



Legislation Text

File #: 23-0467, **Version:** 1

Recommendation to receive and file a report prepared by Lisa Wise Consulting, Inc., and the Public Outreach report prepared by City of Long Beach (City) staff regarding the City's existing sidewalk vending regulations; and

Request City Attorney to prepare ordinance based on the recommendations outlined herein regarding sidewalk vending regulations and update the Long Beach Municipal Code (LBMC) to comply with the most recently enacted State legislation regarding sidewalk vending; to consolidate, where feasible, provisions of the LBMC relating to the regulation and enforcement of sidewalk vendors and similar operations into one ordinance; and, in consultation with City Manager, or designee, repeal provisions of the LBMC that are obsolete, no longer applicable, or no longer enforced related to sidewalk vendors and similar operations. (Citywide)

In 2018, the State of California passed Senate Bill 946 (SB 946) which took effect on January 1, 2019. SB 946 established parameters for the local regulation of sidewalk vendors, which only allows local authorities to regulate sidewalk vending in accordance with the provisions of the bill. The bill's primary intent was to decriminalize sidewalk vending so that local authorities could issue only administrative rather than criminal citations.

According to SB 946, a "sidewalk vendor" is "a person who sells food or merchandise from a pushcart, stand, display pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person upon a public sidewalk or other pedestrian path." For the purposes of this discussion, "sidewalks" and "other pedestrian pathways" will be considered to be paved surfaces primarily for pedestrian travel.

The following outlines the requirements and restrictions the City may or may not impose on sidewalk vendors of food and merchandise under SB 946.

Under SB 946, the City may adopt requirements which are directly related to objective health, safety, or welfare concerns, including:

- Requiring sidewalk vendors to obtain permits and/or licenses.
- Requiring the sidewalk vendor to provide information about themselves and their vending operations.
- Placing limitations on hours of operation that are not unduly restrictive.
- Adopting requirements to ensure compliance with the federal Americans with

Disabilities Act (ADA) of 1990 and other disability access standards.

- Adopting requirements that ensure sanitary conditions.
- Prohibiting stationary sidewalk vending in areas that are zoned exclusively residential. (Roaming sidewalk vendors cannot be prohibited in areas zoned exclusively residential.)
- Adopting requirements within parks that are necessary to prevent an undue concentration of commercial activity which would unreasonably interfere with the scenic and natural characteristics of a park and to ensure the public's use and enjoyment of natural resources and recreational opportunities.
- Prohibiting stationary sidewalk vendors from vending in parks only if the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
- Prohibiting sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market, a permitted swap meet, or an area designated for a temporary special permit, such as an encroachment permit or special event permit.
- Prohibiting any vending other than sidewalk vending of food or merchandise.

Under SB 946, the City may not:

- Require sidewalk vendors to operate in a specific area or within certain parts of the public right-of-way, unless the local authority is restricting vending to protect the community's health, safety, or welfare or as designated by SB 946.
- Require sidewalk vendors to obtain consent or approval of any nongovernmental entity or individual in order to vend.
- Restrict the overall number of sidewalk vendors, unless the restriction is directly related to objective health, safety, or welfare concerns.
- Adopt additional requirements regulating the time, place, and manner of sidewalk vending unless the requirements are directly related to objective health, safety, or welfare concerns. Perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

To comply with SB 946, the City needs to consolidate, where feasible, and repeal existing sections of the LBMC that relate to sidewalk vending. The City also needs to draft an Ordinance outlining regulations related to sidewalk vending consistent with the provisions of SB 946.

In June 2022, Lisa Wise Consulting, Inc. (LWC), was retained to provide recommendations on regulations and policies related to sidewalk vending. The scope of LWC's work was to audit the existing LBMC, prepare a case study review of sidewalk vending programs in comparable California cities, engage with internal stakeholders regarding current conditions

of sidewalk vending within Long Beach, and create a set of recommendations for future action which considered all stakeholders. LWC's Considerations and Recommendations Report is attached (Attachment A).

Outreach Results

While LWC engaged with internal stakeholders, City staff engaged with various external stakeholders and the community at large. Internal stakeholders that were engaged included the following Departments: Development Services, Economic Development, Financial Management (FM), Fire, Health and Human Services (Health), Parks, Recreation and Marine (PRM), Long Beach Police (LBPD), and Public Works (PW); along with the City Manager's Office, including the Office of Special Events and Filming and Equity. These internal stakeholders reported the following:

- Sidewalk vendors provide an amenity for some individuals and communities, but can create a nuisance for others.
- Existing regulations and procedures are unclear and difficult to consistently enforce.
- Current City staff resources and capacity present an enforcement challenge.
- A comprehensive Sidewalk Vending Program and additional staffing could ease enforcement challenges.

For more details on feedback received, see the "Departmental Interview" section of Attachment A.

External stakeholders that were engaged included representatives from Business Improvement Districts (BIDs) neighborhood associations, community-based organizations, businesses, sidewalk vendors, and residents. Common themes of the external stakeholder feedback included the following:

- Sidewalk vendors provide alternative options to food that is available, and in food deserts, provide some of the only nearby food access.
- Concerns with ADA accessibility and potential areas of traffic concerns.
- Sidewalk vending provides entrepreneurial opportunities, though some are concerned that sidewalk vendors do not currently contribute to the tax base and have fewer fees and regulations compared to brick-and-mortar businesses.
- Health and safety concerns, including food safety, proper disposal of grease and products, and the safety of sidewalk vendors.
- Concerns regarding trash and debris left by patrons.
- Enforcement concerns related to the City's health inspection team's current capacity to regulate food-related sidewalk vending.

For more details on feedback received, please see the Community Engagement Report in Attachment B.

In addition, on March 13, 2023, the City's Economic Development Commission (Commission) provided feedback on sidewalk vending regulations and expressed similar concerns for brick-and-mortar businesses while also acknowledging the entrepreneurial opportunities and benefits of sidewalk vending. The Commission encouraged synergies between brick-and-mortar businesses and sidewalk vendors so they could be mutually beneficial, such as employee sharing. The Commission also expressed concerns for the City's ability to enforce regulations and mentioned fully recovering enforcement costs through permit and licensing fees.

Sidewalk Vending Regulation Recommendations

The following list of recommended regulations are based on the recommendations provided by LWC and the feedback received by both internal and external stakeholders. Staff is proposing that the City Council's policy work end with a comprehensive Ordinance outlining the operation and regulation of sidewalk vendors operating upon a public sidewalk or pedestrian path. The Ordinance would include needed definitions; regulate vending in exclusively zoned residential areas and parks; outline parameters relating to distance from various facilities and above ground structures; outline operating requirements; and, require permits and licenses where applicable. The Ordinance will outline the permit requirements and standards as well as enforcement and fines for violating the Ordinance.

The Ordinance would apply only to "sidewalk vendors," the definition of which is limited to vendors of food and merchandise who vend on public sidewalks or other pedestrian paths. Accordingly, vending on private property and vending of services will not be covered by the new Ordinance and will be governed according to current regulations and policies. Food and merchandise vendors operating on private property or as part of a special event will continue to be required to obtain and display a business license and/or health permit and have permission from the special event planner or private property owner. Vendors of services will continue to be allowed to vend at the discretion of the Parks and Recreation Commission in uplands park property only, and not in tidelands areas.

Provisions of the proposed sidewalk vending ordinance which apply inside the Coastal Overlay Zone and related to coastal development as defined in California Public Resources Code section 30106, are subject to California Coastal Commission jurisdiction and cannot take effect in the Coastal Overlay Zone until the date the California Coastal Commission unconditionally certifies those provisions for inclusion in the local coastal program.

1. Definitions

As outlined in LWC's Recommendations Memo (Attachment A) there are conflicting definitions related to sidewalk vending present in the LBMC. The Ordinance would include

definitions of terms related to sidewalk vending and eliminate unintended interpretations and ambiguities in sidewalk vending policies. Examples of terms to be defined include, but are not limited to: “above ground structures,” “certified farmers’ market,” “food,” “goods,” “parkway,” “public right-of-way,” “sidewalk,” “sidewalk vendor,” “roaming sidewalk vendor,” “stationary sidewalk vendor” and “vending equipment.”

2. Zoning, Land Use Controls, and Distancing

The recommendations in this section are based on the recommendations from LWC and feedback from the internal and external outreach efforts while focusing on health, safety, welfare, and equity concerns.

Prohibited Operating Areas

- Stationary sidewalk vendors shall not be permitted to operate in an area zoned exclusively residential.
- SB 946 allows local authorities to establish regulations within parks that are necessary to prevent an undue concentration of commercial activity which would unreasonably interfere with the scenic and natural characteristics of the park. It also allows regulations that would ensure the public’s use and enjoyment of natural resources and recreational opportunities with parks. For these reasons, sidewalk vendors shall not vend in the following areas, their parking lots, or their ingress and egress routes:
 - o Properties that contain protected habitat and mitigation areas such as DeForest Park and Wetlands, Willow Springs Park Wetlands, Los Cerritos Wetlands, Colorado Lagoon, Jack Dunster Marine Biological Reserve, Sims’ Pond Biological Preserve, Golden Shore Marine Biological Reserve Park, and El Dorado Nature Center.
- Any City property subject to a lease or operating agreement such as
 - o Long Beach Convention Center
 - o Shoreline Village
 - o Pike Outlets
 - o Rainbow Harbor Esplanade, including Shoreline Aquatic Park and Pine Avenue Pier
 - o Rainbow Lagoon Park
 - o Rancho Los Alamitos
 - o Rancho Los Cerritos

- o City permitted/leased community gardens
- o City-owned municipal golf courses

Distance Requirements

To promote and protect the public health, safety, and welfare in the City, the distance requirements outlined below must be maintained between a sidewalk vendor and the surrounding environment. Vending on public sidewalks and other pedestrian paths creates the potential for safety hazards, such as inhibiting the ability of individuals with disabilities and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross outside of a crosswalk or stand in roadways to purchase food and/or merchandise; and, creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic.

Recommended Distance Regulations for Sidewalk Vending	
Recommended Regulation	Justification
No vending in the public right-of-way (defined a public easement for streets, alleys, or other areas other than a sidewalk), or any area that blocks the safe flow of pedestrians or vehicles, unless otherwise allowed.	To ensure traffic safety.
All vendors must maintain a minimum 4 feet of clear sidewalk/pedestrian path width as a path of travel, except for a roaming sidewalk vendor to briefly conduct a sale. Even during such instances as roaming sidewalk vendors stopping to briefly make a sale, all sidewalk vendors must immediately move to provide access to the sidewalk so as not to impede the flow of pedestrian or other traffic.	To ensure compliance with the Americans with Disabilities Act of 1990 and to ensure pedestrians have a safe path of travel.

<p>Stationary sidewalk vendors and roaming sidewalk vendors may stop to vend in the parkway (the area adjacent to a roadway between the sidewalk line and the roadway), so long as vending is only done on areas where plants are not present, no damage is done to the parkway landscaping, it is safe to vend in the parkway, and all other requirements under this ordinance are met.</p>	<p>This is more permissive and would make vending feasible in areas where the minimum 4-feet of sidewalk/pedestrian path width cannot be otherwise maintained.</p>
<p>No vending on any public property that does not meet the definition of a public sidewalk or pedestrian path unless otherwise allowed, including, but not limited to, any alley, bike or shared use path, bridge, marina, median, square, courtyard, street, street end, or parking lot, unless otherwise allowed.</p>	<p>To protect public health, safety and welfare.</p>
<p>No vending on any slope greater than 5 percent or where signage indicates that wheels must be cramped to the curb.</p>	<p>To ensure vending conveyances do not accidentally roll down a hill.</p>
<p>No vending in any location that obstructs traffic signals or regulatory signs.</p>	<p>To prevent traffic congestion and to ensure visibility of signs and protect public safety.</p>
<p>No vending to any customers in moving vehicles.</p>	<p>To prevent traffic congestion and to protect public safety.</p>
<p>No vending within 18 inches of the edge of a curb.</p>	<p>To ensure a safe distance from parked car doors and passing vehicular traffic and to ensure public safety.</p>
<p>No vending within 5-feet of an above ground structure in sidewalks, pedestrian paths, and the public right-of-way (such as utility boxes, parking meters, and streetlights).</p>	<p>To prevent overconcentration on sidewalks or parkways and ensure pedestrian traffic moves freely.</p>
<p>No vending within 5 feet of a bus or Metro stop.</p>	<p>To ensure clear passage for loading and unloading passengers.</p>
<p>No vending within 10-feet of a driveway, alley approach or marked crosswalk.</p>	<p>To ensure visibility for vehicles and pedestrians.</p>

No vending within 10-feet of an ATM, or outlined shared e-scooter / bike parking.	To prevent overconcentration on sidewalks or parkways and ensure pedestrian traffic moves freely.
No stationary sidewalk vending within 10-feet of an entrance or exit to a building / structure / facility, fire escape or emergency exit. Roaming sidewalk vendors shall not block these locations.	To ensure unimpeded access for building evacuations during an emergency.
No stationary sidewalk vending within 15-feet of a Fire Department connection, fire hydrant, fire lane or any fire backflow preventer. Roaming sidewalk vendors shall not block these locations.	To ensure unimpeded access for public safety personnel and equipment during maintenance or an emergency.
No vending within 15-feet of an outdoor dining, patio area, sidewalk dining or permanent parklet, or location with a valid encroachment permit.	To prevent overconcentration on sidewalks or parkways and to ensure pedestrian traffic moves freely.
No food vending within 15-feet of a public restroom.	To ensure sanitary dining conditions.
No vending within 15-feet of a street intersection, loading zone ADA curb ramp / curb cut, parking space or access ramp designed for individuals with disabilities.	To ensure visibility for vehicles and pedestrians and to ensure easy access for individuals with disabilities to ADA infrastructure.
No vending within 25-feet of a Beach Access point.	To ensure unimpeded access for public safety personnel and equipment during maintenance or an emergency.
No stationary sidewalk vending within 40-feet of another stationary sidewalk vendor.	To prevent overconcentration on sidewalks or parkways, to ensure adequate space for customer queuing, and to ensure pedestrian traffic moves freely.
No vending within 50-feet of a railroad crossing.	To ensure safety and visibility for vehicles and pedestrians.

No vending within 100-feet of the vehicle entrance of any fire station, police department, hospital, lifeguard tower, lifeguard headquarters, or any other emergency response structure or path.	To ensure unimpeded access for public safety personnel at all times.
No vending within 100-feet of a posted sidewalk or street closure, unless otherwise permitted.	To ensure public safety during construction or other activities.
No vending within one block of a school within 30 minutes before or after the school's opening or closing hours.	To ensure student safety as they are traveling to and from these locations, to avoid congestion and congregating at these locations and to ensure students are only exposed to healthy food options.
No vending within 500-feet of any permitted special event, swap meet, farmers' market or filming permit.	To prevent congestion and ensure adequate crowd control safety measures can be taken at these locations by public safety personnel.

Vending in Areas Zoned as Parks

SB 946 allows sidewalk vending on public sidewalks and other pedestrian pathways, including those in parks. However, SB 946 allows local authorities to establish regulations within parks that are necessary to prevent an undue concentration of commercial activity which would unreasonably interfere with the scenic and natural characteristics of the park. It also allows regulations that would ensure the public's use and enjoyment of natural resources and recreational opportunities with parks. A local authority may also prohibit stationary sidewalk vendors from vending in the park if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

In addition to the prohibited areas and distance recommendation as well as the operating conditions outlined in Section 3, the operating conditions for areas zoned as parks (including parks, beaches and piers) outlined below allow vendors and patrons the enjoyment of natural resources and recreational opportunities within public parks without an undue concentration of commercial activity and without interfering with sporting events.

- Stationary sidewalk vendors are not permitted within 500-feet any concessionaire that has signed an agreement with the City that exclusively permits the sale of food or merchandise by the concessionaire.
- No vending within 15-feet of monuments, statues, memorials, or art installations.

- Stationary sidewalk vendors are not permitted to vend on bike or shared paths, but may vend within the space 10-feet off of path, measured perpendicular to the path, so long as it is safe to do so, customers do no queue on the path, and all other requirements under this ordinance are met.
- Stationary sidewalk vendors may vend within the space 10-feet off of a pedestrian path, measured perpendicular to the path, so long as it is safe to do so and customers do not queue on the path, and all other requirements under this Ordinance are met.
- Roaming sidewalk vendors are not permitted to vend on shared paths but may vend on pedestrian paths and may stop to briefly conduct a sale. Even during such instances as roaming sidewalk vendors stopping to briefly make a sale, all sidewalk vendors must immediately move to provide access to the pedestrian path so as not to impede the flow of pedestrian or other traffic.
- Roaming Sidewalk vendors may not vend on greenspace and shall not interfere with any sporting events or the free use of any designated sport play areas or open recreation space and shall not approach spectators who are watching a sporting activity to sell food or merchandise.
- Sidewalk vendors shall not use any vehicle to drive onto pathways, turf, or sand areas.
- Sidewalk vendors shall take appropriate care to not damage turf, irrigation or any other infrastructure.
- Sidewalk vendors shall not vend in the parking lots of any public parks.

3. Operating Conditions

Vending on public sidewalks and other pedestrian paths creates opportunities for some but may be a nuisance for others. To promote and protect public health, safety, welfare and equity in the City, the operating conditions outlined below are recommended.

These operating conditions allow vendors and patrons to take advantage of the daylight hours while not being so strict as to introduce undue burdens or constraints of trade, and clearly delineate what a sidewalk vendor may or may not do or use.

Operating Hours

- Roaming vending activities on residential blocks may occur between the hours of 7:00 a.m. and 8:00 p.m. or sunset, whichever is later.
- Vending activities on non-residential blocks, excluding parks, may occur between 6:00 a.m. and 10:00 p.m. or the operating hours imposed on other businesses on the same block, whichever is least restrictive. (According to SB 946, sidewalk vendors may not be required to close earlier than any other business on the same street.)
- Vending is permitted between 8:00 a.m. and closing time of the park or sunset in parks where there is no designated closing time.

Operating Requirements

Sidewalk vendors shall:

- Operate in a space no larger than 80-square feet. This would be equivalent to a 16x5 foot area.
- Clean up all trash, debris, spills, grease, and oil, related to the sidewalk vending activities within a 10-foot radius around their vending area.
- Only set up chairs and/or umbrellas for the sole use of the sidewalk vendor and the umbrella cannot exceed a maximum height of eight (8) feet.
- Maintain adequate trash containers in or on their sidewalk vending conveyance or location.
- Comply with all applicable laws relating to the employment of minors. Any minor assisting with or engaged in vending shall be accompanied by a sidewalk vendor with valid permits and licenses. Any and all actions of the minor related to vending, including any violations committed by the minor, are attributable to the sidewalk vendor.
- Follow the Expanded Polystyrene Ordinance per section 8.63 of the LBMC.
- Follow the Noise Ordinance per section 8.80.010 of the LBMC.
- Follow the Public Facilities Disposal of Refuse and Pacific Ocean Area Sanitation requirements per sections 16.08.420 and 16.12.260 of the LBMC.

Sidewalk vendors shall not:

- Rent merchandise to customers.
- Solicit sales by travelling door-to-door on private property.
- Set up tables, chairs, umbrellas or canopies for customer use.
- Hang or affix any items to above ground structures, fences, gates, or onto public or private buildings.
- Display merchandise or food that is not available for immediate sale.
- Sell any food or merchandise that requires verification of a minimum age for purchase, such as alcohol, tobacco, tobacco products, or firearms.
- Sell any controlled substance, drug, or pharmaceutical.
- Sell any vaping or drug paraphernalia.
- Sell adult-oriented material or animals.
- Sell counterfeit, stolen, or illegal goods.
- Sell weapons, including but not limited to: knives, guns, explosive devices, BB devices, or imitation firearms.

- Use amplified or non-amplified sound-making devices in conjunction with vending, such as speakers, microphones, public address systems, bells, and chimes.
- Use any electrical, flashing, wind powered, or animated signs.
- Use an electrical outlet or power source that is owned by the City or another person other than the sidewalk vendor.
- Empty their trash into public trashcans.
- Dispose of items or material into the curbs, gutters, streets, drains or storm drain system or onto any other public or private property. Items include but are not limited to: any water or rinse residue used for vending activities such as cooler water, ice or food preparation water, food debris, hot coals or ashes and grease.
- Drive onto or otherwise stage their vehicle on the curb, parkway or sidewalk to unload sidewalk vending equipment, materials or personnel.
- Fail to comply with all posted parking restrictions.
- Adversely affect the City's ability to perform municipal functions or furnish City services.
- Interfere with the performance of police, firefighter, lifeguard and emergency medical personnel services.
- Obstruct the free and easy access to and departure from any portion of any public landing, pier or wharf within the marinas.

4. Permitting Requirements

Sidewalk vending shall only be allowed to take place with the issuance of a Business License in the form of an easily identifiable sticker issued by FM, similar to other mobile operations, which must be obtained prior to sidewalk vending. The Business License shall be displayed at all times. Sidewalk vendors shall obtain a California Seller's Permit, if applicable.

Any sidewalk vendor selling food or beverages must obtain a City Health Permit, unless exempt. The City Health Permit shall be displayed at all times and the vendor shall be subject to the requirements in the California Retail Food Code.

5. Exception for Minors

In residential zones only, minors operating vending equipment for a temporary use or selling products for a recognized 501(c)(3) charity for the purpose of fundraising shall be exempt from the requirements of this Ordinance. Access and accessibility provisions would apply.

6. Enforcement

Enforcement fines and revocation process for permits related to the Sidewalk Vending Ordinance will comply with SB 946 and SB 972 and will be outlined in detail once an

Ordinance is drafted and presented to City Council.

Implementation

Education and Outreach

An educational campaign will go into effect after the Ordinance is passed so that vendors are aware of the new Ordinance and regulations and will have the ability to come into compliance. Enforcement of the Ordinance will follow this educational campaign. Enforcement will primarily be handled by Health and FM with support from PW and LBPD. LBPD's support will be periodic in nature, based on operational conditions to ensure public and staff safety. Penal Code violations shall continue to be handled by LBPD, such as vendors that sell alcohol or other items illegally.

Educational materials including business license and health permit applications and regulations will be provided on the City website and distributed to vendors in person to help vendors be best informed and to provide community members with information of where to submit complaints. A Community Education Campaign will be introduced and will include relevant presentations and sessions for questions and answers. All materials will be available orally and in writing in English, Spanish, and any other languages deemed necessary for adequate communication.

In May 2022, the City Council adopted Resolution 22-0072 to prioritize education for sidewalk food vendors operating without a health permit until the State amended the California Retail Food Code (CRFC) to support the operation of small-scale sidewalk food vendors. Since then, the City has taken an education-first approach for sidewalk food vendors operating without health permits and has allowed for two educational visits prior to enforcement action, except in instances where an imminent health safety hazard requires immediate action. Effective January 1, 2023, the CRFC was amended to relax certain structural and operational requirements for lower risk sidewalk food vending operations. Given that the State has amended the CRFC to support the operation of small-scale sidewalk food vendors, the condition set forth in the Resolution has been satisfied and the City will continue to educate first but allow for enforcement to occur after the first educational visit. By June 30, 2023, it is anticipated that all vendors will have received at least one educational visit and it will have been six months since SB 972 went into effect. Due to this, staff will return with a Resolution to repeal Resolution 22-0072 to allow the City to return to normal enforcement, which would continue to incorporate education and outreach while allowing enforcement to occur concurrently.

In addition to education and outreach on regulations, information on sidewalk vendor safety will also be included to provide vendors information on how to vend safely, the digital inclusion initiative, and business assistance available from the Economic Development Department. This sidewalk vendor safety education is in response to concerns regarding vendor safety that were raised throughout the outreach and engagement process and in

response to an item brought forward by Councilwoman Saro on June 15, 2021, intending to provide assistance to improve the safety and security of sidewalk vendors within Long Beach. For more information, please see the Sidewalk Vending Safety and Security memorandum for the Mayor and City Council provided in May.

City Resources and Revenue

One-time FY 23 costs to establish the Sidewalk Vending Program are estimated at \$40,000 and will include technology needs and outreach and educational efforts. To effectively accommodate the program, a technology solution is needed to accept the complaints received surrounding sidewalk vending activities, send out automatic notices to the appropriate staff, and update the complainant. Staff proposes to use the existing GoLongBeach application for these purposes. The implementation time frame necessary to update GoLongBeach is estimated at one month, with a one-time implementation cost estimated at \$8,000. Further, staff in PW, Health, and FM will engage in community education and outreach efforts and enforcement related to the new sidewalk vending Ordinance and its requirements. This one-time cost to be incurred by these departments for outreach and educational efforts and enforcement is estimated at \$32,000 in FY 23.

Ongoing funding and staffing levels will need to continue to be evaluated and adjusted as the new program moves forward. Following an assessment of program requirements, consultant recommendations and community feedback, an initial assessment for additional ongoing costs is estimated at a minimum of \$367,053 per year. Of this amount, \$205,355 supports an enhancement of 2.0 Full-Time Equivalents (FTEs) for permitting, licensing, and regulation duties required at the start of the program. Duties include educating vendors and the community, ensuring vendors comply with local and state regulations, performing routine health and safety inspections, receiving and assessing complaints, and taking actions needed to investigate and address complaints in a timely manner. The 2.0 FTEs are comprised of 1.0 FTE Environmental Health Specialist in Health and 1.0 FTE Clerk Typist III in FM. This staffing increase in FM is in addition to expanding the current duties of other existing staff, such as Business License Inspectors and Customer Service Representatives to cover the sidewalk vending program. The remaining amount of \$61,698 is needed for materials and supplies in Health and \$100,000 for on-going enforcement and regulation support from the PW and LBPD. Potential overtime costs in Health, FM, PW, and LBPD are excluded from these estimates.

New revenue generated from the Sidewalk Vending Program inspection and permit fees is anticipated to offset a portion of annual program costs. Fees and charges associated with the program will need to continue to be monitored along with program expenditures, with proposed rate adjustments to full cost recovery where appropriate. Health will assess existing permit fees already included in the Citywide Master Fees and Charges Schedule specific to food service carts, tricycles, and current plan check fees according to the risk category associated with the types of food available from each vendor. These fees, including proposed rate increases to food service cart and tricycle permit fees to align with the cost of service,

was presented to the City Council on April 18, 2023. The proposed rate adjustments will return on May 23, 2023 for City Council approval as part of a mid-year FY 23 fee Hearing to amend the Citywide Master Fees and Charges Schedule. Health recommends annual permit rates at \$300 for food service carts without plumbing, \$730 for food service carts with plumbing, and \$253 for tricycles. Health's recommended permit rates are comparable to fees being charged by the Los Angeles County Public Health Department, which range from \$393 to \$772; the Orange County Public Health Services Department, which ranges from \$151 to \$696; and the Pasadena Public Health Department, which range from \$214 to \$373. The department also recommends assessing current mobile food facility plan check fees with rates ranging from \$250 for lowest risk to \$1,165 for the highest risk. Risk categories align with the increasing level of inspection needed based on vendor offerings with the lowest category applied for packaged, non-perishable foods to the highest category for unpackaged, perishable foods. The annual permit rate charged for tricycles and health plan check fees are recommended at subsidized levels, as a rate increase to full cost recovery may create financial barriers to operators.

FM will also return to the City Council in FY 23 with a request to amend the Citywide Master Fee and Charges Schedule and establish a new Sidewalk Vending Business License Fee. City staff anticipates that the rate for a business license will be proposed at \$300 to align with full cost recovery, although the City Council could direct these costs to be subsidized and a lower fee established. Following FY 23, the fee will be adjusted in June of each year and will be subject to an annual CPI increase. The fee range across comparable jurisdictions varies widely and includes the following: Anaheim at \$170, Bellflower at \$206, Carson at \$459, El Segundo at \$226.40, Hermosa Beach at \$325, Los Angeles at \$541, Santa Monica at \$122.68, San Diego ranging from \$72 and up (depending on the sidewalk vending operation), and Torrance at \$322.

Other Considerations

While the recommended regulations are comprehensive in nature, staff notes that other suggestions and concerns were received throughout the public engagement process. Some of these items are addressed through other regulatory mechanisms and are not included in the City's Ordinance recommendations. If an item was not included, the explanation is provided below.

- Limiting the number of sidewalk vending permits/business licenses for either individual or corporations, or possibly having different regulations for corporations versus individuals applying for sidewalk vending businesses licenses.
 - o These are items that staff is looking into further and specifics are being determined and will be finalized prior to implementation.
- Limiting sidewalk vendors from operating in front of brick-and-mortar restaurants or retail stores, or establishing sidewalk vendor designated areas.
 - o Pursuant to SB 946, local authorities can only adopt time, place and manner

regulations if they are an objective health, safety, or welfare concern. SB 946 specifically stipulates that perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

- Concern that sidewalk vendors operating in Business Improvement Districts (BIDs) should pay BID fees.
 - o Fee assessments for BIDs are collected through the annual Los Angeles County property tax bill and the assessments for the Business Improvement Areas (BIAs) are collected with the annual City Business License renewal process. Since sidewalk vendors do not own property, they would not be able to be assessed as part of a BID. According to the establishing Ordinances for BIAs, only businesses occupying premises within the BIA are included. Since sidewalk vendors do not occupy premises, they cannot be included as a business in BIA assessments. Further, SB 946 stipulates that a local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.
- Requiring sidewalk vendors to have insurance.
 - o The intent of SB 946 was to promote entrepreneurship and support immigrant and low-income communities. Given this, requiring insurance could be cost-prohibitive for sidewalk vendors and is estimated to range between \$300-\$1,000 for general liability insurance. As part of its regular practice, the City requires hold harmless indemnification when issuing licenses and permits. Due to these reasons, an insurance requirement is not recommended and would be left to the discretion of the sidewalk vendor.
- Many of the sidewalk vendors in operation are taco vendors.
 - o Even with amendments to the California Retail Food Code from SB 972, taco stands are required by State Health Code to have three compartment sinks, handwashing sinks, proper mechanical refrigeration, and other requirements to maintain health and safety. In order to comply, complex operations such as those undertaken by taco vendors will need to adjust to incorporate these health and safety requirements in order to be permitted.
- Type of equipment being used by sidewalk vendors.
 - o Though not specifically called out in the recommendations, concerns will be mitigated through the permitting process, especially food-related sidewalk vendors.
- Suggestions to host sidewalk vendor rallies or events.
 - o Currently, organizers do host such events through the City's Office of Special Events. If an organizer or promoter was interested in hosting a more regular series of events, the City would work with them to determine how best to support such an effort. The City is not able to serve as the organizer of such events at

this time due to resource constraints.

- Requiring sidewalk vendors to abide by SB 1383, California's new organics recycling law.
 - o It is estimated that each sidewalk vendor would not produce more than 10 gallons of food waste, which is the threshold of the new law. If they do meet the threshold, they would be required to abide by SB 1383 requirements.
- Requiring sidewalk vendors to pay sales tax and follow labor laws, including minimum wage.
 - o To clarify, sidewalk vendors are required to pay sales tax, when applicable, and follow labor laws. However, these requirements are governed by the State and therefore it is not necessary for them to be specified in the recommended regulations.

This matter was reviewed by Deputy City Attorney Marsha Yasuda on April 18, 2023, and by Revenue Management Officer Geraldine Alejo on April 17, 2023.

City Council action is requested on May 9, 2023, to allow commencement of this work.

The sidewalk vending program has a minimum estimated cost impact of \$407,053, of which \$40,000 is a one-time cost for program implementation in FY 23. The remaining amount of \$367,053 are estimated structural costs following program implementation to cover efforts in the FM, Health, LBPD, and PW.

The estimated FY 23 one-time costs of \$40,000 includes \$8,000 to integrate the sidewalk vending program into the existing GoLongBeach application and \$32,000 for education and outreach efforts and enforcement. One-time implementation costs are unbudgeted; however, an appropriation increase is not requested at this time. If needed, an appropriation request will be made to the City Council once program timing is established and following a review of existing resources budgeted in the applicable departments available to support these expenditures in the current year.

In addition to one-time implementation costs, the sidewalk vending program is estimated to result in a minimum annual structural cost increase of \$367,053 based on a current assessment of program needs. Of this amount, Health's costs are estimated at \$188,612 and include \$126,914 for an Environmental Health Specialist for inspection and permitting, as well as \$61,698 for materials and supplies. The increased cost to FM is estimated at \$78,441 for a Clerk Typist III and \$10,000 for materials and supplies. This FTE increase in FM is in addition to an expansion of current staff duties to support the program. Finally, an estimated \$100,000 for additional on-going enforcement support may be required from PW and LBPD. Ongoing funding and staffing levels to successfully implement the program will need to continue to be evaluated as the program moves forward and details are refined. On-going costs are not budgeted. Following City Council approval of the program, staff will return with a request for

appropriation and funding from the General Fund and Health Fund Groups as part of the FY 24 budget process, along with any offsetting program revenue that may be identified from new and adjusted fees to be proposed in FY 23. The City will begin to incur these costs in FY 23 at the onset of the program. Staff will monitor program expenditures and the ability to fund within current budgeted resources. If needed, staff will return with a request for appropriation in FY 23.

As part of program implementation, the Health and FM Departments will return to the City Council with proposed new and adjusted fees. The Health recommends annual permit rates at \$300 for food service carts without plumbing, \$730 for food service carts with plumbing, and \$253 for tricycles. Plan check fees will also be assessed based on the risk level associated with the food type available from the vendor ranging from \$250 to \$1,165 according to risk levels associated with food type. During these early stages of program development, Health is estimating their total annual costs related to sidewalk vending (inclusive of additional cost noted above) to be \$360,000 and is estimating revenue from these fees to be roughly \$100,000 annually. This will result in an estimated \$260,000 annual program shortfall to be subsidized with City funds. A subsidy is recommended as cost recovery may create financial barriers to operators. Additionally, FM recommends establishing a new sidewalk vending business license fee at \$300 per year which will be subject to annual CPI adjustments. This business license fee is calculated to offset the full cost of service associated with FM's program costs, unless directed by City Council to develop a lower fee based on a justification for a subsidy. A request by each department to amend the Citywide Master Fees and Charges Schedule to establish these rates will return to City Council for approval in FY 23. Fees and charges associated with the program will need to continue to be monitored along with program expenditures, with adjustments to align with full cost recovery where appropriate.

This recommendation has a significant staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. Approval of this recommendation will provide continued support to the local economy. The number of additional local jobs associated with this recommendation is unknown.

Approve recommendation.

[Enter Body Here]

THOMAS B. MODICA
CITY MANAGER