

**CITY OF COOS BAY  
Agenda Staff Report**

<b>MEETING DATE</b> January 15, 2013	<b>AGENDA ITEM NUMBER</b>
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TO: Mayor Shoji and City Councilors  
FROM: Jim Hossley, Director of Public Works and Development Department   
Laura Barron Planning Administrator *plb*

**ISSUE**      VENDING ON PUBLIC PROPERTY IN THE CITY LIMITS

The Planning Commission discussed vending on public property in the city limits at their meeting on December 11, 2012. The Commission was excited about the prospect of adding a new dimension to our community--new life and vitality to the commercial areas by allowing vendors on public property in the city. *In all, it was agreed upon that the market would determine the location and duration of vendors.*

On November 15, 2012 the Parks Commission discussed the issue of vendors in the parks and was concerned about additional attention that may be needed for the restrooms and trash removal.

(Vendors on private property are regulated by the zoning requirements for the property. The use would be reviewed for traffic circulation and off-street parking requirements.)

**ANALYSIS**

1. Locations: The following locations have been discussed for vending. Attached are maps showing the areas below and their surroundings.
  - a. Boardwalk
  - b. Pedway
  - c. Visitor Information Center
  - d. Hollering Place Wayside
  - e. City streets within the Downtown and Empire business district
  - f. City sidewalks within the Downtown and Empire business district

Planning Commission concerns:

- Vendors using motorized vehicles should only be permitted in designated areas for the following reasons:
  - a. There is concern about the weight of the vehicle and motor oil, such as on the Boardwalk and Pedway;
  - b. Vendors legally parked on the street may occupy parking spaces which could have negative impacts for the businesses in that immediate area.
- Resident waterfowl in Mingus Park could annoy or become aggressive towards people selling or purchasing food.

2. When: Should there be a time limit for vendors to occupy a particular space? Research has found that a time limit in a specific location may discourage vendors from doing business here. It is proposed that vendors remove their carts at night. However, "night" should be defined. Is this 10 p.m. or when the vendor is no longer operating/selling their goods? We

suggest that vending carts be removed when the vendor is no longer operating/selling their goods. Motorized vendors would need to comply with any designated parking times.

3. How: "Vending" may be included under Coos Bay Municipal Code Chapter 5, Business Licenses. Below is a proposed definition, "transient business," and conditions of approval that would accompany the issuance of a City Business License:

*Add new definition to 5.05.010:*

*"Transient business" means a "business" that operates from various locations in the city and has no fixed permanent location from which the business is conducted, and which shall not remain on public property at any one location in the city, for more than the time specified on any single day. The business is permanently affixed to wheels and must be removed each day.*

#### **POLICIES FOR VENDING**

*Authorization to conduct "transient business" on public rights of way (or other specifically designated areas such as the Boardwalk and Pedway, etc ) controlled by the City of Coos Bay does not extend to city parking lots, or other public properties, nor does it extend to public property under the control of other public agencies such as the Oregon Department of Transportation (US Highway 101) or the Coos Bay School District or other agencies.*

#### **General Conditions:**

1. *When operating adjacent to, or on a sidewalk, a minimum unobstructed pedestrian passage area of 36 inches must be maintained at all times; avoid creating safety hazards for pedestrians and vehicles.*
2. *All vending carts/vehicles must be self-contained. The discharge of gray water or grease on site is prohibited. No electrical cords, ropes or other devices that may constitute a trip and fall hazard shall extend across any sidewalk or pedestrian-way;*
3. *Occasionally, the city issues permits for festivals and parades. Such permits shall supersede the use of the right of way for a vending business within the area subject to the event permit and within 200 feet of the area subject to the event permit unless separate approval has been granted by the event operator.*
4. *Business shall not be conducted in any area of the City which is predominantly residential. However, vendors, such as ice cream trucks, may make sales in residential districts as long as they are not in one location for more than 15 minutes.*
5. *A vendor business shall not be within 10 feet of the entrance of a building where business is being conducted. A vendor business shall not be conducted within 50 feet of the following: any restaurant, if selling food; a flower shop, if selling flowers, etc.*
6. *All areas around the vending activity must be kept in a neat and orderly condition, free of debris and litter generated by business activities or patrons. The vendor must provide a litter receptacle for use by their patrons at the site where business is taking place and all trash must be removed upon departing the site. All vending carts must be removed when the vendor is no longer operating/selling their goods.*
7. *There shall be no sale or consumption of alcoholic beverages at any time on public property or right of way.*

8. *At all times during the conduct of business a motorized vendor vehicle must be legally parked; the motorized vendor vehicle shall not be parked on the sidewalk, the Boardwalk, or the Pedway, obstruct a pedestrian way or a driveway, or create any type of hazard. Sales from a motorized vendor must be from curbside.*

9. *In order to eliminate fire hazard, propane or combustible fuel of any type are not permitted on the Boardwalk.*

10. *One sandwich board type sign may be placed on the right of way adjacent to the vendor vehicle/cart, subject to the 36-inch clearance indicated above.*

11. *Failure to comply with any of the above listed conditions when operating on property or rights of way controlled by the city of Coos Bay will result in the revocation of your business license and a fine of up to \$500.*

4. **Enforcement:** Vendors will be required to obtain a Business License from the City and a license from the County Health Department. Enforcement would be complaint driven.

### **BUDGET**

The City Council will need to determine when and if it is advantageous to allow vending on city-owned locations such as the Boardwalk, Pedway, Old Fire Station site, Hollering Place Wayside, parks, parking lots, etc. Because a vending cart is a mobile type facility and not attached via a foundation to the land or a structure, the Coos County Assessor's office preliminary view is that their placement on city property on a temporary basis would not affect the Coos County property tax status of the land involved. During a conversation with the Coos County Assessor's Office, staff was advised that they would view the placement of vending carts on city owned property similar to those used for festivals in the downtown area.

The use of city-owned property for vending carts on a permanent basis would change the tax-exempt status of the public property. Such city-owned property used for profit would then become taxable for property taxes through the Coos County Assessor's office. The City and Urban Renewal Agency has leased property in the past and as a condition of the lease agreement, the Coos County property tax statements are sent to and paid by the leaseholder.

### **RECOMMENDATION**

City staff is looking for direction from the City Council on where vending should be allowed or specifically prohibited.

If the Council is so inclined direct staff to move forward with processing the proposed code amendment to allow vending in the city limits. Also, assist staff to define "night" as discussed under Analysis, 2, above.

### **ATTACHMENTS**

Maps showing downtown and the Empire business area  
Memo to the Planning Commission dated December 4, 2012.



**Legend**

- CURRENT EATERIES
- CITY FACILITIES
- CITY PARKING LOTS

**DOWNTOWN**



Agenda Item #9  
1 inch = 200 feet

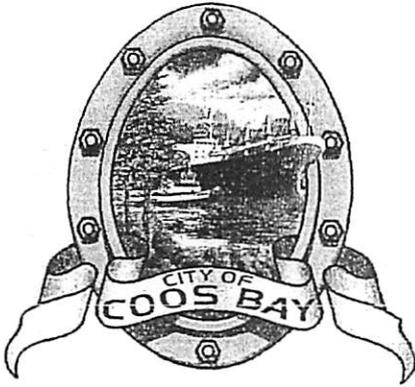
Image courtesy of USGS © 2012 Microsoft Corporation

# EMPIRE

Legend  
CURRENT EATERIES  
CITY FACILITIES

1 inch = 300 feet





# City of Coos Bay

## *Public Works & Development Dept.*

500 Central Ave., Coos Bay, Oregon 97420 • Phone (541) 269-8918  
Fax (541) 269-8916

December 4, 2012

### MEMORANDUM

TO: PLANNING COMMISSION  
FROM: Laura Barron, Planning Administrator  
RE: Vendors in the City of Coos Bay

Currently, we are reviewing options that would allow vendors to operate in the city of Coos Bay. Vendors would be required to have a Business License and those selling food are required to have a license through the County Health Department.

We are considering allowing vendors on the Boardwalk, Pedway, in the Downtown and Empire Business District rights of way (streets and sidewalks) and in the City parks. Vendors on private property may be allowed based on the zoning of the property.

Technically, this is not a land use issue, but we would like to have a brief discussion and your input at the Planning Commission meeting on December 11, 2012. We will need to amend the business license ordinance (Coos Bay Municipal Code Chapter 5) to include vending. We are proposing that vendor carts be self-contained and on wheels. We are considering a time limit on vendors which would regulate the time at one particular location.

Below is the proposed definition for a vendor and conditions that would accompany the approval of a business license.

#### **Add new definition to 5.05.010:**

"Transient business" means a "business" that operates from various locations in the city and has no fixed permanent location from which the business is conducted, and which shall not remain on public property at any one location in the city, for more than the time specified on any single day. The business is permanently affixed to wheels and must be removed each day.

#### **POLICIES FOR VENDING**

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**General Conditions:**

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4. Business shall not be conducted in any area of the City which is predominantly residential. However, vendors, such as ice cream trucks, may make sales in residential districts as long as they are not in one location for more than 15 minutes.
5. A vendor business shall not be within 10 feet of the entrance of a building where business is being conducted. A vendor business shall not be conducted within 50 feet of the following: any restaurant, if selling food; a flower shop, if selling flowers, etc.
6. All areas around the vending activity must be kept in a neat and orderly condition, free of debris and litter generated by business activities or patrons. The vendor must provide a litter receptacle for use by their patrons at the site where business is taking place and all trash must be removed upon departing the site.
7. There shall be no sale or consumption of alcoholic beverages at any time on public property or right of way.
8. At all times during the conduct of business a motorized vendor vehicle must be legally parked; the motorized vendor vehicle shall not be parked on the sidewalk, the Boardwalk, or the Pedway, obstruct a pedestrian way or a driveway, or create any type of hazard.
9. One sandwich board type sign may be placed on the right of way adjacent to the vendor vehicle/cart, subject to the 36-inch clearance indicated above.
10. Provide the City of Coos Bay with the following certificates of insurance:
  - a. Automobile liability (if a motorized vehicle).
  - b. Comprehensive General Liability with limits of not less than \$\_\_\_\_\_ and listing the City of Coos Bay as an additional insured.
11. Failure to comply with any of the above listed conditions when operating on property or rights of way controlled by the city of Coos Bay will result in the revocation of your business license and a fine of up to \$500.

**ISSUES FOR DISCUSSION**

1. Tax issues. The City Council will need to determine whether or not it is advantageous to allow vending for city-owned tax-exempt locations such as the Boardwalk and Pedway. Because a commercial venue would take place at these locations, the City could lose its tax exempt status for these locations.

2. Designated locations. At this time it is not proposed to designate a specific location to a specific vendor. Also, it is not proposed to identify boundaries for vendors, other than as stated in 4, above, Business shall not be conducted in any area of the City which is predominantly residential.

3. Time limits. The definition, "transient business," proposes a time limit for a vendor to be at any one location. This would give everyone a chance to use the best locations. For example, the City of Brookings places a two-hour time limit for a vendor to be in any one location.

4. Discussion with Alma Flores, Economic Development Manager, City of Beaverton. Ms. Flores will be speaking at a conference in Portland on the subject of vending. Based on our conversation and her experience, she encourages us to consider the following:

- a. Little or no time limits. Ms. Flores stressed that these vendors do not make much money and therefore need the hours to be vending whenever possible in order to survive and maybe someday become a bricks and mortar business. If we get a stretch of great summer evenings, it may be an opportunity to stay out later; or, when the tall ships come in, etc.
- b. Pods. She has found that vendors like to form pods/clusters, or groups. They can give each other some healthy competition/variety and more people are willing to check out a pod of vendors rather than one stand-alone vendor. The vendors will also find the best spots to locate in order to make sales—perhaps spark vitality to an area.
- c. Regulations. Too many regulations handicap the potential for vendors. They will go to where the business is.
- d. Storage. We want the vending carts removed at night. Alma suggests a place to store them would be great. The vendor may not physically be able to take the cart home each night. Security, vandalism, where/how are questions.

5. Vending on private property. Vendors on private property are regulated by the zoning requirements for the property. The use will be reviewed for traffic circulation and that off-street parking requirements are met.

6. Specific questions. Should vendors be allowed in the city parks? Unlimited hours? Additional requirements?

We are looking for input from the Planning Commission. This matter will go to the City Council for further consideration in January.

Thank you in advance for your input.

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