vendors are the only vending group not officially recognized. There are approximately 3,000 food vendors in New York City who are regulated by the New York City Department of Health and Mental Hygiene. Food vendors are required to have a city license to legally vend. There is no limit to the number of licenses that the City issues. The cost for the license is \$10 for a "seasonal" license and \$50 for a two-year license. There are over 14,000 people with food vending licenses in New York City.

Food vendors are also required to place a permit on the carts/tables/trucks from which they sell. The cost for these permits is an additional \$15 to \$200. However, the number of food permits is capped at 3,000. An additional 500 temporary permits are released between April and October. Currently, the wait list to obtain a permit is closed, however, at one point the average time to receive a City issued permit was five to 10 years and there were nearly 10,000 people on the list. The authors of the study found that the demand for these permits has led to a black market where permits are leased by permit owners for prices as high as \$15,000. A New York Times article reported the price for permits in the black market to be over \$200,000.

There are generally three types of food carts: non-processing food carts which cost approximately \$3,000, larger food processing carts which cost between \$15,000 and \$30,000; and food trucks which cost around \$80,000.

The New York Department of Health (DOH) regulates food vendors. Food vendors are subject to inspection by DOH. The cost to store equipment in a commissary costs between \$250 and 500 per month. The authors of the study indicate that these regulations and economic structures suggests that food vendors are not typically self-sustained and are often at the bottom of a hierarchical structure of permit holders, cart owners, and garage owners.

General merchandise vendors are capped at 853 and the waiting list has been closed since 1992. General merchandise vendors have much lower start-up costs than food vendors. Therefore, they generally have a lower ceiling for success.

In 2008, then Mayor Michael Bloomberg signed a law to allow for 1,000 permits for Green Carts in New York City. The initiative was supported by a \$1.5 million grant from the Laurie M. Tisch Illumination Fund. The fund enables micro-loans for vendors as well as technical assistance, branding, marketing, and outreach to resident in designated Green Cart areas. This program was launched along with other initiatives to ensure that fresh fruit and vegetables are available in "food dessert" areas in the City where diabetes and obesity are high and linked to the inaccessibility of fresh fruits and vegetables. The authors of this study report that possible overregulation of Green Carts has kept the initiative from reaching its full potential. Although 1,000 permits are available, only 350 have been issued. Green Cart vendors may only sell raw fruits and vegetables. They require a valid mobile food vending license and a Green Cart Permit. Green Cart operators may not cut, slice, or peel produce on their cart.

### Chicago

According to the Chicago Food Policy Council, supportive vendor and concession policies offer an opportunity to both create jobs and increase food access in Chicago. Chicago offers three types of licenses for street-vendor businesses: Peddler, Mobile Food Dispenser and Park Concessions. Each one has distinct properties and procedures and offer different advantages and disadvantages.

Peddlers sell their items, (food and non-food) from a mobile wagon, cart, pack or basket. The city issues non-food license permits to individuals who wish to sell general merchandise. Food peddlers, are permitted to sell, whole, uncut fruits and vegetables and no other food items. Peddlers are not allowed to handle or prepare food. Food peddlers may also sell non-food items as long as they are less than 15 percent of gross sales. The city restricts peddlers to only certain areas of the city. The Peddler License costs \$165 for most applicants and \$88 for seniors, veterans and the disabled.

### Philadelphia

In addition to a business license, a special license or permit is required for sidewalk or street vending within specific neighborhood business districts. The Neighborhood Vending District License is the license for sidewalk carts in the Special Vending Districts. The Special Vending District License is for motor vehicle vendors in the Special Vending Districts. Currently, University City is the only Special Vending District which permits food trucks, therefore, they are the only vendors that use the Special Vending District License. To obtain a street vending permit, vendors must get the following prior approvals: award letter from License and Inspections Vending Unit, Food Establishment, Retail Non-Permanent Location (if food will be sold), Health Department Approval (if food will be sold), Commercial Activity License, City of Philadelphia Tax Account Number, Federal Tax Identification Number and Weighing and Measuring License (if applicable).

13-1493

NOV 06 2013

Related CF's: 13-0980  
08-0011-83

MOTION

Street vending on the City right-of-way and sidewalk is illegal. In the average year, there are hundreds of tickets written to vendors, and several hundred arrests. Yet thousands of vendors continue to operate in an underground marketplace, selling a wide variety of food and merchandise on the sidewalks of Los Angeles.

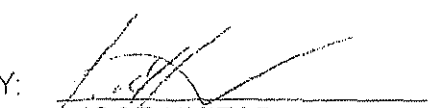
Street vending largely falls within two categories, food street vending and merchandise (non-food) street vending, each with their own complexities. Street vending is permitted in various forms by most other large cities. New York, San Francisco, Houston, Portland and Chicago are among the cities that have established a regulatory system for selling merchandise and/or food on city sidewalks.

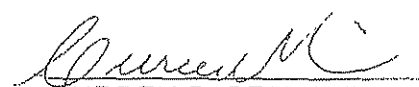
In Los Angeles, a more comprehensive legal framework is required to effectively address sidewalk vending. An effective regulatory system has the potential to protect health and increase public safety and economic activity. Such a policy should also consider the rights and investments of brick-and-mortar businesses, including opportunities to expand and promote their businesses through street vending and with the overall goal of enhancing economic growth and the viability of neighborhoods.

I THEREFORE MOVE, that the CLA, along with Bureau of Street Services and in consultation with other Departments as needed, the City Attorney and the County of Los Angeles, be instructed to prepare and present a report within 90 days with recommendations on possible regulation that could effectively permit and regulate *food street vending* on City sidewalks and parkways. This report should include the following: the history and status of the Special Sidewalk Vending District program administered by the former Community Development Department; a review of policies in other jurisdictions; recommendations to improve public safety; and ways to ensure street food vendors provide safe and healthy food options.

I FURTHER MOVE, that the CLA, along with Economic and Workforce Development Department, City Attorney and Bureau of Street Services, and in consultation with other Departments as needed, be instructed to prepare and present a report within 90 days with recommendations on possible regulation of *merchandise and non-food street vending* in the City of Los Angeles. This report should include the following: information on the number of citations that have been issued over the past year and where the citations were issued; the current regulations on street vending and how the regulations are enforced; potential legal constraints for regulating street vending; and a review of policies in other jurisdictions.

PRESENTED BY:

  
JOSE HUIZAR  
Councilmember, District 14

  
GURREN D. PRICE, JR.  
Councilmember, District 9

SECONDED BY:

