

GENERAL EXEMPTION and ARTS, PARKS, HEALTH, AGING AND RIVER COMMITTEE REPORT relative to amending Los Angeles Municipal Code (LAMC) Section 63.44 to prohibit vending of commercial items in all public parks and prohibit camping within all City parks, except in locations designated for such purposes.

Recommendations for Council action:

1. FIND that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to:
  - a. State CEQA Guidelines Section 15378.
  - b. State CEQA Guidelines Section 15301 (City CEQA Guidelines, Article III, Sections 1.a.).
  - c. State CEQA Guidelines Section 15305 (City CEQA Guidelines, Article III, Section 1.e.).
  - d. State CEQA Guidelines Section 15323.
  - e. City CEQA Guidelines, Article II, Section 1 (General Exemption).
2. CONCUR with the Board of Recreation and Park Commissioners' (Board) findings as detailed in the July 31, 2014 Board report (14-173), attached to the Council file, recommending that City Council adopt an Ordinance to:
  - a. Amend Subsection A and Subdivision 3 of Subsection B of Section 63.44 of Chapter VI of the LAMC to prohibit vending of commercial items or services in all public parks (including beach parks and recreation areas).
  - b. Amend Subdivision 4 of Subsection D and Subdivision 9 of Subsection I of Section 63.44 of Chapter VI of the LAMC to further define and prohibit camping, including the use of tents, within all City parks, except in locations designated for such purposes.
  - c. Add a new Subsection R to LAMC Section 63.44 to specify penalties for violations.
  - d. Add a new Subsection S to Section 63.44 of the LAMC to add a severability clause to ensure that if a court declares any portion of the Section to be unlawful that the remaining portions of LAMC Section 63.44 remain in full force and effect.
3. REQUEST the City Attorney to PREPARE and PRESENT an Ordinance, within 30 days, to amend LAMC Section 64.33 as detailed in the draft Ordinance, attached to the Council file, and further amended to remove Section 7 (Urgency Clause).

Fiscal Impact Statement: The Board reports that there is no fiscal impact to the General Fund.

Community Impact Statement: Yes

For:  
Greater Echo Park Elysian Neighborhood Council

For, if amended:  
Downtown Los Angeles Neighborhood Council

Against:  
Silverlake Neighborhood Council  
Lake Balboa Neighborhood Council

**(Council may recess to closed session pursuant to Government Code Section 54956.9(d)(1) in order to confer with legal counsel in relation to the case entitled, International Society for Krishna Consciousness of CA, Inc., et al. v. City of Los Angeles, United States District Court Case No. 2:15-cv-01320-DDP-AGR)**

Summary:

On September 22, 2014, your Committee considered July 31, 2014 Board and City Attorney reports and Ordinance relative to amending LAMC Section 63.44 to prohibit vending of commercial items in all public parks and prohibit camping within all City parks, except in locations designated for such purposes. According to the Board, at its meeting of July 23, 2014, it adopted the Report of the General Manager No. 14-172, thereby recommending that Council adopt an Ordinance to amend:

- a. LAMC Section 63.44, amending Subsection A and Subdivision 3 of Subsection B of Section 63.44 of Chapter VI of LAMC to prohibit vending of commercial items or services in all public parks (including beach parks and recreation areas).
- b. LAMC Section 63.44, amending Subdivision 4 of Subsection D and Subdivision 9 of Subsection I of Section 63.44 of Chapter VI of the LAMC to further define and prohibit camping, including the use of tents, within all City parks, except in locations designated for such purposes.
- c. Adding a new Subsection R to LAMC Section 63.44 to specify penalties for violations.
- d. Adding a new Subsection S to Section 63.44 to add a severability clause to ensure that if a court declares any portion of the Section to be unlawful that the remaining portions of Section 63.44 remain in full force and effect.

The Board further indicated that for many years, the City has had an Ordinance in place which prohibited conducting any trade, occupation, business, or profession within a City park, without having a concessions contract with, or permit issued by, the City. It was also recognized that expressive items may be sold in City parks without a concessions contract or permit if they were the seller's own expression, and provided that they met the legal standard known as "nominal utility." The City has also had an Ordinance in place for many years prohibiting camping in City parks except in designated areas and unless allowed by permit.

For a time, the City's vending ordinance was suspended due to several cases of litigation filed against the City regarding vending in Venice Beach. Now that these cases have been resolved by judicial determination, it is prudent to lift the suspension of this long-standing ordinance, make appropriate corrective and informative amendments, and after approval, begin enforcement of the ordinance provisions.

The draft Ordinance, included with the July 31, 2014 Board report and attached to the Council file, reinstate a ban on commercial vending in public parks by replacing the previously suspended vending ban in Subdivision 3 of Subsection B of LAMC 63.44. Subdivision 3 was suspended by ordinance on October 1, 2005 (Ordinance 176929; Council File No. 04-1568), as a result of litigation involving a challenge to the legality of another ordinance, LAMC 42.15, which banned commercial vending on the Venice boardwalk.

During consideration of this matter, representatives from the Department of Recreation and Parks (RAP), Los Angeles Police Department, and City Attorney's Office answered questions from the Committee members in regard to various aspects of the proposed Ordinance and the current situation in City parks in terms of enforcement.

Finally, three amendments to the proposed Ordinance, attached to the Council file, were proposed by Council member Price. Specifically, the amendments were:

- A. Add language in Section 2, Subdivision 3 to allow for the RAP to simply approve vending permits rather than formally issue them as a means of achieving consistency with the upcoming proposed Citywide Vending Ordinance.
- B. Remove language in the Violations Section (Subsection R) in regard to prosecution as a misdemeanor and make them infractions.
- C. Remove the Urgency Clause (Section 7).

A separate vote was taken for each of the above amendments and the results were as follows:

Amendment A:

**MEMBER VOTE**

O'FARRELL: NO  
LABONGE: NO  
BUSCAINO: NO  
CEDILLO: YES  
PRICE: YES

Amendment B:

**MEMBER VOTE**

O'FARRELL: NO  
LABONGE: NO  
BUSCAINO: NO  
CEDILLO: YES  
PRICE: YES

Amendment C:

**MEMBER VOTE**

O'FARRELL: YES  
LABONGE: NO  
BUSCAINO: YES  
CEDILLO: YES  
PRICE: YES

In the course of discussion on this matter, Council member Price voiced objections to the proposed Ordinance. Specifically, the Council member expressed the desire to remove from the Ordinance language regarding second and subsequent violations being treated as misdemeanors because he felt that this was too harsh a punishment. Rather, it would be preferred if violations be treated as infractions. Additionally, the Council member expressed the desire for the proposed Ordinance to be enacted without the Urgency Clause so as to give more time to conduct public outreach and inform the community of the Ordinance's provisions.

Additionally, Council member Cedillo expressed the desire to remove the misdemeanor element from the proposed Ordinance because of the potential harmful effect for those individuals found in violation who are immigrants; their ability to become an American citizen could be impaired or they may be deported. Additionally, the Council member stated that he could not vote for the proposed Ordinance unless it was changed to delete any language regarding misdemeanors.

After further consideration and having provided an opportunity for public comment, the Committee moved to approve the Ordinance, as amended (Amendment C). The Committee vote was divided between three "yes" (O'Farrell, LaBonge, Buscaino) and two "no" votes (Cedillo, Price). This matter is now submitted to Council for its consideration.

Respectfully Submitted,

ARTS, PARKS, HEALTH, AGING AND RIVER COMMITTEE



**MEMBER    VOTE**

O'FARRELL: YES

LABONGE: YES

BUSCAINO: YES

CEDILLO: NO

PRICE: NO

ARL

9/22/14

**-NOT OFFICIAL UNTIL COUNCIL ACTS-**