

ITEM #23

Staff Report

Vending Chapter 22 Revisions

November 13, 2012

This report provides potential suggested changes for how the City of Ames handles its public right of way vending permits.

Background

After several complaints this year about vending stands and a request by the Campustown Action Association (CAA) pertaining to sidewalk cafes regulations, City staff began reviewing Chapter 22, Division III of the City Code that pertains to vending on public rights of way. The current City Code does not provide staff ample guidance pertaining to vending stands, vendor persons, motor vehicles-ice cream trucks, sidewalk cafes and sidewalk sales on public rights of way. The CAA requested consideration of several changes to the sidewalk cafe section that are significant. The first is clarification about food service regulations and the second pertains to how sidewalk cafe areas are to be delineated. CAA would like language added to the Code that would allow for service of alcoholic beverages. (See attached letter from the Campustown Action Association dated May 16, 2012.)

Staff has contacted and solicited comments from CAA, Main Street Cultural District as well as Somerset Commercial Property Owners Association to determine if there were strong feelings or concerns about how to regulate sidewalk cafes and vending stands in particular. Given the purpose of the regulations, staff is proposing to separate the Code and provide administrative policies and separate applications for each of the six uses laid out in this section of the code: Vending Stands, Vendor Persons, Motorized vehicle-Ice Cream Trucks, Sidewalk Cafes, Newspaper Dispensers and Sidewalk Sales. Staff feels that the current regulations in Sec. 22, Division III for these very different vending functions do not work well for the City or the vendor.

In preparing to bring these policy questions to City Council, staff has developed maps for locations of vending stands and assessed potential areas for sidewalk cafes. As noted later in this report, there are significant space constraints in Campustown and Downtown for sidewalk cafes. Both business districts have been made of aware of these constraints.

Policy Issues for City Council Consideration

Staff recommendations are listed first for all consideration items.

Consideration No. 1

What areas of the community are most appropriate for vending on public property?

Currently vending on public property is allowed in *"various commercial and industrial zoning districts"*.

- The Codes does not allow for the use in a new zoning district --Village-Town Center. The Village-Town Center Zoning District typically contains 6 ft. of private property that is designated for outdoor uses. However, portions of the District do not have that much private property in front of businesses available for outside activities, so adding public right of way for vending in Sec. 22, Division III would be fitting. This will add to the pedestrian experience in this commercial area by providing more room for the operation of sidewalk cafes, as an example.
- Ice Cream trucks are allowed in the Medical zoning district and in residential zoning districts.
- There is no statement related to where vendor persons can operate in the current code.

OPTIONS

1. Allow for vending stands, vendor persons and sidewalk sales only in the Downtown Service Center, Campustown Service Center and Village-Town Center Zoning districts that are pedestrian oriented commercial centers, which are a good fit for this type of use on the public right of way. Leave ice cream trucks language as is.
2. Leave the current language: *"The license provided for in Section 22.13 may be issued in the various commercial and industrial zoning districts of the city, but, except for vendors of nothing more than ice-cream and similar frozen desserts, not in the Hospital-Medical zoning district nor in any other zoning district, as shown on the official zoning map of the city."*

Consideration No. 2

What are the appropriate types of items to be sold from stands, motor vehicles or vendor persons?

The vending section allows for sales of *"food, beverage, or other merchandise from a stand, motor vehicle or from the vendors person..."*. Staff wants to know if Council would like to see restrictions on the types of items that can be sold from **vending stands, motor vehicles and vendor persons**.

OPTIONS

1. Allow only food sales and non alcoholic beverage sales from a vending stand, motor vehicle, and vendor person unless it is for a special event as designated by the City Council, and then merchandise sales would continue to be allowed from a vending stand, motor vehicle or vendor person. No food or alcoholic beverages are allowed at sidewalk sales.
2. Continue to allow for sales of *"food, beverage, or other merchandise from a stand, motor vehicle or from the vendors person..."*.

Consideration No. 3

What is the best way to prevent expansion of the area allowed for each vendor beyond the limits agreed to? Will these vendors impede views of retail buildings and facades? How large should the vending operations be? Should scale of operation and quantity of operations be limited to maintain fairness in competition with retailers who invest in real estate and pay property taxes?

- The vending section defines a stand as *"any table, showcase, bench, rack, pushcart, wagon vehicle or device used for displaying, keeping and offering of articles for sale by a vendor"*. Recently, staff has had a number of challenges as it pertains to this definition. The size of a recent stand was a problem in the Downtown. This stand was designed for a person to be fully enclosed and to serve out of it, like a State Fair food vendor. This stand obstructed visibility of several businesses and crowded a sidewalk ramp as well as businesses entrance. In Campustown the issues are different, in that crowds of patrons block sidewalks and when stands are situated closely together the crowds begin to merge. In both areas, vendors have operations with multiple accessory items, such as large coolers, side tables and pallets of food that can take up significant space on the sidewalk and reduce the area for pedestrian movement.
- The current code does not limit motorized vehicles to only the sale of ice cream and similar frozen items in commercial and industrial areas.
- There is also no definition or clarification of what constitutes a sidewalk sale or how a vendor person is allowed to operate.

OPTIONS

1. Change "stand" to "vending cart" -- A non-motorized wheeled carrier with handles for pushing or pulling the carrier. A vending cart is not designed for human enclosure or occupancy, and is used for outdoor display and vending of **food and non alcoholic beverages, unless it is for a special event as designated by the City Council, then it may also include merchandise**. Vending carts may include light cooking and final preparation of food products. Any components associated with the vending cart operation must be either integrated into the cart, or able to be stored on the cart for mobility. Separate counters or appliances that cannot be folded and easily stored on the vending cart are not allowed. Vending carts must be removed and stored in a non-public location when not in use. Vending carts are intended to be used by walk-by patrons and may not include sit-down dining. Staff will provide a maximum foot print for vending carts as part of the new regulations and a set of defined locations that can be used

for vending cart operations to maintain the public right of way for use by pedestrians in a safe manner. (See maps for locations in Downtown and Campustown that have been reviewed and approved by both area associations, which include at a minimum four feet of circulation.)

Sidewalk sales --may only be permitted where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the sidewalk sale in a safe manner. Four feet must be maintained at all times next to and in front of the building for the purpose of displaying goods kept by the business for sale. It is prohibited to sell anything that might endanger or injure the person or the dress of anyone who might pass on the sidewalk. No storage of goods on the sidewalk will be permitted.

Vendor persons --may only be permitted where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operations of the vendor person. Four feet must be maintained at all times for pedestrians to utilize the sidewalk. It is prohibited to sell anything that might endanger or injure the person or dress of anyone that might pass on the sidewalk. No storage of goods on the sidewalk will be permitted.

Motorized vehicles --are only allowed for vending ice cream or similar frozen desserts in residential zoning districts and Hospital-Medical Zoning District and not allowed to set up on public sidewalks or rights of way to operate similar to a vending cart.

2. Leave the definition as stated in the current version of Chapter 22, Division III., but define the space allowed for utilization on public rights of way for vending stands, vendor person and sidewalk sales to include a minimum of four feet for circulation. Motorized vehicles are only allowed for vending ice cream or similar frozen desserts in residential and Hospital-Medical zoning districts and not allowed to set up on public sidewalks or rights of way.
3. Leave the definition as stated in the current version of Chapter 22, Division III.

Consideration No. 4

What is an equitable method of providing opportunities for commercial use of public rights of way (e.g., first come, first served; selection criteria; a lottery)?

One of the questions that came up in review of Chapter 22, Division III, was the guarantee of a space for vending on public right of way. Currently, stands must apply a minimum of 60 days prior to the expiration of the current license to guarantee their location, and requested are accepted year round for new licenses. Staff would like the City Council's input on limiting the number of vending cart spaces to ones that clearly meet all safety requirements for pedestrian circulation, including ADA and sight distance (see attached maps for Downtown and Campustown), for use of public right of way. Additionally, staff is working closely to assist the Police Department to avoid creating areas that are so congested that it creates ongoing policing issues, especially in Campustown.

OPTIONS

1. Request staff to develop a lottery system based on the spaces that have been defined in the attached maps and incorporate the language into the City Code and applications as deemed necessary. An annual application period would be set up and staff would be aware of any construction or other constraints that might eliminate a space from use in that year. It would also allow for staff to solicit feedback from adjacent properties and the various associations on how vending stands have functioned during the year and to make any adjustments necessary prior to the annual renewal.
2. Request staff to develop a selection system based on predetermined spaces that involves a committee with representation from each district that assist in assigning vendors to spaces based on a scoring criteria.
3. Request staff to determine spaces that meet all municipal requirements for safety and other necessary regulation for use of public rights of ways. Leave the current renewal process in place as a first come, first served and adjust only the vendors that are in locations that would not be permitted when their renewal comes up.
4. Leave the renewal process as stated in the current version of Chapter 22, Division III.

Consideration No. 5

What priority should a stand have compared to a sidewalk cafe?

The current code also is silent when it comes to competition for space between stands and sidewalk cafes. As staff began to research locations for vending carts and sidewalk cafes, it became clear that there are few areas in Downtown and Campustown that can accommodate either use without pedestrian conflict. Sidewalk cafes are required to be adjacent to the business and therefore face restraints based on location. There are very few spaces in either area that can accommodate more than a two seat bistro style table and chairs. That being said, staff would still like the City Council's guidance:

OPTIONS

1. If an owner of a business would like to have a sidewalk cafe and there is a conflict with an existing stand, then the owner of the business must apply for a sidewalk cafe permit and wait until the expiration of the annual permit for the stand, prior to construction of the sidewalk cafe.
2. If an owner of a business would like to have a sidewalk cafe and there is a conflict with an existing stand, then the owner of the business must apply for a sidewalk cafe permit and if approved by the City, then a 60 day notice will be provided to the stand of the termination of that location. If another location is available that stand will be given opportunity to transfer to that location. Any sidewalk cafe application will take priority over a stand.
3. Leave as currently stated in Sec. 22, Division III.

Consideration No. 6

Should vending be restricted to certain times of the day and certain parts of the year?

Staff would like Council's input on the hours of operation of all of these types of uses. Currently, there are no restrictions on hours or months of operation for vending stands, vendor person, sidewalk sales, ice cream trucks or sidewalk cafes. There have been concerns expressed by the Police Department as it relates to the closure of vending stands in particular. The Police Department would like to see the vending stands close no later than an hour after the bars close. Police personnel are necessary in Campustown and Downtown until the stands close due to the large number of patrons they attract at bar close. The months of operation for these vending functions are not currently restricted.

OPTIONS

1. Request staff to add language that restricts the hours of operation for:
 - Vending Stands --to no longer than one hour after the closure of bars and no restriction on months of operation.
 - Sidewalk Cafes --to when there is food service available and do not restrict months of operation. If the kitchen is not open then the sidewalk cafe needs to stop outdoor service.
 - Sidewalk Sales --to normal business hours with no restriction on months.
 - Ice Cream Truck sales --from 9 a.m. to 8 p.m. and provide no restriction on months.
 - Vendor Persons --from 9 a.m. to 9 p.m. and no restriction on months of operation.
2. Request staff to add language related to hours and months of operation as determined by the City Council.
3. Leave as currently stated in Sec. 22, Division III.

Consideration No. 7

Should there be restrictions on the types of electric devices that can be used for patron comfort at sidewalk cafes?

There are restrictions for sidewalk cafes that pertain to outdoor heaters, fans, air conditioners, amplified sound, and/or speakers. Currently these devices are prohibited at sidewalk cafes. Staff is aware that these devices are common to sidewalk cafes in other areas of the Midwest and would like the City Council to provide feedback on allowing the use of any or all of these devices for creating a more attractive space for patrons.

OPTIONS

1. Request staff to draft language that allows the use of any of these devices in a safe and responsible manner.
2. Request staff to draft language for only specific devices as stated by the City Council.
3. Leave as currently stated in Sec. 22, Division III.

Consideration No. 8

Should there be restrictions on the types of electric devices that can be used at or on vending stands or motor vehicles-ice cream trucks?

Similar to the above, there are no regulations on use of outdoor heaters, fans, refrigeration units, amplified sound or speaks as it pertains to vending stands, vendor persons, and or ice cream trucks. Staff has received complaints about amplified sounds from vending stands and would like the City Council to provide direction on how it would like to see these potential concerns addressed.

OPTIONS

1. Request staff to draft language that allows the use of any of these devices in a safe and responsible manner.
2. Request staff to draft language for only specific devices as stated by the City Council.
3. Leave as currently stated in Sec. 22, Division III and allow other areas of the Code to regulate as necessary.

Consideration No. 9

Should we allow table service for a sidewalk cafe?

The CAA also requested that language in the Code pertaining to table service be clarified for sidewalk cafes. It is their understanding that the current Code is being interpreted to prohibit outdoor table service. They do not believe that was the intention. Because the language is not clear, staff would like direction from the City Council. Table service is where the waiter brings plated food to the patrons table and buses food at the end of the meal. The current Code does not address potential issues with outdoor service stations.

OPTIONS

1. Request staff to draft language that allows for table service, but that does not include outdoor food preparation, service stations and storage of used table service items.
2. Request staff to draft language allowing for outdoor food preparation, busing, and service stations and the like.
3. Leave as currently stated in Sec. 22, Division III.

Consideration No. 10

Does the City have guidance as to proper delineation of a sidewalk cafe in lieu of barriers?

CAA has requested clarification on delineation requirements for sidewalk cafes. They have concerns about the space required to have barriers due to the width of the sidewalk throughout much of

Campustown, which is also true in Downtown. CAA is asking the City to provide some guidance on the proper delineation of sidewalk cafes to assist businesses who might be considering this type of service extension. Staff has researched a variety of options for creating the sense of separation or delineation for sidewalk cafes, such as planters, columns, ropes and chains.

OPTIONS

1. Request staff to draft language that allows delineation of sidewalk cafes in a safe and responsible manner in lieu of barriers.
2. Leave as currently stated in Sec. 22, Division III.

Consideration No. 11

How should special events and home deliveries be handled?

Staff would like to provide clear guidance in this section of the City Code to the following groups that are exceptions to the day to day vending language:

- Organized business districts' promotionals
- Farmers' Market
- Civic and service club activities
- Home deliveries of food and merchandise in residential zoning districts

OPTIONS

1. Request staff to remove home deliveries from this section of the Code. Regulations of home deliveries do not belong in a section on public right of way use, since the commercial transaction takes place on private property. Request staff to provide language in the Code to guide remaining exceptions regarding blanket permits for a special event.
2. Leave as currently stated in Sec. 22, Division III.

Consideration No. 12

Should alcohol be permitted at sidewalk cafes?

Part of the request from the CAA pertains to allowing alcoholic beverages at a sidewalk cafe. It would be very difficult for staff to regulate alcohol when the premises cannot be secured and liquor could be easily passed outside of the area. Staff would like to have the City Council give policy direction on the sale of alcohol from vending stands, from a vendor person, from motor vehicles and at sidewalk sales, since the current Code does not explicitly address it.

OPTIONS

1. Do not allow alcoholic beverages at a sidewalk cafe, vending stands, on vendor persons, from motor vehicles or at sidewalk sales.
2. Allow alcoholic beverages sales at sidewalk cafes and request staff to prepare language that ties sale of food to sale of alcohol, so that only a restaurant by definition in the Code can sell alcohol.

Do not permit the sale of alcoholic beverages at vending stands, on vendor persons, from motor vehicles or at sidewalk sales.

3. Leave as currently stated in Sec. 22, Division III.

Other items staff intends to add to vending requirements

In addition to the aforementioned items, staff is also looking at adding clarifying language for the following requirements:

1. Background checks for vending permits and policies for denial should the background check return information that would present safety issues for the public
2. Ability of City to require the vending business to close temporarily due to public emergency or need due to crowd control
3. Site distance and the ADA
4. Removal of trash and other waste related to operating a business on public rights of way
5. Access and use of public utilities
6. Insurance requirements by type of use
7. Provide a temporary or annual license for sidewalk sales and vendor persons.

STAFF COMMENTS

The first option under each of the policy issues reflected above is staff's recommended course of action. However, Council may wish to direct staff to incorporate different language into the Code revisions for Section 22, Division III pertaining to vending.

Staff will continue to work with the three commercial retail associations to share information and solicit feedback, prior to bringing back the ordinance revisions to the City Council.



campustown
action
association

May 16, 2012

Mayor and City Council

City of Ames

515 Clark Ave

Ames, IA 50010

Dear Honorable Mayor Campbell and City Council,

The Campustown Action Association represents the interests of its members, which are a diverse group of Campustown stakeholders and seeks to work with the City of Ames, and Iowa State University to increase the vitality and success of Campustown to the benefit of the entire Ames community.

Recently, our membership has expressed interest in discussing two opportunities to improve the success of sidewalk cafes. CAA appreciates that the City of Ames has included the operation of sidewalk cafes as an option for local businesses, and believes minimal changes to the current sidewalk café code could enhance the success of these cafes. In the Sidewalk Café Permit language CAA has discovered opportunities for improving the safety and success of sidewalk cafes.

Item 1: OUTDOOR BUSING

(Ord. No. 3537, Sec. 1, 9-28-99)

(k) Service Requirements. The outdoor preparation of food and busing, or service stations, are prohibited at sidewalk cafes.

It has come to our attention that the interpretation of the above code language has been such that table service is not allowed. We believe table service is a realistic expectation of sidewalk cafes, and that interpreting the above passage as not allowing table service and busing service is in error. We would ask that the language be amended to permit busing tables and allow general service activities while maintaining the code provisions prohibiting the preparation of food, service stations and busing stations on sidewalk areas.

Item 2-3: BARRIER REQUIREMENT AND AESTHETICS

(Ord. No. 3537, Sec. 1, 9-28-99)

(i) Delineating Sidewalk Cafe Area. The sidewalk cafe shall be delineated by barriers separating patrons from the pedestrian traffic on the sidewalk. The detailed requirements for each sidewalk cafe will be determined as warranted. The barriers will be within the 50 percent of the sidewalk designated for the sidewalk cafe, or to ensure a minimum of four (4) feet of sidewalk width clear of obstructions.



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In the Campustown area, this requirement of delineating an-area creates challenges with fitting services and patrons behind the delineation. The amount of space required to both accommodate seating, circulation of servers and the delineation barriers, greatly increases the size of the sidewalk café beyond the area necessary to provide the service. We would ask that the requirement of a delineation barrier be removed, while all other expectations of distances and spacing discussed in the code section to ensure safe passage in the public right of way remain.

In addition, CAA believes that some oversight regarding the aesthetic of these barriers, if required, will ensure a more aesthetically pleasing Campustown. We are support some design guidelines accompanying the nature of these barriers.

Item 4: Alcoholic Beverages

(Ord. No. 3537, Sec. 1, 9-27-97)

(c) Alcoholic Beverages and Smoking Prohibited. Service of alcoholic beverages, consumption of alcoholic beverages, and smoking are prohibited at a sidewalk cafe, and a permittee shall enforce prohibition of such conduct.

While CAA understands that appropriate control of alcoholic service must be ensured, we believe this regulatory control is possible in the sidewalk café format, just as it is inside licensed establishments. We would be very excited to work with the Ames Police Department and the Ames City Attorney to create this code language ensuring the City of Ames and its Police Department were comfortable with this change.

We also understand that such a use may require the barrier of they type mentioned previously to ensure such controls. We are comfortable with requiring barriers Sidewalk Cafés where alcohol would be served. We again would like to register concern that the addition of some design guidelines for these barriers would ensure an improved aesthetic for Campustown.

CAA would like to thank The City of Ames for its attention to these items, and looks forward to working with city staff and The Ames City Council and Mayor, to continually improve Campustown to the benefit of the entire community.

Sincerely,

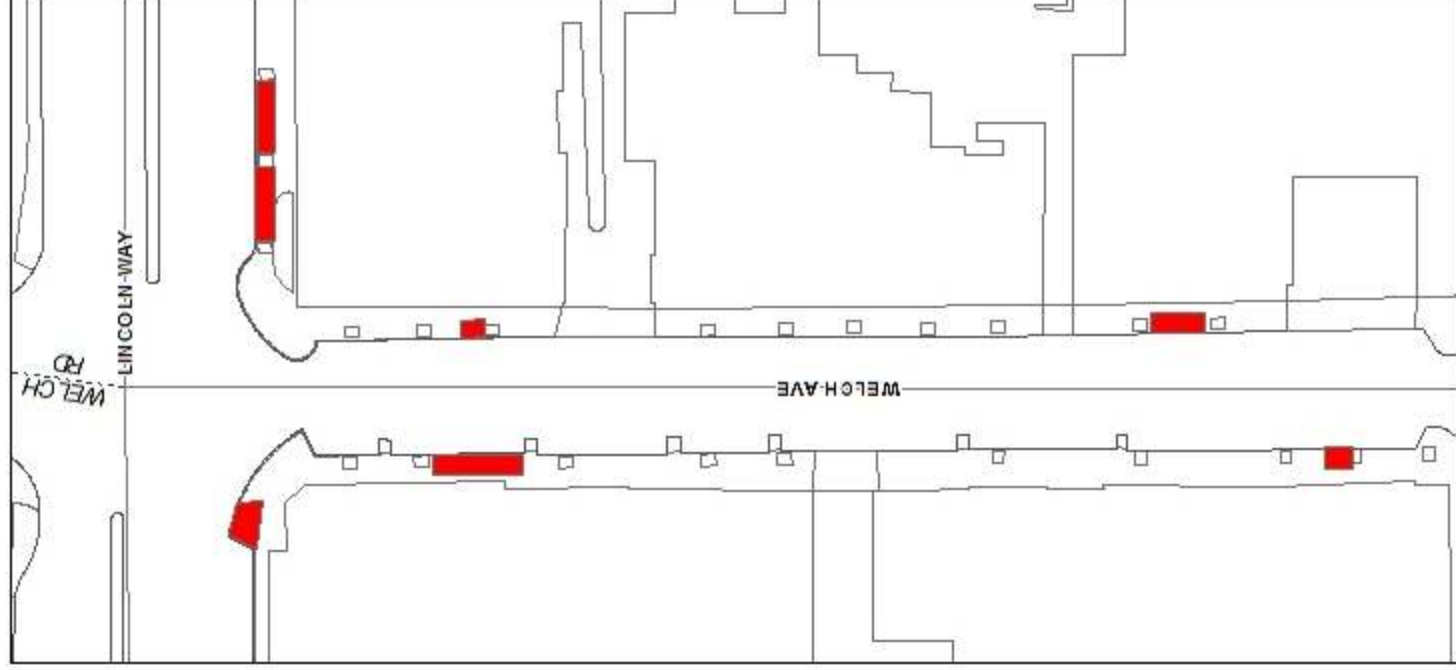
John A. Haila

President

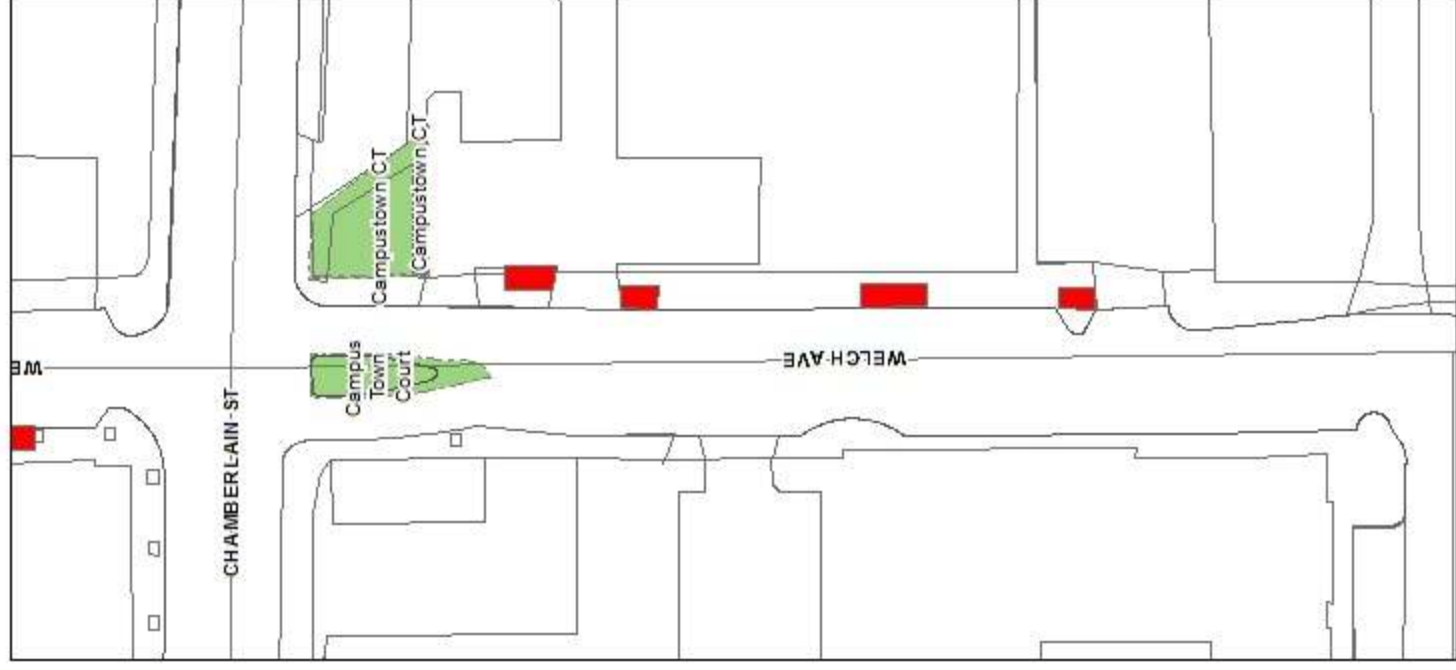
Campustown Action Association

Campustown Vending Sites

100 Block Welch Avenue



200 Block Welch Avenue



Downtown Vending Sites

300-400 Main Street



100-200 Main Street

