



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** June 14, 2021

FROM: Matthew Bronson City Manager

PREPARED BY: Bruce Buckingham, Community Development Director
John Peters, Police Chief
Greg Ray, Public Works Director/City Engineer
A. Rafael Castillo, AICP, Senior Planner

SUBJECT: Mobile Vendor Policy Direction

RECOMMENDATION

Receive information about mobile vendors currently or potentially operating within the city and provide policy direction to staff on policies and regulations regarding mobile vendors including a potential mobile vendor ordinance update.

BACKGROUND

Over the last year, the City has received several inquiries from mobile food vendors regarding the regulations for operating on private property and within the public right-of way. Grover Beach Municipal Code (GBMC) Article III Chapter 1.1 Section 3145 currently prohibits mobile vendors from operating on the City's public rights-of-way with the exception of ice cream vendors. For the Council's reference, this code section dates back to 2001 which was well before the current popularity of mobile food trucks as further described below. Based on this code limitation, there have not been any approvals for mobile vending in the public right-of-way.

In addition, the City's Development Code does not address mobile vendors operating on private property. As a result, the Community Development Department has issued Temporary Use Permits (TUPs) to allow mobile food vendors to operate at special events such as a grand opening for a business. A TUP was also issued last year to GBeatZ for the full-time operation of several mobile food vendors at 675 West Grand Avenue based on Council direction to assist local businesses and property owners during COVID-19 restrictions. GBeatZ has been popular and the onsite special event business that developed the concept has requested the continued use as a permanent activity.

Based on the increased interest in mobile food vendors as well as the City's outdated ordinance and an anticipated lifting of remaining COVID-19 restrictions this month, staff believes it is timely to update City ordinances to better address mobile vendors on both private property and within the public right-of-way. Staff is requesting the Council provide direction on a number of policies and regulations on mobile vendors such as food and other types of merchandise. Based on Council direction, staff would draft ordinance updates and return to the Council for review and consideration of adopting the ordinances.

Mobile Food Vendor Overview

Mobile food vendors, commonly referred to as food trucks, use a vehicle to sell or distribute food from a parked vehicle that typically is self-contained. A mobile food vending business usually either parks within the public right-of-way or on private property. A mobile vendor can either be flagged down by a customer and park for a few minutes to complete the transaction such as an ice cream vendor or park for several hours so customers can walk up to the vendor such as what occurs at GBeatZ.

Mobile food vendors have become increasingly popular and prevalent as part of the food and beverage industry over the past decade. Food trucks are popular with consumers due to the convenience and novelty of being located in different places at different times (often at festivals or special food truck events), the creativity and liveliness associated with food trucks, and the unique types of cuisine served. Food trucks can also be beneficial for local economic development as they can provide low-cost and low-barrier business opportunities for food entrepreneurs, bring diverse dining options to areas that may have few or no brick-and-mortar restaurants, and generate foot traffic and customers who may also support other nearby local businesses. While historically seen as competing with brick-and-mortar restaurants, food trucks are often seen now as complementary with such restaurants and neither the City nor the South County Chambers of Commerce (Chamber) has received complaints from restaurants since the start of GBeatZ in 2020.

In general, staff supports increasing opportunities for mobile food vendors on private property and at appropriate locations on public rights-of-way such as along West Grand Avenue as a way to further attract residents and visitors to the community. However, staff has identified several key policy and regulatory issues for both the operation of mobile vendors on private property and within the public right-of-way as discussed below.

Policy and Regulatory Requirements for Mobile Vending on Private Property

Current City ordinances do not specifically address mobile vending; however, Development Code Section 6.20.080 allows the Community Development Director to approve a Temporary Use Permit (TUP) for short-term activities lasting up to one year. Staff has previously issued TUPs for food trucks for special events such as grand opening of a business and issued a TUP for GBeatZ as part of the Council direction to assist businesses because of COVID-19 operating restrictions. Staff also recently issued a TUP for a food truck to operate from a private parking lot at 801 West Grand Avenue. Absent any specific development or regulatory standards in the Development Code, staff conditioned the TUP allowing the food truck to operate a maximum of two days a week. Locally, only San Luis Obispo has an ordinance that addresses mobile food vendors that requires a TUP for the operation and includes several operational or regulatory requirements. This ordinance is shown in Attachment 1 for reference.

Staff is seeking Council direction on formulating specific policy and regulatory requirements that would be incorporated into the Development Code and allow staff to issue TUPs for mobile vendors and better inform the mobile food industry of the parameters for operating within the city. Staff has identified a number of topics for the Council to consider in providing direction about a potential ordinance to regulate mobile vendors on private property as described below.

Types of Sales

The focus of this discussion is primarily on mobile food vendors though there is also a broader issue of whether other types of mobile vendors should be allowed to operate on private property. While mobile food vendors operate from a vehicle that is self-contained and does not need to display items, there are a wide variety of goods that can be displayed from a vehicle, on tables or

on the ground/parking lot. The Council could consider limiting the types of mobile vendors allowed as follows:

- Allow mobile food sales only.
- Allow mobile food sales and merchandise for self-contained vehicles only (i.e., no outdoor display of goods).
- Allow mobile food sales and merchandise with no limitations.

The reference to mobile merchandise is tied to the City recently receiving an inquiry about a mobile flower vendor operating within the city. While a requirement to limit merchandise sales to a self-contained vehicle would be restrictive for those with outdoor display of goods, this would still provide an opportunity for other mobile vendors rather than just mobile food vendors. Staff has concerns that the outdoor display of merchandise by mobile vendors could proliferate and detract from the City's efforts to beautify and improve the appearance of the community. Furthermore, State law changes regarding sidewalk vendors already creates an opportunity for merchandise sales on the sidewalk as discussed below.

Location to Operate

Mobile vendors are commercial businesses that may attract customers ranging from a few customers every hour to many customers in a short time period such as lunch or dinner time. The most appropriate locations to operate would be within commercial and industrial zones rather than in residential zones since mobile vendors would be parked in a stationary location typically during normal business operations. The Council could consider limiting mobile vendors only to commercial zones on West Grand Avenue as a tool to attract people to a specific area, but this would prevent opportunities in other commercial zones that could benefit from mobile food trucks. Staff believes it would be appropriate to allow such food trucks in all industrial zones as mobile food vendors can provide the service of providing food in areas that have limited eating options in close proximity, especially the City's main industrial area south of Farroll Road. The Council could also provide direction on allowing food trucks around parks such as Ramona Park outside of a special event permit for a private or public event.

Duration of Operations

Staff is also seeking direction on the appropriate duration in which a mobile vendor can operate from a private property. If the intent is for the use to be temporary, then the number of days in any one location could be limited to a few days per week. This would not necessarily preclude the mobile vendor from operating in another location on different days. The Council could also consider a hybrid approach that would allow mobile vendors on a temporary basis such as two days per week but also allow the permanent location of mobile vendors as discussed below.

Multiple Food Vendors on a Property

There is a possibility that multiple mobile food vendors may want to park on the same property. Staff would support this though it may be limited to larger properties than can accommodate multiple food trucks without eliminating all on-site parking. It could also be acceptable when done in a limited duration such as a monthly event where a business uses its entire parking lot for multiple food trucks to operate and could include locations on public property such as the Train Station or Ramona Park.

Operating on Vacant Lots

There are few vacant or undeveloped lots in the city's commercial zones but there are several vacant lots in the industrial zones. Staff believes it would be best if mobile food vendors operated on developed lots that have paved parking lots as opposed to dirt lots that can create dust issues. In addition, a mobile vendor on a developed lot with a business may be able to allow customer

access to a restroom or allow the mobile vendor to place trash and recycling in their onsite trash bins. Staff is seeking input on whether vacant lots would be appropriate for mobile vendors.

Other Permit Requirements

All mobile vendors would require a City Business Tax Certificate and mobile food vendors would require valid and relevant permits from the San Luis Obispo County Health Department and California Department of Taxes and Fees. All applicants would be required to have property owner authorization as part of the permit application and have a minimum of one employee at all times (i.e., cannot be unattended).

Permanent Location of Mobile Food Vendors

The recent case of GBeatZ is an example of the potential for a permanent operation of several mobile food vendors on a property. Staff is supportive of this proposed approach as requested by the organizer of GBeatZ (reference Attachment 2), but such a use requires a large vacant lot or underutilized lot with ample area to accommodate the existing use and the permanent food trucks. A permanent operation also affects the operating requirements as more amenities need to be provided such as tables, chairs, restrooms, and trash and recycling receptacles. The operator should provide on-site parking consistent with the minimum Code requirements for restaurant parking because it becomes the primary use and is not an ancillary use as in the case of a mobile food vendor parked a few hours on a property that has a primary use and on-site parking.

Required Land Use Permits

As part of Council direction on potential changes to mobile vendors on private property, staff is seeking direction on the most appropriate permitting procedure. A TUP is the most common permitting procedure in other cities because typically the use is temporary and for short-term duration. A TUP application is routed for review to affected City departments including Community Development, Police, Fire, and Public Works to ensure compliance with all City Codes and is approved by the Community Development Director. This typically takes five working days to receive input from all departments and issue the permit.

For permanent operations, staff is recommending approval of an Administrative Development Permit which is approved by the Community Development Department and does not require a public hearing. The ordinance would include the operating requirements for seating and restrooms. Similar to a TUP, an Administrative Development Permit is routed for review to affected City departments to ensure compliance with all City Codes and is approved by the Community Development Director typically within five working days.

Policy and Regulatory Issues for Mobile Vending Within the Public Right-of-Way

As previously mentioned, the City's current mobile vendor ordinance is outdated and prohibits all types of mobile vendors within the public right-of-way except for ice cream trucks. The Municipal Code also adopted by reference the 1960 Uniform Traffic Code that is outdated and prohibits vendors from operating on public streets. If the Council has interest in expanding the operation of mobile vendors in the right-of-way, staff is seeking Council direction on formulating specific policy and regulatory requirements that would be incorporated into the Municipal Code. Conversely, if the Council expands the use of mobile vendors on private property it might determine that there are adequate opportunities for mobile vendors to serve the community and not need to expand the use onto public streets. Similar to the use of mobile vendors on private property, staff has identified the following topics that the Council should consider in providing direction to draft an ordinance to expand the use of mobile vendors in the public right-of-way which are further described below.

Types of Sales

The Council should discuss what types of mobile vendors should be allowed to operate on public streets similar to the provisions of mobile vendors on private property. The Council could consider limiting the types of mobile vendors allowed as follows:

- Allow mobile food sales only.
- Allow mobile food sales and merchandise.
- Allow services such as mobile detailing.

Location to Operate

Mobile vendors can drive on city streets, but the Council can regulate where they can stop to make transactions. If the Council wants to expand the types of mobile vendors operating on public streets, it may want to consider what types of mobile vendors are appropriate in residential zones and what types may be most appropriate only in commercial and industrial zones such as mobile food vendors.

Further, the Council may want to consider limiting mobile food vendors only to commercial zones on West Grand Avenue as a tool to attract people to a specific area, but this would prevent opportunities in other commercial zones that could benefit from mobile food trucks. In regard to industrial zones, it would seem more appropriate to allow in all industrial zones as mobile food vendors can provide the service of providing food in areas that have limited eating options in close proximity especially the City's main industrial area south of Farroll Road.

Duration of Operations

Many cities that allow mobile vendors limit the time a vehicle can park on the public street. For example, if the mobile vendor is serving lunch, then only a few hours would be necessary. Staff would recommend that mobile vendors not be parked in the same location for more than two hours per day.

Proximity to Existing Restaurants

Some cities establish a minimum distance from existing restaurants to avoid conflicts of a mobile food vendor parking in front of an existing restaurant. The Council could consider a minimum distance from existing restaurants to avoid conflicts.

Safety Issues

The operation of mobile vendors on public streets has the potential to cause safety issues depending on the specific location and could include proper sight distance at intersections or safe pedestrian access if sidewalks do not exist or the area is not properly lit at night. Additionally, the lighting used by mobile vendors for advertisements and dining areas may need to be restricted as not to interfere with vehicle and pedestrian traffic.

Required Permits

As part of Council direction on potential changes to mobile vendors on public streets, staff is seeking direction on the most appropriate permitting procedure. Based on potential safety issues, staff would recommend a new permit type be created specifically for street vendors that would allow staff to review based on whether the vendor was operating from a stationary location (e.g., a food truck) or driving the streets and pulling over for a sale (e.g., an ice cream truck). In addition, staff would be able to evaluate any potential safety issues related to stationary vendors as part of the permit application review. Staff would also recommend rescinding the outdated 1960 Uniform Traffic Code and replacing with an updated version that better addresses the use of public streets.

Sidewalk Vending

In September 2018, the State adopted SB 946 that allows sidewalk vending of food and merchandise subject to several regulations (reference Attachment 3). This law in some areas preempts local ordinances and limits cities regulations related to sidewalk vendors. The State law does allow for reasonable time, place, and manner restrictions on sidewalk vending and the intent of the legislation is to create entrepreneurial and economic development opportunities. The State law allows cities to either enforce the State's law or adopt its own local ordinance that is consistent with State law. Staff is recommending that the City draft a local ordinance consistent with State law but would also include local requirements to ensure safe operations and parameters for hours of operation not covered by State law.

Conclusion

In conclusion, staff is requesting direction from the Council on the operation of mobile vendors on private property and within the public right-of-way, and a sidewalk vending ordinance. In providing this direction, staff is seeking input from the Council on the various policy and regulatory items outlined above and any other issues the Council identifies. Based on Council direction, staff would draft ordinance updates such as Municipal Code changes and a mobile vendor ordinance update and return to the Council this fall for review and consideration of related ordinance amendments.

FISCAL IMPACT

There is no fiscal impact from this agenda item.

ALTERNATIVES

The Council has the following alternatives to consider:

1. Provide policy direction to staff on policies and regulations regarding mobile vendors including a potential mobile vendor ordinance update; or
2. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

Attachments

1. San Luis Obispo Mobile Food Vendor Ordinance
2. Correspondence from GBeatZ
3. SB 946 Legislation

17.86.120 Food trucks (mobile food vendors).

A. *Purpose and Applicability.* The purpose of this section is to ensure that off-street food trucks, as defined in Chapter [17.156](#) (Land Use Definitions) and where permitted in Chapter [17.10](#) (Use Regulations), are compatible with surrounding and adjacent uses and do not create an adverse impact on adjacent properties by reason of noise, parking, and litter.

B. *Permit and Licenses Required.* In addition to obtaining a temporary use permit pursuant to Chapter [17.113](#) (Temporary Use Permits), operators of food trucks shall comply with the provisions of Chapter [5.16](#) (Solicitors and Peddlers) and the following:

1. *Health Permit Required.* The food truck operator must have a valid permit issued by the county department of health. All required county health permits must be in the possession of the food truck operator at all times during operations within the city.
2. *Business License Required.* The food truck operator must have a valid business license issued by the city. As part of its application for a business license, the food truck operator shall furnish to the city evidence of insurance, as deemed acceptable in the reasonable discretion of the city, against liability for death or injury to any person as a result of ownership, operation, or use of its vending vehicles.
3. *Duration and Hours of Operation.* No food truck shall operate for more than two consecutive days in the same location, and before six a.m. or after eleven p.m., including set up and clean up.
4. *Written Approval of Owner.* The written approval of the owner of the location shall be obtained. A copy of this approval shall be provided to the director prior to operating at the location. The food truck operator shall maintain proof of the owner's approval in the vehicle. The person operating the food truck shall present this proof upon the demand of a peace officer or city employee authorized to enforce these provisions.
5. *Consolidation.* At the discretion of the director, the following requests may be reviewed and permitted as a single, consolidated operation: requests to operate more than one food truck by the same applicant or food truck business owner, multiple requests for mobile food vending vehicle on a private property, or in conjunction with a temporary use permit for a larger event.

C. *Operational Requirements.* Food truck operators operating on private property shall comply with the following requirements:

1. *Parking Location.* The vehicle shall only be stopped, standing, or parked on surfaces paved with concrete, asphalt, or another all-weather material.
2. *Staffing.* A minimum of one person shall attend a food truck during the permitted hours of operations.
3. *Food.* Only the sale of food items for immediate consumption is permitted. Sale of food items in glass containers is prohibited.

4. *Vehicle Types.* No food may be sold from a vehicle used a dwelling or recreational vehicle. Only commercial vehicles with current registration with the state are allowed to operate food trucks.

5. *Litter Removal.* The food truck and surrounding property shall be maintained in a safe and clean manner at all times. The food truck operator must remove litter caused by its products from any public and private property within a twenty-five-foot radius of the vending vehicle's location.

6. *No Discharge of Liquid.* The food truck operator shall not discharge any liquid (e.g., water, grease, oil, etc.) onto or into city streets, storm drains, catch basins, or sewer facilities. All discharges shall be contained and properly disposed of by the food truck operator.

7. *Noise.* The food truck operator shall be subject to the noise provisions set forth in Chapter [9.12](#) (Noise Control). The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions. The operator shall prohibit loitering at the site and shall control noisy patrons on site and those leaving the premises. No amplified music or loudspeakers shall be permitted.

D. *Additional Conditions and Requirements.* This section permits the director or designee to exercise the discretion to review and request additional information, take authorized action, and impose additional conditions that are more restrictive than allowed in this section. (Ord. 1650 § 3 (Exh. B), 2018)

The San Luis Obispo Municipal Code is current through Ordinance 1692, and legislation passed through February 2, 2021.

Disclaimer: The City Clerk's Office has the official version of the San Luis Obispo Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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From the desk of



Epic Entertainment - Butlerz Event Rental - Central Coast Bride
675 W. Grand Ave.
Grover Beach, CA 93433

To whom it may concern,

We have been operating GBeatZ since November 2020 at our location at 675 W Grand Ave in Grover Beach.

Due to the overwhelming success and community support of this project, we would like to make our permit 'permanent' as we are currently operating under a temporary/emergency permit.

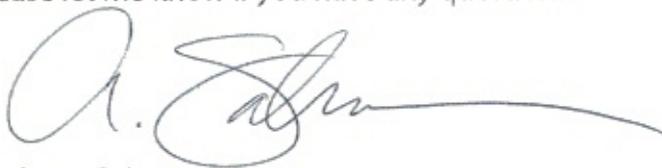
Our plan with a permanent permit is to build a deliniating fence around the area that the guests sit and eat. Currently we are using chain and stanchions. We are also planning to build rolling deliniators that can go between each of the trucks to reduce wind. We also plan to build a small stage that muisicians can play to the guests eating dinner. We want put some aesthetic additions such as potted trees and shrubs as well.

With the permanent permit in hand, we will also hire a manager to oversee the area, make sure it remains clean and book the musicians. Right now, our regular office staff (with the help of the food vendors) are making sure that the tables are getting cleaned and picking up trash, which means that it can sometimes go a few hours between cleanings.

We also plan to start a website to update guests on specials and to further expose locals to GBeatZ as currently we are only advertising on social media.

To date, GBeatZ has generated \$450,000 in revenue between the 5 trucks in the last 6 months. All of these vendors hold current Grover Beach BTCs.

Please let me know if you have any questions.



Anthony Salas

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Date Published: 09/17/2018 09:00 PM

Senate Bill No. 946

CHAPTER 459

An act to add Chapter 6.2 (commencing with Section 51036) to Part 1 of Division 1 of Title 5 of the Government Code, relating to sidewalk vendors.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 946, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending and the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority, as defined, from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill would provide that a local authority is not required to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the provisions of the bill. The bill would apply these provisions to a chartered or general law city, county, or city and county.

The bill would require a local authority that elects to adopt a sidewalk vending program to, among other things, not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns, and not restrict sidewalk vendors to operate only in a designated neighborhood or area, except as specified. The bill would authorize a local authority to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The bill would also authorize a local authority to prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, as specified, and to restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, as specified. A violation would be punishable only by an administrative fine, as specified, pursuant to an ability-to-pay determination, and proceeds would be deposited in the treasury of the local authority.

The bill would require the dismissal of any criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors that have not reached final judgment. The bill would also authorize a person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, as specified, to petition for dismissal of the sentence, fine, or conviction.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest

protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Sidewalk vending provides important entrepreneurship and economic development opportunities to low-income and immigrant communities.

(2) Sidewalk vending increases access to desired goods, such as culturally significant food and merchandise.

(3) Sidewalk vending contributes to a safe and dynamic public space.

(4) The safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending.

(5) The safety and welfare of the general public is promoted by prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations.

(6) This act applies to any city, county, or city and county, including a charter city. The criminalization of small business entrepreneurs, and the challenges that those entrepreneurs face as a result of a criminal record, are matters of statewide concern. Further, unnecessary barriers have been erected blocking aspiring entrepreneurs from accessing the formal economy, harming California's economy in the process, and disrupting the regulation of business, which is a matter of statewide concern. Moreover, California has an interest in the regulation of traffic, a matter of statewide concern, whether in ensuring the appropriate flow of traffic or in ensuring the safety of pedestrians on the road or the sidewalk.

(b) It is the intent of the Legislature to promote entrepreneurship and support immigrant and low-income communities.

SEC. 2. Chapter 6.2 (commencing with Section 51036) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.2. Sidewalk Vendors

51036. For purposes of this chapter, the following definitions apply:

(a) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

(b) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(c) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(d) "Local authority" means a chartered or general law city, county, or city and county.

51037. (a) A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039.

(b) Nothing in this chapter shall be construed to affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code to a sidewalk vendor who sells food.

(c) Nothing in this chapter shall be construed to require a local authority to adopt a new program to regulate sidewalk vendors if the local authority has established an existing program that substantially complies with the requirements in this chapter.

51038. (a) A local authority may adopt a program to regulate sidewalk vendors in compliance with this section.

(b) A local authority's sidewalk vending program shall comply with all of the following standards:

(1) A local authority shall not require a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.

(2) (A) A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.

(B) Notwithstanding subparagraph (A), a local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:

(i) Directly related to objective health, safety, or welfare concerns.

(ii) Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities.

(iii) Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

(3) A local authority shall not require a sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.

(4) (A) A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.

(B) Notwithstanding subparagraph (A), a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.

(5) A local authority shall not restrict the overall number of sidewalk vendors permitted to operate within the jurisdiction of the local authority, unless the restriction is directly related to objective health, safety, or welfare concerns.

(c) A local authority may, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:

(1) Limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street.

(2) Requirements to maintain sanitary conditions.

(3) Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.

(4) Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license, provided that the local authority issuing the permit or business license accepts a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the local authority otherwise requires a social security number for the issuance of a permit or business license, and that the number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or licensure program or comply with a state law or state or federal court order.

(5) Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit.

(6) Requiring additional licenses from other state or local agencies to the extent required by law.

(7) Requiring compliance with other generally applicable laws.

(8) Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:

(A) The name and current mailing address of the sidewalk vendor.

(B) A description of the merchandise offered for sale or exchange.

(C) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

(D) The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.

(E) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

(d) Notwithstanding subdivision (b), a local authority may do both of the following:

(1) Prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(2) Restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the local authority for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.

(e) For purposes of this section, perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

51039. (a) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038 is punishable only by the following:

(A) An administrative fine not exceeding one hundred dollars (\$100) for a first violation.

(B) An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.

(C) An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.

(2) A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

(3) (A) If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following in lieu of the administrative fines set forth in paragraph (1):

(i) An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.

(ii) An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.

(iii) An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.

(B) Upon proof of a valid permit issued by the local authority, the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph (1), respectively.

(b) The proceeds of an administrative fine assessed pursuant to subdivision (a) shall be deposited in the treasury of the local authority.

(c) Failure to pay an administrative fine pursuant to subdivision (a) shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in subdivision (a) shall not be assessed.

(d) (1) A violation of a local authority's sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law.

(2) Notwithstanding any other law, paragraph (1) shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

(e) A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

(f) (1) When assessing an administrative fine pursuant to subdivision (a), the adjudicator shall take into consideration the person's ability to pay the fine. The local authority shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2) If the person meets the criteria described in subdivision (a) or (b) of Section 68632, the local authority shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to subdivision (a).

(3) The local authority may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

(g) (1) A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under the act that added this section had that act been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

(2) Upon receiving a petition under paragraph (1), the court shall presume the petitioner satisfies the criteria in paragraph (1) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in paragraph (1), the court shall grant the petition to dismiss the sentence or fine, if applicable, and dismiss and seal the conviction, because the sentence, fine, and conviction are legally invalid.

(3) Unless requested by the petitioner, no hearing is necessary to grant or deny a petition filed under paragraph (1).

(4) If the court that originally sentenced or imposed a fine on the petitioner is not available, the presiding judge shall designate another judge to rule on the petition.

(5) Nothing in this subdivision is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner.

(6) Nothing in this subdivision or related provisions is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this chapter.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 51038 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The Legislature finds and declares that in order to protect the privacy of a sidewalk vendor with regard to his or her California driver's license or identification number, individual taxpayer identification number, or municipal identification number, when that number is collected in lieu of a social security number for purposes of the

issuance of a permit or business license, it is necessary that the sidewalk vendor's number be confidential, except as provided in this act.