

Date: January 30, 2025

To: Mayor and Members of the City Council

From: Thomas B. Modica, City Manager



Subject: **The Feasibility of a Provisional Permit for Sidewalk Vending and Recommended Changes to the Sidewalk to Success Program**

On [October 15, 2024](#), the City Manager Department, the Health and Human Services Department, and the Financial Management Department provided a mid-year update on the implementation of the City's Sidewalk Vending Ordinance, effective February 26, 2024. During the presentation, the City Council requested that staff evaluate the feasibility of issuing provisional permits to sidewalk vendors currently in the application process. The intent of such a permit would be to protect these vendors from enforcement actions, allowing them to continue operating while they complete the application process for full permitting. This memorandum provides an assessment of the feasibility and considerations related to implementing a provisional permit for sidewalk vendors, in addition to staff recommendations on potential Sidewalk to Success Program adjustments to help further support vendors coming into compliance with regulations and reducing the barriers to entry.

Current Policies

The City's Sidewalk Vending Ordinance requires sidewalk vendors to obtain a business license and a sidewalk vending permit, which are issued simultaneously. Additionally, sidewalk vendors selling food items must secure a City Health permit, unless exempt (i.e., vendors with 25 square feet or less of display space who sell only non-potentially hazardous prepackaged food or whole, uncut produce). Vendors are also required to carry insurance with a \$1 million policy limit.

Currently, provisional permits are not available for any business looking for a Health Permit. Likewise, there are no provisional permits for Business License Permits, except under limited circumstances where a Conditional Business License may be issued. This type of temporary license, typically valid for no more than 90 days, is granted only when all health and safety requirements have been fully met, and a minor administrative delay, such as awaiting final documentation or non-critical paperwork, is the sole remaining outstanding piece. Approvals for conditional business licenses require confirmation from all relevant departments—such as the Fire Department and Health and Human Services Department—that the business complies with required fire and health and safety codes. Furthermore, the Business Services Bureau Manager and Financial Management Director must sign off to ensure community health and welfare are not compromised.

For sidewalk vendors, the concept of provisional permits may hold the most interest for food vendors due to the additional requirements they face. The permitting process differs between food and non-food vendors. Non-food vendors typically require only a business license, making their process relatively straightforward. In contrast, food vendors face additional state-

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mandated health permit requirements to ensure food safety and protect public health, which can result in longer timelines to meet regulation requirements and obtain a health permit.

These delays are often less about administrative backlogs from the City, however, and more often related to vendors needing to acquire the proper equipment to meet state health and safety standards. Equipment compliance, such as obtaining commercial-grade refrigeration for perishable items, incorporating hand wash sinks with adequate water storage, and ensuring proper waste disposal mechanisms, can be hurdles for vendors, particularly when designing and modifying carts to meet State health and safety standards. These requirements align with State regulations established to protect public health and must be fully satisfied before any form of operational approval can be granted.

In some cases, vendors who have submitted health applications may learn that they need to transition their business model from a larger food operation (e.g., a taco stand) to a State-required Compact Mobile Food Operation (CMFO) to comply with regulations. If vendors are unwilling or unable to make this adjustment, they will not qualify for a Health permit. As a result, provisional permitting would not be applicable, relevant, or appropriate in such cases.

Comparable Agencies Research

Staff looked into the permitting practices of comparable agencies to assess what others may or may not be doing when it comes to provisional licensing and permitting for sidewalk vending. The list of comparable agencies included Alameda County, City of Berkeley, Los Angeles County, City of Oakland, City of Pasadena, City of Sacramento, City and County of San Francisco, City of Santa Rosa, and Sonoma County. A review of sidewalk vending regulations and applications found that sidewalk vendors are not allowed to operate until all the permitting and inspection requirements are fulfilled. Furthermore, licenses are typically issued for a one-year period and must be renewed on an annual basis.

For example, the Los Angeles County Mobile Food Program for standard carts requires applicants to 1) submit plan application and relevant documents, 2) pay permit fees, 3) schedule appointment for Compact Mobile Food Operation (CMFO) evaluation, 4) evaluation of CMFO plus home storage and/or shared food facility (as applicable), 5) certification and approval of CMFO including inspection report, certification sticker, and approval for immediate operation, and 6) obtain Food Handler Card within 30 days of operation. Seasonal licenses (90-day period) like in the City of Oakland, require applicants to fulfill the same permitting and inspection requirements as annual licenses. The only difference in the latter example is license fee amounts as annual licensees are required to pay \$622.13 in fees versus seasonal licensees pay \$372.13 in fees (i.e., regulatory, permitting, and inspection requirements remain the same).

In short, these comparable agencies do not issue provisional licenses or licenses of a temporary nature without satisfying the permitting and inspection requirements.

Feasibility Considerations

When evaluating potential changes to the permitting process for sidewalk vendors, it is essential to consider several key factors that impact the feasibility and integrity of such measures. These include compliance with health and safety regulations, business licensing practices, legal obligations, and logistical challenges.

Food Safety

The City is legally obligated to comply with state regulations regarding food safety, which are designed to protect public health. All food vendors must meet these standards, which address critical areas such as equipment, food handling, storage, and preparation practices to prevent foodborne illnesses.

Issuing a provisional permit for sidewalk vendors would conflict with these legal obligations by allowing operations to begin without the required safety checks. These inspections, mandated by State law and City regulations, are essential to verifying compliance with health standards and ensuring safe operations. Bypassing these safeguards could pose significant risks to public health and undermine the regulatory framework designed to protect both consumers and vendors.

Business License

The current conditional business license process allows businesses to begin operations only after all safety, health, and regulatory requirements have been fully verified. This ensures that operations are deemed safe before a business is permitted to open. A provisional permit for sidewalk vendors, specifically for food vendors requiring a Health permit, would conflict with this process, as it is intended to address only minor administrative delays, not bypass critical health and safety reviews.

Additionally, allowing a provisional permitting process for sidewalk vendors could set a precedent for other types of businesses. This change would suggest that businesses could begin operations before all safety and regulatory measures are fully in place, which would deviate from current practices designed to ensure that all businesses comply with necessary safety standards before being approved. Such a shift could undermine the integrity of the City's permitting process and create inconsistencies across various industries, potentially resulting in risks to public health and safety.

Legal

Issuing a provisional permit for sidewalk vendors raises several legal concerns and risks of liability. The City's Sidewalk Vending Ordinance does not currently allow for provisional or temporary permits that enable businesses to operate without fully meeting health, safety, locational, and insurance requirements. Granting provisional status to vendors who have not met all necessary conditions could conflict with the City's legal framework, which is designed to protect public health and safety and ensure fairness in permitting practices.

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Allowing vendors to bypass critical regulatory steps could expose the City to significant legal liability. For instance, if a vendor operates without satisfying the minimum required health and safety standards and a public health issue arises as a result, the City could face legal action, penalties or fines, or reputational damage. Moreover, sanctioning businesses that have not yet met health permitting standards could undermine the integrity of the City's permitting system, which is essential for maintaining consistency, order, and safety in public spaces.

Logistical

Issuing provisional permits for sidewalk vendors presents several logistical and practical challenges that could complicate the permitting process and place a significant strain on City resources.

First, defining the criteria for granting a provisional permit raises concerns about the documentation and proof required for vendors to qualify. If provisional permits are granted upon the mere submission of an application, there is a risk of approving incomplete or improperly filed submissions. Many current vendor applications lack necessary documentation and are submitted with incomplete information, leading to delays as City staff and applicants exchange clarifications. Even when applications include all required forms, their content may not meet regulatory standards and could require substantial revisions. For food vendors, it is particularly difficult to determine when in the review process a potential provisional permit could be issued without compromising health and safety regulations. For instance, "pop-up restaurants" with complex food preparation may submit a complete application, but their operational model would disqualify them from obtaining a health permit under state law. Issuing provisional permits in such cases would undermine public health protections and the integrity of the regulatory process.

Second, managing the duration of provisional permits poses significant challenges, regardless of the timeframe established. The time required for vendors to meet health, safety, and operational standards through the permit application process can vary greatly. Some vendors may discover that their business model is incompatible with regulatory requirements but do not want to change their operations and may not withdraw their applications, leaving the City to oversee provisional permits for vendors unlikely to achieve compliance. Even with expiration dates, monitoring deadlines and addressing extension requests would strain City resources. Provisional operations could persist longer than intended, complicating efforts to maintain compliance and regulatory integrity.

Finally, monitoring vendors with provisional permits presents an ongoing enforcement challenge. Without strict safeguards, some vendors may intentionally or unintentionally exploit the system by submitting incomplete applications without follow through. This could result in vendors operating under provisional status without meeting key health and safety standards, posing risks to public health and undermining enforcement efforts. Addressing these issues would require additional staff capacity and resources, further complicating an already strained permitting and enforcement system.

Staff Conclusion on Provisional Permitting

For all of these reasons, staff do not recommend amending the Sidewalk Vending Ordinance to allow for a temporary or provisional sidewalk vending license. However, staff continues to implement an education-first enforcement framework that leads with education and builds on a series of warnings and notices before escalating to more higher-level enforcement actions, except in cases where an imminent health hazard exists. Staff also remain dedicated to reducing barriers to entry and supporting vendors in achieving compliance. To that end, staff have identified adjustments and potential enhancements to the Sidewalk to Success Program that can be implemented to provide greater support for vendors as they navigate the permitting process and work toward full compliance with regulations.

Adjustments to the Sidewalk to Success Program

While staff does not recommend provisional licenses for sidewalk vendors, they have identified adjustments to the Sidewalk to Success Program to better support vendors in achieving compliance and to acknowledge their valued role in the city's economic and business landscape.

As part of the Sidewalk to Success Program, the City sought to reduce the financial burden on small businesses during the first year of the Sidewalk Vending Ordinance by covering the costs of required business licenses, health permits, and reimbursing insurance expenses. The City also launched a free food cart program last August created to provide eligible food vendors with free pre-approved carts.

To educate vendors and the public about available support and the compliance process, the City hosted 11 Townhalls, 6 Webinars, and attended 6 Workshops and several Roundtable meetings with various stakeholders. Additionally, staff conducted 92 engagement-encounters in the field, reaching vendors directly where they work—separate from any enforcement efforts.

To date, the program has successfully assisted 27 vendors in obtaining approved business licenses, covered their permitting and insurance costs, and provided 3 free pre-approved food carts, resulting in the issuance and payment for 3 Health Permits.

Staff have identified 21 vendors who previously obtained Health Permits for food vending prior to the adoption of the Sidewalk Vending Ordinance. Business License staff are currently reaching out to these vendors to facilitate their applications for a Business License and Sidewalk Vending Permit. Since these vendors have already completed the most challenging step—securing a Health Permit—staff anticipate that obtaining the required business license and vending permit will be straightforward. If these vendors complete the process, the City will benefit from an increased number of fully approved sidewalk vendors.

Despite these successes, there remains an opportunity to further expand the program and ensure that more vendors can navigate the path to full compliance. To better reach and assist vendors, staff have developed the following recommendations, informed by the insights and challenges encountered during the first year of implementing the Sidewalk Vending Ordinance.

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Extend Permit and Insurance Cost Coverage for New Vendors

Given that sufficient funds remain from the \$174,000 allocated through the Long Beach Recovery Act for covering permitting costs (an estimated \$152,390 remain), staff recommend extending this cost coverage beyond the current February 26, 2025, end date. Specifically, the City would continue to cover first-year permitting and insurance costs for any new sidewalk vendors who become permitted through February 26, 2026. This extension would ensure ongoing support for vendors entering compliance while utilizing existing funds effectively to promote small business development.

Expand the Use of Funds Allocated to the Free Cart Program

In late August 2024, the City launched the second phase of the Sidewalk to Success Program, which included a food cart giveaway initiative for eligible sidewalk vendors. This program offers one of four pre-approved cart types—fruit carts with coolers, grilled food carts, tamale carts, and ice cream carts. These cart types were selected based on availability from manufacturers who could meet California Health and Safety Code requirements, addressing a key challenge vendors expressed they faced with becoming permitted. Vendors interested in other cart types may still submit plans to the Health Department through the standard permitting process, but the free-cart program is currently limited to the four pre-approved options.

The City had received 36 applications for free carts, with three vendors successfully completing the process to receive their carts. Through close collaboration with applicants, staff have identified additional barriers to entry, such as costs associated with entering into a commissary agreement (a state requirement for food vendors), expenses related to purchasing trailers needed for transporting larger carts, and costs for obtaining carts not covered under the free-cart program.

To better address these challenges and maximize the impact of the program, staff recommend expanding the use of the \$429,500 initially allocated for cart purchases (currently with an estimated \$386,181 remaining) to include grants of up to \$8,000. These grants would support eligible vendors to cover approved expenses, including transportation, commissary agreements, cart purchases, trailer costs, and kiosk rentals at locations such as the Pike Outlets and Shoreline Village. Staff would be looking to support Long Beach entrepreneurs with the eligibility criteria for the grants remaining generally consistent with the free-cart program (i.e. intended for small microbusinesses with approved Health Permit and Business License). This expanded use would allow vendors greater flexibility in addressing their unique needs.

This adjustment would provide targeted financial assistance to vendors actively working toward compliance, enabling them to overcome critical barriers and enter the market more successfully.

Explore the addition of a new Occasional Event Permit and Administrative Use Review Process for Vending on Private Property

Staff have been looking into ways to foster expanded economic opportunities for mobile vendors and to support partnerships between sidewalk vendors and private entities and businesses. One area of exploration has been examining how mobile vending of food or merchandise is permitted on private property.

The term "sidewalk vendor" as defined by state law, refers specifically to non-motorized vending that occurs on sidewalks or pedestrian paths. However, for the purposes of this section, the term will be used more broadly to refer to vending on private property, even though private property falls outside the legal definition. The intent here is to address opportunities for sidewalk vendors who traditionally operate in public sidewalks to access additional locations on private property.

The Sidewalk Vending Ordinance currently establishes parameters for sidewalk vendors operating in public spaces. These same vendors seeking to operate on private property may do so under specific circumstances:

1. **Occasional Event Permit (OEP):** Vendors with appropriate health and business license permits may participate in special events organized by an event coordinator who obtains an OEP. This permit, issued by the City Manager's Special Events Office, applies to special events with entertainment and is valid for one day every 14 days.
2. **Health Community Events:** Vendors may also participate in Community Events approved by the Health Department, which take place on public or private property. These events are defined under state code as "civic, political, public, or educational" gatherings, such as fairs, festivals, and other public events. These events may last up to 25 consecutive or non-consecutive days within a 90-day period and do not require an entertainment component.

To expand opportunities for the mobile vending of food or merchandise similar to sidewalk vendors to participate in temporary or special event spaces, staff recommend:

1. **Introducing a New Occasional Event Permit (OEP) for Private Property Without Entertainment:** Staff propose exploring the feasibility of a new OEP specifically for events on private property that are not tied to entertainment. The recommended parameters for this permit are:
 - Valid for up to three consecutive days every 15 calendar days.
 - Compliance with the same operating standards as the existing OEP.

This new permit would provide community organizers with additional flexibility to invite sidewalk vendors to approved private event spaces, enhancing vendor opportunities.

2. **Revising the Administrative Use Permit Requirement for Long-Term Use on Private Property:** Staff propose revising the current requirement for an Administrative

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Use Permit (AUP) for vendors on private property. The revised process would require vendors to obtain an Administrative Use Land Use Review (ALUR) determination, instead of an AUP, for long-term operations on private property. The process would transition from a discretionary action that requires a public hearing to a ministerial approval that requires compliance with performance standards. The ALUR process is outlined under Section 21.25.905 of the Long Beach Municipal Code (LBMC).

The ALUR process, designed for by-right land use review, would simplify compliance verification for vendors and private entities establishing longer-term agreements. Unlike the AUP, which involves a hearing and higher costs, the ALUR process is more straightforward and cost-effective.

Both proposed changes—the new OEP and the ALUR process—would require an ordinance update and would be brought back to City Council for approval. These changes would also align with updates being considered for the upcoming Food Truck Ordinance, which is expected to be brought to City Council in early 2025.

Next Steps

Should the City Council have an alternative direction regarding the extension of permit and insurance cost coverage, Councilmembers are asked to schedule an item for discussion with the full Council by March 4, 2025. If no alternative direction is provided, City staff will proceed with extending the permit and insurance cost coverage for new vendors beyond February 26, 2025.

Additionally, staff will work on developing a grant program to expand the use of the funds allocated for the free cart program to include a sidewalk vending grant program and will provide an update on the potential program to City Council once developed before any implementation.

Lastly, staff will explore the OEP and ALUR options and will present any recommended ordinance changes to the City Council at a later time.

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