

**SIDEWALK VENDING ORDINANCE
DRAFT POLICY GUIDELINES**

Proposed Vendor Locational Guidelines

(These are standard guidelines that are found in most Ordinances – best practice)

- A. No sidewalk vendor shall vend in the following locations:
1. Any public property that does not meet the definition of a sidewalk, including, but not limited to, any street, roadway median, pedestrian islands, or bicycle lane;
 2. City owned property including, but not limited to, parking structures and parking lots, unless otherwise authorized by the City;
 3. In any area that blocks pedestrian or vehicle access or obstructs traffic signals or regulatory signs.
 4. On any median strip or dividing section within public right-of-way areas.
 5. No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles. No sidewalk vendor shall vend in a manner that blocks or obstructs the required Americans with Disabilities Act of 1990 access, access to designated loading zones, and access to public utilities. Sidewalk vendors must at all times provide a clearance of not less than four (4) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices;
 6. Within 18 inches from the edge of a curb;
 7. Within 15 feet from any:
 - a. Fire hydrant
 - b. Driveway or alleyway
 - c. Door/emergency exit
 8. Within 20 feet of any:
 - a. Bus stop
 - b. Mid-block crosswalk
 9. Within 25 feet of any:
 - a. Street corner
 - b. Street intersection
 10. Within 100 feet of any:
 - a. Emergency facility (Fire Station, Police Station, Hospital)
 - b. Public or private school on days when school is in session
 11. Within 200 feet of any:
 - a. Farmer's market for the duration of the event
 - b. Special event and temporary uses for the duration of the event
 - c. A freeway entrance or exit
 12. Stationary sidewalk vendors shall not vend within 50 feet of another stationary sidewalk vendor

13. Stationary sidewalk vendors shall not vend within a park if the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.
14. Sidewalk vendors are prohibited from entering or encroaching onto private property while engaged in sidewalk vending activities.

Optional Locational Guidelines

These would be additional guidelines that go beyond standard guidelines that the Council may want to consider:

- 1) No vending or establish a setback requirement from public plazas that serve as community-wide focal points primarily for civic purposes and commercial activities.
- 2) No vending within landscaped areas
- 3) Additional setback requirement from designated emergency vehicle access way
- 4) No vending within designated parking zones, such as handicapped, short-term, passenger loading or no-parking
- 5) Additional setback requirements from designated parking zones, such as handicapped, short-term, passenger loading or no-parking
- 6) Limit sidewalk vendors in residential zones to roaming only.
- 7) Additional setback requirement from street furniture (trash or recycling receptables, bicycle racks, public art)

Proposed Vendor Operational Guidelines

(These are standard guidelines that are found in most Ordinances – best practice)

1. Sidewalk vendors shall visibly display their sidewalk vending permit at all times when vending, as well as any other permit or license required by the City and any other appropriate governmental agency.
2. Sidewalk vending activities in residential zones may occur only between the hours of 9:00 a.m. and 7:00 p.m.
3. Sidewalk vending activities in nonresidential zones will be as restrictive as any limitations on hours of operation imposed on other businesses or uses on the same street, excluding those permitted to operate 24 hours.
4. If applicable, sidewalk vendors shall obtain a Mobile Food Facility (MFF) permit from the Alameda County Department of Environmental Health (ACEH). Sidewalk vendors shall visibly display the MFF permit. The MFF permit shall be made available to the City as part of the permit application or renewal process.
5. All sidewalk vendors shall provide a trash receptacle for customers and shall ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash so that public trash receptacles located on any block for use by the general public do not have to be used by customers.

6. All sidewalk vendors shall not dispose of customer or sidewalk vendor trash in trash receptacles that the City provides for public use. All sidewalk vendors shall immediately clean up any food, grease, or other fluid or item related to their sidewalk vending activities that are spilled or discharged on public property.
7. All sidewalk vendors are responsible for ensuring that the surrounding sidewalk is kept clean and free of trash and debris associated with their vending operation.
8. Sidewalk vendors shall not erect freestanding appurtenances adjacent to the vendors' person, cart, wagon, rack, or other conveyance for vending activities, including but not limited to freestanding signs, umbrellas, ice chests, chairs, tables or benches. Sidewalk vending equipment that are used for or associated with sidewalk vending activities shall not:
 - a. Attach to or make contact with any utility pole, street sign, bus stop, trash can, traffic pole, or any other public structure.
 - b. Remain left or maintained unattended in public spaces or in any portion of the public right-of-way.
9. Sidewalk vendors shall comply with the noise standards provided in Chapter 4, Article 1 of the Hayward Municipal Code.
10. Sidewalk vending of the following merchandise is prohibited:
 - a. Alcoholic beverages;
 - b. Adult-oriented materials
 - c. Tobacco, tobacco products, or electronic smoking devices;
 - d. Cannabis or cannabis products;
 - e. Weapons, including knives, guns, or explosive devices;
 - f. Pharmaceuticals;
 - g. Any other merchandise prohibited by law from being vended.

Optional Operational Guidelines

(These would be additional guidelines that go beyond standard guidelines that the Council may want to consider)

1. Sidewalk vendors shall not sell or offer to sell services or engage in or offer to engage in any type of rental activity, including the rental of any goods or services.
2. Sidewalk vendors shall display only goods that are available for immediate on-site sale.
3. Sidewalk vendors shall not display any signs advertising any off-site business.

Alternative Enforcement Approach

As for enforcement of the ordinance, should the approach follow the administrative procedures set forth in the Hayward Municipal Code or alternative approach as outlined:

A. Persons found vending in violation of this Chapter are subject to following enforcement procedure:

1. For the first incident, a verbal warning will be given along with materials outlining the rules and regulations for sidewalk vending and the application process;

2. For the second incident, a written warning will be issued specifying the provision of this Chapter that has been violated as well as materials outlining the rules and regulations for sidewalk vending and the application process;

3. For the third incident, persons found in violation of this Chapter shall be subject to the Administrative Citation procedures found in Article 7, Administrative Citations, of the Hayward Municipal Code, subject to the fines below:

Proposed Alternative Enforcement Approach Maximum Fines for Vending Without a Sidewalk Vending Permit	Proposed Alternative Enforcement Approach Maximum Fines for Violation of Any Other Provisions of this Chapter
First Violation: \$250.00.	First Violation: \$100.00.
Second Violation within One Year of First Violation: \$500.00.	Second Violation within One Year of First Violation: \$200.00.
For Each Additional Violation within One Year of First Violation: \$1,000.00.	For Each Additional Violation within One Year of First Violation: \$500.00.

C. Failure to pay an administrative fine is not punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized will not be assessed.