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**File #211292**

# **Racial Equity Impacts**

**Various Codes - Street Vendor Regulation**

**Office of Racial Equity**

**January 2022, with updates February 2022**

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# Legislation summary

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## Stated intent of proposed legislation is to manage public safety by limiting street vending in public spaces

Proposed ordinance ([#211292](#)) regulates street vending, requires permits for street vending, and authorizes permits fees and enforcement actions

- Outlines multiple issues and objectives
  - United Nations Plaza: “Unregulated vending and accompanying criminal activity”, “obstruction of pedestrian and chair-user access to public right-of way”, “obstruction of first responders’ lines of sight”, “concealment of unlawful activity”
  - Citywide: “Expanding economic opportunities for those who aspire to vend lawfully”, “provide vendors with the ability to operate in a safe and professional manner”
- Introduced at Board of Supervisors as part of response to Tenderloin “state of emergency”

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# Proposed ordinance will require street vendors to obtain a permit from the City each year

<b>Who needs a permit</b>	<ul style="list-style-type: none"><li>• Any vendor who is:<ul style="list-style-type: none"><li>○ Selling food that is “pre-packaged”/“resold in original packaging” or merchandise that is “not an art or craft”, and</li><li>○ Located on “any City property, including a public right-of-way, or any other street, sidewalk, alley, walkway or pedestrian path available to the public”</li></ul></li></ul>
<b>How to apply for permit</b>	<ul style="list-style-type: none"><li>• Provide proof of identity, phone number, mailing address, <del>California sales tax number</del></li><li>• Describe food or merchandise to be sold and proposed vending locations</li><li>• Pay annual fee, to be based on program costs (inspections, enforcement, etc.)</li><li>• Special approvals required for United Nations Plaza, Hallidie Plaza, near temporary special events, swap meets, farmers markets</li><li>• Separate permits required for:<ul style="list-style-type: none"><li>○ Food - Department of Public Health</li><li>○ Energy source (propane, battery, etc.) - Fire Marshal</li></ul></li></ul>

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*Note: Redlined text reflects amendments introduced in third version of legislation (Feb 15, 2022)*

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## Proposed ordinance will impose penalties on street vendors who do not meet permit requirements

<b>How permits will be enforced</b>	<ul style="list-style-type: none"><li>• Vendors are subject to inspection at any time and must:<ul style="list-style-type: none"><li>○ Display permit while working, <b>including photograph or other ID</b></li><li>○ Produce “proof of ownership” or “authorization to sell” food or merchandise, <b>or “written explanation for the lack of proof”</b></li></ul></li><li>• Inspection and enforcement to be conducted through Department of Public Works<ul style="list-style-type: none"><li>○ <b>Will provide 48 hours’ advance notice to permit holders before inspections</b></li></ul></li></ul>
<b>Fines and penalties for violations</b>	<ul style="list-style-type: none"><li>• <b>Written warning, followed by</b> fines of \$100 to \$1000 per violation of permit requirements<ul style="list-style-type: none"><li>○ Must be paid within <del>10</del> <b>30</b> days or else accrue 10% interest per year</li><li>○ May be sent to debt collections or small claims court</li><li>○ Vendor may apply for fine to be reduced to 20% based on their “ability to pay”</li></ul></li><li>• Property confiscation for any vendors who do not comply with requests to leave<ul style="list-style-type: none"><li>○ To recover their property, vendors must pay removal and storage costs</li><li>○ No reductions permitted, regardless of vendor’s “ability to pay”</li></ul></li></ul>

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## Proposed ordinance will require DPW to report to BOS at set intervals

<b>Authority to approve rules and regulations</b>	<ul style="list-style-type: none"><li>● Through August 31, 2022:<ul style="list-style-type: none"><li>○ Board of Supervisors has authority to disapprove rules or regulations proposed by Department of Public Works for the vending program</li></ul></li><li>● From September 1, 2022 onward:<ul style="list-style-type: none"><li>○ Public Works Commission has authority to approve rules or regulations proposed by Department of Public Works for the vending program</li></ul></li></ul>
<b>Required reporting</b>	<ul style="list-style-type: none"><li>● Department of Public Works to report to Board of Supervisors on number of applications and permits; approved vending locations; outreach and education efforts and outcomes; number of written violations, citations, fines<ul style="list-style-type: none"><li>○ During first three years: annual reports</li><li>○ Afterward: reports once every three years</li></ul></li></ul>

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# Office of Racial Equity review

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## Office of Racial Equity mandate includes identifying impacts of proposed economic security and public safety ordinances on communities of color

### *Analysis of Pending Ordinances.*

“After January 1, 2021, the Office shall analyze and report on ordinances introduced at the Board of Supervisors in the areas of housing/land use, employment, economic security, public health and public safety that may have an impact on Racial Equity or Racial Disparities. [...]

“The Office shall prepare a report concerning the ordinance that includes an analysis of **whether the proposed ordinance would promote Racial Equity by helping to close opportunity gaps for communities of color, or impede Racial Equity by furthering Racial Disparities.**”



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## To advance racial equity, policy development should include specific elements

Does the proposed legislation:

- Identify and intend to address relevant **racial disparities**?
- Consider **harmful or unintended impacts** on communities of color?
- Name **measurable results**, especially for repair and transformation?
- Identify **community stakeholders**?
- Use **disaggregated data**, including race/ethnicity and income?
- Dedicate specific **budget or resources**?
- Establish methods of **transparency and accountability**?

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## **Recommendation 1: Design regulation based on the needs of street vendors of color, especially those who are immigrants, low-income, or unhoused**

Successful regulation must be designed to meet the needs of street vendors, or else there is little to no incentive to overcome the hurdles of obtaining a permit. Examples of needs identified by vendors of color in other jurisdictions:

- Prevent **racial profiling, harassment, assault, and theft** by enforcement officials, other vendors, and general public
- Streamline **multiple permitting processes** and resolve contradictory permit requirements
- Provide **clean water, sanitation facilities, hygiene resources**
- Support **access to basic financial and social services** (e.g., health insurance, bank accounts, income security)
- Establish an equitable way to share **vending locations** that have many customer amenities

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# Street vending is an important source of income for people of color, immigrants, and older workers

- Street vending is a legitimate and valuable economic activity for communities of color, **including “informal” or unpermitted street vending**
  - Studies suggest that street vendors in major U.S. cities tend to be older than the average worker, and are disproportionately people of color and/or immigrants
- Street vendors provide an **essential service to San Francisco residents in many neighborhoods** by providing affordable and easy access to basic supplies and culturally specific foods
  - Especially important for residents who are discriminated against while shopping, and/or who live in retail/food deserts
- Despite the risks and challenges of informal vending, many vendors **choose it over other jobs that are more exploitative** (e.g. domestic work)
  - Studies indicate that street vendors have a mix of aspirations for their work: some are part-time or seasonal, while others are full-time or year-round; some wish to expand their businesses, while others do not

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## Street vendor rights are a major focus of immigrant justice movements across California



- Long history of racial discrimination by city governments against street vendors
  - 1870s: Los Angeles triples license fees for Chinese “vegetable peddlers”, but not white “fruit peddlers”
  - Today: California cities continue to conduct street sweeps and confiscate vendor property
- Proposed legislation may unintentionally create additional harms for already marginalized communities
  - Despite passage of SB 946 in 2018, which attempted to decriminalize street vending in California, city and county permit programs have failed **due to excessively complex regulations**

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## In jurisdictions with street vending programs, a majority of vendors of color often remain unpermitted due to excessive regulation

Proposed legislation includes several elements that may prevent participation and compliance:

- **Application and renewal fees.** If set to recover program administration/enforcement costs, fees will be too expensive for many vendors ([see similar DPW fee schedule](#)). Average vendor earnings in other cities ranged from \$200 to \$300 per week, pre-pandemic
- **Identification, photographs, mailing address, verification of ability to pay.** Vendors may not have or may be unwilling to provide documentation
- **Specified vending locations.** Some vendors may want fixed locations, while others may prefer flexibility to relocate based on foot traffic
- **Proof of ownership of food or merchandise.** Subjective standard for “proof of ownership”: impractical to maintain receipts for very low-cost items; receipts may be handwritten or may not even exist, especially for donated bartered, or foraged items
- **Requirement for separate DPH and Fire Marshal permits.** Prohibitively difficult and expensive to navigate existing permit processes ([see SF Fire fee schedule](#))

When combined with punitive enforcement measures and/or limitations on the number of permits issued for desirable locations, **excessive regulations have resulted in an exploitative underground market for permits.**

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## **Recommendation 2: To avoid incentivizing racially discriminatory enforcement, replace penalties with supportive actions for vendors and careful oversight of enforcement tactics**

- Proposed enforcement methods encourage a culture of conflict, **exposing both vendors and City employees to potential harm**
  - Example scenarios: disagreement over proof of ownership; lack of identification or refusal to provide identification; walking away or relocating nearby; altercation over property confiscation
- Substituting penalties with supportive actions, such as providing information and resources, **reduces incentive for enforcement officials to discriminate against street vendors** based on perceived race, immigration status, gender, drug use, homelessness
- Strong oversight of enforcement officials needed to **prevent ethical violations** documented and/or alleged among City employees (soliciting or accepting bribes, vendor harassment, [losing or destroying confiscated property](#), etc.)

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## Mistaken assumptions about street vendors of color endanger them and their communities

- Enforcement actions against street vendors may push them from central plazas into residential streets and alleyways, where **both vendors and customers are more vulnerable to assault**
  - Vancouver: Street sweeps also increase precariousness, leading to more property crime, lateral violence
- Multiple incidents of government violence against Black, American Indian, Latino, Asian vendors using **pretext of shutting down unpermitted street vending**
  - New York City: In 2014, police officers killed Eric Garner as part of enforcement actions against Black and Latino street vendors allegedly selling cigarettes and other drugs
- **No reliable data** to show that street vendors are increasing drug market activity or retail theft
  - Studies indicate drug sales is led by demand, not supply; removing trusted sellers may also make an unpredictable drug supply even less safe, resulting in more overdoses
  - Retail associations have identified online marketplaces as a major reason for increased retail theft; understaffing during the pandemic has also made it more difficult to deter shoplifting

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## Proposed enforcement actions will have major collateral consequences for low-income street vendors of color

- Proposed fines of \$100 to \$1000 per violation are equivalent to **over a month's earnings** for street vendors pre-pandemic
  - Los Angeles: average street vendor made \$200 to \$300 a week, but sales for many have dropped dramatically due to shelter-in-place and reduced foot traffic
  - New York City: over half of women street vendors are **primary earners** in their family, and almost a third are **sole providers**
  - San Francisco: additional local data needed in order to quantify financial impact of proposed legislation
- Property confiscation not only **removes a main source of income** for street vendors; requirement to pay removal and storage costs will make it **difficult to impossible for many to recover their livelihood**
- Debt collection and small claims actions **affect credit reports and background checks**, reducing eligibility for housing, education, employment



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# Select sources

## U.S.

- [California Law Review \(2021\)](#)
- [U.S. Department of Housing and Urban Development \(2018, 2016\)](#)
- [Institute for Justice \(2015\)](#)

## New York City

- [Urban Justice Center \(2019\)](#)

## Los Angeles

- [Public Counsel and UCLA Community Economic Development Clinic \(2021\)](#)
- [LA Street Vendor Campaign \(2020\)](#)
- [Economic Roundtable \(2015\)](#)

## International

- [Women in Informal Employment: Globalizing and Organizing](#)

