



Street Vending

A Survey of Ideas
and Lessons for Planners



BY JENNIFER BALL



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with a preface by Arthur C. Nelson



TABLE OF CONTENTS

Preface	iii
Economic Development Issues	4
Opportunities for Minorities and People with Disabilities	7
Retail Revitalization	9
Design and Operational Issues	10
Structure Design	12
Design Guidelines	16
Location Decisions	17
Trash Disposal	23
Hours of Operation	23
Merchandise	24
Legal and Political Issues	26
Permitting	28
Enforcement	31
Case Study: City of Atlanta	32
Current Situation	34
Issues that Still Need to be Addressed	35
Recommendations for Atlanta's Street Vending Program	38
Implementation	39
Recommendations for Planners	39
List of References	40



PREFACE

By Arthur C. Nelson, FAICP

Sidewalk vending is one of those issues often “below the radar screen” for planners and public officials. It should not be.

In my experience as a professional planner working across the United States since the early 1970s, I have seen many small and medium-size communities, and some large ones, wrestle with sidewalk vending. Specifically, I am aware of that such issues have been addressed in San Mateo California; Stuart, Florida; Highlands, North Carolina; Seaside, Oregon; Port Townsend and Spokane, Washington; Boise, Idaho; Bozeman, Montana; Manhattan and Lawrence, Kansas; Iowa City, Iowa; Macon, Savannah, and Atlanta, Georgia; Oxford, Mississippi; Bennington, Vermont; and Cleveland, Ohio. And there are many others for the list.

On the one hand, community leaders often perceive sidewalk vending as “tacky” or “third world.” They worry that it will crowd sidewalks, create bottlenecks, and compromise public safety if people and activity are displaced into streets. Merchants often complain of the potential for trash and debris generated by vendors, not to mention that vendors may undercut their business and do so without paying the taxes merchants must. Not a few elected officials worry that vendors are nothing more than squatters on valuable commercial land in highly visible public spaces.

On the other hand, sidewalk vending has proven to be a valuable economic activity and one that usually attracts business to downtown and Main Street merchants. To many, sidewalk vendors turn otherwise sterile downtown and Main Street walking experiences into vibrant, urbane ones. In many downtowns, entire blocks are comprised of nothing more than the impenetrable facades of buildings. Sidewalk vending can create a festive atmosphere along such stretches of institutional inurbanity.

The bottom line is that sidewalk vending is good for the bottom line of business and the community. The trick is to devise a sidewalk vending program that protects shops and restaurants, avoids sidewalk congestion, reduces the potential liability of adjacent businesses, and improves the overall image of downtown and Main Street.

How can this be done? Fortunately for us, Jennifer Ball gives us guidance in this Planning Advisory Service Report. It is a product of work spanning more than a year as my graduate city and regional planning student at the Georgia Institute of Technology and employee of Central Atlanta Progress, a downtown Atlanta business coalition. It begins by addressing key economic development issues, including the economic potential of sidewalk vending, its role in providing economic opportunities to minority groups, and its potential for revitalizing retail activity. It continues by addressing important urban design and operational issues, such as the design and placement of sidewalk vending structures, trash removal, hours and manner of operation, and merchandise that can be offered for sale. Permitting and enforcement issues conclude the main discussion. The principles developed in these sections are applied to the case of downtown Atlanta.

I use material contained in this report to help communities large and small improve economic activity in their downtowns or Main Street. Jennifer Ball and PAS have done us a great service by providing these lessons and this information.

Street Vending

A Survey of Ideas and Lessons for Planners

The excitement and vibrancy of sidewalk vending in a community's downtown or central commercial area can easily capture the enthusiasm and imagination of residents and visitors alike. Virtually every American can picture a street vendor—a hotdog or ice cream vendor in the park, artists selling caricatures outside a tourist attraction, t-shirts sold outside the ballpark, fruit stands convenient to a downtown office building, umbrellas being sold on a rainy day, or the sidewalk corner newsstand. Whether they are downtown regulars, new for a special event, outside a tourist attraction, or part of an open-air market, street vendors play a unique role in the economic vitality and urban streetscape environment. So what exactly makes this seemingly innocent economic activity such a complicated issue for planners and government officials in cities across the country?

The goals and objectives that cities establish for their street vending programs make it clear that cities see the positive side of street vending.

Although different cities are confronted with different conflicts, opportunities, and situations, one thing is true: there is almost always a debate regarding the value and appropriateness of street vending. Praised by many for bringing a sense of vitality and diversity to city streets and improving the quality of city life, street vending is also considered to “occupy the lowest rung on the ladder of capitalism” (Houstoun 1993). For downtown business groups and some local governments, street vending is a “problem to be regulated, restricted, or even eliminated from downtown streets” (Houstoun 1993). Complaints are rampant, wide ranging, and loud: street vending results in crowded sidewalks, forcing pedestrians into busy streets, creating bottlenecks, adding to confusion and chaos, and is a source of filth, disease, and crime. Merchants cite unfair competition from vendors who do not pay rent or taxes. Merchants and property owners complain of the “third-world” image of trash, debris, and unsightly tables and carts that affect the appearance of and mobility to and from their property. Some describe vendors as squatters on valuable commercial land and highly coveted public space.

The goals and objectives that cities establish for their street vending programs make it clear that cities see the positive side of street vending. Consider the following objectives from ordinances around the country (as identified in the June 15, 1993, issue of the *Downtown Idea Exchange*):

- To introduce commercial activities into sections of downtown where there are commercial gaps
- To offer time-saving dining for workers in downtown office buildings, freeing up more time for shopping
- To create a festive downtown street atmosphere
- To improve security by adding more “eyes-on-the-street”
- To have a place where visitors can get information about what’s going on downtown.

Consider two specific examples. Sacramento, California, encourages “well-managed vending to enliven the streetscape and retail activity and to act as an incubator for entrepreneurs, as well as crafts people and artists, while complementing and supporting existing retailers.” The Atlanta, Georgia, ordinance describes the outcomes it hopes to see from its street vending program:

- Serve and protect the health, safety, and welfare of the general public
- Establish a uniform set of rules and regulations which are fair and equitable
- Develop a vending system which will enhance the overall appearance and environment along public streets, pedestrian ways, and other public properties
- Provide economic development opportunities for small entrepreneurs in the city
- Provide a variety of goods and services for sale and a diverse street life that will enhance the city’s international image
- Promote stable vendors who will enrich the city’s ambiance and who will be assets to public security
- Provide a vending review board as a liaison between the City and the vending industry (City of Atlanta Code of Ordinances, Section 30-1402)

The difficulty is to translate these admirable goals into a realistic, enforceable set of regulations and standards that balance the concerns of those who are in favor of street vending with those who see it as a problem that has no resolution and should, in general, be totally prohibited or very strictly regulated—the kind of regulation that often only serves to push street vendors into a shadow existence where they conduct their activities illegally.



Crowded Street Vending District Near a Transit Station

There are three areas that need to be evaluated when it comes to crafting an effective, pragmatic street vending program. Those areas are:

1. *Economic Development.* A city needs to find a way to establish or estimate the positive effect of street vending on (a) city revenues; (b) job opportunities for residents, with special attention paid to the opportunities created for minority populations, craftspeople, and the developmentally disabled; and (c) retail revitalization for ailing commercial centers.
2. *Urban Design and Operations.* Street vendors can certainly enliven public areas, but issues like designating appropriate locations, selecting the design and type of vending carts, and sanitation, public safety, and limits on the type of products vendors sell will all need to be addressed.
3. *Legal and Political.* An effective program will need a number of measures to ensure that the city remains in control of the program; namely, an application process, establishment of fees to support the program, and code enforcement.

The following sections examine each of these areas in more significant detail, providing case study examples and language from programs that have had to respond to challenges to their programs

It is a common misconception that street vending is only a small enterprise nationally and provides only low-wage jobs. Many vendors make decent incomes selling goods on the streets in a business in which, in general, gross revenues are not reported, most transactions are in cash, and taxes are generally not paid.

ECONOMIC DEVELOPMENT ISSUES

Street vending, although often considered a part of the informal economy, has been assigned a Standard Industrial Classification (SIC) number (5963) and a NAICS code (45439). Street vendors are classified as direct selling, nonstore retailers. Any vending business selling goods from the structure of a tent or motor vehicle is considered street vending. Employment and wage statistics are available from The Bureau of Labor Occupational Employment Statistics category number 49026, which covers telemarketers, door-to-door sales, news and street vendors, and other related workers. National wage estimates for 1999 reveal a total national employment of 36,130 individuals in this category with a mean hourly wage of \$13.91 and a mean annual wage of \$28,940. Estimates are calculated with data collected from employers in all industry divisions in metropolitan and balance of state (nonmetropolitan) areas in every state and the District of Columbia from the Bureau of Labor website (<http://stats.bls.gov>) .

It is a common misconception that street vending is only a small enterprise nationally and provides only low-wage jobs. Many vendors make decent incomes selling goods on the streets in a business in which, in general, gross revenues are not reported, most transactions are in cash, and taxes are generally not paid. Indeed, according to Fortune magazine, vending sales in New York City, Philadelphia, and Washington, D.C., were \$1.7 billion per year in 1990. An average vending cart in these cities in that year generated revenues of \$250,000 a year or more. A cart in an “active” location averaged sales of \$750 daily, with approximately one-third of this revenue realized as net profit (Houston 1993). The New York Times reported in 1991 that sidewalk vendors in Manhattan grossed \$100 million a year; one t-shirt vendor took in \$1,000 a day—all cash and therefore presumably tax-free (Houston 1993).

The amount of revenue that a vending cart can generate is based on its location and product type. Generally both of these limitations are dictated by municipal regulations. Some cities provide specific zones where vending can occur. Others regulate location through separation distances from other vendors and by establishing specific sidewalk clearance areas, thereby ruling out certain locations for street vending. Still others determine specific locations that are given to specific vendors on a permit basis. And, finally, some cities retain the right to decide which specific types of products will be sold at specific locations. The level of detail in any set of regulations should be dictated by the city’s and business community’s aims in having a street vending program. Location is a critical issue for street vending. After all, poor location is among the chief causes of any business failure; this maxim is even more true for street vending.

Competition among vendors to obtain a high-profile and lucrative location can be fierce. Visibility and high foot-traffic counts are keys to successful street vending locations. Often this requirement can conflict with the goal of a street vending program to encourage pedestrian activity in an urban space that currently does not have a lot of pedestrian traffic. Sidewalk vendors cry foul when downtown businesses have too much influence on vending location policies. Complaints center around limitations enforced around high-traffic areas where property owners fight to have vendors removed or when vendors are forced to change locations due to competition complaints by nearby retailers or restaurants.

Most public space vending ordinances specifically limit the types of products and services that can be legally sold by street vendors. These limitations on product selection affect the profit potential of a vending cart. Depending on the city, products and services can range from everything and anything, including face painting, caricature drawings, hot dogs, coffee, designer

knock-off purses, sunglasses, t-shirts, and flowers. To have a street vending program that remains successful, a city will need a timeframe in which it regularly reviews the range of goods being provided within an area to stay in touch with market demands and to not create conflict between business owners and street vendors.



Public Park Street Vendors

In addition to offering an entry point for small businesses with low capital requirements, street vendors can benefit consumers by offering goods at lower, affordable prices and convenient locations. In downtown retail markets where shopping selection and opportunities are limited, street vendors respond to an underserved portion of the market. African-American “mobile peddlers” in low-income neighborhoods relate to the absence of retail stores. A marketing strategy is created by the demand for “designer” goods or by minimal mobility and frequent need for staples. Street vendors occupy a specific resource and client niche. Growth opportunities for such vendors are limited, however, due to isolation from professional and service firms and segregation from higher-income markets (Morales, Persky, and Balkin 1995).

Manufacturers are beginning to recognize street vending as a growing retail market segment and are attempting to maximize their own sales by providing goods to the street vendors (Lindberg and Vaughn 1991). The ease of accessibility of goods to the consumer has the ability to heighten sales and possibly raise the demand for future expansions within the market.

THE STREET VENDORS ASSOCIATION (SVA) OF LOS ANGELES: A LONG BATTLE TO IMPLEMENTATION OF A LIMITED MARKET FOR VENDORS

The history of the Street Vendors Association of Los Angeles (SVA) is the story of a public-private partnership that, through regulation and organization converted illegal street vending to a legal, city-supported program, albeit with very limited success thus far. Comprised primarily of Latin-American immigrants who participated in illegal vending upon their arrival in Los Angeles, SVA has raised the issue of legalizing vending on public space. In partnership with the Central American Resource Center, an organization dedicated to the empowerment of Central Americans in Los Angeles, SVA prepared a study of street vending to present to the city council in 1986. The council, in turn, formed a committee to research and recommend solutions to deal with the disputes between street vendors trying to earn a living and police enforcing the law.

It took the committee until 1988 to deliver its findings, which recommended legalized street vending in six areas of the city. And it was not until 1994 that the city council acknowledged the committee's findings. The council's response to the committee's work was certainly not what advocates had hoped for.

The council required a lengthy process in which SVA had to demonstrate that the community in a given district supported street vending before vending could be approved in that district. SVA had to gather signatures from 20 percent of the merchants and residents within a 500-foot radius of a proposed vending site, testifying to their approval of the vending site. Then, the councilperson for the district had to appoint a community advisory committee of property owners that would approve or reject the proposed vending district. If approved by the community advisory committee, the city council is to be notified within 90 days and the Public Works Commission holds a public hearing and makes a determination on the proposal. If the proposal survives this process, it returns to city council for a final vote.

Organizers of the street vending project attribute the prohibitive negotiation process to the formidable political opposition that the street vendors have always had to face from the voting public and the business community. Small business owners generally oppose vendors because they perceive them as competition. Neighborhood opposition usually stems from knee-jerk anti-immigrant sentiment and misconceptions that street vendors are often fronts for illicit activity such as drug dealing. According to SVA's Jorge Perez, the "rules were set up to control, not as an incentive, when it should be a balance of both."

In the years since the ordinance passed, SVA has succeeded in getting only the MacArthur Park district approved. That program is known as VEND (Vital Economic Neighborhood Development) at MacArthur Park and is the first legal sidewalk vending program in Los Angeles's history. VEND is sponsored by the Institute for Urban Research and Development and the Cathedral Center of St. Paul (an Episcopal church). The program is a means of facilitating neighborhood revitalization through entrepreneurial training and small business development for community residents. The initial goal was to place 20 carts on the edges of the historic park; the ultimate goal is to get 50 carts there.

In April 1999, 15 vendors were selected for the program and began submitting permit applications to the city of Los Angeles. In May 1999, business training commenced for these vendors. Workshops were provided by the University of Southern California (USC) Marshall School of Business, the USC Center for Entrepreneurial Studies, New Economics for Women, and the Los Angeles Police Department. The curriculum for building the capacity of vendors included: Business Management Skills (business planning, budgeting and accounting, financial planning, taxes, inventory, marketing and promotion); Understanding City and

(continued)

County Regulations; Health and Sanitation; Basic Mathematics, (including kitchen math); English as a Second Language; Skills Training (culinary, sales, and other skills); Vendor Cart Cleaning and Storage; Safety; and Street Wisdom (dealing with police, gangs, aggressive customers, and harassment).

The products sold by each vendor have been carefully selected to ensure that the vendors do not compete with one another, with surrounding merchants, or with Olvera Street's Mexican Marketplace. The vendors market a variety of foods, beverages, and general merchandise (e.g., jewelry, crafts, and artwork).

The Episcopal-related Institute for Urban Research and Development manages the district's operations in partnership with the Episcopal Cathedral Center of St. Paul.

As stipulated in the Ordinance, a Community Advisory Council has been formed to represent the interests of all stakeholders in the neighborhood. The Council is empowered to make recommendations on boundaries of the district, density and location of vendors, goods sold, design of carts, and hours of operation.

The Council's membership includes representatives from city, the Association of Salvadorans of Los Angeles, New Economics for Women, two vendor representatives elected by the street vendors, local merchants, local residents, representatives from East Los Angeles City College, the University of Southern California, and representatives from the area's faith community.

City Officials hope that the district will one day become a tourist attraction similar to Los Angeles's Olvera Street, helping to revitalize the once-drug-plagued MacArthur Park as a city landmark.

VEND is supported through a \$235,000 grant from the Community Development Department of the City of Los Angeles. The Institute for Urban Research and Development secured a subcontract from the region's Community Development Block Grant, administered through the City of Los Angeles Community Development Department, for its overall administration of the project. The Cathedral Center Grants Program has also provided funds. Many of the vendors themselves have been able to secure loans through two credit unions, Comunidades Federal Credit Union and the Episcopal Community Federal Credit Union, to help defray the costs of licensing, merchandise, and mandatory cart rentals. Licenses cost about \$700 per year, and cart rental runs around \$250 a month.

Source: Los Angeles Culture Net, July 8, 2002, and the Los Angeles Times, June 21, 1999

Opportunities for Minorities and People with Disabilities

A street vendor in New York who earns about \$350 a week selling coffee and bagels says, "What if I lose my job? What else can a foreigner do in this country with no education? You think I like to wake up at 2 in the morning and stand on the streets in zero degrees or 90 degrees all day? But if I lose my job, I will have to go on welfare." (New York Times, June 17, 1999, Section B, Page 13)

The street vending component of a city's economy often represents an opportunity for poor or minority individuals who have been displaced or denied entry into the formal economy to generate income and pursue entrepreneurial opportunities (Morales, Persky, and Balkin 1995). The history of street peddlers and pushcart vendors in American cities is primarily one of immigrants turning to street vending to gain a foothold into the urban economy. The possibility for predominantly minority vendors with low job-skill levels to earn a living and be socialized into the society is a large benefit of street vending programs in urban areas.

At this level, street vending operates as a component of the informal economy. As defined by industry experts, the informal economy “includes earned but unremunerated income from the home-related service provision, off-the-books employment, some rental property, criminal activities and street vending” (Morales, Persky, and Balkin 1995). An informal economy can be a market for legal goods, but the production and sales may not be fully compliant with all formal business and tax regulations. The concept of informal labor was born in frustration from the inability of conventional research, including census surveys, to document work outside the formal wage economy. Central to the whole notion of informality is workers’ non-compliance or partial compliance with official regulations.

Because street vending is often considered a part of the informal economy, there is very little research conducted on the topic in industrial societies. Most research on the business economy relies on statistics and information gathered from the formal professional organizations. Research suggests that social scientists are only beginning to appreciate the sociological and economic significance of street vending. Vendor advocacy groups often argue, rightly or wrongly, that their clients are “little guys” fighting against entrenched business and property interests. And when vendors are predominantly members of minority groups, discrimination charges are common whenever new regulations are proposed for vending programs (Houston 1993).

Street vending is an attractive economic activity for minority and disadvantaged populations due to easy entry into the market and the relatively low overhead associated with entry. Nearly all vending businesses are cash and carry. The major investments are a minimal merchandise inventory and the vending carts, which are often subsidized by the city. It is also necessary to obtain a license or permit to operate a vending cart. In most cities, the fee is nominal and does not reflect the actual economic cost of the operation of the cart. Depending on the type of vending program operated by a city, vendors can be required to use city-provided vending carts, lease carts provided by the city, or provide their own carts. The cost of purchasing a vending cart ranges from \$5,000 to \$35,000, depending on the size and complexity of the design. General merchandise carts suitable for outdoor use will be less expensive than larger, more substantial food service carts with electricity and running water. Low start-up costs and low overhead also offer minimal financial risk to try new business ideas. The ability to quickly and inexpensively try a new idea in the market through a street vending operation significantly contributes to the success of vending as an entrepreneurial and business incubator tool.

Financial incentives offered by federal and local governments also provide motivation for minority businesses to become involved in street vending. Funding assistance granted to entrepreneurial vending operations and municipal vending programs through enterprise and empowerment zones provides capital to support vending endeavors. For example, in New York City, the Upper Manhattan Empowerment Zone provided a \$300,000 grant (the total project cost is \$850,000) in 1998 to the Masjid Malcolm Shabazz Harlem Business Outreach Center (HBOC). The HBOC is a not-for-profit organization established in 1994 that seeks to expand a technical assistance program that provides business management skills to vendors selling goods at a market located within the empowerment zone. The proposed project includes the development of a merchandising, licensing, and marketing organization to diversify and raise the quality of goods available in the market. Programs like the HBOC and other training programs associated

with street vending benefit the entire community. While assisting the city by enhancing the success of their vending program and protecting the public investment in the program, training also ultimately benefits the vendors by helping to increase their business skills and knowledge.

A portion of the Empowerment Zone grant money also enabled the HBOC to create a permanent vending marketplace. Although street vendors had been operating in this area of Harlem since the 1960s, in 1994 the vendors were displaced by the city from their sidewalk locations along 125th Street. City officials cited clogged sidewalks, litter, and competition with legitimate enterprises along Harlem's main street as justification for shutting down the mostly illegal operations. The Malcolm Shabazz Development Corporation was seeking to assist the vendors by establishing a legal and permanent vending market at 116th Street and Lenox Avenue. Although the efforts of the HBOC allowed the vendors to continue operating legally and with additional business development support, economic and political tensions remained between the HBOC and the vendors. The vendors contend that they have been economically marginalized and their numbers reduced by the relocations to areas where business is worse (Siegal 1999). Vendors complained about having to relocate to less visible and traveled areas away from the activity of 125th Street. However, three years after the opening in 1999, the Market has persevered, disputes have been resolved, and overall the new market is considered a success.

Another unique way that incentives are offered to street vendor businesses and an outcome that also subsequently benefits the entire community is the involvement of local universities in training and managing street vending programs. (See the sidebar about the Los Angeles experience and the role of the University of Southern California on pages 6-7.) Whether from a purely urban design planning standpoint of cart design as street furniture components or the location of vending sites in pedestrian activity centers to business management, marketing, and financial training, the vending programs function as learning laboratories for the universities. Vendors also inherently benefit from the expertise and support of the school. A small business like a single vending operation can offer excellent opportunities for business students to learn the ropes of the urban retail market. In return, vending operators receive valuable business enhancement training. Vendors can learn skills that are not only helpful to their individual businesses, but also benefit the entire city's urban environment. Training vendors as city ambassadors to visitors and as public safety officers to be an extra set of eyes on the street can further enhance the environment of the public realm.

Retail Revitalization

The ability of public space vending programs to encourage urban retail revitalization may be one of the most hotly debated issues surrounding the topic. While proponents believe that vendors encourage shoppers to spend more time in city business districts and buy more from permanent stores, their opponents complain of competition for an already limited number of buyers. There is no argument that street vending benefits the city through the addition of incubated businesses, the creation of additional jobs, and increased tourist spending, but do these benefits come at the expense of struggling downtown retailers and restaurants? Should the city instead focus on filling vacant retail space and not on vending in the public right-of-way? Cities are confronted with the problem of making sure that vendors have opportunities while also recognizing that they must also be concerned with the success of all small business owners.

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**A SUCCESSFUL
URBAN MARKETPLACE
ITHACA, NEW YORK**

Ithaca Commons is a 66,000-square-foot downtown pedestrian marketplace with more than 150 shops on two levels and surrounded by fountains, trees, flowers, and benches. When construction began, city merchants and citizens were skeptical of the project. When a pedestrian mall was suggested, there were dire predictions that half of the existing stores would go out of business. Instead, the summer that the Commons opened, many stores reported their best summer ever. According to planners with the City of Ithaca, "It's an illusion, of course, that the only reason people will come downtown is if they can drive in and park in front of the store." City planners believe that maintaining downtown vitality and restoring it in the case of a long-time successful pedestrian mall like the Commons requires constant action, participation, pro-active steps, and a partnership between the public and private sector. (*Downtown Idea Exchange*)

Business owners competing with street vendors cite unfair competition with vendors who occupy public space virtually for free while they pay rent. It is a delicate balance to protect the needs of small business owners and especially attract new retailers while maintaining a successful street vending program. Denver cites enhanced economic activity as the purpose for permitting street vending in commercial areas. According to their ordinance:

In order to provide for continuing revitalization throughout the City, the City Council finds and determines that a sidewalk sales program will permit enhanced use of the public space available, will provide a complement to the businesses operating from fixed premises and will promote economic activity (Revised Municipal Code City and County of Denver, Chapter 49, Article XVI, Division 3, Section 49-578).

Retail strategists argue that what works for enclosed shopping malls can work for Main Street. If planners treat commercial districts as storefronts that are part of the larger mall environment and learn from the lessons of their mall competitors, success is possible. Evidence is found in the cart-vending booths that proliferate the corridors of malls across America. Wasted pedestrian space is transformed into rent-producing retail square footage that not only increases sales per square foot, but also enlivens the dead open areas of spacious malls. If regulated and managed appropriately, municipal public space vending can actually pay for itself with the fees charged to "lease" the sidewalk square footage.

Economists tell us that the additional retail opportunities offered to the consumer will increase competition, which gives rise to better productivity, price stabilization, greater variety in product definition, and better service—all factors that would increase the attraction of a market center. Municipalities sometimes actively encourage existing shops and restaurants to open sidewalk vending sites to build on their existing customer base and take advantage of their current momentum to generate additional business for other vendors, as well as to enliven the street environment. This same argument also supports the location and placement of street vendors together in groups or street market areas. The success of grouping vendors in a market place or pedestrian, mall type of environment has been proven in both enclosed suburban malls and downtown urban areas. The concept of marketplace vending is based on public areas—not sidewalks—being developed as sites where vendors can congregate under suitable controls and can be promoted as interesting downtown attractions. This kind of marketplace is very similar to a farmers market, but its aim is to supply a broader selection of merchandise. In marketplace settings, however, it is absolutely critical that strict attention be given to product selection in order to encourage compatible and diverse products that support a cohesive and cross-productive market (Downtown Idea Exchange 1993).

DESIGN AND OPERATIONAL ISSUES

Besides tall buildings and bustling sidewalks, it is diverse sights and sounds that make a big city an exciting place to be. Go to any thriving city and you are likely to see street vendors selling hot dogs on the corner and hear street performers competing with traffic noises in the downtown areas. In New York, workers in Manhattan can grab a sandwich from a vendor, plop down on a curb and listen to a street entertainer on any given day—not just during street fairs and festivals. In Washington, flowers and fruits can be purchased from pushcarts on the sidewalk as well as designated farmer's markets. It takes a hodgepodge of activity to create an aura we call "city life." (Chicago Sun-Times, "Chicago Is No Theme Park," editorial, July 27, 2000)

Arguments in favor of implementing street vending programs invariably center on the contention that street vendors will encourage sidewalk vitality by increasing pedestrian traffic and interaction on otherwise empty, lifeless sidewalks. The inherent draw of purchasing goods and services from a sidewalk vendor will lure office workers into the public realm, encourage visitors to explore city blocks, and capture the activity of neighborhood residents. More people on the streets will result in more visual interest on the sidewalks, more interest in the adjacent storefronts, and an increased sense of safety and security. In an effort to capitalize on the new resurgence of retail momentum downtown, officials in St. Louis, Missouri, relied on this argument to encourage the legalization of street vending:

Street vendors help make city streets vibrant. They help bring them alive. They attract people to the streets and people feel more comfortable when other people are on the streets. It's what makes Manhattan feel safe at two in the morning. People on the street is what makes a city a city (*St. Louis Post-Dispatch*, November 1998).

Architects and planners alike agree: "In a democratic society, the street is a potent symbol of the public realm. I like the way vendors add character to the street environment and enhance the pedestrian experience" (Millar 1999).



Vending on a Vibrant Urban Sidewalk

The same increase in pedestrians that cities hope for to increase sidewalk activity is not without drawbacks. Additional pedestrian traffic generated by street vendors can lead to overcrowded and clogged sidewalks that cause public safety concerns. In areas with narrow sidewalks and multiple obstructions, including other street furniture like trashcans, utility poles, and newspaper boxes, vending carts only exacerbate the situation. Careful attention must be taken to locate vending operations in locations that can accommodate the cart itself as well as browsing or waiting customers.

Vendors, of course, are dependent on foot traffic for their livelihood. Busy sidewalks in dense cities like New York, Chicago, and Philadelphia

can support a variety of vending operations. In automobile-minded cities like Houston, Dallas, and Phoenix, however, where sidewalk activity is sparse in downtown districts, vendors find it difficult to make ends meet. A fine balance exists between the cause-and-effect relationship of sidewalk activity and vendors. No matter how many people are frequenting urban public spaces, cities must successfully manage and regulate critical day-to-day operational issues facing the management of a street vending program in order for the initiative to succeed. Failure to understand and plan for the small details that can make or break a street vending program will mire the program to political debate and controversy.

Structure Design

The design and type of structures used in a street vending program will depend on the sophistication of the market, vending locations within the urban fabric, weather concerns, and product types, among other factors. For instance, the appropriate vending structure might be a cart, a kiosk, a stand, or a table. And even within those categories, there will be lots of room for customization and variety.

Often the type or design of the physical structure has a huge impact on the success and perception of the program. Vending hardware should be considered a part of the urban street furniture that creates the perception of vital outdoor urban space. This is especially important in cities introducing street vending into the public realm. Older cities with more established vending programs are less dependent on state-of-the-art, high-design, attractive carts. Ultimately, the design and type of cart used by a city will result from the governing rules and regulations adopted as policy. Whether the ordinance controls simply the cart design itself or also site locations and allowable merchandise, the rules will dictate the appearance of the vending operations. Vending stations at any location should be simple, aesthetically pleasing, and designed to “ideally” display merchandise as well as being a functional part of the existing streetscape.



Permanent Sidewalk Vending Structure

Ultimately, the biggest differences in physical structure lie in the types of permits that cities issue to vendors. If vending locations in a city are permitted as prescribed locations, the type of structure will be different from those permits that are issued for mobile stands that move around the city throughout the day. When permits are issued for specific sites, permanent stands and kiosks can be used. Typical in cities like New York and Philadelphia, permanent vending sites are rectangular, flat-roofed structures with awning overhangs that “close” at night. Older permanent structures use shutter-like doors and padlocks to lock up at night while newer versions use rolling overhead doors to secure inventory while closed. While permanent vending sites can accommodate virtually any type of merchandise, newsstands that offer newspapers, magazines, sodas, and candy are the most common. Permanent vending booths are the most weatherproof of the variety of styles. A full roof and four walls protect the vendor from the elements and afford the opportunity to sit down. Additionally, the ability of these designs to permanently store inventory is a substantial convenience. Another type of permanent structure is a fixed pavilion building with no walls but basically four vertical columns supporting a pitched roof with shelving in between, similar to a farmer’s market booth. Instead of merchandise being stored in the structures, vendors pack-up and move in and out everyday.

Permanent structures, while they do offer benefits over other types, are also targets for vandalism and graffiti. Guarding the structures overnight or storing them in a secure location is usually too costly and inconvenient to be a realistic option. Generally these structures are also much more expensive for a city to purchase, install, and maintain, and therefore more expensive for the vendor to permit and operate.

More common on city sidewalks are mobile vending carts. Again, these structures are available in a variety of shapes, designs, and sizes. In all cases, the cart has wheels that allow the structure to be moved, whether it is simply in and out of storage for a day of sales or for constant mobility around the sidewalk or park throughout the day. Mobile carts are not as large as permanent structures and therefore offer less merchandise display and storage space. This limitation most adversely affects vendors who offer durable goods for sale like t-shirts, sunglasses, perfume, or souvenirs. Convenience food-vending operations, including pretzels, hot dogs, ice cream, sodas, coffee, and doughnuts, are well suited for mobile carts.

Limited space to display and merchandise goods presents a perplexing problem for vendors and ordinance enforcers. In order to maximize their profits and catch the attention of potential patrons, vendors want to display as much inventory as possible. This practice leads to merchandise hanging from every conceivable nook and cranny of the cart and overstock stacked in boxes and cartons on the sidewalk surrounding the cart. Too much merchandise also causes broken shelving and unsightly alterations to the station in order to accommodate more goods. Although the vendor maximizes the display, the result is an overloaded cart. The unsightly clutter negatively affects the aesthetics of the vending site and draws criticism from vending skeptics. Opponents attempting to eliminate and strictly regulate vendors use the resulting third-world bazaar image as ammunition.

Mobile carts will often have some sort of roof that protects the merchandise from the elements. These covers can be cloth or metal roofs or simply large umbrellas that open over the cart and advertise the vendors’ goods. Because the carts are mobile, storage of the carts while not in operation presents a challenge to vendors and cities alike. Centrally located storage facilities can be



Mobile Sidewalk Vending Structure

While mobile carts eliminate the risk of vandalism and graffiti and are less expensive for cities and vendors to buy, operate, and maintain, they have disadvantages as well.

made available to the vendors. In many cases, the city will own the carts and is responsible for the warehousing of the equipment at night. In some cases, the vendor owns the cart and must make arrangements for off-site storage. In addition to space for storage, the act of moving the cart into storage is an issue for some vendors. In order to be sensitive to the needs of vendors with disabilities, arrangements may need to be made to assist with movement and storage. When carts are owned by the city and leased to vendors, the ability to obtain a permit and operate a street vending operation must be open and equal to all applicants, including individuals with disabilities who may be unable to move their carts to storage.

While mobile carts eliminate the risk of vandalism and graffiti and are less expensive for cities and vendors to buy, operate, and maintain, they have disadvantages as well. Most mobile carts offer no protection from the elements. Whether it is snow, sleet, rain, wind, or sunshine, vendors and their merchandise are usually exposed. As mentioned above, limited space on mobile carts also makes it difficult for vendors to store their extra inventory or trash without cluttering the surrounding sidewalk. Although regulations govern the number of boxes, coolers, or tables that can be placed around vending stands, the rules are often broken simply out of the necessity of operation.

Other types of mobile vending stands include temporary and informal vending operations. Unlike formally designed carts or wagons, these units consist of folding tables, card tables, tents, and odd assortments of cardboard boxes and crates. Some cities allow licensed vendors to operate from these devices. Cars and trucks parked on or adjacent to sidewalks with open trunks or tailgates or propped-up, lean-to display boards can also be legal vending operations. Often the negative image of rag-tag, street markets are associated with this level of vending hardware. In a best-case scenario, these types of vending stands are used for temporary or event vending as opposed to permanent vending. The implementation of design standards and



Temporary or Informal Vending Structure

the public investment to purchase new hardware to improve and enhance the image of vending is often met with opposition from the vendors who would prefer to use these more “informal” structures to do their selling. They do not see the city’s commitment to a vending program and a concern for the appearance and reputation of street vending in structure and design regulations; rather, they are often resistant to change and concerned about additional regulation of their industry.

Yet another type of vending booth design is a hybrid structure that is both permanent and mobile. Most often this style is a trailer that can be towed away for storage. The “building” or trailer has service windows and awnings that open to allow the sale of goods and services from inside. Typically these types of mobile vending trailers are owned by the vendor and are permitted to occupy public space. These structures often contain running water and electricity, which ease health department permitting of food service. Mobile vending trailers are popular with established restaurants and food vendors who want to operate with minimal overhead in an urban area or for a special event.

The increase in interest in street vending programs has led to more attention to the design and appearance of structures. New innovations in construction and design are leading to attractive and functional cart and kiosk styles. For example, in Los Angeles, in conjunction with the implementation of the city’s first legal vending district, a group of architects and architecture students conducted a studio to re-design the sidewalk spaces where the vendors will operate and the types of carts for use in the area. Design ideas fashioned after the convenience and affordability of the original informal carts and contraptions that the vendors were using illegally resulted in entirely new forms and materials for vending structures (Millar 1999).

Proper maintenance of city-owned vending hardware is critical to ensuring an attractive and functional vending program. Partnerships between the vendors who use the carts and the regulating government must be forged to

The implementation of design standards and the public investment to purchase new hardware to improve and enhance the image of vending is often met with opposition from the vendors who would prefer to use more “informal” structures to do their selling.



Mobile Fruit Vendor

When the city owns the vending stations, design guidelines focus on operational issues like display of merchandise, storage of inventory, trash disposal, and maintenance requirements. When vendors are allowed to design their carts, design standards focus on cart size and shape and colors and materials.



Sidewalk Vending Structure in Need of Maintenance and Repair

minimize maintenance costs, protect public investment in the equipment, and sustain a handsome street environment. Carts can easily become heavily worn from poor initial construction, the inability to handle outside weather conditions, and continual transport between storage facilities and the vending site. Vending carts that are continually exposed to the elements also benefit from routine basic cleaning. Attention must be paid when regulating street vending to provide accommodations for regular maintenance. It is also important that details are clearly communicated and responsibility divided between both the city and the vendors.

Design Guidelines

City ordinances to regulate street vending often go to great lengths to dictate the physical aesthetic requirements of vending hardware. Responding to the historical record of complaints from property and business owners that vendors are an eyesore and clutter the street environment, careful attention is taken to prescribe strict rules for the appearance of vending operations. Although these rules will vary from city to city in response to the desires of the city officials and political viability with vendors, there are common components that are found universally. When the city owns the vending stations, design guidelines focus on operational issues like display of merchandise, storage of inventory, trash disposal, and maintenance requirements. When vendors are allowed to design their carts, design standards focus on cart size and shape and colors and materials.

The City of Atlanta's vending program, as of the writing of this report, is still in the process of redefining Uniform Design Standards for their street vending operations. The purpose statement regarding design standards follows.

- The Uniform Design Standards shall state how specialized vending equipment requirements for chilling beverages, displaying merchandise such as garments, and performing services (such as seating for painting portraits or performing readings) shall be accommodated in the site plan

and equipment design for food permits, merchandise permits, and service permits, without penalties to the vendors.

- For food and service permits, the design standards shall state how the designated vending station dimensions will be expanded/adjusted to service customer seating and space to move and store auxiliary accessory chilling cases/containers.
- The Uniform Design Standards shall state how the city will provide weatherization protective coverings or protective weatherization finishes to carts.
- The Uniform Design Standards shall state how the combined storage and display capacity of the equipment and station site are to be coordinated to meet the needs of vendors with food, merchandise, and service permits to their customers. (City of Atlanta Code of Ordinances, Chapter 30, Article XXIII, Division I, Section 30-1409)

It is critical that there is a clear understanding between program managers, the vendors, and elected officials about the design standards so that enforcement can be fair and consistent. The common perception of street vending is driven primarily by the physical appearance of the operations. Design guidelines and maintenance expectations that are explicit will contribute to the success of the vending program.

Denver has a newly implemented vending program for the 16th Street Pedestrian and Transit Mall. The city does not provide vending hardware for the district, and permitted vendors must supply their own carts and kiosks. In order to control and maintain the sidewalk character of the entire mall, the city has developed lengthy, detailed design standards for the vending carts. The ordinance goes to the effort of specifying every aspect of material design and function of the carts. If vendors do not meet the guidelines, they will not be permitted to vend on the mall. These guidelines are included in the sidebar on the following pages.

Location Decisions

Because the location of a vending operation is so important to the success of the business, the issue of locating approved vending sites and zones consumes a large portion of vending program debates and regulating ordinances. Common sense says that anywhere a large number of people pass by or congregate is an ideal location for selling foods, goods, and services. There are, however, other area criteria that must be considered, including right-of-way size, sidewalk width, line-of-sight obstructions, traffic constraints, public safety, personal security, private property lines, building facades, building tenants, and street hardware and lighting. Added to this list is a range of pedestrian issues that includes pedestrian routes, mode transfers, trip origins and destination, traffic counts, and pedestrian type (i.e., the balance of resident, worker, or tourist traffic).

Logical locations for vending include sidewalks and public spaces adjacent to transit stations and popular bus stops, within densely populated work centers, near government buildings that offer public services, and near active city parks. As with other street vending program components, the types of street vending locations within a city should be dictated by the program plan and implemented through the rules of the ordinance governing the program.

There are two general types of siting criteria. Vendors can be given an exclusive permit for a single, specific site. Or they receive a permit and can then pick a location, taking into account certain limitations. Some programs

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CITY OF DENVER 16TH STREET PEDESTRIAN AND TRANSIT MALL PUSHCART DESIGN STANDARDS

Compliance with all design standards referred to herein is required. The Department of Planning must review and approve all vending carts using the following criteria to determine whether to approve the vending pushcart.

Wheels

All carts must have operating wheels.

The weight of the cart and the wheel sizes shall be such that the cart is movable on the sidewalk by one attendant. Motorized vehicles are not allowed for placement of the carts.

Canopies

Each pushcart or kiosk must have either an umbrella mounted on a single pole, or a canopy mounted on a maximum of four supports. Alternate roof designs may be accepted, subject to specific review and approval.

All supports must be mounted on the pushcart and shall not extend beyond the outside dimensions of the pushcart body. The lowest edge of any canopy or umbrella shall not be less than [six and one-half feet] above the sidewalk.

Canopies and umbrellas must be clean and well maintained.

Fabric must be fire- and sun-resistant and be suitable for extended wear in an exterior location. Metal and glass are options in various configurations. Materials such as Panaflex, plastic, or vinyl are not permitted.

Lighting

Carts and kiosks that anticipate operating into the evening may utilize battery-powered, low-voltage lighting systems for display lighting and accents. Where available, carts and kiosks may also power lights from Mall electrical sources.

Display lighting should be directed at the merchandise only and not be distracting to passing pedestrians or motorists.

Small strings of accent lights or fiber optic strands may be used as accent lighting with specific review and approval.

No internally illuminated umbrellas or canopies will be allowed.

Graphics

Graphics, which convey the theme of the business and add to the quality, liveliness, and fun of the cart design, are not specifically limited in size, but are subject to review.

Additional graphic design, color, pattern, and detail that add to the overall theme, merchandising concept, liveliness, and fun of the cart design is encouraged. Graphic design and physical form must be well integrated to create a complete and attractive presentation.

Materials

All materials must be suitable for extended outdoor use and comply with all applicable health and safety standards. All surfaces, edges, and details must be designed and finished to avoid potential hazards.

PUSHCART DESIGN GUIDELINES

The design guidelines provided in this section are recommended guides provided to encourage a uniformly high quality of design, fabrication, and merchandising among all vendors and are used by the Department of Planning as reference material in the design review process.

(continued)

Size Restrictions

Swing-up towing hitches will not be included in the length measurement, but a fixed towing hitch will be included.

Wheels

The minimum recommended wheel size is six inches in diameter. Wheels should not project more than four inches from any part of the body of the cart. Wheels should be mounted vertically on rigid axles or mountings. Large wheels with open spoke design are preferred.

Canopies

The shapes and materials available to create canopies and shade elements and awnings are diverse and should be handled in a creative way. The shapes, patterns, and materials of these elements are subject to review. Acceptable canopy and umbrella shapes and materials may include angled with open sides, angled with closed sides, vaulted, and pyramidal. Square, boxed canopies are not acceptable. Retractable canopies may project beyond the allowable cart dimensions by 24 inches in any direction.

Umbrellas

May be round, square or faceted, spherical, conical, or pyramidal. Umbrellas may project beyond the allowable cart dimensions by a maximum of 24 inches in any direction.

Materials, Finishes, and Details

High-quality materials and standards for detailing are essential for completing any creative design concept. The material palette for Downtown Denver carts includes durable materials, such as wood, stone, canvas, tile metal, glass, and Plexiglas.

Wood

Wood may be used as a finished material in many design applications as both a structural and a finish material. All wood details and finishes must be suitable for long wear in an exterior location.

All detailing, construction, and finishing is to be done in a craftsmanlike manner. Wood intended for paint or stain should be clear grade hardwood. All wood employed in the construction of carts should be of kiln-dried, mill-quality finish. All exposed edges must be finished. No softwoods, rough cut, unfinished, or distressed woods will be considered as finish materials. Teak should not be used where it will be in contact with food products.

Metal

Metal may be used in structure, equipment, architectural detail, hardware, panels, grills, and other applications. The gauge, detailing, and finish of all metal surfaces should be suitable for long-term use in an exterior location.

Recommended metal finishes include painted, polished, and natural if appropriate. Stainless steel, solid copper, brass, and bronze finishes are encouraged; however, copper and brass plating is not recommended due to poor durability. Anodized finishes are acceptable. Polished metal finishes are recommended to have a clear lacquer finish to protect them from tarnishing. Artificially weathered "patina" finishes are acceptable. All metal used in carts should be detailed to conceal seams and overlapping joints. All seams and joints should be even and straight. Heavy gauge or textured metals are recommended for large flat panel areas to avoid oil canning. Wrought and formed metal may be appropriate for some uses, including sign brackets, decorative grills, and canopy supports.

Stone

Granite, marble, slate, and other natural stones may be appropriate to bring qualities of substance and elegance to cart counters, base panels, and details. Stone may be used in any of the wide variety of available finishes. In all cases, finishes should be suitable for extended use in an exterior location. Marble is not suitable where it will be in contact with food products. Synthetic stone materials also make excellent, durable counter and panel materials.

(continued)

Polished stone requires a high degree of detail and craftsmanship for proper installation. An eased and polished edge is recommended at all exposed joints and comers. All stone joints should be neat, even, and regular. No unfinished edges should be left exposed. Careful and craftsmanlike detailing is encouraged at all transitions between stone and other materials.

Tile

Tile may be used in many forms, finishes, and patterns for counter tops, base panels and details. Tile provides a lighter weight alternative to stone materials for installations where durability and high quality is desired. Small, intricate mosaic tile patterns may be used as accents and detail.

Strong tile patterns may be used in limited applications as accents, borders, and bands. All horizontal tile corners and edges should be bullnose or covered. If used on three-dimensional volumes, tile should cover all surfaces or be suitably trimmed at the corners. Tile edges should not be left exposed at corners.

Discouraged Materials

The following materials are not recommended for use anywhere on any cart:

- plastic and metal laminates
- mill finish aluminum
- gypsum board
- simulated materials (imitation brick, wood, etc.)
- interior wall coverings of any kind
- antiqued finishes
- distressed or sandblasted woods
- rough sawn woods and shakes
- mirror
- used or distressed brick

Color and Finish

Strong bright and festive colors are appropriate. The cart design, however, should carefully coordinate color selection to harmonize with the architectural character of Downtown Denver and the Colorado environment while giving the pushcart a distinct identity.

Creative Display Design

All carts and kiosks are requested to carefully consider and integrate creative display concepts with the overall design of the pushcart including size, shape, color, lighting, materials, signs, and graphics. Display systems should be appropriate and complimentary to the merchandise. Display must be fully supported by the cart or kiosk. Additional ground supported display features and signs are not allowed.

Signs

Signs must comply with all applicable ordinances of the City and County of Denver. 

Source: Public Works Rules and Regulations for vending on the 16th Street Pedestrian and Transit Mall – Adopted Pursuant to Article II of the Charter and the City and County of Denver and Section 2-91 et. seq. of the Revised Municipal Code.

also allow (or even require) vendors to stay mobile all day within a certain area. In some cases, vendors are assigned a location by lottery. Another emerging idea in street vending permitting is to issue permits that allow roving carts to vend and locate on a daily basis.

Atlanta's program assigns single, specific sites for vendors. The regulating ordinance delineates multiple districts within the city and permits within the district are issued by number and site location. The assignment of a vending location is handled exclusively through the application approval and permitting process. Renewal applications receive first consideration in assigning location, and efforts are made to consider the previous location; new applicants for a permit are located on a first-come, first-served basis. Although permits are issued for city-defined sites, vendors must also follow additional location requirements. For example, no vending is permitted:

- within 15 feet of any street intersection or pedestrian crosswalk;
- within 10 feet of any driveway;
- within 15 feet of another vending location assigned to another vendor on a public sidewalk;
- within a minimum of nine feet of unobstructed pedestrian space;
- within any area within 15 feet of a building exit or 50 feet for hotel and motels;
- on the median strip of a divided highway;
- against display windows of a fixed business location;
- within 600 feet of hospitals and schools;
- within 15 feet of a fire hydrant; and
- [where it shall] obstruct traffic signals or regulatory signage. (City of Atlanta Code of Ordinances, Chapter 30 Businesses, Article XXIII Vending on Public Property.)

There are different opinions regarding advantages of locating street vendors in marketplaces versus individual, separate locations. Often a market area made up of multiple vendors with a wide variety of food, goods, and services can create demand for the merchandise by becoming a destination shopping site versus a location that emphasizes convenience and impulse buying. Although marketplaces require additional thought regarding design and regulation, there is some anecdotal evidence that marketplaces have been successful in both generating adequate sales for vendors as well as promoting business in surrounding retail stores (see, for example, the sidebar above on the success of the Ithaca, New York, program).

Ultimately, the best type of vending location strategy for a city will depend on the diversity and density of the vending area and the type of physical environment. The only legal, permitted street vending in Denver, Colorado, takes place in the 16th Street Pedestrian and Transit Mall. As well as limiting all vending to the mall area, the city has also established additional location restrictions for vendors. For example, throughout the public mall space:

- four to eight vending sites are be allowed in the median on each block;
- 8 to 12 vending sites per block will be allowed on the 32-foot-wide sidewalks;

Often a market area made up of multiple vendors with a wide variety of food, goods, and services can create demand for the merchandise by becoming a destination shopping site versus a location that emphasizes convenience and impulse buying.

- the area between curb/street edge and first tree/light fixture must be kept open for pedestrian access;
- one vendor will be allowed on street corners, provided that the sidewalk width can accommodate the vending cart and other amenities and still maintain a 10-foot pedestrian right-of-way; and
- vendors may be placed within one foot of fire hydrants, provided that the cart is easily movable and is not left unattended. (Public Works Rules and Regulations for vending on the 16th Street Pedestrian and Transit Mall)

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Location restrictions can be helpful in relieving fears and concerns of business and restaurant owners who oppose street vending. For example, vending ordinances can specifically state that street vending is not allowed within 200 feet of the entrance to a fixed address business selling a similar product. Thoughtful and detailed regulations regarding how locations will be permitted and assigned to individual vendors will also eliminate friction and competition among vendors. Due to the importance of location to the success of a vending operation, conflict often arises during the process of assigning approved vendor applications to designated vending sites. In most established vending programs, vendors remain at a specific site until they elect to assume another vacated site or give up their license. For example, in Denver “vendors seeking to renew permits will be given the first right of refusal on locations and merchandise” (Public Works Rules and Regulations for vending on the 16th Street Pedestrian and Transit Mall).

Portland, Oregon, permits sidewalk vending sites as follows:

The use of the permit operating area for sidewalk vending must be compatible with the public interest in use of the sidewalk areas as public right-of-way. In making such determination, the City Engineer shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to, signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees, and newsstands, as well as, the presence of bus stops, truck loading zones, taxi stands, or hotel zones to determine whether the proposed use would result in pedestrian or street congestion. The City Engineer shall inform the applicant whether the proposed permit operating area is suitable or unsuitable. In the event the applicant is dissatisfied with the City Engineer’s decision regarding a certain application, he may appeal the decision to the Commissioner in Charge. The decision of the Commissioner if adverse to the applicant or any notified party may be appealed to the City Council. Additionally, no person may conduct business on a sidewalk in any of the following places:

1. Within 10 feet of the intersection of the sidewalk with any other sidewalk except that the City Engineer may waive this restriction in writing for any location upon finding that construction of extra-width sidewalks makes such use consistent with the standards established by Section 17.26.070 (Location Review).
2. Within eight feet of the adjacent property line.
3. Within 10 feet of the extension of any building entrance or doorway, to the curbline.
4. Within 10 feet of any handicapped parking space, or access ramp. (Code of the City of Portland, Title 17, Chapter 17.26, Section 17.26.070)

Trash Disposal

Removal of trash from street vending operations is an important issue to be addressed. The litter and garbage accumulated by the operation of a vending site, plus the waste generated by customers, especially of food vendors, can easily overwhelm public waste containers. Waste generated by a vendor and customers can become a serious health and public safety concern. Critics argue that trash from vendor sites becomes strewn all over the public right-of-way and vendor trash kept in trash bags or open boxes next to cart in public view is unsightly. To alleviate the problem, it is necessary for vendors to work in partnership with city sanitation and public works departments to make accommodations to remove excess trash.

Street vending ordinances generally require vendors to keep their vending location free of litter. In Burlington, Vermont, the peddler is required to keep the area surrounding the peddling facility clear of trash, debris, snow, or ice for a distance of four feet. In Denver, Colorado, the vendor must pick up any paper, cardboard, wood, plastic containers, wrappers, or any similar litter that is within 25 feet of the approved location designated on the permit. Vendors must also carry a suitable container for the placement of such litter by customers or other persons. Often vendors are prohibited from using city-owned trash receptacles, especially for the disposal of packing containers or boxes, and must arrange for their own waste removal.

Success is also likely if vendors take responsibility for cleaning up trash around their site that was not generated by their operation. Everyone must take pride in the cleanliness of the public sidewalk areas. For example, the Portland, Oregon, vending ordinance states: "All persons conducting business on a sidewalk must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this Chapter shall carry a suitable container for placement of such litter by customers or other persons." (Code of the City of Portland, Title 17, Chapter 17.26, Section 17.26.130)

Hours of Operation

Hours of operation are regulated by cities in two ways. Daily operational hours are set that dictate when vendors can begin sales and when they must shut down. Vendors are also often required by ordinance to meet attendance guidelines. For example, the rules and regulations for vendors in the Church Street Marketplace in Burlington, Vermont, state:

1. If the vendor is to be absent from the Marketplace for a period of 14 or more consecutive days, the vendor must notify the Commission in advance of the date(s) of any such absence(s). The Commission may assign the space designated or reassigned during any such absence.
2. For the months of May and October, the vendor must vend on the Marketplace not less than 16 days per month, weather permitting.
3. For the months of June, July, August, and September, the vendor must vend on the Marketplace not less than 12 weekdays per month, weather permitting.

The litter and garbage accumulated by the operation of a vending site, plus the waste generated by customers, especially of food vendors, can easily overwhelm public waste containers.

Regulations regarding the types of goods that vendors are permitted to sell while occupying the public sidewalk are designed to encourage diversity and variety of merchandise among proximate vendors and to limit competition with storefront businesses.



Vendor Struggling with Seasonal Issues of Wind and Snow

Municipalities require vendors to meet these standards in order to maintain a critical mass of activity on city sidewalks. In order for many of the benefits of an organized marketplace vending site to be realized, all of the vendors must be present and actively selling their products to attract and maintain a consistent and large customer base. Most municipalities limit hours of operation by imposing hours during the day when vending cannot occur on city sidewalks. For example, the Atlanta ordinance states “no vending station or any item related to the operation of a vending business shall be located in public space between the hours of 2:00 a.m. and 5:00 a.m.” This level of regulation regarding hours of operation is most common. Recently in New York City, attempts to further regulate street vending have revolved around limiting the hours of operation for vendors. In an attempt to relieve congestion on crowded sidewalks and ensure public safety, New York reduced hours of operation on the busiest streets during heavy commute times in the mornings and afternoons. Although the new restrictions were met with protest, the solution was accepted as better than the alternative—completely eliminating vending from busy blocks with narrow sidewalks.

Merchandise

Regulations regarding the types of goods that vendors are permitted to sell while occupying the public sidewalk are designed to encourage diversity and variety of merchandise among proximate vendors and to limit competition with storefront businesses. Some ordinances specifically itemize what merchandise can be sold while others approve requests by vendors to sell specific merchandise when they apply for a permit. Food items are often limited based on health department preparation requirements and the need for a higher level of regulation for foods prepared on site. Efforts to limit product selection can also be a contentious issue with vendors who are concerned that the city is attempting to limit their freedom to control and change their own inventory.

LIMITING HOURS OF NEW YORK CITY STREET VENDING OPERATIONS

The sidewalk vending issue in New York City erupted in 1998 when the Giuliani administration tried to exile food carts from 300 blocks in Manhattan and remove other peddlers from another 261 blocks. But protests and threats of lawsuits forced the city to scale back its plan to include only 100 blocks.

The city tightened regulation on vendors because of their impact on indoor businesses and the increased pedestrian traffic they cause. Additional protests occurred in 1999 when hundreds of vendors rallied outside City Hall in anticipation of a public hearing on 165 additional bans. According to the city, more restrictions were necessary to relieve crowding on congested sidewalks and to ensure public safety.

Regarding the plan to clear hundreds of vendors from Manhattan streets, Mayor Giuliani said the measure would help “to restore the city’s vending industry to what it was intended to be, a business of small, independent entrepreneurs” (Barnes 1999). The law “balances the needs of licensed vendors to make a living with the rights of others for streets that are safe, secure and free from congestion,” the mayor said. Consequently, he signed a bill that forms a panel to determine where vendors can operate.

At the same time, the city council was developing legislation that would set comprehensive regulations for street vending throughout the city and would eliminate the four-member review panel, which is appointed by the Mayor to set the rules for the street merchants. The bill would write precise vending restrictions into law and would establish a system in which vendors would be assigned specific locations. The City of New York legally issues 3,000 food-vending permits and 853 general vending licenses.



Portland, Oregon, regulates street vending merchandise as follows:

The City Engineer shall maintain a list of items and services that are either approved or prohibited for sale from sidewalk vending carts. Any item or service not on the list may be considered for approval based on the following criteria:

- A. All items or services to be sold must:
 1. be vended from a regulation size vending cart;
 2. not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;
 3. involve a short transaction period to complete the sale or render the service;
 4. not cause undue noise or offensive odors; and
 5. be easily carried by pedestrians.

Requests to have an item or service considered for approval shall be submitted in writing to the City Engineer who shall determine whether the item or service conforms to the above criteria. If the item or service conforms to the above criteria, it shall be listed as approved for sale by sidewalk vendors. If the item or service does not conform, it shall be listed as prohibited for sale by sidewalk vendors. The decision of the City Engineer, if adverse to the party making the request, may be appealed to the Council. (Code of the City of Portland, Title 17, Chapter 17.26, Section 17.26.030)

The political struggles over the use of public space are not fully resolved by building codes, nuisance regulations, and zoning laws.

Other types of restrictions on the range of merchandise sold by street vendors include the concept of theme vending areas. The idea involves using street vendors to merchandise special attractions or events with promotional or souvenir products that complement that unique activity. In addition to vendors naturally realizing the benefit of selling souvenirs near visitor sites, cities can take the concept one step farther and actually require vendors to offer theme merchandise if they locate near the sites. The intent is to offer not just pure souvenir items, but to enhance the attraction as well as to increase the street activity and economic benefits of the site with the use of street vendors. The result is a retail mix between storefronts and vendors that enhances the cultural or historic theme of the location. An example of this concept is selling books, memorabilia, arts, and crafts related to the Martin Luther King, Jr., historic site in Atlanta. The merchandise offered includes additional information on civil rights issues and African-American heritage.



General Merchandise Vendor

Legal and Political Issues

Street vendors occupy public space for economic gain, representing a visible challenge both to those who regulate that space and to economic competitors who occupy nearby private space (Staudt 1996).

The ability of a city to reconcile the needs and desires of the varied stakeholders affected by a street vending program requires savvy political and legal maneuvering. The political struggles over the use of public space are not fully resolved by building codes, nuisance regulations, and zoning laws, no matter that, for some, “zoning lent modern scientific legitimacy to the law’s traditional concern with conflict avoidance” (Staudt 1996).

In the case of the public use of space by street vendors, the various laws and regulations governing the use of that space requires a fresh look at issues related to urban economic development. It is important for planners and public officials to have thorough knowledge and a clear understanding about the variety of effects on the economy and the business community that arise from vendors and vending. It is also critical that they understand that, while vending is informal, it is not necessarily disorganized. City spaces are

valuable and highly coveted by a number of people, including vendors. Most vendors may appear to be poor and disenfranchised, but they can, through organization, find a voice in the political and policy arenas of a city.

THE OPEN AIR MARKET NET

[Editor's Note: We uncovered this Internet resource while doing research on the report. The site is the result of work by Steve Balkin and Alfonso Morales with the aid of a board of advisors and the cyber help of Barbara Balkin. Steve is an economics professor at Roosevelt University in Chicago, director of the Self-Employment Research Project, a frequent visitor to open-air markets, and an advocate who, with many others, tried but failed to save the old Maxwell Street Market in Chicago. This site is also managed by Alfonso Morales, a professor in the Sociology Department at the University of Texas at El Paso. He has done extensive field research on markets and, likewise, was an advocate for the old Maxwell Street Market. Interested readers should review the site. The site is notable for invoking the issue of sustainable development as one of the benefits of open-air markets and street vending. The following is taken from the site's home page.]

Open Air Market Net (www.openair.org) is the World Wide Guide to Farmers' Markets, Flea Markets, Street Markets, and Street Vendors. It is an all-volunteer research and educational project that aims to gather and provide information about open-air marketplaces around the world, both formal and informal. This will aid:

1. shoppers and tourists wanting to find out where inexpensive fun, good food, and bargains are all over the globe;
2. scholars, professionals, and planners who are interested in studying marketplace phenomena; and
3. vendors and farmers looking for places to sell or needing assistance.

Every open-air-market-related resource on the Internet should be accessible from here.

An important function of the web site is to alert the world community about markets and their vendors in jeopardy of being shut down. It is not necessary that a marketplace be literally out of doors to be covered on the site. Some markets are housed both outside and indoors; other markets are housed in sheds, tents, and under roofs of various kinds. What is important at the web site is that the marketplace function like an open-air market: a location with little infrastructure providing low-cost, face-to-face buying and selling opportunities for the masses. A downside of the Internet is that it tends to further accentuate the divide between the haves and have nots—information apartheid. It is hoped that this page works to counter some of that by providing assistance to this low-tech sector of the world.

Why are open-air markets important?

Open-air marketplaces function as business incubators and survival safety nets for people at the economic bottom, are fun places to shop, and promote sustainable development. They lower the consumers' cost of obtaining goods and services because they are an inexpensive way for people to market their wares in a friendly but competitive business environment. In some areas, they are the only source of fresh produce and discount shopping. For vendors, they are a low-cost way to start an enterprise, exchange information, build a reputation for trust, and earn income.

Open-air markets are on a human scale. It's enjoyable to conduct business face-to-face, purchasing from owner/operators who have direct ties and personal commitments to the products they sell. The atmosphere tends to be more spontaneous than other retail environments. There is the potential for the element of pleasant surprise. They are, in general, safe places because of the mutual surveillance from high customer traffic and the vested interests that vendors have to make them safe.

Because open-air markets help small farmers, require little infrastructure, and recycle goods and materials, they promote sustainable development. This contributes to making the world a safer and saner place. Open-air markets are an alternative form of retailing in the industrialized world but are the main source of retailing in the less developed areas. It is an arena where the industrialized countries can learn much from the less developed world.

What is planned for the web site in the future?

This site is in its infancy. Coverage will expand more to places outside of the U.S. as we get more information. This site is now only in English but will eventually be multilingual. The site will ultimately offer a questionnaire for people to report about marketplaces. A user net has been created on this topic (alt.culture.openair-market) has been created where discussions can take place.

Cities must concentrate on not “overregulating” and losing the inherent benefits that are being provided by a street vending program.

Generally, efforts to regulate and organize “illegal” street vending are initiated due to business and property owner complaints. Municipal authorities across the country permit and regulate vending. The problem, however, is that the number of vendors legally permitted and the spaces that may be legally used account for only a small proportion of those engaged or who would like to be engaged in the trade. Consequently, much of vending by definition remains illegal and thus amenable to either extortion or removal. Ultimately, public space vending permitting and enforcement should balance the needs and opportunities to create a successful program by providing:

- a way for vendors to generate a stable and living income;
- an active and attractive street life that complements other forms of private business activity;
- and a positive experience for those who use streets both residents and visitors.

A Washington, D.C., municipal financial control board offered the following recommendations on regulatory reform of street vending in the District:

Street vending should be encouraged by fair and consistent enforcement of regulations that:

- ensure the health and safety of consumers;
- do not unduly infringe on fixed-locations vendors’ ability to compete;
- do not impose unnecessary public costs—congestion, visual blight or debris; and
- do not impose unnecessary cost and burdens on street vendors.

And, the fee structure for vendors should more closely reflect sales volume and provide sufficient revenue to city by charging higher permit fees in busy, high-volume areas and less in other neighborhoods to encourage entry and solid business growth. (Washington, D.C., Control Board, Special Report by the Washington Post; www.washingtonpost.com/wp-srv/local/longterm/library/dc/control/cdregs.htm)

The central point is that, while attempting to achieve these varied goals, cities must concentrate on not “overregulating” and losing the inherent benefits that are being provided by a street vending program. Driving it underground or into illegal operations is not the answer. (Incidentally, some of the issues involved in effective regulation of street vending are similar to those involved in regulating home occupations. See PAS Report No. 499, *Regulating Home Occupations in the Twenty-First Century* by Charles Wunder, December 2000, for ideas that might be useful in a street vending program.)

Permitting

Public space vending permits are needed to promote the business and to guard against misrepresentation, encroachment, and violations against law-abiding vendors who are an important ingredient in the urban retail industry. By issuing permits to legalize vending, cities attempt to limit the number of vendors within the city. Cities also attempt to reserve the right to enforce vending activities to conform to the desires and goals of the city.

There is an important distinction between the concepts of the “right” to use the public space versus the “privilege” of being able to use public space for vending. Conflict surrounding the increased regulation and enforcement of street vending activities stems from disagreement between vendors and the city on this issue. The city ordinances and laws that govern street vending should communicate clearly that the issuance of a permit to vend on

public property is a privilege granted to vendors. And with that privilege come certain stipulations and rules that must be followed in order to maintain that privilege. Well-written and comprehensive ordinances, laws, and guidelines that regulate vending are required to formally communicate this contractual relationship between the city and a vendor. Ultimately different types of ordinances and laws will work for different municipalities; however, the relationship defined by the contract should meet the needs and desires of both parties.

Permit processing is handled by various departments, but usually the process is the same. Groups ranging from police departments, planning departments, and public works to street and road departments, and business and finance departments are responsible for accepting and reviewing applications and issuing permits. A new trend emerging in some cities is the creation of a separate entity within the government structure that is solely responsible for all street vending activities, including permitting and enforcement.

The application gives a municipality information about vendors that can be used to provide equal access to vending opportunities and to screen applicants for law-abiding behavior. Application requirements will vary based on the specific process for issuing permits and assigning locations, but most will include:

- a physical description of applicant and proof of identity, including photographs and fingerprints;
- proof a valid business license;
- federal and state tax identification numbers;
- certificate of proof of insurance; and
- proof of Health Department approval, if required.

As regards insurance, operators must acquire sufficient insurance to relieve the city of liability. According to Northland Insurance, basic policy requirements could include: a \$1 million occurrence limit, a \$2 million aggregate limit, \$5,000 medical payments coverage, theft coverage, and personal injury coverage. Generally, the premiums are assessed on a per-cart basis. To assist vendors in meeting this requirement, Vancouver, British Columbia, has arranged for a citywide master policy with coverage that satisfies the city's concerns. The vendor simply has to contact the insurance company to pay their premium and to be added to the policy. The system was arranged to help ensure premiums are consistent and reasonable. Vendors are not required to use the policy.

Some cities add to these requirements. Seattle and San Diego, for instance, both require written approval or an encroachment permit for the vending site signed and approved by surrounding property owners or tenants. In cities in which the vending hardware is not provided by the city, the permit application will also typically require drawings, sketches, and photographs of the vending cart or structure design for approval.

Virtually all applications for vending permits require a nonrefundable application fee ranging from \$25 to \$75. This fee is in addition to the permit fee that is assessed when an application is approved.

Often the permit application will include terms and conditions that are essentially portions of the ordinance governing the activity or, in some cases, may be waivers of compliance with certain parts of the ordinance. The type or classification of the permit will dictate the extent of the privilege granted by the permit. Most vending programs divide vending operations into different categories that reflect the function of the vending location. For

Public space vending permits are needed to promote the business and to guard against misrepresentation, encroachment, and violations against law-abiding vendors who are an important ingredient in the urban retail industry.

The average permit fee is about \$500 annually. Because different permits are awarded for different levels of operations and request different requirements, it can be hard to make direct comparisons among cities.

example, categories might include street, park, motorized, special events, public festival, and temporary. These permits will also be further classified by type of operation (e.g., food, merchandise, service, and combined operation). Permits to sell food require additional permitting requirements by the health department. Specially prepared foods, fruit, and packaged foods are often subject to additional health considerations and inspections to ensure standard levels of cleanliness and sanitation.

Annual permit fees are charged by all cities in conjunction with the issuance and renewal of vending permits. Different types of fees are assessed by different cities. Some municipalities charge flat fees for all vendors, regardless of the type of merchandise or location. Others have a range of fees associated with different types of products or different classifications of permits. The type of permit issued, in addition to dictating the extent of privilege granted by the approval, also specifies a level of permit fee charged by the city. Generally considered low compared to downtown retail space rental rates and especially for the extent of the benefit derived from having a vending permit, rates for fees vary widely across the country—from \$75 to \$1,500 per year. The average permit fee is about \$500 annually. Because different permits are awarded for different levels of operations and request different requirements, it can be hard to make direct comparisons among cities.



Food Vendor with Overloaded Cart

Some cities use sliding fee scales for vendors based on the commercial value of the location. For example, in a location where storefronts rent for \$30 a square foot, a vendor might be charged the same amount for sidewalk space—amounting to \$2,400 a year for a typical 80-foot space, nearly five times the average permit fee currently in use. The fee could then be applied exclusively to downtown improvements, such as garbage collection, ordinance enforcement, and extra security. In this way, rent-paying businesses would receive some benefit from enterprises otherwise profiting at their expense. The idea that vending permit and license fees should support the program, including cart leasing, storage, insurance, maintenance, and

enforcement, is catching on in cities across the country. Critics of vending programs argue that permit fees should be increased to at least cover the cost of management and enforcement of the program.

Vending laws also specify the process for review and renewal of permits. Most programs renew licenses on an annual basis and require vendors to submit renewal application materials and pay their annual permit fees. Many cities, in order to encourage consistency and to allow vendors to maintain and grow their businesses, give location priority to returning vendors. This allowance, coupled with restrictions on the total number of approved vending locations, can create difficulties for new vendors who apply for permits and are turned away because the system cannot accommodate them. In order to provide opportunities to new participants and avoid criticism, cities must either expand the number of approved vending locations or toughen enforcement efforts to weed out nonconforming and underperforming vendors. Both alternatives are unpopular and can cause additional conflict and complaints.

Enforcement

William H. Whyte, in *City: Rediscovering the Center*, wrote “virtually all street vending is illegal.” The first step to ensure that, in fact, this does not turn out to be the case is fair and consistent enforcement of vending regulations. Making sure that vendors are licensed, working in approved and designated areas, and contributing to the tax base are serious challenges. There are a number of different enforcement methods, but none of them is guaranteed to be successful. Communication of and understanding of the regulations or guidelines is essential. Vendors must be well informed not only of the requirements, but also the consequences of failure to conform. The laws mandated by cities to regulate vending derive from the basic concept that it is a privilege to use public space to make a living. Vendors need to accept the idea that it is not out of line for cities to require them to follow rules to maximize the benefits that the city receives from granting that privilege.

Many cities rely on the police department to enforce regulations and ordinances. For obvious reasons, enforcing street vending laws is not a top priority for local police. Many municipalities use separate enforcement agencies that are responsible only for vending issues. Much like a city code enforcement officer, these individuals generally report to the planning department and have limited authority to issue citations. The most severe and most common form of punishment is revocation of the vending permit. Some cities also impose fines for less severe violations of regulations.

Boston encourages vendors to locate on the Downtown Crossing pedestrian mall located adjacent to Filene’s department store. In this area, enforcement of vending guidelines is handled by the mall management entity. The company applies the discipline of a typical indoor shopping center, requiring vendors to be on the spot during certain hours and to use standardized carts. Vendors also pay a \$750 security deposit for carts and are subject to daily inspections of their wares.

Another issue confronting vending enforcement efforts is the sale of counterfeit goods. The International Anti-Counterfeiting Coalition in Washington, D.C., says that counterfeiting has tripled in the last 10 years and now costs legitimate businesses \$350 billion in annual sales (*New York Times*, July 9, 2000). That figure encompasses auto parts as well as fashion accessories and is somewhat inflated, since many people who bought bogus goods might not have purchased the higher-priced originals. Nevertheless, counterfeit accessories cheapen the image of legitimate brands.

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CASE STUDY: CITY OF ATLANTA

Public space vending in the City of Atlanta began during the administration of Mayor Andrew Young as a way to foster small businesses and to bring more life to city sidewalks. The proposal was controversial because shop owners were concerned about unfair competition, and civic leaders were concerned about the economic and aesthetic impact of many vendors on downtown streets. Vendors are mostly small businesses that have indeed brought life to the street, but there have also been some problems. Criticism centers on the vendors' appearance, associated crime, merchandise selection, and negative economic impact.

Some critics want to eliminate the street vending program completely. Most interested parties, however, are calling for an improvement in the appearance of public space vending and the manner in which the program operates. The struggle to change public space vending has continued for nearly 20 years, but changes have been relatively minor and public dissatisfaction with the program remains high. Several attempts have been organized to revise and improve the program by groups ranging from City Council members, the downtown improvement district, the City's Bureau of Planning, and Fulton County. Unfortunately, few of the changes and possible solutions resulting from the study efforts were put into effect. The ones that have been put into effect have had negligible impact.

The first comprehensive review of public space vending occurred as part of the Central Area Study II, adopted in 1988 following a two-year joint planning program by Central Atlanta Progress, the City of Atlanta, and Fulton County. A series of recommendations about street vending were incorporated in the final plan but were never implemented. Subsequently, other attempts were made to revise and improve the vending program. There was support from many interests, but opposition from public space vendors scuttled both efforts. Historical distrust of government, allegations of racist behavior, and political allegiances among the informal, yet powerful, vendor organizations thwarted any reform efforts. In the early 1990s, an effort was initiated that resulted in changes to the city's public space vending. The controlling ordinance was rewritten after representatives of the city, the Black Vendors Association, and Central Atlanta Progress agreed on a series of changes that were supposed to be implemented. Unfortunately, only some of the changes were put into effect, and the overall impact was negligible.

One product of the revised ordinance was the Vending Review Board (VRB), still in existence today but largely dysfunctional. Chaired by a series of well-meaning people since its inception, the VRB has never been seriously supported by the city. Despite the fact that this advisory board was comprised of representatives of all interested parties, its influence has been severely curtailed by internal squabbling, inadequate staff support, and disinterest by the mayor and city council.

The most visible and dramatic change in the city's vending program came about as a result of the 1996 Olympic games. The mayor backed an initiative to take advantage of Olympic-period crowds by licensing an expanded public space vending program managed by a private firm. In return, existing vendors were to be relocated and placed in attractive "vending stations" that would continue after the Olympic games. While many of the vendors were relocated, the "vending stations" were never put into service, the city issued thousands of permits to vend on private property that overwhelmed the public space vending program, and the Olympic crowds decided to patronize the Olympic venues and Centennial Olympic Park, not the vendors.

The result was a disaster, which led to claims and counterclaims, investigations, lawsuits, and a stain on the city's Olympic legacy. The furor elevated the issue of public space vending into a media spectacle. Any proposals to change the city's public space vending program would be guaranteed great visibility and attention.

The most recent attempt to change public space vending was initiated by the City's Department of Planning, Development, and Neighborhood Conservation (DPDNC) in 1997 and by the mayor's office. Initially, work sessions were held with the city, members of the business community, and Atlanta street vendors to gain input from all involved parties, provide a forum to share information, and to outline a vision to identify future plan elements. Issues synthesized into a shared vision during the work sessions include:

- the acknowledgement of vendors as having a place in the city's economic and street life under terms and conditions acceptable to all interests;
- the location of vending spaces throughout the city;
- the mechanism for siting vending spaces;
- the mechanism for determining who gets which locations;
- the variety, type, and quality of merchandise;
- the standards of appearance, maintenance, and operation for vendors;
- the city government oversight structure and relationship between offices for support and consistency of enforcement;
- the possibility of private-sector participation and incentives, such as loan funds for vendors;
- the definition of the role of the city's Vending Review Board; and
- the involvement of vendors in the planning and policy making of their own industry and livelihoods. (Five Points MARTA Station Vending Pilot Program Evaluation, City of Atlanta DPDNC, October 2000)

A draft Comprehensive Vending Plan (CVP) was unveiled after months of negotiation and discussion. Although it was clearly identified as a "working document," the draft CVP prepared by DPDNC drew negative responses from vendors, the business community, and the media. The document, in this author's opinion, contained feasible and sound recommendations. The draft CVP contained the following recommendations:

General Site Locations: Of 12 current districts, three were proposed for elimination. The city suggested that four new vending districts and new vending locations be added in existing districts, including MARTA stations and four "vending demo areas."

New Site Programs: The plan recommends that new vending programs be developed to capture revenue generated by the crowds that frequent park sites, campus sites, historic districts, special events, festivals, and potential marketplace venues. The city would help establish four permanent marketplace sites and four temporary marketplace sites. Potential future locations are Midtown, parks, and MARTA stations. The city would also help establish 12 major special vending events each to be selected by the vendors.

**FINANCIAL INCENTIVES
FOR VENDORS:
ATLANTA'S ONE STOP
CAPITAL SHOP**

Atlanta's One Stop Capital Shop (OSCS) is a program that assists street vendor entrepreneurs with access to and education about the various capital loan programs that are available to the industry. Through partnerships with The Atlanta Development Corporation Business Improvement Loan Fund, Working Capital, and the Empowerment Zone, OSCS coordinates business enhancement seminars and marketing and merchandising training courses. Vendors are required to attend these classes in order to submit applications for funding from the loan programs. Microloan amounts ranging from \$500 to \$5,000 are available to street vendors through the Atlanta Development Corporation's Business Improvement Loan Fund. The loans are no interest for the first year and 4 percent interest in the second year. The entire loan must be repaid in two years. In order to be eligible to receive a loan, the recipient must participate in business training classes and have a professional business plan. Although the program appears to be a great opportunity for Atlanta vendors, very few vendors, according to a recent survey by the city (Atlanta DPDNC 2000), have taken advantage of the program. Apathy, fear of the process, and discomfort with breaking current business routines and practices are cited as reasons for lack of participation. ■

Vending Merchandise and Themes: The plan recommends that there be four vending demonstration themes that promote the flavor of four primary areas as pedestrian demonstration points with increased vitality for street vending operations. The themes would be tied to their sites so that, for example, Auburn Avenue's theme would be marketing history and culture.

Vending Hardware: The plan recommends that carts replace the tents at most general site locations; that the tents be used for temporary or special events; that permanent stalls be available for management by merchants associations; and that new kiosks be installed at high-ridership MARTA stations and other highly pedestrianized areas.

The Permit Process: The plan streamlines the process and recommends that there be only two permit types or applications involved, either a public property permit or a private property permit. It further suggests that one document will be circulated to all permitting agencies and expedited by the planning department.

Comprehensive Vending Plan: A three- to-five person Office of Vending Management is recommended to be established within the Department of Planning, Development and Neighborhood Conservation. Also suggested are requests for comments on proposed "economic development programs" for vendors; development of a leasing plan for carts, stalls, and kiosks; a fee structure; a vendor selection process; equipment procurement and budgeting; estimates of city revenue from the program; enforcement issues; and enforcement officers.

Current Situation

Changes associated with CVP and the City's Public Space Vending ordinance provided for the implementation of a pilot vending program in the Five Points area. The pilot program was begun in July 1999 with a one-year time horizon. The ordinance provides for the DPDNC Commissioner to evaluate the success of the program based on criteria (functionality, enforcement, economic development, training and sales, and business impact) and recommendations set forth in the comprehensive vending plan. Due to administrative and political issues, this review, although completed by staff, remains unacted upon by the mayor and city council. Mayoral and council election turnover, staff limitations due to citywide budget deficits, and an overall lack of resources by city government have delayed the official council review. With a new mayor in office and a new Commissioner of DPDNC forthcoming, efforts have been renewed to meet the provisions of the ordinance and review the pilot program. No written review has, of the date of this report, been published.

The street vending cart pilot program at the Five Points MARTA station represents the first phase of implementation of recommendations set forth in the CVP. The program began implementation in July 1999 and requires the use of uniform vending cards provided by the city. The program attempts to provide uniform design standards to improve the appearance of Atlanta's vending industry within the urban framework. Through the program, the city also attempts to address other needs and concerns expressed by Atlanta's vendors related to the use of vending carts, such as cart storage, merchandise storage, display needs, vending amidst changing weather conditions, economic development issues, industry training, sales impacts and enforcement.



(Above) A Five-Points "Uniform" Cart; (left) A City of Atlanta Cart that Is Not Part of the Five-Points Program

Issues that Still Need to be Addressed

A collective commitment to the success of the Pilot Vending Program by the DPDNC and the Atlanta Police Department has led to enforcement of the current ordinance in a more consistent fashion. However, to meet the needs of all stakeholders and ensure a successful public space vending program, several issues still need to be better addressed, including the lack of adequate police manpower and unclear and unenforceable ordinance text.

The primary and overall abiding law for public space vending is the City of Atlanta's Public Space Vending Ordinance. Additional guidelines have been developed by the DPDNC, especially in conjunction with the Five Points Pilot Program. Enforcement of vendor requirements is handled by two entities: the City of Atlanta Police Department License and Permits Unit and the Department of Planning. The License and Permit Unit is also charged with enforcing a list of other permits issued by their office. Currently, there are three officers on staff with the unit. One officer spends 100 percent of the time in the office issuing adult entertainment permits, and one officer is on the street daily enforcing permit compliance for all permits issued by the unit. In addition to street vending, the Department of Planning is also responsible for a host of other projects and has limited staff to devote to day-to-day enforcement issues. Available manpower is a critical

Efforts are currently underway by the Atlanta Police Department License and Permit Unit to require the reapplication of all permit holders.

issue facing the consistent and coordinated enforcement of street vending. In fact, enforcement issues should be examined before regulations are written because, if enforcement is impossible due to lack of staff or resources, the regulations are not worth the paper they are written on.

Another primary issue crippling the strict enforcement of street vending is the language and content of the public space vending ordinance itself. The primary requirement for public space vending is a valid permit. The current permitting process as detailed by the city ordinance has not been followed over the past few years due to out-of-date language in the ordinance, resulting in “grandfathered” vending permits. The intent of the original ordinance is that, each year, vending permits expire and vendors have to reapply and meet all the application and evaluation criteria in order to maintain their permit. If not renewed per the ordinance requirements, the permit would expire. Due to changes made to the ordinance for the Olympics, current vendors who hold valid vending permits are now automatically renewed and do not have to reapply.

Efforts are currently underway by the Atlanta Police Department License and Permit Unit to require the reapplication of all permit holders. All current vendors will be notified by the police department that they must reapply for the permit and that they must meet all of the requirements of the ordinance in order to qualify for a new permit. At this time, all applications will be reviewed and approved or denied based on the ordinance criteria, including the requirement to possess a valid City of Atlanta business license and the required payment of delinquent back taxes. Approved applications will then be assigned vending locations per the ordinance, and requirements and new applications for vendors will be accepted and reviewed. The goal of this process is to eliminate permits for vendors that consistently fail to meet the standards of the ordinance and to provide an opportunity for new vendors to enter the program.

Currently, an application is required to be completed by all persons seeking issuance of a permit for vending on public property. Each applicant must apply in person at the Department of Police Permit section and complete all sections of the application form. Information required on the application includes:

- name, current address, previous addresses for five years;
- social security number;
- type of permit requested;
- preferred vending location with two alternatives;
- length, width, and height of station;
- names of proposed assistants;
- list of businesses with which applicant is affiliated;
- federal tax identification number; and
- state department of revenue retail identification number.

Applications must be also submitted and approved for vendor assistants. A nonrefundable application fee of \$50 is required. Permit fees are due and payable if and when the application is approved. Annual permit fees range from \$30 to \$250; the majority of vendors pay \$150 per year. Completed applications are accepted on a first-come, first-served basis on the announced date. Applications are reviewed by the police department license and permit section, and background checks are conducted on each applicant. Successful

applicants will be notified of approval and provided with details regarding the site selection process. No permit will be issued to an applicant who has been convicted of any felony or misdemeanor within the five years prior to the filing. Motorized vehicle permits will not be approved for applicants who have been convicted of five or more moving violations in the three years prior to the submission of the application.

Grounds for denial, revocation, or suspension of permits include:

- fraud, misrepresentation, or false statements contained in an application for vending permit or made in connection with the selling of any article or merchandise;
- violation of health department regulations;
- conducting vending business in an unlawful manner or in such a way to constitute a menace or detriment to the health, safety, or welfare of the public;
- failure by the vendor or the vendor's assistant to maintain initial eligibility qualifications;
- failure to furnish any and all documentation requested by the police department, department of finance, or the license review board for the purpose of the investigation of any application or for the inspection of records required by the public space vending ordinance; and
- four violations of any section of the public space vending ordinance within a 12-month period.

Another issue that restricts effective enforcement of the ordinance results from the verbiage of the text. Guidelines in the ordinance text state that the vendor "shall" meet a certain criteria or they will be in "noncompliance." In order to issue a citation, the police department must respond to "unlawful" behavior. If failure to meet the criteria of the ordinance is deemed "unlawful," a citation can be issued and the vendor can be fined and penalized per the ordinance. "Noncompliance" with the ordinance simply leads to a record of the complaint and further complaints without a "conviction."

Additionally, many of the issues and concerns that are expressed by critics regarding the appearance and behavior of vendors are not covered within the ordinance. One of the goals of the Department of Planning's Five Points Pilot Program was to address these aesthetic criteria, establish and communicate requirements and guidelines for vendors, and begin enforcement of these broader issues. Through the Five Points Pilot Program, the city developed a Vendor Operations Manual that included evaluation criteria. As part of the evaluation, the Department of Planning developed a Vendor Report Card to work in accordance with the overall evaluation of the Five Points Pilot Program. [Editor's Note: We attempted to secure copies of the Vendor Operations Manual and the Vendor Report Card, but the city does not want those documents published outside of use for staff and vendors.] Appearance criteria include but are not limited to merchandise display, use of the public right-of-way, and sanitation. The report card was intended to become a check-list document for self-imposed improvements by the vendors and an enforcement tool in the future. During the evaluation period, each vendor was evaluated three days per week for two weeks. Only minimal infractions were discovered, and all were corrected before the next evaluation period. Concerns still exist that are not addressed by the report card, however, including the unsightly appearance of vendors in dirty and tattered clothing and vendors who appeared to be drunk.

Through the Five Points Pilot Program, the city developed a Vendor Operations Manual that included evaluation criteria. As part of the evaluation, the Department of Planning developed a Vendor Report Card to work in accordance with the overall evaluation of the Five Points Pilot Program.

Recommendations for Atlanta's Street Vending Program

Current proposals to improve the City of Atlanta's Public Space Vending program are focused on the following objectives:

- Strengthen and improve city retailing by using vending as a complement to traditional retailers
- Encourage a better mix and quality of goods and services
- Create business opportunities for small entrepreneurs
- Expand the number of jobs for city residents
- Improve the aesthetics of vending and the public spaces in which vending occurs
- Increase city revenue through appropriate fee structures for vending

Key proposed plan elements include:

1. Establish a small section within the Bureau of Buildings (the bureau that handles permitting and inspections within the DPDNC) to manage the city's public space vending program. The section would be responsible for developing and recommending a plan (including the number and location of vendors and the manner in which they would be permitted to vend), establishing and managing licensing, and enforcement. The section would coordinate with other city departments and Fulton County in the review and permitting process.
2. Abolish the Vending Review Board. Liaison with vendors and other interested parties should be conducted through regular staff and City Council committee channels.
3. Cluster most vendors into marketplaces that provide the required level of pedestrian activity to support the vendors and where sidewalk open spaces are adequate.
4. When locating vending sites, protect design features, such as parks, views, public art, and notable buildings, and protect pedestrian and vehicular safety and access.
5. Require vendors to sell from attractive carts. The city could lease carts to vendors, or they could be provided by vendors who use carts that meet the design standards adopted by the city. Vending carts should be stored off the street at night or when they are not in service.
6. Protect storefront retailers and service providers from unfair competition from vendors. For example, a produce vendor should not be located adjacent to a grocery store, and consider allowing storefront retailers the first opportunity to operate vending locations adjacent to their place of business.
7. Permit and license fees should support the program, including cart leasing, storage, insurance, maintenance, and enforcement.
8. Establish one set of concrete regulations to be used as an outline for the development of a codified, consistent, and coordinated enforcement effort. Once established, communicate the enforcement standards and the associated consequences with all permitted vendors. The present state of

affairs has resulted due to lack of consistent enforcement and multiple, inconsistent sets of regulations.

9. Explore the opportunity to rewrite the public space vending ordinance to correct out-of-date information and problems with permit renewal, update the design standards, adopt more specific and quantifiable merchandise standards, adopt appearance guidelines, and toughen up the criminal enforcement language.

Implementation

The future of public space vending in the City of Atlanta is unsure. Given the history of the issue within the public policy realm of city politics, it is important that open and honest communication among the parties continue in order to resolve persistent problems. Regardless of the specific regulations or operational details that are changed and modified to help realize the full benefits of a successful program, a complete change in the way that the use of public space for vending is perceived by the business and property owners will have to occur. Specific tasks that the city will undertake to make these improvements and work toward a new perception include drafting a new public space vending ordinance, creating and staffing a new vending section within the Bureau of Buildings to handle all aspects of the management of the program, and completing the permitting process so that new and/or renewed vendors can be in business under the new rules within a reasonable amount of time.

RECOMMENDATIONS FOR PLANNERS

Sidewalk vending is a unique component of urban street environment. It affects the economic, design, and policy aspects of city planning. While each city will find their own solutions and keys to success, there are common ideas that can benefit anyone interested in a thriving vending program.

- At the beginning of the process, it is essential to assess the ideological viewpoint of all the partners involved in any street vending program. To ensure clear, open communication throughout the effort, everyone must agree on the goals and objectives of the program. Politicians, community leaders, property owners, business proprietors, and civil servants must attempt to reach consensus. Working within a shared vision will benefit any effort to foster an environment for successful street vending.
- Ensure that all of the interested individuals and groups are invited to participate as partners in any process that is intended to implement a street vending program. Otherwise, you risk alienation. Without complete participation, cooperation on the project will be crippled from the beginning.
- You must develop clear goals and objectives for the program to meet the needs of all parties and to address the economic, design, and policy issues. Formulation of a mission and the associated goals and objectives for the initiative will provide focus for the activities of the work plan and will provide criteria for decision making.
- Remember that street vending is an excellent business incubator for entrepreneurs—especially for minority businesspeople and people with developmental disabilities. Reaching out to beginners and groups whose participation in the mainstream economy may be hindered by numerous factors can help build support and ensure the success of a vending program.

Remember that street vending is an excellent business incubator for entrepreneurs—especially for minority businesspeople and people with developmental disabilities.

- Don't underestimate the importance and benefits of focusing on seemingly small details of the regulating process. Precise, specific guidelines in regard to issues like merchandise selection, cart design, and hours of operation offer planners the opportunity to address and eliminate possible concerns before they are raised.
- Specific, careful attention should be given to determining and approving appropriate locations for vending. Thoughtful locations can meet the goals of enlivening sidewalks, alleviate competition concerns, and ultimately ensure financial success for an operator.
- Explore new and creative municipal structures to create multidisciplinary departments that are responsible for all aspects of street vending operations, including regulating, permitting, and enforcement.
- Be bold with the use of application and permitting fee structures that accurately reflect the true value to the vendor of the privilege of deriving economic gain from the use of public space. Revenues raised from the operation of a street vending program should be specifically directed back into the support and operation of the program.
- Any regulating ordinance is only as good as the enforcement of the guidelines and policies. Clear communication of requirements and fair, consistent enforcement is critical to a thriving vending program. Enforcement should be handled by a separate municipal unit devoted entirely and specifically to vending enforcement (similar to building code enforcement) and not by the police department.

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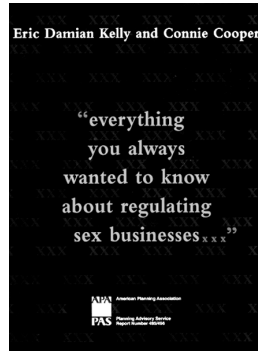
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PAS 495/496. Eric Damian Kelly and Connie B. Cooper. 2000. 68 pp.

Here is a frank and comprehensive guide to the regulation of lawful sex businesses and businesses handling significant quantities of sexually oriented materials. Full of practical information for planners and public officials, it examines the components of a lawful sex business and important First Amendment, land-use, and operating issues. It suggests ways to structure an effective regulatory program and includes a checklist so that communities can build an ordinance to suit local circumstances.



Saving Face: How Corporate Franchise Design Can Respect Community Character

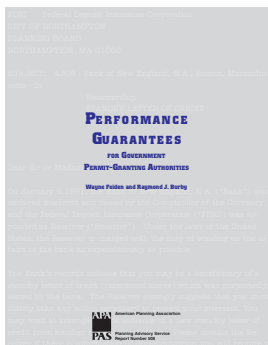
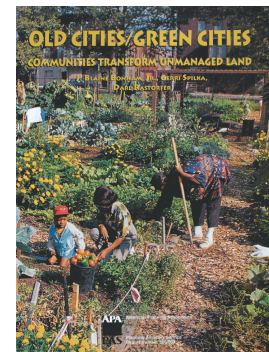
Revised ed. PAS 503/504. Ronald Lee Fleming. 2002. 112 pp.

It is possible to preserve franchise identity and still respect the traditional architectural style of a neighborhood and even contribute to community character. Fleming examines the need for change, marketing trends and their effect on design, and the cost and opportunities of good design. Case studies profile communities that have negotiated franchise design successfully. Supported in part by the Township Institute.

Old Cities/Green Cities: Communities Transform Unmanaged Land

PAS 506/507. J. Blaine Bonham, Jr., Gerri Spilka, and Darl Rastorfer. 2002. 124 pp.

This report, produced in cooperation with the Pennsylvania Horticultural Society and the OMG Center for Collaborative Learning, highlights new ways of thinking about urban vacant land management, including vacant land as a neighborhood resource, large-scale greening systems, and ways of promoting reuse. Case studies focus on PHS's work in the Philadelphia community and its Green City Strategy. Stunning color photography makes this a beautiful as well as a very useful work on an important planning topic.



Performance Guarantees for Government Permit-Granting Authorities

PAS 508. Wayne Feiden, AICP, and Raymond J. Burby, FAICP. 84 pages. 2002.

Performance guarantees are legal and financial tools used to increase compliance with regulations. They create legal and financial incentives for a permittee to perform work that is required, and they make it easier for a community to finish the work if default occurs. This report describes nonfinancial and financial performance guarantees available to communities, and the advantages and disadvantages of each. It also provides a discussion of state enabling legislation and summarizes a survey of communities about sources of authority for use, structure and time limits for guarantees, and cost and collection issues, including releasing the permittee from the guarantee.



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