

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: November 26, 2014
TO: Honorable Members of the Economic Development Committee
FROM: Sharon M. Tso *smtso* Council File No.: 13-1493
Chief Legislative Analyst Assignment No.: 14-05-0361

City of Los Angeles Sidewalk Vending Status Report

SUMMARY

On May 13, 2014, the Economic Development Committee (Committee) considered a Motion (Huizar-Price-Buscaino) relative to vending food and non-food items on City sidewalks and parkways (Council File No. 13-1493). At the meeting, the Office of the Chief Legislative Analyst presented the first status report which focused on stakeholder input, history of street vending in the City, and a brief comparative analysis of street vending models in other cities. After a discussion with City staff and public comment, the Committee held the item and instructed our office to work with City departments to report with recommendations to design, fund, and implement a Citywide street vending program including necessary enforcement measures, operational budget, revenue projections, vendor fees and options to encourage healthy food vending. This report is intended to be a status report with information requested by the Committee and provides a proposed framework for a food and non-food vending program on City sidewalks and parks for Council consideration¹. Due to the complexity and sensitive nature of the issue, we anticipate we will continue to develop status reports on each phase of this project to receive further guidance from the City Council.

As instructed by the Committee, our Office worked with the Department of Public Works, Bureau of Street Services, the Los Angeles Police Department, the Economic and Workforce Development Department, and the Los Angeles County Department of Public Health to develop a sidewalk vending permit framework for City Council consideration (Attachment 1). Please note that prior to the May 13 Economic Development meeting, our Office held a number of meetings with stakeholders to solicit public input. More recently, our Office held two additional meetings in which various issues were raised by both opponents and supporters of the proposed sidewalk vending framework. Lastly, numerous letters have been submitted by both opponents and supporters and can be found on Council File Index in the City Clerk's website under Council File No. 13-1493. While not all parties are satisfied with the proposed framework, most concerns are related to post implementation of a program and not necessarily associated with the proposed framework. We will address post implementation issues upon approval of a proposed framework and we will continue to work with all stakeholders and address any other issues as they are raised.

If approved, the framework will be used as a guide to develop an administrative, enforcement and implementation plan; costs of operation, guidelines and procedures, notification process, types and number of permits and other criteria. City departments have expressed the need for a Council-approved framework prior to moving forward on an implementation plan for the sidewalk vending program. Recommendations are included in this report for City staff to report on these issues.

¹ Sidewalk Vending Framework includes City sidewalks and parks.

During the stakeholder meetings, community members raised issues of concern relating to enforcement, implementation and funding; liability of business owners, potential violations of the American Disability Act (ADA), diminished quality of life for the surrounding community, gang activity and issues of extortion of sidewalk vendors. Stakeholders expressed concerns with the total cost of operation including fees and equipment, penalties and a permit revocation process, the need to consider financial and economic means of sidewalk vendors and consideration of community service as an alternative to monetary penalties. Stakeholders also expressed a preference for a sidewalk vending program that promotes economic growth and self-sufficiency rather than limiting the number of permits which could restrain the potential for business growth. Lastly, stakeholders expressed the need for a process that gives preference to existing sidewalk vendors. Additional information can be found in the Discussion Section of this report.

Should the City Council adopt the proposed Sidewalk Vending Framework, the Los Angeles Municipal Code (LAMC) would require an amendment to permit sidewalk vending under certain circumstances, and existing LAMC sections that prohibit sidewalk vending would need to be repealed.

On September 22, 2014, the Arts, Parks, Health, Aging and River Committee considered the issue of vending in City parks (Council File # 14-1062). At this meeting, the Committee members voted to lift an existing moratorium on an ordinance which prohibits conducting any trade, occupation, business, or profession with a City park without having a concessions contract with, or permit issued by, the City of Los Angeles. Subsequently, our Office met with representatives of the Department of Recreation and Parks to discuss the possibility of working on a joint effort to coordinate regulations for City sidewalks and parks. This report includes recommendations on staffing and budget levels to administer, operate and enforce the proposed framework on City sidewalks and parks. Lastly, inasmuch as the Economic Development Committee requested a potential framework for sidewalk vending, this report does not address food trucks or other food vending vehicles affecting street parking.

Proposed Sidewalk Vending Model

According to the Department of Public Works, Bureau of Street Services, there are approximately 50,000 sidewalk vendors in the City of Los Angeles. Of these, nearly 10,000 are food vendors and the remaining 40,000 sell non-food items. Based on discussions with the Department of Public Works, Bureau of Street Services, Police Department, Economic and Workforce Development Department and the County Public Health Department, we have developed the attached flow chart (Attachment 1) which displays a proposed general framework through which an interested vendor would navigate to obtain a sidewalk or park vending permit. Below are the steps describing the attached flowchart which would be subject to enforcement by the County Department of Public Health, Department of Public Works and the Police Department:

1. An interested vendor would first go through an initial introductory course to learn about the new sidewalk vending guidelines and requirements, vending locations, and mode of vending. The introductory course would be led by both City and County officials. At this point, the vendor would be referred to either the Department of Public Works or the Department of Recreation and Parks, or both, to determine availability of location based on vendor's preference.
2. Should the vendor choose to sell food items, the vendor must obtain a permit from the County Department of Public Health. To obtain this initial permit, vendors must

comply with specific structural and food safety requirements. All food vendors would be required to obtain a Food Handler's Certification and some would have to show proof of a commissary contract or approval to use a home kitchen for vendors interested in selling Cottage Food items.

The County Health Department issues various types of permits and requirements depending on the types of food being sold including Potentially Hazardous Foods, Non-Potentially Hazardous Foods and Cottage Food Law permitted foods.

Potentially Hazardous Foods are those that require time or temperature control. Non-Potentially Hazardous Foods are those that present a lower risk and do not require time or temperature control.

Foods under the Cottage Food Law are considered to be Non-Potentially Hazardous and include baked goods such as cookies, pastry, fruit tamales, and jams. While the County and State currently permit the selling of these items from home kitchens, our Office is exploring the feasibility of permitting the sale of these items on City sidewalks and parks as an option. The County Health Department has indicated that while this mode of vending has not been explored, the State of California has stated that if the City permits sidewalk vending of Cottage Food items a Cottage Food Class B permit would be required.

The County Health Department would also certify vendors interested in selling healthy food items. At this time, our Office is working with the County Public Health Department to define healthy food items and develop a system to encourage the preparation of foods in a healthier manner.

Should a vendor choose to sell non-food items, such vendor would not be required to go through the County approval process. The Department of Public Works, Bureau of Street Services is currently developing criteria and guidelines, including location and times of operations for the permitting and sale of non-food items on City sidewalks.

3. Once the County Health Department issues a health permit, sidewalk vendors interested in obtaining a City of Los Angeles Sidewalk Vending Permit must obtain the following documents:
 - a. City of Los Angeles Business Tax Registration Certificate
 - b. State of California Seller's Permit
 - c. Proof of Liability Insurance
4. Once the vendor has obtained all necessary permits and certifications, the Economic and Workforce Development Department would review the documentation, issue an application for vending either on City sidewalks, parks, or both, and provide technical assistance if needed.
 - a. Should the vendor choose a location in a park, the vendor would be referred to the Department of Recreation and Parks;
 - b. Should the vendor choose to sell on City sidewalks, the vendor would be referred to the Public Works Department, Bureau of Street Services.

5. Final determination to issue a permit would be made by the Public Works Department, Recreation and Parks Department, or both. Such determination shall be pursuant to pre-established criteria. Should the City Council approve the proposed sidewalk vending framework, below is a system that can be used to issue permits based on type of item, location and mode of vending.

The types of permits issued under the proposed model are limited to vending food and non-food items on City sidewalks and parks. To assist with enforcement efforts, and to ensure that the permit is easily visible and identifiable to all enforcement agencies, we recommend the following permit structure. The letter in the permit would represent whether it is food or non-food vending. The number in the permit would represent whether vending would be on City sidewalks or parks. The color of the permit would indicate whether the vendor has a stationary location or roaming in a designated area. Our Office is currently working on further developing this structure to allow for vendors interested in selling on the sidewalks and parks as well for those interested in selling food and non-food items. The County Department of Public Health has advised that stationary food vendors would be required to meet hand-washing guidelines.

Type of Item (Letter)

Food

County approved food, equipment and preparation process.

A - Permit

Non-Food Items

Public Works approved list of non-food items.

B – Permit

Vending Location (Number)

Sidewalks

Designated sidewalks subject to approval by the Public Works Department

A-1 or B-1 Permit

City Parks

Vending subject to approval by the Recreation and Parks Department.

A-2 or B- 2 Permit

Mode of Vending (Color)

Sidewalk Stationary (A-1-Yellow)

Temporarily stationed in one spot and must clear by the end of day.

Sidewalk Roaming (A-2-Green)

Allowed to roam within designated area (blocks, sidewalks).

City Park Stationary (B-1-Yellow)

Temporarily stationed in one spot and must clear by end of day.

Park Roaming (B-2-Green)

Roaming within city parks.

6. Once the interested vendor determines the type of vending and location either the Department of Public Works or the Department of Recreation and Parks, or both.
7. If an interested vendor requires technical or financial assistance, the vendor would be referred to the Economic and Workforce Development Department.

The following recommendations were developed based discussions with representatives from the Public Works Department, Bureau of Street Services, Police Department, Economic and Workforce Development Department and the County Department of Public Health. Once the City Council acts on the proposed framework, we will continue to work with City departments, the County Department of Public Health and community stakeholders to provide a status report on the development of enforcement, guidelines and implementation.

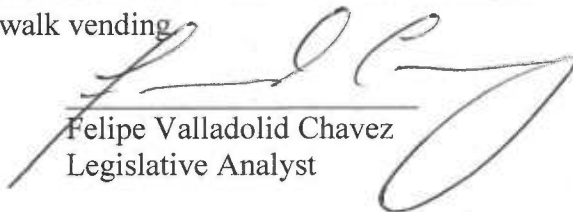
FISCAL IMPACT: No General Fund impact at this time.

RECOMMENDATIONS

Should the City Council wish to adopt a Sidewalk Vending Program for parks and sidewalks, we recommend that the Council adopt, in concept, the proposed Sidewalk Vending Framework (Attachment 1) and instruct staff to continue to work on the following actions:

1. Instruct the Department of Public Works, Bureau of Street Services, with the assistance of the Office of the Chief Legislative Analyst, Fire Department, Police Department, Department of Recreation and Parks, and any other necessary departments, and request the Los Angeles County Department of Public Health, to develop guidelines with respect to location, days and hours of operation, notification requirements and detailed sidewalk application process to implement the proposed Sidewalk Vending Program for food and non-food items.
2. Instruct the Department of Public Works, Bureau of Street Services to develop including a list of items that would be permitted such as new merchandise that can be tracked to discourage the sale of stolen goods.
3. Instruct the Department of Public Works, Bureau of Street Services, Economic and Workforce Development Department, Department of Recreation and Parks, Police Department, Fire Department and any other appropriate City departments to prepare a budget request package for this proposed program and instruct the City Administrative Officer, with the assistance of the Office of the Chief Legislative Analyst, to develop a fee study for the above mentioned types of permits and to report on funding and staffing needs to administer, implement and enforce the proposed Sidewalk Vending Program on City sidewalks and parks.

4. Instruct the Economic and Workforce Development Department, with the assistance of the County of Los Angeles Department of Public Health, to develop an education program for qualifying vendors.
5. Instruct the Economic and Workforce Development Department to work with its BusinessSource Centers to develop a technical assistance program to assist vendors.
6. Instruct the Department of Public Works, Bureau of Street Services and the Department of Recreation and Parks to work with the Economic and Workforce Development Department to monitor the program and report to the City Council one year after implementation, on the status of the Sidewalk Vending Program and identify and report on any issues, and negative and positive impacts associated with the proposed Sidewalk Vending Program on City sidewalks and parks.
7. Instruct the Department of Public Works, Bureau of Street Services, with the assistance of the Chief Legislative Analyst, Economic and Workforce Development Department and any other necessary departments to report on factors that would cap the total number of permits to be issued, including by type of food and location, and provide recommendations to the City Council relative to the number of permits that can be issued.
8. Instruct the Department of Public Works and the Los Angeles Police Department to develop an enforcement protocol that includes penalties, violations, a revocation process, and an appeal process, if needed.
9. Instruct the Police Department to address issues of extortion and other criminal activity affecting street vendors and report to the City Council with an appropriate enforcement protocol and development of staffing needs.
10. Instruct the Office of the Chief Legislative Analyst to work with the County Department of Public Health to develop criteria that defines healthy food items and develop a process to encourage healthy food vending.
11. Instruct the Office of the Chief Legislative Analyst, with the assistance of the Department of Public Works, Bureau of Street Services, the Department of Recreation and Parks and the County Department of Public Health to develop an incentive program for healthy food sidewalk vending.


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Legislative Analyst

Attachments: Proposed Sidewalk Vending Framework

DISCUSSION/RELATED MATTERS

Future Actions

On May 13, 2014, the Economic Development Committee: 1) requested the City Attorney to prepare an ordinance to legalize street vending; 2) instructed the Economic and Workforce Development Department to provide technical assistance through BusinessSource Centers; 3) the Economic and Workforce Development Department to develop an educational program to assist street vendors to become compliant with government codes and the permit process; and, 4) create a microloan program for vendors to purchase necessary equipment. City departments have expressed the need for City Council direction with respect to a desired framework before responding to the issues mentioned above.

Additionally, our Office was instructed by the Chair of the Economic Development Committee to design a sidewalk food vending program that provides incentives to healthy food vendors. Our Office has been working with the County Public Health Department to determine the types of food that would be deemed healthy and to identify areas of the City that could benefit from healthy food options. We anticipate that this information will be included in the next status report.

Community Input

At the request of the Committee Chair and Councilmember Huizar's Office, this Office held two additional meetings with community stakeholders to share the status of the City's proposed sidewalk vending program and allow for community input.

On the meeting of November 14, 2014, stakeholders raised issues of concern relating to enforcement, implementation and funding; liability of business owners, violations of the American Disability Act (ADA), diminished quality of life for the surrounding community and extortion of sidewalk vendors by gang members. To this issue, the Los Angeles Police Department has indicated that extortion by gang members affects all merchants and not only street vendors. The Police Department indicates that the solution is to encourage all victims of extortion to report crime. A recommendation has been included in this report for the Los Angeles Police Department to address such concerns through an appropriate enforcement protocol and through development of staffing needs.

At the meeting of November 18, 2014, stakeholders expressed concerns with the total cost of operation including fees and equipment, penalties, and a permit revocation process that takes into account the financial and economic means of sidewalk vendors and possible consideration of community service as an alternative to a monetary penalties. Stakeholders also expressed a preference for sidewalk vending program that promotes economic growth and self-sufficiency rather than limit the number of permits; and a renewal process. We anticipate that some of these issues will be addressed as the guidelines, criteria and an enforcement program are developed to fit the proposed sidewalk vending framework.

Enforcement, Guidelines and Budgetary Issues

At this time our Office is continuing to work with the Department of Public Works, Bureau of Street Services to develop a strong enforcement program, a detailed map displaying available areas for sidewalk vending, an administrative permit process and a specific set of guidelines and procedures for vendors. While we do not have a dollar amount with respect to the cost of operating and enforcing a sidewalk vending program, representatives from the Bureau of Street Services

have estimated there may be approximately 50,000 vendors Citywide. Of these, approximately 40,000 sell non-food items and about 10,000 sell food products.

The Bureau of Street Services is currently developing specific guidelines and criteria that will determine proximity to other businesses, entry and exits, fire hydrants, parking meters, visual public art, transit shelters and other vendors. Additionally, the Bureau of Street Services is developing criteria with respect to days and hours of operation; specific application process and a fee schedule. Additionally, we are including a recommendation to instruct the Economic and Workforce Development to report to Council with recommendations to provide training and technical assistance to sidewalk vendors. Issues that may arise in subsequent discussions will be addressed in future status reports.