

**CITY OF OAKLAND**  
**AGENDA REPORT**

To: 2010 MAR 11 PM 4:03  
Office of the City Administrator  
Attn: Dan Lindheim  
From: Police Department and Community and Economic Development  
Date: March 23, 2010

**Re: Update on A Report Detailing the Enforcement of Oakland Municipal Code Sections Prohibiting Illegal Street Vendors, Including Statistical Data on Enforcement Efforts, and the Feasibility of Centralized Locations Throughout the City Where food From Vendors Can Be Bought and Sold Legally**

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**SUMMARY**

As requested by the Rules and Legislation Committee, the Oakland Police Department (OPD) and Community and Economic Development Agency (CEDA) have prepared an informational report detailing their efforts in enforcing Oakland Municipal Code (O.M.C.) sections prohibiting illegal street vendors, including statistical data, and identified gaps in service.

**FISCAL IMPACT**

This is an information report; therefore, there is no fiscal impact.

**BACKGROUND**

The following O.M.C. sections are those most closely associated with illegal street vending violations:

- 5.04.020 Business Tax
- 5.48.020 Peddlers and solicitors – Police certificate
- 5.48.050 Peddling foodstuffs from vehicles
- 5.48.070 Peddlers' carts, stands
- 5.48.080 Peddling in certain district

**KEY ISSUES AND IMPACTS**

*Oakland Police Department*

There is a nexus between illegal vending and criminal activity; generally street vendors sell their wares in locations which have a considerable amount of foot traffic. In these dense areas vendors are robbed, beaten and assaulted which result in under reporting. Illegal vendors are often undocumented immigrants who fear reporting crimes due to their immigration status.

Item: \_\_\_\_\_  
Public Safety Comte.  
March 23, 2010

Additionally there have been problems with late night commissaries which operate until 3:00 a.m., with incidents such as murder, robberies and assaults.

While the Oakland Police Department is tasked with enforcement of the above listed O.M.C. sections most enforcement actions stem from complaints received from the community. The community complaints received include unfair competition to those vendors that acquire the proper permits, public health threats posed by food prepared by illegal commissaries, and garbage left behind.

Officers assigned to the Problem Solving and Foot Patrol Unit are tasked with OPDs enforcement of O.M.C. violations and citizens complaints. Officers assigned as Problem Solving Officers and Foot Patrol approach the complaints and suspected violator(s) in the following form:

- Outreach/Education
- Warning
- Citation
- Arrest

From January 1, 2009 to December 2009, OPD issued 13 citations for violations dealing with illegal street vending.

Area	Number of Violations
One	3
Two	3
Three	7
<b>Total</b>	<b>13</b>

The 13 citations issued have resulted in all violators being convicted. Fines generally range up to \$100.00 and get progressively higher for subsequent offenses. There were no arrests for illegal vending violations during this time period.

*Community and Economic Development Agency*

In April 2009, CEDA Building Services received complaints identifying properties operating as un-permitted food preparation facilities (commissaries).

Complaints:	Site:	Description:
0903219	521 105 <sup>th</sup> Ave	Food preparation for off-site sale/consumption.
0903190	1051 84 <sup>th</sup> Ave	Food preparation for off-site sale/consumption
0903225	1744 85 <sup>th</sup> Ave	Food preparation for off-site sale/consumption
0903377	1008 69 <sup>th</sup> Ave	Food preparation for off-site sale/consumption

Item: \_\_\_\_\_  
Public Safety Comte. |  
March 23, 2010 |

5.49.040 Permit required	8.09.030	Permitted area
5.49.050 Geographic area	8.09.050	Permit conditions of issuance
5.49.060 Regulations for pushcart vendors	8.09.080	Enforcement
5.49.080 Violation & penalty	8.09.160	Violations constituting infractions

CEDA staff offer the following summary information from the complaints received in April 2009, and the subsequent actions as described above:

It is not possible for CEDA Building Services to assert a nexus between schools and commissaries. Schools are highly targeted by vendors; the high concentration of people within a short time frame makes schools an attractive source of potential customers. Vendors solicited and sold goods 15 minutes before and 15 minutes after school, from 1445 to 1515 hours on most weekdays, and around 1330 hours on Wednesdays (school minimum days). Un-permitted food vending activity has also been reported near churches and on weekends.

CEDA enforcement was successful in abating the un-approved activities taking place from the facilities. However, the overall intended goal of abating food vending was not reached. Un-permitted food vending activities continue throughout the City by many of the same operators, as well as by some new operators from unknown new locations. To renew such efforts, CEDA would need to obtain new information or receive new complaints.

At the time of the 2009 efforts, CEDA had one full time Senior Construction Inspector who issued permits, monitored mobile food vendors operating within the approved geographic area, and investigated complaints. These duties were in addition to regularly assigned duties of this position, which include blighted news racks, payphones, right of way encroachments and obstructions, construction inspections for privately funded public improvements, and work without permits Citywide. Additionally, one acting Specialty Combinations Inspector/Planner I assigned to Zoning inspections responds to unapproved activity complaints Citywide. Since the time of the 2009 enforcement efforts, however, the staff person who formerly held that position accepted a different job; and funding for the now-vacated position has been eliminated. CEDA is not currently staffed or funded for continued food vendor complaint response activity.

CEDA Building Services only has jurisdiction on activities that occur on or close to private properties. Property owners are fee-charged for any violations that are not abated. However, in most cases the property owners are not associated or responsible for the activity. A more permanent solution would require un-permitted commissary operators to be identified, cited and prosecuted as the main responsible persons. A dialogue was initiated with the District Attorney's office for a plan of action; the D.A. has worked on past cases with ACEHS.

Un-permitted food vending and peddling (from carts, vehicles, parking lots, streets or residences) is an informal economy that is rapidly growing. It is also an unfair business practice with minimal overhead that is un-regulated and un-taxed. Additionally, it undercuts and hinders established businesses, impacting the quality of life in the affected neighborhoods. Attempting to abate this activity has cost the City of Oakland and County of Alameda substantially in hours of

Item: \_\_\_\_\_  
Public Safety Comte.  
March 23, 2010

work with very little in return. Although it has been non-revenue producing, allowing un-permitted vendors to roam freely throughout our City will have a negative and financial impact. Pro-active plans of action, resources and outreach are requested in order for enforcement to be fully successful.

## **PROGRAM DESCRIPTION**

On December 12, 2008 an informational report was presented to the Public Safety Committee concerning illegal vendors and OPDs strategy to address future concerns. The following information details the strategies implemented and results.

### *Community Outreach*

Problem Solving Officers (PSO) and Neighborhood Services Coordinators (NSC) from Areas 2 and 3 have discussed the issue of illegal vending at Neighborhood Crime Prevention Council (NCPC) meetings and Merchant meetings. Included in those discussions are the rules that govern illegal vending and what a seller needs to do to obtain a permit. PSOs and NSCs have partnered with NCPC and merchant leaders distribute informational circulars in the business district targeting those vendors suspected of illegal vending to educate them of potential violations. The results have been positive from the community and illegal vendors; compliance is generally met with education and a warning.

### *Refresher Training to OPD Field Staff*

Area 2 and 3 patrol staff received refresher training on illegal street vending, and were provided with a “cheat sheet,” concerning the illegal vending O.M.C. sections. This training is on-going and is enforced during peak events such as Valentine’s Day and Mother’s Day holidays.

PSOs are required to assess respective beats to determine if there is an illegal vendor issue through day-to-day observation, and researching crime statistics to determine if there is a nexus between criminal activities, the presence of the illegal vendors, and the presence of community complaints. PSOs and Foot Patrol Officers are the lead officers in dealing with issues regarding illegal vending. Officers in these assignments respond to NCPC complaints, community complaints and on-view violations.

### *Progressive Enforcement*

Progressive enforcement is highly encouraged and is occurring. When officers meet with suspected illegal vendors and educate them on the violations they are committing they generally cease their illegal activity. OPDs response from the community has been positive as we take a educational/warning approach to this issue.

Item: \_\_\_\_\_  
Public Safety Comte.  
March 23, 2010

**SUSTAINABLE OPPORTUNITIES**

Economic: By enforcing O.M.C. sections that govern illegal street vendors, legal vendors are able to remain in business which contributes to the economic health of the local economy.

Environmental: Crime and blight are often associated with illegal street vending; therefore regular enforcement of these O.M.C. sections promotes a healthier environment.

Social Equity: Eliminating illegal street vendors helps to reduce crime throughout the neighborhoods, making them safer.

**Disability and Senior Access**

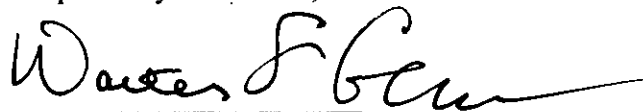
There are no ADA or senior citizen access issues identified in this report

**RECOMMENDATION / RATIONALE**

Staff recommends acceptance of this report.


OPD will continue its enforcements efforts, using the PSOs and Foot Patrol Officers as the primary response. This is a combined community and OPD effort where educating the illegal vendors has had an impact on efforts to reduce this problem. OPD will continue to train field officers and maintain the “cheat sheet” to assist when necessary to issue citations. The Department has been very successful in providing information to the general public concerning illegal vending and has partnered with the community to take a more active role in addressing the problem.

Respectfully Submitted,



Walter S. Cohen, Director  
Community and Economic Development Agency

Respectfully submitted,

  
Anthony W. Batts  
Chief of Police

APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:

  
Office of the City Administrator

Prepared by:  
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Bureau of Field Operations – Area 2  
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Item: \_\_\_\_\_  
Public Safety Comte.  
March 23, 2010