

**COMPARATIVE PRACTICES AND STAKEHOLDER FEEDBACK
FOR MOBILE FOOD VENDING POLICIES IN OAKLAND**

Masters Policy Report

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EXECUTIVE SUMMARY

Introduction

Street food, or “mobile food vending,” offers city dwellers fast and affordable meal options, and creates opportunities for small business ownership, especially among immigrants and low-income residents. Led by a taskforce convened by the planning department, the City of Oakland is in the process of updating its mobile food vending regulations to encourage community and economic development and meet the demand for vending in various areas of the city.

Oakland has a strong mobile food vending tradition centered in and around the Fruitvale district. In 2001, the Oakland City Council created the Pushcart and Vehicular Food Vending Pilot Programs, which was made permanent in 2004. Specific streets between Lake Merritt and 105th Avenue in East Oakland are open to pushcart vendors on the right-of-way, and vehicular vendors on private properties.

This report presents findings from two studies: vendor and merchant feedback on current policies, and a comparative practices study of mobile food vending practices in seven North American cities.

Assessment of the Current Mobile Vending Program: Vendor and Merchant Feedback

Three discussion groups were convened to discuss the successes and challenges facing stakeholders in the current program area. The groups were comprised of pushcart vendors, vehicular vendors, and merchants from the Fruitvale Business Improvement District.

Primary vendor concerns

1. Inadequate enforcement of unlicensed vendors
2. Access to more locations citywide, in general
3. Pushcart saturation in current program area
4. Excessive separation requirement between vendors and restaurants
5. Complex and unclear permitting and regulatory processes

Primary merchant concerns

1. Inadequate enforcement of unlicensed vendors, especially compared to restaurant inspection levels
2. Use of tables and chairs by vehicular vendors
3. Saturation of pushcart vendors on certain blocks or areas

Comparative Practices Study of Mobile Food Vending Policy in Seven Cities

The second study focuses on key areas of mobile food vending policy in seven cities, in order to 1) Assess the range of regulatory and administrative practices in those areas under consideration by the City of Oakland and 2) Identify approaches to new vending configurations, such as clustering, and how they may affect the vending landscape.

The following cities were included: Cleveland, Los Angeles, New York City, Portland, San Francisco, Seattle, Toronto. The cities reflect a range of practices and local characteristics.

The main findings are summarized here:

Standard permits: Public Health Permit, City Business License or Business Tax Certificate, and City Vending or Sidewalk Use Permit.

Strategies to maintain desired density of vendors:

1. A separation requirement, or buffer, between mobile food vendors, demonstrated in three cities
2. A limit on the number of permits issued in a given area, demonstrated in one city. Permit limits can address congestion up-front, reducing the burden on vendors and enforcing agencies to address problems as they arise.

Three types of design review

1. Structural elements
2. Location diagrams/site plans
3. Aesthetic design review

Types of separation requirements

1. Vendor-to-vendor
2. Vendor-to-restaurant
3. Vendor-to-street elements

Restricted areas: Mobile vending may be prohibited in certain areas, either by street or district. This was only done in two cities in the study.

Downtown locations and bidding: Bidding or RFPs to encourage downtown vending, with some assistance in the form of loans or business development.

Strategies to encourage vendors clusters

1. Group site permit for multiple vendors, with or without a site manager
2. Special event or short-term permits, for non-permanent or mobile clusters
3. Special efforts to establish vending on vacant or underused lots

Addressing brick-and-mortar restaurant concerns

1. Prohibit locations within a stipulated distance of any restaurant
2. Prohibit locations within a stipulated distance of business entrances or doorways:
3. Prohibit locations near “like” businesses
4. Require notification of businesses within stipulated number of feet, followed by complaint period and public hearing
5. No specification

Departments with partial jurisdiction over enforcement: Police Department, Department of Public Works, Bureau of Development Services, Department of Transportation.

Strategies to encourage healthy food vending:

1. Limited numbers of produce carts permitted in specified neighborhoods, with priority on permit waitlists
2. “Healthy vending” criteria for applicants in competitive bidding process

Recommendations

Based on vendor and merchant feedback and the comparative practices study, I recommend the following:

A. Consolidate and clarify existing regulations and permit process

1. Improve the Oakland Business Assistance Center website for pushcart and mobile food vending information so that it may be a one-stop clearinghouse for all information required to start and sustain a mobile vending business.
2. Establish proactive measures to provide adequate notice of fee raises and deadlines
3. Clarify the meaning of Pushcart Ordinance 5.49.060-G.9, “Vendor shall not locate or create a vending activity that will negatively impact adjacent businesses or residents.”

B. Expand or improve existing mobile vending policies

1. Allow pushcart vending in public places outside the right-of-way, such as public plazas, public building grounds and public transportation hubs.
2. Reassess the rationale for a separation requirement between pushcart vendors, and parks and schools. At minimum, create an exemption for “healthy food” vendors, including fruit vendors.
3. Allow a wider range of mobile vending vehicle types, such as trailers.
4. Adjust buffer between vendors and brick-and-mortar restaurants to more accurately reflect customer path-of-travel, and create an exemption from the 200 foot vendor-to-restaurant separation requirement if the permit for the vehicular vending location predates the establishment of the restaurant.
5. Determine current use of permit fees; dedicate permit fees to an account which will be used to support compliance and enforcement.
6. Assuming that the level of resources for enforcement will not increase significantly, I recommend the following measures to improve compliance:
 - i. Conduct further research about best practices in mobile vending enforcement.
 - ii. Identify whether and how code violations data are tracked; streamline data collection and tracking, so that enforcement resources may be targeted effectively.
 - iii. Confirm the need for enforcement on weekends, and the feasibility of maintaining a hotline or other response system for complaints about unlicensed vendors.

C. New directions

1. Create a permit for mobile food vending clusters (“group sites”), per CEDA staff recommendations in an April 26, 2011 Agenda Report
2. Identify underused and vacant spaces available for mobile food vending clusters

3. Enable lot owners and vendors to place a limited number of tables and chairs at vending clusters
4. Assess the feasibility of creating a new fresh produce vending program to address inadequate access to fresh, healthy food in many of Oakland's neighborhoods.
5. Explore permitting options that would enable mobile vending trucks to "pop-up" at multiple locations, including on the public right-of-way.