



GUILD REPORT:

The City of Santa Monica's Treatment of Low-Income Street Vendors

PREPARED BY THE LOS ANGELES CHAPTER OF THE NATIONAL LAWYERS GUILD
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AUGUST 2021

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MEMORANDUM

To: Santa Monica City Attorney George Cardona, Director of Code Enforcement Sharon Guidry, Santa Monica Police Department Interim Chief Jacqueline Seabrooks, City Manager Anuj Gupta, and distinguished members of the Santa Monica City Council.

From: Cynthia Anderson-Barker, Esq.

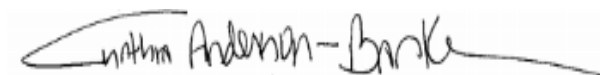
Date: August 21, 2021

Re: The City of Santa Monica's Treatment of Low-Income Street Vendors.

Dear Mr. Cardona, Ms. Guidry, Ms. Seabrooks, Mr. Gupta, and Council members,

The National Lawyers Guild and our community and legal partners who work with the street vendor community wish to help you address the issues raised in this document. Some changes were made since we last brought our concerns to you in previous meetings and discussions. However, we would like to review any policy documents that reflect the changes that have been made or newly implemented so that we can also assist with community education and outreach. We also wish to discuss the enclosed policy recommendations with your team.

Very Truly Yours,

A handwritten signature in black ink, reading "Cynthia Anderson-Barker", is written over a horizontal line.

Cynthia Anderson-Barker, Esq.
National Lawyers' Guild

EXECUTIVE SUMMARY

Street vendors greatly contribute to the economic and cultural vitality of the Santa Monica Pier and beach community. Public safety on and around the Pier is paramount to all concerned, including the street vendor community. The National Lawyers Guild, Public Counsel, and the ACLU have been monitoring the treatment of street vendors in Santa Monica since the passage of SB-946 (Lara), which decriminalized street vending, effective January 1, 2019. The iconic fruit stands, food carts, and other amenities vendors provide to beachgoers are quintessentially Californian indulgences, cherished by visitors and locals alike since well before their decriminalization. In view of this fact, the legislature passed SB-946 with the express intent of promoting the “entrepreneurship and economic development opportunities” that street vending entails for low-income, immigrant communities and the unique touristic charm famous of our state.

In April 2019, the City of Santa Monica adopted Ordinance No. 2607, establishing a comprehensive sidewalk vending program, the first provision of which similarly declares, “Sidewalk vending fosters vibrant public spaces and promotes a diverse and inclusive local economy.” The City’s “Vending Ordinance” explicitly decriminalizes sidewalk vending, as required by SB-946. Accordingly, Santa Monica Municipal Code § 6.36.111(a) provides, “Any person who violates any provision of this Chapter shall be subject to administrative citation pursuant to Chapter 1.09 of this Code.” However, almost immediately after the ordinance took effect, SMPD and Code Enforcement began a concerted effort to oust vendors from the Pier with practices that have effectively continued the criminalization of street vending. Such tactics include:

1. Charging vendors with *multiple* administrative violations for one offense, resulting in costly fines upwards of \$1,000, and often on *more than one occasion* in one weekend.
2. Arresting vendors on or near the Pier and charging them with criminal violations of Santa Monica Municipal Code § 4.55.050 – maintenance of beach accessway.
3. Aggressive parking enforcement and ticketing practices at Beach Lot 1, designed to prevent the entry of large vehicles used by vendors to move their goods and equipment.
4. Unlawful confiscations resulting in considerable losses to the modest earnings of street vendors, many of whom depend on vending as their family’s only source of income.
5. Excessive and punitive enforcement practices, e.g., chasing vendors up the PCH or across multiple city blocks to cite or arrest them, notwithstanding the validity of their permits, for resisting *unlawful* confiscations or committing minor zoning offenses.

Without comprehensive reforms, Santa Monica street vendors will continue to suffer undue economic and psychological hardship in the course of their much beloved, albeit exacting, work. Likewise, we appreciate the breadth of challenges faced by SMPD and Code Enforcement officers tasked with administering the City’s complex and voluminous vending regulations. We encourage the City to work with street vendors and their advocates to address the issues discussed in this report, which needlessly strain vulnerable families in their efforts to *lawfully* participate in the local economy and the time, energy, and resources of the municipal enforcement apparatus. We also want to thank you for taking the time to better understand the realities facing Santa Monica street vendors and for your consideration of the policy recommendations presented in this report. It is our hope that, together, we may finally bring Santa Monica street vendors into the fold of the prosperous community that they have indispensably helped to create but struggle to benefit from.

I. BARRIERS TO FOOD PERMITTING, HEALTH & SAFETY:

The extensive measures required by the Department of Public Health (“DPH”) to obtain a food vendor permit in Los Angeles County create steep financial and logistical barriers to compliance by sidewalk food vendors (“food vendors”). Of an estimated 10,000 food vendors working in the City of LA, only 165 have received permits.¹ Santa Monica and other localities experience similarly low rates of food permitting. This is due in large part to bans in the CA Retail Food Code (“CRFC”) on the street-side slicing of fruit, reheating of pre-cooked items, and home preparation of food for sale.² Additionally, the DPH requires food-carts to meet a dizzying array of design specifications, e.g., integrated multi-compartment sinks, plumbing, ventilation, refrigeration, and food storage,³ that make a theoretically compliant food-cart too large and/or heavy for use by vendors.⁴ These requirements translate to a total cost upwards of \$10,000 for a DPH compliant food-cart.⁵ Additionally, DPH regulations make food vending virtually impossible without access to a commissary, or “rental kitchen,” the total annual cost of which exceeds \$5,000 on average.⁶

POLICY RECOMMENDATIONS:

1. Furnishing the appropriate space and permitting for a recurring farmers’ market event near the Pier on weekends, whereby food vendors can collectively access DPH compliant food preparation and storage amenities in lieu of individually cost-prohibitive compliance with food-cart design specifications and commissary requirements.
 2. A second option, which was suggested in a July 2019 memo to the Santa Monica City Council, implementing a pilot “special vending district” that will enable vendors to participate in the development of specialized regulations that enable some limited vending at the Pier within a separate set of rules that are responsive to unique safety considerations.⁷
 3. Policy adaptations related to food preparation, storage, and food-cart requirements that reduce overhead costs and other barriers to individual compliance by food vendors.
- NOTE: This will also require modest changes to state law (California Retail Food Code).

¹ CASSIDY BENNETT ET AL., *Unfinished Business: How Food Regulations Starve Sidewalk Vendors of Opportunity and What Can Be Done to Finish the Legalization of Street Food*, 2021, <http://www.publiccounsel.org/tools/assets/files/1647.pdf>

² CAL. HEALTH & SAFETY CODE § 113984(a-f) (West 2016) (“Adequate and suitable counter space shall be provided for all food preparation operations. ...food preparation shall be conducted within a fully enclosed food facility. All food shall be thawed, washed, sliced, and cooled within an approved fully enclosed food facility”).

³ DEPARTMENT OF PUBLIC HEALTH, CNTY. OF LOS ANGELES, CAL., *Mobile Food Facility Plan Check Guidelines* (2021) <http://www.publichealth.lacounty.gov/eh/docs/permit/mobile-food-facility-plan-check-guidelines.pdf>

⁴ BENNETT ET AL., *supra* note 1, at 6.

⁵ SCOTT CUMMINGS & DOUG SMITH, *Hands Off Our Taco Carts! Fix Laws to Protect Them.*, LA Times, 2021, <https://www.latimes.com/opinion/story/2021-08-09/small-legal-changes-would-end-harassment-of-los-angeles-taco-carts>

⁶ *Id.*

⁷ ACLU OF SOUTHERN CALIFORNIA ET AL., *Improper Sidewalk Vending Enforcement Practices*, 2019, [Memo 2019 Street Vending.pdf](#)

II. UNLAWFUL CONFISCATION OF VENDOR EQUIPMENT & GOODS:

The routine, unlawful confiscation of vendor goods and equipment pervasively undermines the normal operation and financial security of street vendors in Santa Monica. Current municipal regulations prohibit vendors from leaving their equipment unattended or with a non-owner, and from leaving their food, goods, or merchandise in the care of an individual without a vending permit.⁸ Under these pretenses, vendor equipment may be deemed “abandoned” or in use without valid permitting and subject to confiscation.⁹ Such determinations are often reached regardless of whether a vendor is in the process of loading/unloading their set-up, using the restroom, or has left their equipment/goods in the care of their spouse, child, or vending partner(s). However, City policies also require that Code Enforcement officers wait *at least* 30 minutes¹⁰ and make reasonable efforts to locate the owner(s) of “abandoned” items prior to confiscation.¹¹ In frequent disregard of this protocol, Code Enforcement officers systematically **abuse** the pretense of “abandonment” to make confiscations that would never be warranted otherwise. Illegal confiscations have taken place under all of the following circumstances: 1) ahead of the required 30 minutes; 2) where the known owner(s) were reasonably nearby; 3) where permitted non-owners were in brief possession of a vending partner’s items, e.g., while the owner was in the restroom; 4) where owners returned mid/post-confiscation, presented themselves to agency personnel, but release of their property was either denied or conditioned on the acceptance of an/multiple exorbitant violations(s); 5) where the owner(s) were in the process of loading/unloading their set-ups from their vehicles; and 6) where misdemeanor obstruction of beach facility access was the pretense for confiscation, a practice which amounts to the recriminalization of street vending.

POLICY RECOMMENDATIONS:

1. An immediate moratorium on confiscations made by Code Enforcement officers under *all* of the specified circumstances and the generally abused pretense of “abandonment.”
2. Stricter oversight policies for Code Enforcement officers, e.g., mandating *video documentation* of the 30-minute “abandonment” period legally required for confiscations and the standardization of disciplinary action for breaches of protocol by agency personnel.
3. Identification of DPH approved locations for vendors to store their carts at no charge.
4. Formalization of a system for filing complaints against Code Enforcement personnel for breaches of protocol, in lieu of the current “internal review” process conducted by “HR,” which provides no transparency or follow-up with vendors who submit complaints.

⁸ SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.3(a) (2020) (“Affirmative disavowal of ownership of goods, food, or merchandise in response to an enforcement officer’s question as to ownership may be a basis for a finding of abandonment and grounds for impoundment. The placement of goods, food, or merchandise in the care of another does not constitute abandonment, but may lead to impoundment under Section 6.4 ...if the person taking care of the materials is engaged in vending and lacks a vending permit”).

⁹ SANTA MONICA, CAL., MUNICIPAL CODE § 6.36.112(a) (2019) (“The City may impound food, goods, and/or merchandise that are abandoned on public property or displayed, offered, or made available for rent or sale by a vendor who does not possess a valid City vending permit”).

¹⁰ SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.2(a) (2020) (“Food, goods, or merchandise shall be considered abandoned after an enforcement officer observes such materials unattended on public property for a period of at least 30 consecutive minutes”).

¹¹ SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.2(b-c) (2020) (“An enforcement officer may impound such abandoned materials only after the enforcement officer has made a reasonable attempt to locate the owner of such materials...any person claiming ownership of the unattended materials may recover and retain such items on site for vending purposes upon providing a valid vendor permit”).

III. PARKING ENFORCEMENT TACTICS USED TO DETER VENDORS:

Santa Monica selectively enforces restrictions on “oversized” vehicles to prevent vendors from parking and selling near the Pier. Vehicles exceeding 8 feet in height or width¹² are required, in theory, to park in designated lots half a mile or farther from the Pier.¹³ However, the use of Pier-adjacent lots by RVs and tour buses is widely tolerated, while vendors are relentlessly ticketed for parking in these areas.¹⁴ City officials maintain that these “oversized” restrictions apply only to “commercial” vehicles, despite posting no signage to this effect.¹⁵ Contrarily, the municipal handouts commonly used to direct oversized vehicles to the farther designated lots make *explicit* reference to RVs,¹⁶ while special permits are afforded to commercial buses for the use of pier-adjacent lots. In effect, “oversized” parking restrictions only apply to vendors, uniquely relegating them to parking lots far removed from the Pier, to and from which the transportation of their cumbersome equipment is made difficult or impossible. Additionally, parking enforcement staff maintain a deceptive practice of allowing vendors to purchase Pier-adjacent parking at RV pricing (\$60), only to then target them for any number of violations shortly thereafter (\$60-70).¹⁷

POLICY RECOMMENDATIONS:

1. Removal of parking restrictions and enforcement practices that uniquely target vendors.
2. Designation of vendor loading/unloading zones within *reasonable* proximity of the Pier.

¹² SANTA MONICA, CAL., MUNICIPAL CODE § 3.12.870 (2018) (“No person shall park any commercial vehicle on a public street or alley in a residential district as established by Article 9 of this Code, except when actively engaged in commercial activities, in the event of an emergency, or for the purpose of loading and unloading, if any part of such commercial vehicle, together with fixtures or property thereon, if any, measures more than eight feet in width or eight feet in height”).

¹³ SANTA MONICA, CAL., MUNICIPAL CODE § 3.04.150 (2012) (“No person shall drive a large vehicle as defined in Section 3.12.870 onto any public parking lot, unless the person has a permit issued by the City. This Section does not apply to any large vehicle actively engaged in business deliveries to or pick up from merchants maintaining an established place of business adjacent to such parking lot”).

¹⁴ FIGURE 3. *Targeted Parking Tickets Citing Identical Same-Day Offenses and Non-Payment Despite Valid Display*, (see “Appendix of Figures,” Section VIII, p. 11).

¹⁵ FIGURE 1. *Signage Promulgating Size Restrictions with No Reference to the Alleged “Commercial” Proviso*, (see “Appendix of Figures,” Section VIII, p. 10).

¹⁶ FIGURE 2. *Municipal Handout Directing RVs and Other “Oversized” Vehicles to Designated Lots*, (see “Appendix of Figures,” Section VIII, p. 10).

¹⁷ FIGURE 3., *supra* note 14, at 11.

IV. INSUFFICIENT NOTICE & MULTIPLE VIOLATIONS PER CITATION:

The unwarranted harassment and prosecution of street vendors for dubious vending offenses occurs regularly in Santa Monica. Vendors who have paid licensing fees for the sale of merchandise may wait weeks or even months to receive formal documentation by mail, during which time they cannot display the required permits or cart decals while vending. Additionally, if property is confiscated for lack of a valid permit, the process for obtaining returns is poorly or never communicated by Code Enforcement. Policies requiring the on-site provision of an impound receipt detailing the circumstances and items pertaining to a confiscation, along with instructions for property returns,¹⁸ are either ignored entirely or enforced without regard for the low rate of literacy in the vendor community.¹⁹ Without adequate provision of this information, vendors cannot properly identify or solicit the return of confiscated items, causing many to lose weeks or months of essential income due to the prolonged seizure of their equipment. The unlawful disposal of *non-perishable* goods by Code Enforcement can generate further irrecoverable losses.²⁰ Additionally, the common Code Enforcement practice of charging multiple violations relating to a single offense is economically devastating to vendors. The fines associated with one such violation can *alone* exceed \$1,000. While SB-946 makes explicit the facts that: 1) late fees cannot be applied to violations of local vending ordinances,²¹ and 2) vendors have the right to request an ability-to-pay determination *at any point* after citation, both matters are almost never verbalized to vendors.²² A singular notice of the right to fine reduction is included, **in English text**, on citations for vending offenses. Finally, many vendors have begun to receive citations in the mail for offenses they were not aware of committing. State law explicitly requires the direct attachment of similar citations to offender vehicles in order to preempt this very due process issue.²³ Vendors cannot be fairly charged with offenses they were never aware of committing, nor can they be expected to pay costly fines otherwise entitled to reduction, for mere lack of the ability to read.

POLICY RECOMMENDATIONS:

1. Training to bring officers into conformity with the normative precepts of due process.
2. Creation of a helpline for vendors to receive bilingual assistance with interpreting the reasons, obligations, and appeals process for citations and other literacy-contingent notices.
3. Direct SMPD officers to immediately cease issuing misdemeanors to sidewalk vendors for obstructing beach facility access - SMMC § 4.55.050, and dismiss all related charges.

¹⁸ SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.4(b) (2020) (“*At the time of impoundment, the enforcement officer shall provide to the vendor a receipt that includes the date and time the materials were impounded and a complete description of the impounded materials... The receipt shall also include instructions on how to reclaim impounded materials*”).

¹⁹ FIGURE 4. *Literacy-Contingent Notice: Impound Receipt (A) & Instructions for Returns (B), to be Issued On-Site.* (see “Appendix of Figures,” Section VIII, p. 12).

²⁰ SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.5 (2020) (“*The City may immediately dispose of impounded materials that are perishable and the storage of which raises health or safety concerns*”).

²¹ CAL. GOV. CODE § 51039(c) (West 2018) (“*Failure to pay an administrative fine ... shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments ... shall not be assessed*”).

²² CAL. GOV. CODE § 51039(f)(1) (West 2018) (“*The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination... The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent*”).

²³ CAL. VEH. CODE § 40202(b) (West) (“*The notice of parking violation shall be served by attaching it to the vehicle either under the windshield wiper or in another conspicuous place upon the vehicle so as to be easily observed by the person in charge of the vehicle upon the return of that person*”).

V. AGGRESSIVE & PUNITIVE ENFORCEMENT TACTICS:

The use of excessive force, by SMPD and Code Enforcement officers alike, is a common source of mental and/or physical trauma for much of the vendor community. Many vendors can readily produce documentation of such mistreatment and/or arrests, spanning as far back as a decade.²⁴ The various harms spawning from such clashes have ranged from minor bruising to the alleged chokehold of a pregnant vendor, in full view of the public, early in the Summer of 2021. Of note, the Staff Report on SB-946 expressly precludes “the imposition of criminal penalties against pedestrian vendors operating on public sidewalks, pedestrian paths, and within parks.”²⁵ Additionally, intracommunity clashes *between* vendors have dramatically increased, due in large part to scarcity of space,²⁶ among other conditions perpetuated by rigid municipal policies and enforcement practices. While territorial dynamics have always existed within the vendor community, tensions have escalated considerably in Santa Monica. Some have been misled by Code Enforcement personnel to believe that other vendors refuse to obtain the proper permitting that licensed vendors spend extensive time, energy, and resources obtaining. While this is partly true of some food vendors, it is not for lack of willingness to obtain permits (see “Barriers to Food Permitting, Health & Safety,” in Section I, p. 1), and noncompliance is far less often the case with respect to vendors who only sell merchandise. Likewise, the spreading of misinformation about the perceived financial success of vendors by Code Enforcement, as well as the use of a public hotline for reporting vendor offenses, have further exacerbated hostilities within *and* towards the street vendor community. Without swift changes, the volume and severity of such hostilities only stand to escalate in Santa Monica.

POLICY RECOMMENDATIONS:

1. Funding or hiring of a socio-linguistically competent “community organizer” tasked with:
 - A) Mediating contentions between vendors, in lieu of Santa Monica Police and/or Code Enforcement officer responses to such matters.
 - B) Assisting vendors with navigation of the complex and bureaucratic licensing process.
 - C) Ensuring proper regulatory notice and compliance.
2. Expansion of spaces in which vendors can operate legally, viably, and with less competition.
3. Reduction of barriers related to the cost and ease of process for obtaining vending permits.
4. Culture, sensitivity, and de-escalation training for SMPD and Code Enforcement officers.
5. Formalization of a personnel complaint process for vendors alleging mistreatment by SMPD and Code Enforcement officers (see also “Policy Recommendations,” Section II, p. 2).
6. Improved accountability mechanisms and disciplinary procedures for antagonistic SMPD and Code Enforcement officers (see also “Policy Recommendations,” Section II, p. 2)

²⁴ CAL. GOV. CODE § 51039(d)(1) (West 2018) (“A violation of a local authority's sidewalk vending program... or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law”); see also CAL. GOV. CODE § 51039(a)(1) (West 2018) (“A violation of a local authority's sidewalk vending program that complies with Section 51038 is punishable only by [administrative citations]”).

²⁵ ACLU OF SOUTHERN CALIFORNIA ET AL., *Improper Sidewalk Vending Enforcement Practices*, 2019, [Memo 2019 Street Vending.pdf](#)

²⁶ FIGURE 5. *Literacy-Contingent Notice, Explicit Zoning Restrictions for Vendors in Santa Monica (Exhaustive)*, (see “Appendix of Figures,” Section VIII, p. 13).

VI. THE STORIES & VOICES OF STREET VENDORS IN SANTA MONICA:

- A. **Citing vendors by mail violates their due process rights:** Mr. A informed us he received a citation by mail for \$450.00 from Code Enforcement for vending in a parking lot near the Santa Monica Pier. However, Mr. A was not vending by the Pier that day. He was vending on Colorado Ave. A Code Enforcement officer claimed another vendor had taken a photo of Mr. A vending by the Pier, which was the basis for the citation received by mail. Mr. A was never shown the photograph. Mr. A felt he was falsely accused and targeted by Code Enforcement. Mr. A states that Code Enforcement has threatened to revoke his vending permit even though he has duly paid for his licensing. Mr. A feels that Code Enforcement officers show favoritism to certain vendors who provide information like the home addresses of other street vendors for targeted enforcement purposes like mailing citations and not directly ticketing the vendors. As mentioned in Section IV, this practice perpetuates due process issues that state law has specifically sought to prevent.²⁷
- B. **Unethical enforcement tactics:** Mr. B states that Code Enforcement officers do not treat all vendors equally. When one particular Code Enforcement officer is issuing citations, he is selective about who he cites even when two vendors are in the same location and selling the same items, i.e., liable for identical offenses. A Code Enforcement officer told Mr. B, “I won’t give you a ticket if you give me the names and addresses of other vendors who may be illegally vending.” Mr. B. said, “No, I won’t do that.” Mr. B states that a lady who sells hot dogs gave the Code Enforcement officer the names and addresses of other vendors. Now she never runs or moves when the Code Enforcement officer comes by to give the vendors tickets.
- C. **Illegal property confiscations and unwarranted arrest of a minor:** Mr. C was selling waters, sodas, and corn on his eighteenth birthday near the bottom of the stairs next to the Santa Monica Pier. He left his little wagon with sodas and waters on the sand unattended for about two minutes while going to and from the car. When he returned, he saw a Code Enforcement officer going through all the drinks. Mr. C. told the Code Enforcement officer the drinks were his. The officer said, “No, these are mine now.” Mr. C explained that he only left the drinks for two minutes and that he tries to make a living by selling them. The Code Enforcement officer called SMPD, and two police officers showed up. Mr. C explained that he only left his drinks for two minutes; however, all the drinks in sealed bottles and containers were confiscated. Two coolers were confiscated and never returned. The value of what he lost was about \$500.00. The next day Mr. C was vending again, and two of the same Code Enforcement and SMPD officers walked directly up to him and placed him under arrest. He was taken to jail, fingerprinted, and photographed.²⁸ He spent 6 hours in jail before being released to his parents. His pushcart and I-Phone were confiscated and never returned.
- D. **Multiple fines for one vending offense:** Ms. D received a citation for one alleged street vending violation, but the citation charged her with three Municipal Code violations totaling \$775.00. Ms. D states that she was pulling her cart containing “Churros” along Ocean Front Walk when she was stopped by Code Enforcement. She says she was not selling when she...

²⁷ CAL. VEH. CODE § 40202(b) (West) (“notice of parking violation shall be served by attaching it to the vehicle”).

²⁸ CAL. GOV. CODE § 51039(d)(1) (West 2018) (“A violation... shall not be punishable as an infraction or misdemeanor ... shall not be subject to arrest except when permitted under law”) (Emphasis added).

VI. THE STORIES & VOICES OF STREET VENDORS IN SANTA MONICA:

...was stopped. She was charged with SMMC 5.08.370 - failure to comply with County Health, SMMC 6.36.110 - failure to comply with vendor regulations, and SMMC 6.36.040 - restricted vending time and locations. Ms. D cannot afford a fine of \$775.00 when she barely makes enough money to get by. These excessive fines are unwarranted and do not comply with SB-946, the state law which outlines the fines and fees permissible for street vending violations.

- E. **Aggressive enforcement tactics causing injury:** Ms. E and Mr. E are street vending partners who sell merchandise and sodas near the entrance to the Santa Monica Pier in Palisades Park. Both vendors are licensed to sell merchandise. However, despite making repeated phone calls and email correspondences, for over a year now, the Business Licensing Unit of the Santa Monica Finance Dept. has yet to issue a paper copy of the license to be displayed on their vending cart. When this incident occurred, Ms. E only had an email verification of her license from the Finance Department. While Ms. E and an older vendor, Ms. O, were selling near the entrance to the Pier, SMPD and Code Enforcement officers approached the two vendors. Being that she is both illiterate and a non-English speaker, Ms. E became fearful that she would lose her cart and items for lack of the ability to articulate the delayed receipt of her valid permitting. Both vendors fled and were chased by the officers about two blocks to a parking lot where Ms. O fell to the ground, injuring herself. Ms. E was then ordered by officers to pull her large cart up onto a sidewalk, thereby straining both a back injury, which she sustained during a prior and similarly unwarranted chase by officers, and a shoulder condition for which she has undergone multiple surgeries. Both vendors were then transported by ambulance to a nearby hospital. The vendors were each charged \$1,758.00 for the ambulance. Ms. E was charged \$924.00 for the emergency room visit while Ms. O was able to pay her bill with her insurance.
- F. **Confiscation during unloading from parking lot:** Mr. and Ms. F were in the process of unloading their goods and equipment from a beach-side parking lot when their ice chest, wagon apparatus, and umbrella were confiscated by Code Enforcement, along with the various sealed beverages contained for sale. Ms. F had lowered the items from her vehicle and left them in the care of Mr. F while she momentarily returned to their beach-side vending site to continue set-up. Two Code Enforcement officers, accompanied by SMPD, confiscated the items from beside the vehicle, initially alleging that they were “abandoned” for over 30 minutes. During the return of these items several weeks later, concerns were raised to Code Enforcement about the habitual interception of vendor materials while loading/unloading from their vehicles. The officers present for the return alleged that they personally witnessed that the items were “abandoned,” i.e., left unattended next to the couple’s vehicle for over 30 minutes. Both Mr. and Ms. F deny leaving the materials unattended for a continuous 30 minutes. The officers alternatively maintained that Mr. F had been vending from the unattended materials in the parking lot, and claim to possess video documentation of both “abandonment” *and* vending from the materials in the parking lot. Mr. F denies vending from the materials in the parking lot and insists that the alleged documentation will reflect that fact. The officers further maintain that Mr. F denied ownership of the materials on video when confronted, as they were technically the pertinences of his partner, Ms. F. However, Mr. F denies this, and encourages the release of the alleged video documentation. Upon learning of the confiscation, Ms. F quickly returned to present herself to the officers attempting to haul off their items. The officers refused to release the items to Ms. F without ID and proof of ownership, and further conditioned the return of the items on Ms. F’s acceptance of multiple exorbitant...

VI. THE STORIES & VOICES OF STREET VENDORS IN SANTA MONICA:

...violations related to obstruction, vending in a parking lot, and abandonment. Ms. F refused to accept the alleged violations and her items were ultimately confiscated. Neither a receipt nor any instructions for return of the confiscated items were given to Ms. F at any point.²⁹

- G. **Oppressive parking enforcement practices targeting vendors:** Mr. G is one of countless vendors who have been targeted with relentless tickets for parking their “oversized” vehicles in Pier-side lots. The tickets issued to Mr. G have included same-day citations for identical offenses and citations for invalid/non-payment within minutes of arriving, while Mr. G was in the process of paying at a parking kiosk or had already displayed valid payment on the dashboard of his vehicle.³⁰ Like other vendors in his position, Mr. G possesses extensive video documentation of the selective enforcement of “oversized” vehicle restrictions with respect to RVs and commercial tour buses, neither group of which have ever been issued a citation for similar violations during the ticketing rounds in which he was targeted and of which he documented. For reference, Mr. G and his brother (two vehicles) have together received at least 18 parking tickets in the 7 weekends spanning from June 26th to August 8th of 2021.
- H. **Illegal property confiscation under the pretense of criminal misconduct:** Ms. H reports being the frequent target of rigid enforcement practices and harassment by one Code Enforcement officer in particular. On one such occasion, Ms. H’s food cart was taken from her hands by said officer while she traversed the restricted area around the entrance to the Pier on her way home from the beach. This specific confiscation raised a host of substantive and procedural concerns: 1) Ms. H’s items were not unattended, nor was their owner unidentifiable, as she was physically holding them when they were confiscated; 2) Ms. H was transporting her vending materials to her vehicle on her way home from a day of vending; and 3) Ms. H was criminally charged, as a minor, with misdemeanor obstruction of beach facility access, which SB-946 expressly excludes from the legal pretenses for confiscation of street vendor property (see footnotes 23-25, pp. 4-5). Moreover, Ms. H reports at least five additional confiscations by Code Enforcement of property belonging to other vendors in her family, all within the last three months and effectuated under similar circumstances, i.e., intercepted near the entrance to a beach parking lot or other restricted area while coming from or going to the beach for vending purposes. The property associated with at least three of these five related confiscations has yet to be returned, over two months later and at least one month from the point of most recent solicitation for their return. Ms. H and her family posit that Code Enforcement personnel regularly “camp” near restricted areas to seize the property of vendors that mistakenly operate near or briefly pass through such areas with their equipment. Note, the zoning restrictions³¹ specified in the “Santa Monica Vending Program Regulations” require vendors to observe an untenable number of vague parameters that are unduly broad in nature.³²

²⁹ SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.4(b) (2020) (“*At the time of impoundment, the enforcement officer shall provide to the vendor a receipt that includes the date and time ... and a complete description of the impounded materials [and] instructions on how to reclaim impounded materials*”).

³⁰ FIGURE 3. *Targeted Parking Tickets Citing Identical Same-Day Offenses and Non-Payment Despite Valid Display*, (see “Appendix of Figures,” Section VIII, p. 11).

³¹ FIGURE 5. *Literacy-Contingent Notice, Explicit Zoning Restrictions for Vendors in Santa Monica (Exhaustive)*, (see “Appendix of Figures,” Section VIII, p. 13).

³² CAL. GOV. CODE § 51038(b)(1-4) (West 2018) (“*A local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns. ...a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors*”) (Emphasis added).

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1. CAL. GOV. CODE § 51038(b)(1-4) (2018)	8
2. CAL. GOV. CODE § 51039(a)(1-3) (2018)	4, 5
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2. SANTA MONICA, CAL., MUNICIPAL CODE § 3.12.870 (2018).....	3
3. SANTA MONICA, CAL., MUNICIPAL CODE § 4.55.050 (2012).....	ii, 3
4. SANTA MONICA, CAL., MUNICIPAL CODE § 5.08.370 (2011).....	6
5. SANTA MONICA, CAL., MUNICIPAL CODE § 6.36.110 (2019).....	6
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8. SANTA MONICA, CAL., MUNICIPAL CODE § 6.36.040 (2019)	6

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2. SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.2(a) (2020).	2
3. SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.2(b-c) (2020)	2
4. SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.3(a) (2020)	2
5. SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.4(b) (2020)	4, 8
6. SANTA MONICA, CAL., SIDEWALK VENDING PROG. ADMIN. REG. § 6.5 (2020).....	4

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1. ACLU OF SOUTHERN CALIFORNIA, NATIONAL LAWYERS' GUILD - LOS ANGELES, PUBLIC COUNSEL, <i>Improper Sidewalk Vending Enforcement Practices</i> (2019) Memo 2019 Street Vending.pdf	1, 5
2. CASSIDY BENNETT ET AL., <i>Ufinished Business: How Food Regulations Starve Sidewalk Vendors of Opportunity and What Can Be Done to Finish the Legalization of Street Food</i> , 2021, http://www.publiccounsel.org/tools/assets/files/1647.pdf	1

Journalistic Publications:

1. SCOTT CUMMINGS & DOUG SMITH, <i>Hands Off Our Taco Carts! Fix Laws to Protect Them.</i> , LA Times, 2021, https://www.latimes.com/opinion/story/2021-08-09/small-legal-changes-would-end-harassment-of-los-angeles-taco-carts	1
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APPENDIX OF FIGURES



Figure 1. Signage Promulgating Size Restrictions without Reference to the Alleged “Commercial” Proviso.

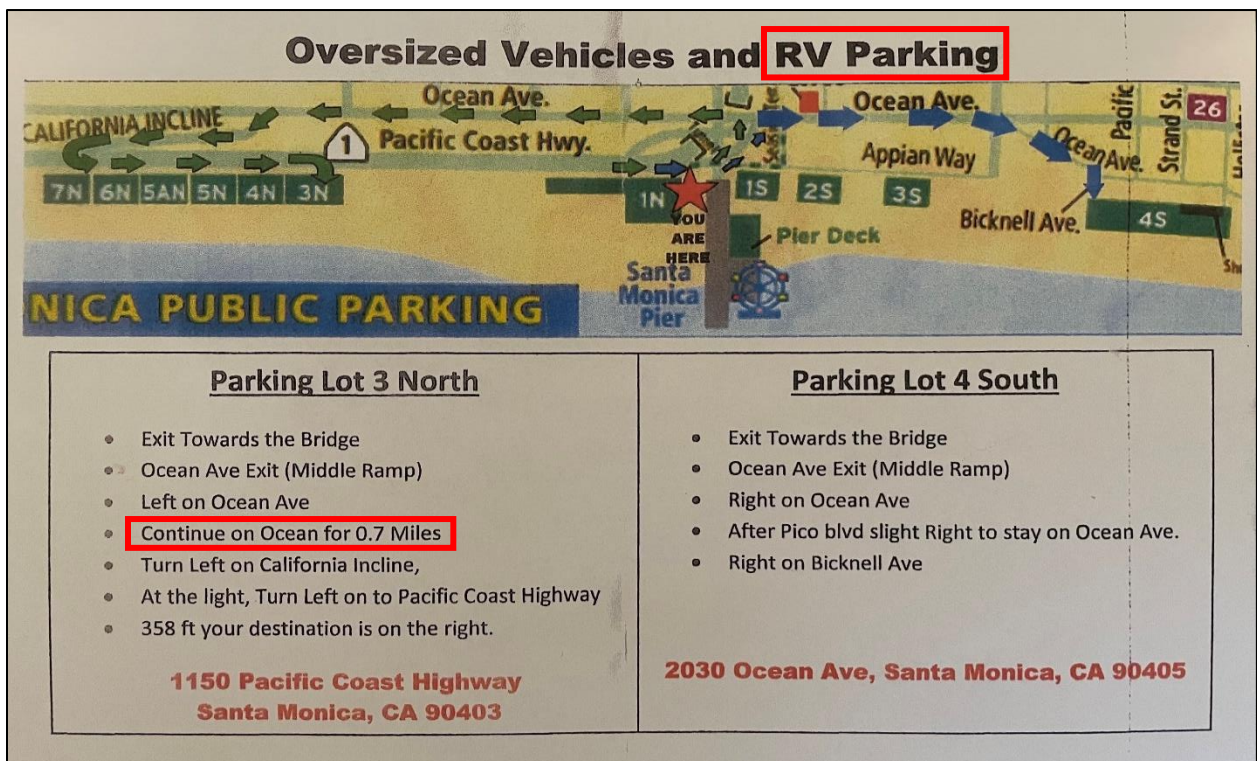


Figure 2. Municipal Handout Directing RVs and Other "Oversized" Vehicles to Designated Lots.

APPENDIX OF FIGURES

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 5	
Date Mon 7/26/2021	Time Issued 3:02 PM
State CA	Vehicle Number [REDACTED] COVERED
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer MULITA OPELE ID 3920
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.12.270 POSTED SIGN	
AMOUNT DUE: \$ 68.00	
Due Date 8/16/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: NO OVERSIZE VEHICLES SCV, EXCEEDS 8 FEET VEH UNATTENDED, NO ACTIVITY, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 4	
Date Mon 7/26/2021	Time Issued 11:07 AM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer VAZQUEZ, J ID 4071
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.12.270 POSTED SIGN	
AMOUNT DUE: \$ 68.00	
Due Date 8/16/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: NO PARKING VEHICLES OVER 8FT HIGH OR 8FT WIDE, SCV, VEH EXCEEDS HEIGHT RESTRICTIONS, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 1	
Date Mon 6/28/2021	Time Issued 4:59 PM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer MULITA OPELE ID 3920
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.04.050(B) FAIL TO PAY & DISPLY	
AMOUNT DUE: \$ 63.00	
Due Date 7/19/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: FAIL TO PAY AND DISPLAY SCV, HPV MIRROR, BUMPER, DASH, NO GIB @ PAY MACHINE, NO TICKET ON DASH, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 1	
Date Mon 6/28/2021	Time Issued 4:59 PM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer MULITA OPELE ID 3920
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.04.050(B) FAIL TO PAY & DISPLY	
AMOUNT DUE: \$ 63.00	
Due Date 7/19/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: FAIL TO PAY AND DISPLAY SCV, HPV MIRROR, BUMPER, DASH, NO GIB @ PAY MACHINE, NO TICKET ON DASH, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 1	
Date Mon 6/28/2021	Time Issued 4:59 PM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer MULITA OPELE ID 3920
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.04.050(B) FAIL TO PAY & DISPLY	
AMOUNT DUE: \$ 63.00	
Due Date 7/19/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: FAIL TO PAY AND DISPLAY SCV, HPV MIRROR, BUMPER, DASH, NO GIB @ PAY MACHINE, NO TICKET ON DASH, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 1	
Date Mon 6/28/2021	Time Issued 4:59 PM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer MULITA OPELE ID 3920
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.04.050(B) FAIL TO PAY & DISPLY	
AMOUNT DUE: \$ 63.00	
Due Date 7/19/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: FAIL TO PAY AND DISPLAY SCV, HPV MIRROR, BUMPER, DASH, NO GIB @ PAY MACHINE, NO TICKET ON DASH, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 1	
Date Mon 6/28/2021	Time Issued 4:59 PM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space [REDACTED]	Officer MULITA OPELE ID 3920
Location 1550 PACIFIC COAST HWY	
Meter#/Misc [REDACTED]	
Violation Code / Description: 3.04.050(B) FAIL TO PAY & DISPLY	
AMOUNT DUE: \$ 63.00	
Due Date 7/19/21	After Due Date If Paid after due date penalties will be assessed
COMMENTS: FAIL TO PAY AND DISPLAY SCV, HPV MIRROR, BUMPER, DASH, NO GIB @ PAY MACHINE, NO TICKET ON DASH, PHOTO TAKEN LOT 1 NORTH	

City of Santa Monica Notice of Parking Violation

CITATION# 9 [REDACTED] 1	
Date Mon 6/28/2021	Time Issued 4:59 PM
State CA	Vehicle Number [REDACTED] CANNOT READ
Month Year 11 2021	Vehicle Make/Color FORD [REDACTED]
Staff/Space	

Figure 3. Targeted Parking Tickets Citing Identical Same-Day Offenses and Non-Payment Despite Valid Display.

APPENDIX OF FIGURES

SANTA MONICA CODE ENFORCEMENT DIVISION PROPERTY TAG			
DATE: _____	TIME: _____	CASE NO.: _____	CITE NO.: _____
LOCATION: _____			
OFFICER NAME: _____			
PROPERTY HELD AS:	<input type="checkbox"/> EVIDENCE	<input type="checkbox"/> FOUND/ABANDONED	
VIOLATOR'S NAME: _____		PHONE: _____	
VIOLATION SECTION(S): _____			
DESCRIPTION OF PROPERTY: _____			
COMMENTS: _____			
Code Enforcement Division Phone Number: 310-458-4984			

A

RECEIPT NUMBER: _____	DATE: _____	TIME: _____
IMPOUNDMENT OF FOOD, GOODS OR MERCHANDISE		
<p>Your materials have been confiscated because they were abandoned on public property or you do not possess a valid City vending permit. All impounded materials will be held by the City for at least 90 days. (SMMC Section 6.36.112 and Sidewalk Vending Program Administrative Regulations).</p>		
HOW TO RECLAIM YOUR MATERIALS		
<ol style="list-style-type: none">1. You may reclaim confiscated material within 90 days of the date of impoundment by paying fees, proving ownership, and showing vending permit valid on date materials were impounded.2. Owners may recover impounded material without showing a vending permit valid as of the date of impoundment but may be subject to citation for vending without a permit.3. Owners of impounded material should contact the Code Enforcement Division at 310-458-4984 to reclaim their property.4. You may contest impoundment by filing an appeal according to SMMC Chapter 6.16.5. Materials forfeited to the City may be disposed at City's discretion.		
ISSUING OFFICER NAME _____	SIGNATURE _____	

B

Figure 4. Literacy-Contingent Notice: Impound Receipt (A) & Instructions for Returns (B), to be Issued On-Site.

APPENDIX OF FIGURES

Restriction	Distance
Street, driveway, or public parking lot	Prohibited in any direction
Limousine staging zone, bus stop, tour bus, trolley stop, taxi stand, bus bench, bus shelter, or valet parking service	25 feet in any direction
Automated teller machine or parking pay station	15 feet in any direction
Fire hydrant, call box, traffic signal controller, or streetlight controller	15 feet in any direction
Police officer, firefighter, or emergency medical personnel who is actively performing his or her duties or providing services to the public	100 feet in any direction
Any alley	25 feet in any direction
Permitted filming, camps, classes, community events, or other City- approved temporarily-permitted activities, unless otherwise specified on the permit for certain vendors directly associated with the permitted activity	200 feet in any direction
Entrance or exit to a public building, parking lot or structure, structure, or facility (including pedestrian entrance/exit or "elevator lobby" to a building, parking lot or structure, structure, or facility)	25 feet in any direction
Handicapped parking space or access ramp	5 feet in any direction
Marked or unmarked curb return of a crosswalk or driveway	10 feet in any direction
Freeway entrance, freeway exit	50 feet in any direction
All fire stations- the grounds, buildings, structures, and open areas	200 feet in any direction
Public or private school	300 feet in any direction
City operated Farmer's Market or swap meet	200 feet in any direction
City owned parking lots and structures	25 feet in any direction
Beach Bike Path	Prohibited in any direction
Area around Beach Bike Path	25 feet in any direction
Stationary sidewalk vending on the Beach Pedestrian Path	Prohibited in any direction
Beach building, recreation center, restroom, life guard towers or structure	25 feet in any direction
Pacific Coast Highway and Palisades Beach Road	Prohibited in any direction
Public art installation	25 feet in any direction
Permitted filming, camps, classes, community events, or other City-approved temporarily-permitted activities, unless otherwise specified on the permit for certain vendors directly associated with the permitted activity	200 feet in any direction
Any public picnic area, playground area, playground equipment, public community center, athletic field, tennis court, or soccer field	50 feet in any direction
Any athletic field, basketball court, softball/baseball diamond, tennis court, soccer field, or volleyball court while in use	50 feet in any direction
LA Marathon marked routes	250 feet in any direction

Figure 5. Literacy-Contingent Notice, Explicit Zoning Restrictions for Vendors in Santa Monica (Exhaustive).