

CITY OF YUBA CITY  
STAFF REPORT

**Date:** October 20, 2009  
**To:** Honorable Mayor & Members of the City Council  
**From:** Community Development Department  
**Presentation By:** Aaron M. Busch, Community Development Director

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**Summary**

**Subject:** Potential development standards for vending operations within the city limits.  
**Recommendation:** Provide staff with direction regarding the potential development standards for vending operations within city limits.  
**Fiscal Impact:** None

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**Background:**

Earlier this year, the City's guidelines for vending operations was the subject of much discussion in front of the City Council. As a result of those discussions, the Council directed staff to revisit the provisions of the City's existing ordinances related to vending with a group of interested stakeholders in an attempt to develop more comprehensive standards. Since that direction, staff continued to contact other jurisdictions to collect more information on this subject, as well as conducted three stakeholder's meetings with multiple interested parties. A summary of the practices used by some other jurisdictions is included as Attachment 1.

The three meetings were generally attended by the same individuals who had previously expressed an interest in this subject when it was originally before the Council. This consisted of six different business owners, comprised of an equal number of vending businesses and "brick and mortar" businesses. It should be noted however, that for purposes of involving as many interested stakeholders as possible, staff notified approximately 20 individuals (both business and property owners and property managers and realtors) about the planned stakeholders meetings. Additionally, staff encouraged those who had attended any of the stakeholder's meetings to invite any other interested parties who may wish to participate.

At the beginning of the first meeting, staff advised the group of the purpose of the meeting as well as some key criteria for the meetings. These are highlighted below:

**Purpose:**

- Identify all issues associated with vending operations within the city and receive input from affected stakeholders to present back to the Council for their review.

**Key Criteria:**

- The group is not gathered for purposes of resolving existing conditions and disputes; and,
- The group is gathered in an advisory role, versus a policy setting role – all final recommendations would come from City staff and the City Council would have the final

action on this matter.

- The group is not addressing any standards/regulations, permitting processes, or enforcement issues associated with those handled by Sutter County Health Department.

During the course of the meetings, the group was responsible for performing the following tasks for purposes of preparing more comprehensive standards:

- Reviewing the City's existing regulations regarding vending operations and identifying the weaknesses and challenges associated with them;
- Creating an issues list of all of the potential issues (from all perspectives) associated with vending operations within the city;
- Identifying the pros (benefits) and cons (objections) of vending operations; and,
- Identifying potential standards for vending operations within the City.

Provided below is a summary of the key discussion points on the above tasks from the group.

### **Current regulations**

- The current regulations are vague and unclear – they do not provide any definitions regarding the different types of vending operations, or the type of product that can be sold.
- Does not differentiate any standards between public and private property.

### **Issues**

- Very unclear process (both internally and externally) as to how the existing standards are applied to prospective vending operators/business owners.
- Once standards are applied, there is a need for more enforcement of those standards to eliminate non-conforming operators.
- Where will the new regulations/standards be located – Municipal code or other?

### **Benefits**

- Vendors provide an opportunity to serve an unmet need:
  - For customers at a remote location that do not have such food services;
  - For customers looking for something different; and,
  - More convenient and quick access for stop and go service.
- Vendors can enhance the street atmosphere and could further promote new economic development opportunities for existing brick and mortar businesses by drawing out a new demographic of potential customers;
- Vendors can help promote the feeling of safer streets by having more “eyes on the streets” as well as by generating more pedestrian activity that promotes health and safety.

### **Objections**

- Vending operations without restrictions can result in unknown and expanded competition which could result in an unfair competitive advantage for vendors compared to brick and mortar businesses.
  - No specified time limits for hours of operation.
  - No rent payments, or payment of impact or building fees.
  - Not as many employees and other overhead costs.
- Vending operations that operate at a fixed location are not required to make any improvements on private property which could raise public safety concerns.

## Analysis:

The purpose for this evaluation of the City's current regulations for vending has been to develop new comprehensive standards that ensure that vending operations within the City provide added value to the community. Much like the City's Sign Ordinance and Design Guidelines are intended to enhance the quality of the community as well as promote fairness among all businesses, so should the standards for vending operations. If no such standards are developed, then all the City is doing is allowing a commercial selling opportunity that does not provide any community investment.

As the stakeholder's group went through the exercise of finding potential common ground on this subject, the group was able to simplify some of the more challenging issues for purposes of creating new standards. These included the different types of vending operations that should be defined, and the allowable locations for vending operations. Through this process, the group was also able to reach some consensus about the time limits that should be enforced, as well as the types of improvements that should be required. (It should be noted that the group focused their discussions on food sales vending since the group was primarily comprised of food sales businesses and they did not want to deliberate on other types of products since those businesses were not fully represented.)

The three different vending types identified by the group included:

1. Mobile push cart operations: this type includes vendors pushing carts (e.g. pre-packaged ice cream) from location to location on their own power. Vendors will operate on both public and private property and typically do not stay at any given location for long periods of time or return to prior locations in the same day.
2. Mobile vending carts and lunch wagons: this type includes larger carts (e.g. fruit carts) that can be pushed by human power, or require some towing, and mobile self-contained food trucks that drive from location to location. Vendors operate on both public and private property and will relocate as needed to other locations.
3. Trailer pulled carts in fixed locations: although this type of vending can be mobile, typically these larger carts are set up in a fixed location for longer periods of time due to the time involved for set up and take down. Vendors can operate on both public and private property but generally require greater spaces needs due to the size of the cart. Additional standards and improvements may be needed to ensure proper public safety is provided (e.g. accessibility on sidewalks).

With these three vending types identified, the group was able to elaborate more on where these operations should be allowed and under what types of conditions. Currently the City's standards require that vendors move every 10 minutes, but the current standards do not specify how far the vendor must move to be in compliance.

For the first two mobile vending operations, the group agreed that these types of vendors should only be allowed for a short time frame at a single location before they are required to move a prescribed distance. The group agreed that 10 minutes was too short as it takes that long to set up and take down before a vendor is required to move again. Consensus was reached at 30 minutes. The group also agreed that these types of vendors should be required to move a specified distance (e.g. 400-1,000 feet) and should only be allowed to return to the same site no more than two times per day (to provide their product at businesses with more than one work shift). These vending operations could be located on both public (e.g. sidewalks) and private property, as long as they

complied with the time limits and movement requirements. Such standards would ensure that a mobile lunch wagon does not set up permanently at a prominent street corner on private property which does not add value to the community.

Discussions regarding the third type of vending operation were more complicated as this type of vending operation can result in potential conflicts between a vending business and brick and mortar businesses. The subject of competitive advantage is at the heart of this issue with this type of vending operation. While there was much debate on this specific issue relating to matters such as: hours of operation; payment of additional fees or rent; and, approval of other like businesses, the group did agree that mobile vendors at fixed locations should be where there is an unmet need. Unlike destination locations such as "Santana Row" in San Jose, CA and the San Antonio Riverwalk where this type of vending operation is used to create a unique pedestrian atmosphere, Yuba City will only benefit from this vending type where there is an unmet need. This goes back to the theme of vending operations adding value to the community.

An area with an unmet need is where there is a large demand, with limited supply. A good example of this for this type of vending operation is a large industrial area or an office complex with many workers that are not located in an area with food service providers. In these examples, food vendors can provide a service where others cannot, thereby benefitting the community. To avoid the issue of competitive advantage and its associated issues (e.g. hours of operation, fees, etc...), the group seemed relatively satisfied with using portions of the Temporary Agreement between the City and Fat Daddy's Frankfurters as a model for defining where this type of vending operation should be allowed. Identified below are the criteria that are being recommended:

- mobile vendors at fixed locations can locate on private property at medical complexes, office complexes, industrial centers, or large-box retail centers as long as they are located 400 feet away from a business selling like goods and products.
- If located within 400 feet of a business selling similar goods and products, then the vendor shall obtain written approval from said business.
- Vendor shall obtain written approval from the property owner of record to locate on subject property.
- Vending operation cannot interfere with or impede pedestrian or vehicular access or parking on the site.

It should be mentioned, that in the case of the Temporary Agreement identified above, the City also noted that a mobile vendor could locate at a fixed location on public property as long as certain criteria are met (e.g. adequate clearance on sidewalks). For purposes of this newest effort, staff does not support allowing fixed vending operations on public property due to the fact that typically public property is not located in an area with unmet need.

In addition to the above criteria, the group also concurred that if a vending operation is to locate at a fixed location, then that business must comply with the following:

- The site has proper vehicular access (e.g. curb cuts).
- The site is paved – no natural surfaces allowed.
- There is adequate space for customer parking and business vehicle parking.
- No tables and chairs are allowed.
- No more than one vending operation shall be located on an individual property.

The final item that staff would recommend for this type of vending operation is that prior to operating, the vendor must secure approval of a Zoning Clearance form from the City's Planning Division which

will ensure that the use complies with the above criteria. Additionally, the Zoning Clearance will be used to place a one year time limit on the vending operation. Requests for additional one year extensions can be made through the Zoning Clearance process as well.

Provided below is a brief summary of the highlights for each of the three vending types identified above. Please note, that under "Permit Required", this refers to a Planning Department Permit (e.g. "Zoning Clearance"). All of the vending types identified below are required to comply with all State and County Vehicle and Health Codes and Permits. Additionally, every vending operator will need to secure a City Business License in order to operate.

Vending Type	Allowed on Public Property	Allowed on Private Property	Permit Required	Movement Requirements	Time Limits Required
1 Push Cart	Yes	Yes	No	400-1,000 feet	Every 30 mins
2 Lunch Wagon	Yes	Yes	No	400-1,000 feet	Every 30 mins
3 Trailer Carts	No	Yes, With Limitations	Yes	No	No

Despite the fact that the group was comprised of business representatives from opposite sides, there was a general consensus reached on a majority of the pressing issues associated with this subject. Staff believes that the criteria identified above will help regulate the different types of vendors currently operating within the community, as well as help ensure that these use types do not conflict with other businesses.

**Fiscal Impact:**

None.


**Alternatives:**

Direct staff to seek other viable alternatives for allowing or prohibiting vending operations within the City.


**Recommendation:**

Provide staff with direction regarding the potential development standards for vending operations within city limits.

Prepared By:

  
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Submitted By:


  
 Steven R. Jepsen  
 City Manager

Reviewed By:

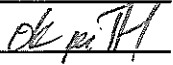
Finance

City Attorney

*Other: (Name, Title)*

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**Attachments**

1. Summary of other practices

## Vending Standards for Other Jurisdictions

### Attachment 1

	City of Selma	City of Lodi	City of San Rafael	City of Chico	City of Sacramento
<b>Restrictions for Fixed Private/Public locations</b>	Allowed at both. If located on curb, can only sell to people on sidewalk.	Private: site plan & approval required. Must incidental to a permitted use. Cannot be in a stand-alone parking lot. Public: requires CUP to operate in right-of-way. Restroom facilities for workers required.	Allowed on both. Private: Must go through the Administrative Permit process. Site plan & property owners' approval required. Public: required to obtain Peddler Permit. Must be on paved surface.	Allowed on both. Private: Must go through the Use Permit process. Site plan & property owners' approval required. Public: required to obtain Special Permit. Must be on paved surface.	Private: Must be incidental to a permitted use. Cannot be in a stand-alone parking lot. Public: sidewalk vending allowed in "Old Sacramento" outside one's own store. Must be on paved surface.
<b>Improvements required</b>					
<b>Time limits/restrictions</b>	none	May operate 23 hours per day in industrial area	none	None	Time-of-day limitations based on season.
<b>Accessories</b>	Prohibits tables, chairs, umbrellas.	No tables & chairs without CUP.	Trash control required	Prohibits tables, chairs, umbrellas. Trash control.	Signs, chairs, tables, etc. prohibited.
<b>Location requirements</b>	Cannot be located within 500 feet of a school, church, or hospital	Cannot be located within 300 feet of school or park, or 100 feet of intersection.	Can't be w/in 500' of a school.	Allowed on private property in industrial and commercial areas on a case by case basis.	Allowed on private property in industrial, commercial, and hospital areas with limitations.
<b>Restrictions for Mobile Moving requirements</b>	No stopping longer than 10 minutes or a total of 1 hour during 24-hour period. Must move more than 1,000 feet.	Required to move 400 feet every 10 minutes in residential areas; and 400 feet every 3 hours in commercial areas.	Can't be w/in 200' of another vehicle-based vendor. Can't stop for longer than 15 minutes (w/in 500' of a previous stop) w/in any two hours.	No movement or timing requirements.	Required to move at least 400' every 30 minutes.
<b>Location requirements</b>	Cannot be located within 500 feet of a school, church, or hospital	Cannot be located within 300 feet of school or park, or 100 feet of intersection.	Can't be w/in 500' of a school.	Cannot be located within 300 feet of school or 200 feet of city park or playground.	Need to be 400' from previous day's location, 400' from another food vendor, 100' from intersections. Cannot be located within 350 feet of school or park.
<b>Permits Required</b>	Permit required – good for one year.	Permit required – good for one year.	Permit required – good for one year.	Permit required – good for one year.	Permits expire annually, on April 30th.
<b>Insurance</b>	Liability insurance (\$25,000) required.	Required	Required	Liability insurance (\$500,000) required.	Liability insurance (\$1,000,000) required.