

Attachment II – Current Code Related to Sidewalk Vending

Hayward Municipal Code	Code Subject	Relevant Department	Issue	Current Language
<a href="#">SEC. 10-1.2735 (M) FOOD VENDOR PERMIT</a>	Zoning Regulation	Planning	Possibly compromised by SB946 (location, time, and manner restrictions)	<p>Special standards and conditions as set forth below are applicable to uses enumerated in this Section and listed in the individual districts. Departure or variation from these standards is permitted only when it can be established by the applicant that the intent and purpose of the district or the necessary findings for permit approval, as specified in this ordinance, are not compromised. Where warranted by ordinance regulations or to implement official City policy, standards of development may be required that exceed those listed in this Section.</p> <p>m. Food Vendor Permit.</p> <p>(1) Permit Required.</p> <p>a. No vending of food or food products shall be permitted unless a food vendor's permit has first been obtained.</p> <p>b. A separate food vendor's permit shall be obtained for each approved location.</p> <p>(2) <b>Permitted Locations.</b> Food Vendors are permitted as specified in Zoning Districts, subject to the permit requirements and standards set forth below. Permits for vendors who are operating at the date of adoption of this regulation, may be renewed pursuant to the provisions of this section.</p> <p>(3) Definitions. This section shall apply to any mobile unit (as defined below) designed or used for the vending of food or food products from a fixed or stationary location. This Section shall not apply to Catering Truck operations as defined in subsection (b) of this section.</p> <p>a. Approved Location - A site approved by the Planning Director from which a vendor operating from a mobile unit may sell his or her products.</p> <p>b. Mobile Unit - Any trailer, cart, wagon, conveyance or structure not permanently fixed to a permanent foundation and which may be moved under its own power, pushed or pulled by hand, towed by a motor vehicle or carried upon or in a motor vehicle or trailer.</p> <p>c. Vending - The business of selling or causing to be sold for cash or consideration of any of the following items: food or food products whether hot, cold, freshly prepared, or packaged, such as hot dogs, sandwiches, and burritos, to be consumed for a meal or snack. This definition includes an offer for sale. All items sold shall be capable of being consumed on site without preparation or cooking other than done by the vendor.</p> <p>d. Vending Equipment - Tools, umbrellas, and chair for vendor only. No accessory equipment for dining at the site is permitted. Food or food products, etc., related to vending and approved by the Planning Director.</p> <p>e. Vendor - A person who is in the business of vending or his or her employee(s).</p> <p>(4) Application.</p> <p>a. An application for food vendor's permit to vend food products shall be submitted to the Planning Director on a form provided for such purpose, accompanied by payment of the fee set by Resolution of the City Council.</p> <p>b. The application shall include the signature of the owner of the property upon which the applicant proposes to locate his or her mobile unit indicating the property owner's permission to use the site for the purpose set forth in the application.</p> <p>c. In addition to the completed application, the following information shall be submitted on a form acceptable to the Planning Director:</p> <p>i. Proposed location of a mobile unit plotted on a map drawn to a scale of one-inch equals 20 feet or larger, which indicates the distance to adjacent landscaping, parking stalls, buildings driveways, signs, fences, utility poles, transformers, hydrants, etc., located within 50 feet of the location of the proposed mobile unit.</p> <p>ii. Plans for provisions to collect and store litter and dispose of it.</p> <p>iii. Scaled drawing or manufacturers information indicating the size of the mobile unit and vending equipment the applicant proposes to use.</p> <p>iv. Location where vendor intends to park personal motor vehicle, location of customer parking spaces, and location where vendor intends to store overnight mobile unit.</p> <p>v. Description of the nature of the business and the goods to be sold.</p> <p>vi. Any other information deemed necessary by the Planning Director to adequately review the application, for example, photograph or rendering of mobile unit.</p> <p>(5) Standards. All applications for food vendor's permit shall comply with the following standards:</p> <p>a. Approved locations for food vending <b>shall not be located within 300 yards of any school.</b></p> <p>b. All mobile units shall be set back from the public street right-of-way or a private street or driveway. A food vendor shall not locate a mobile unit or vending equipment or merchandise offered for sale in such way as to block or impede or any way hamper pedestrian or vehicular movement or to cause a hazard to any pedestrian or vehicle.</p> <p>c. Mobile units and vending equipment shall be self-supporting and shall not be attached temporarily or permanently to trees, hydrants, utility poles or transformers, or other vertical structures or benches.</p> <p>d. All mobile units with ventilating equipment <b>shall be located 10 feet away from all buildings unless otherwise approved by the Planning Director.</b></p>

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				<p>e. A food vendor shall not sell any food or food products between the hours of 7:00 p.m. and 7:00 a.m. unless otherwise authorized by the Planning Director.</p> <p>f. No food vendor shall use, play or employ any sound, outcry, amplifier, loudspeaker, radio or any other instrument or device for the production of sound where said sound exceeds the background noise levels for adjacent uses.</p> <p>g. A food vendor shall not store overnight any vending equipment or food products other than in a commissary approved by the Alameda County Department of Environmental Health Services.</p> <p>h. A food vendor shall not display any signs or similar devices unless approved by the Planning Director. Signs painted on a mobile unit shall be approved by the Planning Director, and any other sign or device(s), for example, flag, pennant, balloon, may be approved at the discretion of the Planning Director if he/she finds that such sign or device does not create a safety hazard or is not aesthetically detrimental or incompatible with surrounding uses.</p> <p>i. Any exterior lighting shall be approved by the Planning Director and shall not create a safety hazard and shall be shielded or deflected away from adjacent properties.</p> <p>j. A food vendor shall maintain his or her approved location in a clean and hazard-free condition. The vendor shall provide at least one 30-gallon garbage container with a swing top nearby the mobile unit for public use and shall pick up all litter generated from his or her operation within a radius of 100 feet of the approved location. A vendor shall empty the garbage container(s) daily, or more often if necessary; disposal of garbage or trash into public trash containers is prohibited.</p> <p>k. The food vendor at all times shall be in compliance with all regulations of the Health Officer of Alameda County regarding operation of this use and all other applicable rules and regulations.</p> <p>l. Location of a mobile unit and vending equipment shall not reduce the number of parking spaces below which are required for the permitted primary or conditional use.</p> <p>(6) Permit Issuance.</p> <p>a. A food vendor's permit shall be issued if the applicant satisfies the above standards and the Planning Director finds that said application complies with all pertinent regulations administered by these officials.</p> <p>b. A food vendor's permit is not transferable and shall be valid for one year from the date of issuance. The Planning Director shall renew said permit for additional periods of one year upon payment of 50 percent of the fee for a new permit if the Planning Director determines that the applicant is then in compliance with all conditions of his or her permit. Applications for renewal must be submitted 30 days prior to expiration of the current permit to qualify for renewal under the provisions of this Section.</p> <p>(7) Permit Revocation.</p> <p>a. A food vendor's permit shall be subject to revocation if the conditions of the permit or the regulations set forth or incorporated herein are violated.</p> <p>b. Before taking any action to revoke a permit, the Planning Director shall give notice to the permittee in writing of the proposed revocation, the reasons therefor, and the time and place the permittee will be given an opportunity to show cause to the Planning Director why the permit should not be revoked. The written notice may be served personally upon the permittee or mailed to the permittee at the address shown on the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing, the Planning Director may revoke the permit upon finding non-compliance with the conditions of the permit or the regulations herein.</p> <p>c. The Planning Director's decision revoking a permit may be appealed in writing to the Planning Commission stating the reasons why the Planning Director's decision was incorrect. The Planning Commission shall schedule a hearing within 30 days of said appeal, and its decision shall be final. Said appeals shall be filed in the Planning Division. (Amended by Ordinance 17-15 , adopted Nov. 28, 2017; amended by Ordinance 19-10 , adopted June 4, 2019)</p>

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<a href="#">SEC. 3-5.12 SIDEWALK OBSTRUCTION A PUBLIC NUISANCE</a>	Public Safety	PD	Possibly compromised by SB946 (may depend on sidewalk width)	SEC. 3-5.12 - SIDEWALK OBSTRUCTION A PUBLIC NUISANCE. Anything placed or permitted to remain upon any sidewalk or roadway, in violation of the provisions hereof, is hereby declared to be a public nuisance, and in addition to other remedies provided by law, the Chief of Police is hereby authorized and empowered to abate the same by removing the obstruction. (Renumbered by Ordinance No. 62-017 C.S., adopted February 13, 1962)
<a href="#">SEC. 8-1.00 (Business License Required)</a>	Business License Required	Finance; Code	Possibly compromised by SB946 (Information required to obtain license)	It shall be unlawful for any person, either for himself, or for any other person, to commence or carry on any trade, calling, profession or occupation, in this Article specified, in the City of Hayward, without first having procured a license from said City so to do or without complying with any and all regulations of such trade, calling, profession or occupation contained in this Code, and the carrying on of any trade, calling, profession or occupation mentioned in this Article without first having procured a license from said City to do so, or without complying with any and all regulations of such trade, calling, profession or occupation contained in this Code, shall constitute a separate violation of this Code for each and every day that such trade, calling, profession or occupation is so carried on.
<a href="#">SEC.6-2.01 HAND CART SALES PROHIBITED</a>	Business, Professions and Trade Regulations		Possibly compromised by SB946 (Regulation may be rendered obsolete).	It shall be unlawful for any person to hawk, peddle, vend or sell any article, merchandise, edible foods of any kind, or any other thing of value from a hand cart or other vehicle moved by human power along or upon the streets of the City of Hayward.
<a href="#">SEC. 8-1.02 - CRIMINAL PROSECUTION. BUSINESS LICENSE.</a>	Criminal Prosecution	PD	Possibly compromised by SB946 (criminal prosecution, ability to pay determination, and fines above the state-mandated maximum)	The conviction and punishment of any person for transacting any trade, calling, profession or occupation without a license shall not excuse or exempt such person from the <b>payment</b> of any license due or unpaid at the time of such conviction, and nothing herein shall prevent a <b>criminal prosecution</b> for any violation of the provisions of this Article.
<a href="#">SEC. 8-1.84 - PEDDLERS.</a>	Definition			For the purposes of this Section, a PEDDLER is defined to be a person not having a fixed place of business in the City, who travels from place to place, or has a stand upon any public street, alley or other public place, doorway of any room or building, or vacant lot or property, for the purpose of selling or offering to sell any goods, wares or merchandise in his possession.
<a href="#">SEC. 5-2.11 PERMIT REQUIRED</a>	Health & Sanitation	County Health		It shall be unlawful for any person to sell food, either cooked or uncooked, without first securing a permit as herein provided and paying a license fee as elsewhere provided in this Code.

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<a href="#"><u>SEC. 10-1.3510 - USES AND ACTIVITIES DEFINED.</u></a>	Definition			FOOD VENDOR. The vending of food or beverages from a movable cart-type stand or vehicle which is located on the same lot as a permitted use in a zone that allows for such operation, and subject to the standards and process set forth in HMC Section 10-2700, General Regulations.
<a href="#"><u>SEC. 3-5.13 USE OF SIDEWALK FOR OUTDOOR DINING, SALES, OR FOOD PREPERATION</u></a>	Public Safety	City Manager		<p>SEC. 3-5.13 - USE OF SIDEWALKS FOR OUTDOOR DINING, SALES, OR FOOD PREPARATION.</p> <p>The City Manager is hereby authorized to grant the temporary use of any sidewalk for the purpose of outdoor dining, sales, or food preparation at such locations and under such conditions he or she deems appropriate. At a minimum, the City Manager shall require that applicants be subject to substantially the following requirements:</p> <ol style="list-style-type: none"> <li>1.All portable tables, chairs, umbrellas, and trash receptacles are to be removed by 10:00 p.m. each evening and may not be replaced until 6:00 a.m.</li> <li>2.A minimum of four (4) feet of clearance in the sidewalk must be maintained at all times.</li> <li>3.Permittee shall not play music that is audible on the sidewalk, whether by permitting a live performance or by the use of a radio or a recording of any kind, without the prior written approval of the City Manager.</li> <li>4.At least one (1) portable trash receptacle shall be provided for use by permittee's customers at all times any table or chair is available for a customer's use.</li> <li>5.Permittee shall maintain the facilities in good repair and in a safe and sightly condition at permittee's expense and to the satisfaction of the City Manager.</li> <li>6.Permittee shall hold harmless, indemnify, and defend the City of Hayward and its officers, employees, and agents from any and all losses, claims, or judgments for damages to any person or property arising from the installation, maintenance, or presence of the facilities or out of the acts or omissions of permittee's lessees. Permittee shall obtain and maintain comprehensive general liability insurance covering any liability of permittee, permittee's lessees, the City of Hayward, and their officers, employees, and agents arising out of the use or occupation of the premises in an amount not less than one million dollars (\$1,000,000.00) or such higher amount as is determined by the City Manager in consultation with the City Attorney to be necessary to protect the City against foreseeable risks for bodily and personal injury liability and property damage arising from activities contemplated by this permit; permittee shall furnish the City with proof of such insurance coverage in a form and manner that is satisfactory in all respects to City Attorney.</li> <li>7.The permit shall be revocable on thirty (30) days' prior written notice to permittee from the City Manager, in which event permittee, at its own expense, shall remove all facilities described herein and shall restore the public right-of-way as nearly as practicable to its condition prior to installation.</li> <li>8.The permit shall be a grant of permission only and shall not obligate permittee to maintain such facilities at the location hereby approved. Permittee may at any time remove such facilities. Upon such removal, permittee shall restore the public right-of-way as nearly as practicable to its condition prior to installation.</li> <li>9.The revocable permit shall not be effective for any assignee of permittee until the City Manager has received notice of the assignment and satisfactory evidence of compliance with paragraph 6 above.</li> </ol> <p>(Added by Ordinance No. 94-04, Adopted February 8, 1994)</p>
<a href="#"><u>SEC. 4-10.04 - AGGRESSIVE SOLICITATION PROHIBITED.</u></a>				<p>No person shall solicit, ask, or beg in an aggressive manner in any public place. 'Aggressive manner' shall mean any of the following:</p> <ol style="list-style-type: none"> <li>(a) Approaching or speaking to a person, or following a person before, during, or after soliciting, asking, or begging, if that conduct is intended or is likely to cause a reasonable person to: <ol style="list-style-type: none"> <li>(1) Fear bodily harm to oneself or to another, damage to or loss of property, or</li> <li>(2) Otherwise be intimidated into giving money or other thing of value.</li> </ol> </li> <li>(b) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking, or begging;</li> <li>(c) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid contact;</li> <li>(d) Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking, or begging;</li> <li>(e) Persisting in closely following or approaching a person, after the person has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or</li> <li>(f) Using profane, offensive, or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.</li> </ol>

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<a href="#">SEC. 4-10.05 - ALL SOLICITATION PROHIBITED AT SPECIFIED LOCATIONS.</a>				<p>a)Banks and ATMs. No person shall solicit, ask, or beg within thirty (30) feet of any entrance or exit of any bank, savings and loan association, credit union, or check cashing business during its business hours or within thirty (30) feet of any automated teller machine during the time that it is available for customers' use; provided, however, that when an automated teller machine is located within an automated teller machine facility such distance shall be measured from the entrance or exit to the automated teller machine facility; further provided that no person shall solicit, ask, or beg within an automated teller machine facility where a reasonable person would or should know that he or she does not have the permission to do so from the owner or other person lawfully in possession of such facility. Nothing in this paragraph shall prohibit the lawful vending of goods and services within such areas.(1)Definitions. For purposes of this section:i.'Bank' means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operated under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.ii.'Savings and Loan Association' means any federal savings and loan association and any 'insured institution' as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.iii.'Credit Union' means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.iv.'Check cashing business' means any person duly licensed as a check seller, bill payer, or prorated pursuant to Division 3 of the California Financial Code, commencing with section 12000.v.'Automated teller machine' shall mean any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account.vi.'Automated teller machine facility' means the area comprised of one (1) or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.(2)Exemptions. The provisions of subsection (a) of this section shall not apply to any unenclosed automated teller machine located within any building, structure, or space whose primary purpose of function is unrelated to banking activities, including but not limited to supermarkets, airports, and school buildings, provided that such automated teller machine be available for use only during the regular hours of operation of the building, structure, or space in which such machine is located.(b)Motor Vehicles and Parking Lots.(1)Motor Vehicles. No person shall approach an operator or occupant of a motor vehicle for the purpose of soliciting, asking, or begging, while such vehicle is located in a public place.(2)Parking Lots. No person shall solicit, ask, or beg in any parking lot or parking structure any time after dark. 'After dark" means any time for one-half hour after sunset to one-half hour before sunrise.(3)Exemptions. Subsection (b) of this section shall not apply to any of the following:i.Solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;ii.Solicitations related to the lawful towing of a vehicle; oriii.Solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.</p>