



Legislative Department  
Seattle City Council  
Memorandum

Date: June 6, 2011  
To: Committee on the Built Environment (COBE)  
From: Christa Valles, Council Central Staff  
Subject: C.B. 117165, Street Food Vending

The Committee on the Built Environment (COBE) has been discussing C.B. 117165, which is intended to encourage more street food vending (or “food vending”). Street food vending can contribute to a vibrant urban environment and provide small business opportunities for entrepreneurs and recent immigrants. Seattle’s current food vending scene is considered relatively anemic compared to some cities, such as New York City (NYC) and Portland<sup>1</sup>. Seattle currently allows food trucks on private property and food carts in parks and on sidewalks (with abutting property owner permission), but this has not resulted in the robust food vending scene that many people would like to see.

C.B. 117165 includes several regulatory changes intended to promote more food carts and trucks in Seattle. The two most significant changes are:

1. Curbside street parking for food trucks: Proposed legislation would allow food trucks to vend in curb spaces via “food vehicle zones” in all areas of the city except for single family and low-rise residential zones.
2. Eliminating property owner permission for carts on sidewalks: Currently, the City requires food cart vendors to obtain abutting property owner permission to vend on sidewalks. This requirement is likely unlawful and C.B. 117165 would replace it with a public notification and public comment process and specified setbacks from businesses.

While it remains to be seen whether these proposed changes, combined with existing and new regulatory requirements, will spark the desired outcome in Seattle’s street food landscape, to the extent that location constraints are an issue, these changes should help.

This memo will address the following issues that have been raised with the proposed legislation:

- Food truck zones in curbside street parking (curb spaces)
- Fees
- Hours of operation/late night vending

The next COBE committee memo will examine school setbacks, restaurant setbacks, design guidelines, incentivizing healthy food options, and coordination of the permitting process.

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<sup>1</sup> NYC and Portland, interestingly, have vastly different regulations from each other. Regulations in other cities also vary widely. In many cases, it’s not immediately evident whether a particular city’s regulations are intended to encourage or discourage more street food vending, or if street food vending managed to sprout up in spite of the underlying regulatory intent.

**Issue #1: Should the City allow food trucks in curbside parking spaces?**

In Seattle, food trucks are currently restricted to private property, which means, in effect, private parking lots in commercial zones. One of the key strategies in C.B. 117165 to encourage more street food vending is to allow food trucks to vend in curb spaces on the street (parallel parking only). While allowing food trucks to vend in curb spaces is not, in itself, a pre-condition to a lively street food scene<sup>2</sup>, food vending on private property has made limited inroads in Seattle. Many other cities allow food trucks to vend in curb spaces, where they simply “feed the meter”, including Denver, Los Angeles, San Francisco<sup>3</sup>, New York City, and Chicago.

SDOT’s approach is slightly different in that it would designate specific parking spaces where food trucks that have a permit for that particular site could park. The space would be designated with a special sign designating the spot as a “food vehicle zone”, much like a loading or car share zone. The spot would revert to regular parking outside of the period of time reserved for a food truck. As currently proposed, the food vehicle zone could consist of more than one parking spot, i.e. several trucks could be parked on one block face as part of the same food vehicle zone though it is likely that the proposed setbacks from restaurants and businesses, along with parking constraints in certain areas, would restrict the number of food trucks that could locate in any one zone.

SDOT’s curbside street use fee for food trucks is structured around a minimum four-hour block of time that can be purchased on a daily basis. A truck could, conceivably, pay for the use of a curb space for Mondays only, or Monday-Wednesday-Fridays, or every day of the week. For example, a food truck could buy a permit for Mondays and Fridays in a downtown spot from 11-3 and Thursdays in Capitol Hill from 6pm- midnight. If the food truck wanted to operate for more than 4-hours on one of those days, it would need to purchase another 4-hour block of time. (SDOT is not proposing to allow vendors to purchase anything other than a 4-hour block of time to simplify administration).

If Council wants to consider an approach that does not involve SDOT designating a signed “food vehicle zone”, it could consider a hybrid option in which trucks were not necessarily given free rein to park wherever they wanted, but were permitted for a particularly area without having it reserved by a sign for their exclusive use during particular times. (This is the approach that San Francisco recently adopted, but it has its downsides.)

Curbside permit options	Pros	Cons
Food vehicle “zone” per C.B. 117165	<ul style="list-style-type: none"> <li>-Provides greater certainty to food truck that space will be available.</li> <li>-Allows for more precise siting.</li> </ul>	<ul style="list-style-type: none"> <li>-More administratively cumbersome. Signs will need to be put up and removed as food trucks come and go.</li> <li>- Parking is not available to public during designated reserved times for food truck, even if not in use.</li> </ul>
Hybrid approach: no designated spot...permit for general area only.	<ul style="list-style-type: none"> <li>-Does not remove any parking spots from public use, food trucks compete for spot along with cars.</li> <li>-Food trucks could be permitted for multiple locations, if no parking available in one spot, could go to another.</li> </ul>	<ul style="list-style-type: none"> <li>-Space may not be available for food truck in non-reserved parking space.</li> <li>-Food truck may try to park in an unpermitted area if space is not available.</li> </ul>

<sup>2</sup> Some cities, such as Portland and Austin, have managed to foster active street food vending on private property, though in both cases, food vending carts and trucks do not have to return to a commissary at night.

<sup>3</sup> San Francisco also requires a permit for a particular spot, but the food trucks are responsible for feeding the meter. If the spot is not available, the food truck is allowed to park one spot away, but no further. San Francisco reports some problems with compliance on meter payment.

**Council Options**

- a. Approve concept of food vehicle zones in curb spaces.
- b. Approve concept of food vehicle zones in curb spaces, but limit the number of food trucks in any one zone to two or less.
- c. Approve hybrid approach. (Note: details would need to be worked out.)
- d. Either A or B or C *plus*, require SDOT to develop a fee structure in which food truck vendors can purchase additional increments of time in less than 4-hour blocks, after the purchase of an initial 4-hour time-block.

**Issue #2: Are Street Food Vending Fees Sufficient?**

C.B. 117165 is proposing a range of fees for food carts and trucks. The chart below shows what a permit could cost a food cart or truck vendor if she or he uses the city right-of-way three days per week.

Typical annual permit cost for cart or truck			
Food carts on sidewalks or plazas			
Daytime permit		Nighttime permit	
Issuance fee	\$146	Issuance fee	\$146
Use fees*	\$78	Use fees*	\$78
Program Administration	\$344	Program Administration	\$688
<b>Total existing site</b>	<b>\$568</b>	<b>Total existing site</b>	<b>\$912</b>
<i>New site review</i>	\$344	<i>New site review</i>	\$344
<b>Total new site</b>	<b>\$912</b>	<b>Total new site</b>	<b>\$1,256</b>
Food trucks in curb spaces			
Daytime permit		Nighttime permit	
Issuance fee	\$146	Issuance fee	\$146
Parking use fee**	\$531	Parking use fee**	\$531
Program administration	\$344	Program administration	\$688
<b>Subtotal</b>	<b>\$1,021</b>	<b>Subtotal</b>	<b>\$1,365</b>
<i>New site review</i>	\$344	<i>New site review</i>	\$344
<b>Total new site</b>	<b>\$1,365</b>	<b>Total new site</b>	<b>\$1,709</b>

\*Assumes 50 sq ft @\$1.56 per sq. ft.

\*\*Assumes \$177/4-hr. period\*3 days a week.

SDOT’s proposed fees appear to be on the high-end of what other cities charge for food vending permits, though similar to San Francisco’s, which recently revised its permit fees downward from \$12,000.

Cities	City Permit Vending Fees	Comments
Portland	\$100 for vending cart; trucks in ROW unregulated, must feed meter.	Portland only has 14 permitted carts. Most activity on private property but trucks allowed to park & vend in parking spaces outside of downtown, no fee
San Francisco	\$708 for first site & \$583 for subsequent sites (up to 7), plus trucks feed meter.	Recently revised fees downward from \$12,000 per permit.
Los Angeles	No charge for food trucks in metered spaces (no permit required, unregulated)	News reports suggests LA may try to regulate food trucks in ROW
Denver	Application: \$200; License fee: \$125	Carts & trucks, trucks also feed meter

SDOT is proposing to double its program administration fee for carts and trucks that operate after 8pm in recognition of the additional overtime costs associated with evening enforcement. In terms of the use fees, SDOT is proposing to apply the same use fee for vending carts as it does for sidewalk cafes (\$1.56 per square foot). The use fee for sidewalk cafes was last adjusted in 2004, when they went from \$1.50 per square foot to \$1.56.

For the use fee of food trucks in curb spaces, SDOT is proposing an hourly rate based on an annual pro-rated carshare rate, which comes out to \$.85 an hour. The carshare rate is discounted to account for the City's desire to incentivize car sharing in Seattle. Carshare rates were last revised in 2009 and were based on average on-street revenues per paid parking area. SDOT based the proposed food truck curb space rates on the carshare model since a similar rationale, i.e., the City is trying to encourage more food vending, is in play.

#### Other fees/considerations

In addition to SDOT's proposed fees, food trucks and carts have other fees to pay associated with public health, fire, labor and industry, and business licensing. Collectively, these fees can run between \$2,200 and \$3,234. Additional expenses may include fees to use a commissary, rent space (private property) and/or bathrooms, gas, and capital costs (a truck can run from \$20,000 used to \$100,000 new while a cart can be purchased for less than \$5,000).

While these costs are not insignificant, food trucks and carts still have fewer start-up costs than brick and mortar restaurants, which is precisely the reason why food trucks and carts serve as good entry points for the budding entrepreneur or recent immigrant. Many individuals may not be able to obtain a large bank loan to get into the restaurant business, but they might find they can swing the entry costs associated with a food truck or cart. In addition, unlike restaurants, food trucks and carts are inherently limited in the food items they can sell, they cannot sell alcohol or provide seating, and demand is highly seasonal. These limitations temper how much food trucks and carts can charge customers for their product, which in turn, impacts profit margins.

#### **Council Options**

- a. Keep rates for food trucks and carts as proposed and see how vendors respond to the new program.

Comments: If the purpose of the legislation is to encourage more food vending in the City, this option would be the safest in terms of avoiding the risk of the City setting fees so high vendors are all but priced out. If the City is flooded with new permits for vending in the right-of-way, the City could revisit the idea of imposing higher or differential fees for high demand spots (however those might be defined or determined) but it's difficult to gauge how the City's proposed legislation will go over at this point.

- b. Require food trucks to pay the equivalent going meter rate in metered areas of the city, and apply some sort of minimum fee (~\$1 per hour) when meter rates are not in effect (after 6pm or 8pm) and for those areas of the City that aren't metered.

Comments: SDOT believes it will be too complicated and time-consuming for its permit counter staff to determine the appropriate fee to charge if the food truck use fee is based on differential meter rates. It seems like any concerns about miscalculations could be remedied by developing

maps/tables that translate the metered rate into an annualized fee schedule but it could get more complicated if the City moves towards variable meter rates throughout the day.

This approach could prove prohibitively expensive for some vendors in some areas of the city. For example, at \$4 an hour in the downtown area, a vendor would pay ~\$2,500 for three four-hour blocks of time per week instead of the proposed \$530. In another scenario in which a vendor pays for three four-hour blocks of time per week in different neighborhoods in the City, the annual cost would be \$1,456 instead of \$530 (see examples below).

- c. Recalculate average on-street parking revenues to determine new flat rate fee for food trucks.  
 Comments: As mentioned, C.B. 117165 proposes an hourly curbspace rate for food trucks based on the going carshare rate. The carshare rate was last revised in 2009 and was based on average annual revenues per parking area, which came to \$.85 per hour. This option would recalculate a flat rate based on today’s current median (\$2.25 according to SDOT). This option results in a price close to the variable neighborhood metered rate option, but would be much easier for SDOT to administer.

**Examples of Options A, B, and C**

	<b>C.B. 117165: Flat Rate; Option A</b>	<b>Metered Approach: Option B</b>			<b>Recalculate flat rate: Option C</b>	
	<b>Any neighborhood</b>	<b>Downtown only</b>	<b>Multiple neighborhoods</b>		<b>Any neighborhood</b>	
Food truck vending in curbspace 3 days per week	.85 per hour	\$4 per hour	Downtown \$4 per hour: \$832	Pike-Pine \$2 per hour until 8pm, \$1 per hour after: \$312	Fremont \$1.50 per hour: \$312	\$2.25 per hour
Annual Cost	\$530	\$,2496	\$1,456		\$1,404	

- d. Increase square foot fees for carts on sidewalk area, including sidewalk cafes.

Comments: C.B. 117165 includes a \$1.56 per square foot use fee for vending carts and sidewalk cafes. This rate is based on the City’s current sidewalk café use fees, which have not been revised since 2004. If the City wanted to change the proposed use fees for food cart vendors and sidewalk cafes, one option is simply to increase the square foot charge for food carts and sidewalk cafes (say from \$1.56 per square foot to \$3). Another option might be for the City to establish some basis for a new rate. One possibility might be for the City to determine what the going lease rates are in various neighborhoods and then discount those to account for the fact that a cart/sidewalk cafe is leasing a piece of unprotected sidewalk in the right of way and not an enclosed building with a variety of associated amenities. This data would need to be updated at least annually, however, and

more information would be needed on how such an approach might work and what the cost to administer it might be.

**Issue #3: Should late-night vending be curtailed?**

SDOT currently has thirty-four vending cart permits on the books. Over 80% of these carts operate at night and of these, 60% are concentrated in two neighborhoods<sup>4</sup>.

**Permitted vending carts in ROW**

Night Operations	Day Operations	Capitol Hill	Belltown	Other
28	6	7	10	11

Currently, the City does not restrict the hours of operation for food carts, in either the right of way or private property<sup>5</sup>, and C.B. 117165 does not propose to change this policy. Concerns, around late-night food vending have been raised, however, largely focused on two potential problems:

*1) Food carts as cause of lingering crowds, and associated problems, once clubs close.*

These concerns pertain to long-standing issues around night-life related nuisances. Unfortunately, lacking any hard data, it's difficult to attribute the impact of any single factor (carts, alcohol, 2am push-out, age of crowd, etc.) that might contribute to undesirable late-night behavior. Intuitively, it's not difficult to imagine how a vending cart parked outside a club at 2am might lead to lingering, noise, and possible negative interactions among the crowds. It's more difficult to determine the extent to which this behavior would occur regardless of the presence of a food cart, or whether perhaps, in some cases, a food cart might have a mitigating impact on certain undesirable behaviors (e.g., giving time people to sober up).

*2) Non-compliance with permit requirements.*

The City's Code Compliance Team (CCT), as the name suggests, is primarily concerned with compliance. This issue is somewhat easier to grasp than the more general concern about the extent to which food carts contribute to late night disturbances: food carts are either in compliance or not. The CCT consists of representatives from SDOT, SPD, and SFD (and includes SKCPH). Prior to 2011, the CCT conducted quarterly outings. In the 2011 budget, Council approved \$40,000 in GF to increase the number of CCT outings to 26 per year. In addition to the CCT, SPD officers also have enforcement powers related to food carts in the right of way (delegated by SDOT), but enforcement of vending regulations is necessarily a low priority for SPD.

Discussions with Executive staff and the CCT have yielded the following anecdotal information:

- Beefed up enforcement in 2011 has yielded some improvement in vending cart compliance but it's too early to conclude long-term impacts.
- Some vending cart operators refuse to obtain a permit or willfully violate permit requirements even when they have one.
- Imposing a curfew on food carts will not curtail illegal vending from occurring.

<sup>4</sup> While this discussion focuses on food carts in the right-of-way, food trucks and carts on private property may pose similar problems.

<sup>5</sup> With the exception of the stadium zone, which has its own set of regulations.

- The CCT has not taken advantage of the full range of enforcement power at its disposal (seizure of carts).
- The CCT thinks some problems associated with food carts, such as long lines, sidewalk spillage, and fights, may be mitigated with more food carts spaced appropriately apart (C.B. 117165 would allow a maximum of two carts per block face).
- SPD has authority, via Ordinance 123369, to cite individuals for “meathead” behavior but this authority only applies to certain areas of the City and SPD has found it of limited use.
- If club hours are staggered, problems associated with the “2am push-out” could be mitigated, but it’s unclear whether staggered hours will be approved.
- The CCT might shut down a food cart due to permit violations one night, only to have the cart re-open the following night without addressing the compliance issues.
- The Hearing Examiner often reduces fines; indeed, the current code contemplates the HE “shall determine whether the person’s explanation justifies reduction of the monetary penalty.” Given this, it’s unclear whether increasing fines for a first offense (really a second since SDOT’s process includes a warning) from \$500 to \$1,000 will have much impact (and \$2,000 for subsequent permit violations).
- The CCT thinks that increasing funding to pay for more enforcement (beyond the 26 outings) would be “overkill”.

### **Council Options**

- a. Require better data collection.

This option would require the Executive to develop a plan to track the number and types of complaints and citations associated with food carts and trucks (this could also extend to day-time as well). This may become more important if C.B. 117165 does indeed result in more food carts and trucks in the City.

- b. Require SDOT to consult with the CCT prior to issuing food vending permits in areas with a concentration of late-night nuisance complaints and issues.

Comments: By consulting with the CCT prior to issuing a permit in areas with a high concentration of late-night vending (e.g., Capitol Hill, Belltown), SDOT might be able to site carts more strategically or place additional conditions on carts operating late at night (more trash cans, wider pedestrian zones, etc.).

- c. Require SDOT to develop more specific criteria as to when it would revoke a permit or deny a permit (this could be done via Director’s Rules).

Comments: While SDOT has authority to revoke permits, it’s unclear when it would actually do so. C.B. 117165 currently states that SDOT “may” conduct a lottery if a vendor has two or more violations at the time of permit renewal, but it doesn’t say that SDOT will definitely open the site

up to other vendors or what SDOT will do if no other vendors are interested in the site (will it just go ahead and renew the permit of the vendor with violations?).

- d. Amend C.B. 117165 to authorize SPD to impound carts or trucks under civil proceedings (current confiscation authority requires criminal proceedings).

Comments: At this point, it's unclear whether civil or criminal proceedings would offer the best approach to confiscating food vending carts or trucks of vendors who repeatedly violate permit conditions or refuse to get a permit. This option would amend CB. 117165 to authorize a civil impound approach (SPD currently has ability to confiscate under criminal proceedings). SPD and the CCT could then determine which approach works best under which conditions and develop appropriate protocols.

- e. Cap the number of carts operating in certain "problem" areas at night.

Comments: This option could complicate enforcement efforts since SPD/CCT would need to distinguish between carts that are permitted and not permitted to operate within a certain zone. In addition, the CCT thought more carts might help "dilute" crowds that cluster around food carts, and that vendors inclined to operate without a permit will simply ignore a cap.

- f. Restrict operating hours of food carts and trucks.

Comments: As mentioned, the CCT thought this option would not deter illegal vending. It would, however, make enforcement more straight-forward since carts and trucks would simply not be allowed to operate after a certain time. A curfew could be imposed early (10am or 11am), or late (2am, to coincide with club closings), or somewhere in between. If Council is interested in pursuing this option, it may want to consider applying a curfew to food carts and trucks on private property as well (this would require separate legislation) since a curfew applied in the right of way could simply drive up activity on private property. To the extent that a curfew was enforced, this would have the effect of shutting down most food carts currently operating in the City since the majority of carts operate in the evening and are geared towards the late-night club crowd.

- g. Request Executive explore the feasibility of implementing an upfront testing program (pre-permit issuance) of generators for food carts and trucks operating after 10pm.

This option would require DPD to implement a generator testing program for food carts operating after 10pm. While SPD says it has received noise-related complaints about food cart generators, I have not been able to obtain any information on the frequency or location of these complaints and how they are dealt with. In the past year, DPD has investigated one noise complaint related to a day-time vendor that was resolved when the vendor plugged into a nearby electrical outlet (the vendor was not operating in the evening). DPD staff has indicated that some generators can comply with the City's noise code, though they tend to be the higher priced models (~\$1,500- \$3,000). There are also ways to mitigate the noise from a generator with insulation.