



March 22, 2022

**R-17**

To: HONORABLE MAYOR AND CITY COUNCIL

From: Councilwoman Mary Zendejas, District 1

**Subject: Pathway to Inclusion for Sidewalk Vendors**

**RECOMMENDATION**

Recommendation to direct the City Attorney to draft a resolution to have the City's legislative advocates in Sacramento, in collaboration with the City Manager and all relevant City departments, to support legislation to enact changes to the California Retail Food Code that will make it more sensitive to the context of sidewalk food vending while ensuring food safety.

**DISCUSSION**

Recommended changes to the California Retail Food Code that can include, among other changes, the following:

1. Streamlining approvals for code-compliant carts, including by giving more discretion to local health authorities to approve innovative design and encouraging the pre-approval of cart design blueprints to catalyze manufacturing of affordable sidewalk carts at a scale that meets the need;
2. Revising regulations around the slicing of fruits and vegetables and the hot-holding of prepared foods to establish clear and easy-to-follow safety protocols that account for the types of foods commonly sold by sidewalk vendors;
3. Simplifying onerous sink, power, water, fire safety and other equipment requirements;
4. Creating a process for addressing non-compliance without criminal penalties.

Direct the Health and Human Services Department (Health Department), in collaboration with other relevant departments, to report back in 120 days with strategies the Department can implement to improve sidewalk vendors' access to health permits allowing the sale of food, including but not limited to:

1. Creating new materials summarizing application requirements that are specific to sidewalk vending, using popular education and accessible language;
2. In consultation with the City Attorney and with the identification of additional revenues by the City Manager, assess the legality and cost implications for waiving or reducing permit fees for low-income applicants;
3. Streamlining the permit application process;
4. In consultation with other relevant departments, develop a plan for (i) identifying existing commissary spaces suitable for use by sidewalk vendors and (ii) activating

underutilized kitchen spaces within the City that meet the Department's guidelines and can act as alternative commissary spaces for vendors;

5. Developing an "education first" approach to enforcement of food safety regulations that prioritizes outreach and engagement with sidewalk vendors as the primary means to increase compliance with applicable laws, including options that do not involve the seizure of vending carts or equipment and that utilize fines and citations only after other efforts to achieve compliance have failed.

Recommendation to adopt a resolution implementing a moratorium on issuing citations to sidewalk vendors for vending-related activities, including for selling goods without otherwise necessary permits, until the end of the COVID-19 Pandemic and the implementation of reforms by the City and the State of California making such permits accessible and affordable on an equitable basis.

Beginning in 2019, Senate Bill 946 (Lara) decriminalized sidewalk vending in California and established guidelines for local regulations to legalize and support the sidewalk vending economy. Since that time, the City has taken important steps to support sidewalk vendors and create economic opportunities. The City recently passed increased protections for sidewalk vendors and continues to improve the approach to addressing this vibrant part of the City's economy.

However, it has become apparent that certain outdated provisions in state law are impeding the City from achieving the goal of fully integrating sidewalk food vendors into the economy. Specifically, the California Retail Food Code (CRFC) imposes restrictions and requirements that are not in alignment with the Board's intent to support small-scale sidewalk vending, creating barriers for sidewalk food vendors to obtain a permit from the Department of Health and Human Services (Health Department).

A recent report from Public Counsel and the UCLA School of Law Community Economic Development Clinic titled *Unfinished Business* describes these challenges in detail.<sup>1</sup> The report finds that CRFC requirements for mobile food facility equipment are generally tailored to larger hitch trailers and food trucks, effectively requiring sidewalk food vendors to procure carts that are too big for the sidewalk, too heavy to push, and too expensive for low-income micro entrepreneurs. Other provisions of the CRFC create a de facto ban on iconic fruit carts and taco carts by prohibiting the slicing of fruit and limiting the hot holding of foods to hot dogs, corn on the cob and tamales on a sidewalk vending cart. The report contends that the CRFC is not explained in language that is accessible to sidewalk vendor applicants, and details how low-income vendors must pay expensive fees to prepare food at commissaries even while underutilized kitchens in community spaces like schools, restaurants, and places of worship sit empty.

The current CRFC mobile food vending regulations make it very difficult for sidewalk food vendors to obtain compliant mobile food service equipment at a cost that provides them with a reasonable opportunity to secure a health permit from the Health Department. Without a permit from the Health Department, food vendors cannot legally vend and are subject to fines

---

<sup>1</sup> <http://www.publiccounsel.org/tools/assets/files/1647.pdf>

and criminal citations if they continue to pursue their livelihoods without that permit. This undermines the City's efforts to create a sidewalk vending program, excludes vendors from the economy, delegitimizes their business model in ways that make them vulnerable to harassment and violent attacks, increases risk of criminal citations and the attendant collateral consequences, and separates many workers from the resources and support that come with a permit from the Health Department.

This status quo is unfairly excluding vendors from opportunity and is harming the economy of the City. With commonsense changes, the law can be updated to align important food safety protections with the scale of smaller mobile food facilities. Research and analysis from Public Counsel and the UCLA School of Law offer many ways that the CRFC could be modernized to align public health and economic inclusion through a more practical system for regulating food safety. Changing these rules to include workable standards for food facilities designed to be operated on the sidewalk will result in significant benefits to public health by bringing food workers into a formal system of food safety guidance and regulation.

This recommendation (i) provides for the City's legislative advocates to support state legislation amending the California Retail Food Code to make food safety regulations more sensitive to the context of sidewalk vending, (ii) directs the Department of Health and Human Services to report back on certain actions it can take to make permitting for food sales more accessible to sidewalk vendors, and (iii) implements a moratorium on citations issued to sidewalk vendors until the end of the COVID-19 Pandemic and the implementation of the referenced reforms at the State and City level.

This matter has been reviewed by Budget Manager Grace H. Yoon on February 8, 2022.

### TIMING CONSIDERATIONS

The City of Long Beach has seen an increase in violence towards our sidewalk vendors as well as an increase in local, street-level entrepreneurial ventures. It is time to advance opportunities to better include and protect these vital parts of our economy and community.

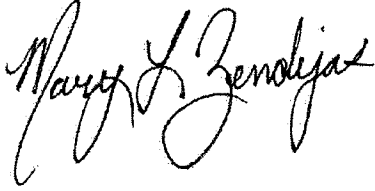
### FISCAL IMPACT

Preparation of this report by the Health and Human Services Department is anticipated to have a moderate to significant fiscal impact on resources specific to developing policy, practice and proposed legislative changes to State and local health & safety codes. Additional and specific fiscal impacts on the preparation and potential implementation of any action items will be provided in the report and any additional funding needed for implementation will need to be identified. Depending on implementation and funding, any needed increase in budget appropriation in the General Fund Group in the Health and Human Services Department will be requested at a future time.

### SUGGESTED ACTION

Approve recommendation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary Zendejas". The signature is written in a cursive, flowing style.

Councilwoman Mary Zendejas

