

# Public Comment

Council File No. 13-1493

Title: Street Vending / Special  
Sidewalk Vending District  
Program

Council File No.13-1493-S2

Title: Vending Permit Process /  
City Parks and Recreational  
Facilities

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by NICOLE GELINAS

**G**OTHAM'S food carts and food trucks, offering everything from humble hot dogs to Pondicherry masala, show how the city's government works — or doesn't.

New York regulates selling food on the street through a complex array of city and state rules. Yet the rules make no one happy — not the street-food vendors and not the people living and working near them. A few easy, incremental fixes would make life better for everyone.

**CITY OF CARTS**

From the oyster pushcarts of the 1800s to the hot dog carts of today, vendors have survived every effort to curb them.

In 1903, the Times called for an outright ban. Pushcarts were a "nuisance," the paper said, kept around only by "sentiment" at the expense of free traffic flow. But the pushcarts had numbers and passion on their side.

In the modern era, they withstood Mayor John Lindsay's late-1960s effort to limit the sale of hot dogs and ice cream to 10 minutes on any one corner. They survived Mayor Ed Koch's early-1980s attempt to ban street-cart selling from downtown. And they resisted Mayor Rudolph Giuliani's late-1990s push (again) to ban the carts from downtown, as well as from Midtown. Thousands of protesting vendors forced the mayor to back down.

Mayor Bloomberg's only move in this area was to help the vendors, by approving special "green-cart" permits for stands selling fruits and vegetables.

The rules governing vendors today are the product of more than a century's worth of back-and-forth between city government and food businesses.

Since the Koch era, the city has restricted food-vending licenses

to 2,800, plus 1,000 seasonal permits for ice-cream trucks and other summer food, 1,000 green-cart permits, and separate permits for veterans and disabled people.

Since Giuliani started enforcing a Koch-era law, the city has restricted vendors from some of the city's most congested streets, including Fifth Avenue and Madison Avenue, where they can't operate until the evening, if at all, depending on the block. Vendors are supposed to steer clear of crosswalks, fire hydrants, bus stops and building entrances.

Cart workers must complete an eight-hour class to get a personal vending license, and if they want to sell "frozen desserts," they need a "frozen-dessert permit," too. And vendors are supposed to bring their carts to a commissary every night for scrubbing. Food trucks must adhere to all the same rules, and metered parking spaces are off limits.

The biggest aggravation for street vendors is the city's restrictive licensing system, which, much like its licensing of taxi medallions, favors people who got there first over those trying to make a living today. Like medallion licensing, too, the city's system favors capital over labor.

Just as Greek, Italian and Chinese immigrants sold gyros and ice cream a century ago, Egyptian, Bangladeshi, Mexican, Ecuadorean, Afghan and Chinese newcomers sell falafel and hot dogs today, says Sean Basinski, who directs the Urban Justice Center's Street Vendor Project, a membership organization representing more than 1,000 New York vendors. Vending is hard work in all weather, and if you don't sell enough food, "you may not make anything at all that day," he observes.

A vending-cart license costs just \$200 for two years — but you can't get one at that price. Applicants who want to run a food cart or a food truck must wait years to obtain one of the city's 2,800 cart permits. Because of the limited supply and intense demand, an illegal black market has arisen. It costs \$15,000 to \$25,000 to "lease" a permit from the legal permit holder. An estimated 70% to 80% of offi-

# STREET FOOD FIGHT

New York City can do a better job of balancing a vibrant scene of food carts and trucks without ruining our quality of life



Permits to run food carts can cost as much as \$25,000 to lease.

cial permit holders — often former vendors themselves who keep renewing their permits — utilize permits in this manner. Just as a taxi driver must cough up much of his take-home cash to pay the owner of his cab's million-dollar medallion, street vendors must fork over \$30 to \$40 of their daily pay — not an insignificant amount when a vendor in a marginal area may make only \$100 a day.

Basinski would just get rid of the cap altogether. "We don't want vendors working for other people at all," he argues. "You're paying someone \$25,000 in a dark alley. Whoever wants to do it should be able to do it in their own name legally." Basinski adds: "We need to get the right to work."

**FOOD-TRUCK EXPLOSION**

Food-truck operators have even greater difficulties than food-cart

vendors do with regulatory burdens and intense competition.

When they came on the scene a decade ago, food trucks filled a need. Traditional food carts offered monotonous (and usually unhealthy) fare — primarily hot dogs and sausages, grilled lamb, and doughnuts — while New York brick-and-mortar real estate was becoming so expensive that downtown and Midtown office workers found themselves priced out of many restaurants.

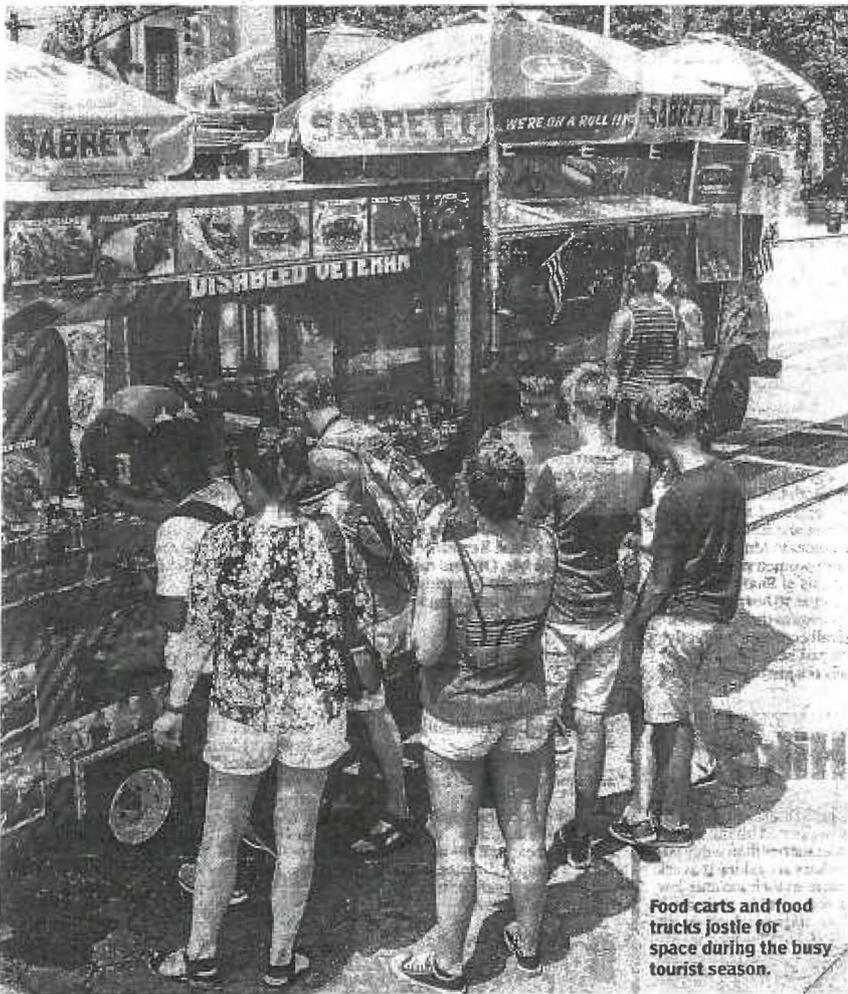
Today, thanks to 100 or so food trucks in the city, office workers and tourists have more options. During a late spring weekday lunch hour, bankers and lawyers lined up 20 deep on the side streets along Midtown's Park Avenue to wait their turn to buy "traditional Greek food" from Uncle Gussy's; chicken, lamb, or a "salmon special" from Rafiq's; or

Korean barbecue from Bob & Ja.

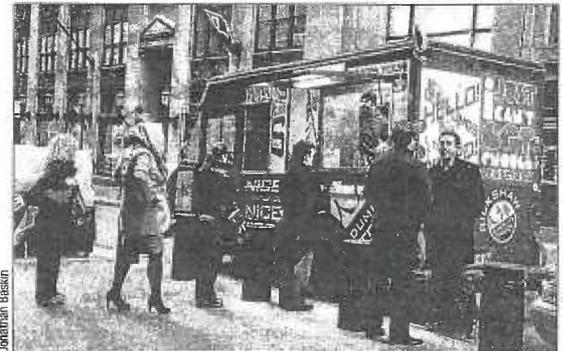
But, being latecomers to the street-food industry, truck entrepreneurs have a tough time securing permits, and making ends meet isn't easy.

Thomas DeGeest, a Belgian native and refugee from a white-collar IBM job, used a food truck to start a successful business with less capital and risk than he would have needed for a comparable brick-and-mortar eatery. His Wafels & Dinges launched eight years ago as the city's "first nontraditional gourmet" food truck, at a time when "the city's food-truck explosion hadn't quite happened," he says.

Now, he runs two trucks, five carts, two in-park kiosks, and one old-fashioned café in New York, with 60 employees. DeGeest has moved away from the food-truck model, however. Finding a place to park was nearly impossible, and



Food carts and food trucks jostle for space during the busy tourist season.



More than 100 food trucks have popped up in the past few years.

he paid \$12,000 in tickets yearly. Once food trucks proliferated, "respect for established patterns got lost," he says. Vendors would park at 2 a.m. to save their spaces for the next day. "It became so crowded, I'd basically given up," DeGeest says. "The trucks will eventually go away," predicts Jack Rahmey, who runs The Pocketful pita food cart on 50th Street, because "it is just too hard." Even if food trucks do vanish, they'll leave a legacy of forcing food-cart permit owners to improve their offerings. Ten years ago, in Midtown, you'd be lucky to find a sanitary hot dog. In Midtown on a recent lunch hour, office workers could choose from Steak Freak's "modern Asian fusion" to Tuk Tuk Boy's vegetable rolls and chicken spring noodles to Hyderabad Goat Kaachi Biryani's "halal Indian gourmet cuisine."

### NO ENFORCEMENT

But if you live or work in the city and you're not a street-food vendor or a committed customer, the last thing you'll likely want is more vendors. Residents and businesses are fed up with what they see as a lack of adequate regulation of the industry. Michele Birnbaum, a longtime Upper East Sider, has been thinking about vending issues for two decades. The co-chair of the vendor task force for her neighborhood's community board — an arm of local government — Birnbaum catalogs the problems that she and her neighbors endure. Chief among them: smell, smoke and sanitation. "This is a major quality-of-life issue," she says. Further, brick-and-mortar New York businesses contend that they compete against vendors on an unfair playing field. A traditional

restaurant endures a long permitting process and pays the city thousands of dollars to operate a sidewalk café, says Andrew Rigie, executive director of the New York City Hospitality Alliance, which represents restaurants. A vendor, by contrast, can set his cart up outside the same location and sell the same kind of food for a lower price. Further, restaurants must comply with an array of rules governing emissions, food safety and labor, none of which apply to vending carts. New York residents and businesses complain about the city's failure to enforce its (inadequate) laws regulating street vending. "Without enforcement, it's all meaningless," says Birnbaum. One challenge with enforcement of vending rules is potential confusion. Police officers are largely responsible for writing

tickets, but they may not be up to speed on the intricacies of vending laws written by the state and city and then interpreted by the Health Department and the Consumer Affairs Department. It's thus easy for vendors to get their tickets thrown out: Dan Rossi, a disabled Vietnam veteran who sells hot dogs outside the Metropolitan Museum of Art, says that of 350 tickets he received last year, he got all but two invalidated in court. Of last year's 19,924 ticketed offenses, a court dismissed 5,266, or more than a quarter. A second challenge is manpower. The NYPD has a peddling squad only in Manhattan. And when officers do write legitimate tickets, vendors often don't pay.

### A SMARTER WAY

The world of street vending needs reform, but let's be clear about what New York doesn't want: antiseptic streets. Boston largely bans vending from its downtown, but at the cost of urban vitality, contributing to the city's reputation for being unfriendly to pedestrians. European cities are strict with vendors, too, but they also muzzle any economic opportunity that might allow recent immigrants to make a living. The first step to a better vending system is rational, predictable enforcement of existing laws. Birnbaum would like to see a separate vendor-enforcement squad. Rather than having highly skilled police officers write tickets, civilian city workers trained in vending law could do this task. The tickets they write would go into a database, so that the squad could learn which tickets were successful and which got thrown out in court. The goal should not be to make money by playing gotcha with vendors, but to shut down bad behavior. The squad would patrol the parts of the city with the most vendors to ensure that they comply with the laws. Cart permits should have a GPS on them, so that enforcement officers know that a permit is real, not counter-

feit; if it is in one place, it can't be somewhere else. The city should inspect vending carts and their commissaries for food safety, assigning the same letter grades that it gives to restaurants. (Many vendors actually want such a system.) And when a vendor sells food similar to that offered by a nearby restaurant, the latter should have the right to set up a cart and sell its own food outside, too. As for what to do about the expensive black market in permits and about where, exactly, vendors can operate, we should be realistic. New York has had a black market in vending since the Tammany Hall days. When street space is valuable, people will find a way to price it. And if we eliminated the black market by ending the permit requirement, we'd have so many vendors that we couldn't walk. Still, the city could give newcomers a fairer chance by making sure, through enforcement, that the person who holds the permit for a food-vending cart is actively involved in the business. If such enforcement proved impractical, the city could stop automatically renewing permits, giving all vendors, new and old, the same chance to obtain permits every time they're offered. With better rules — and better-enforced rules — New Yorkers doubtless would be amenable to raising the cap on vendors, allowing more people to sell in more places on the streets. With New York rethinking in general who gets to use its streets rather than simply giving them over to automobile and truck traffic, vendors might find more space on the streets rather than on the sidewalks. Already, Madison Square Plaza and Herald Square Plaza have taken space away from traffic and given it to food vendors. If Gotham's new philosophy is to favor pedestrians over cars and trucks, the city can also favor the people who serve those pedestrians their lunch.

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