



**CITY OF CORNING  
PLANNING COMMISSION MEETING AGENDA**

**TUESDAY, MARCH 15, 2022  
CITY COUNCIL CHAMBERS  
794 THIRD STREET  
CORNING, CA 96021**

**A. CALL TO ORDER: 6:30 p.m.**

**B. ROLL CALL:**

**Commissioners: Barron  
Poisson  
Mesker  
Pendergraft  
Chairman: Robertson**

**C. BUSINESS FROM THE FLOOR: If there is anyone in the audience wishing to speak on items not already set on the Agenda, please come to the podium, and briefly identify the matter you wish to have placed on the Agenda. The Commission will then determine if such matter will be placed on the Agenda for this meeting, scheduled for a subsequent meeting, or recommend other appropriate action. If the matter is placed on tonight's Agenda, you will have the opportunity later in the meeting to return to the podium to discuss the issue. The law prohibits the Commission from taking formal action on the issue, however unless it is placed on the Agenda for a later meeting so that interested members of the public will have a chance to appear and speak on the subject.**

**D. MINUTES:**

**1. Waive the reading and approve the Minutes of the February 15, 2021 Planning Commission Meeting with any necessary corrections.**

**E. PUBLIC HEARINGS AND MEETINGS:**

**2. Public Hearing: Use Permit application 2022-301; to establish a residence in an industrial building where the Owner's business is being located. APN: 073-163-008; Address: 1577 Second Street.**

**F. REGULAR AGENDA:**

**3. Report Staff Findings relating to Mobile Vending.**

**G. PUBLIC COMMENTS AND BUSINESS FROM THE FLOOR:**

**H. ADJOURNMENT!:**

**POSTED: FRIDAY, MARCH 11, 2025**



**CITY OF CORNING  
PLANNING COMMISSION MEETING AGENDA  
TUESDAY, FEBRUARY 15, 2022  
CITY COUNCIL CHAMBERS  
794 THIRD STREET  
CORNING, CA 96021**

**A. CALL TO ORDER: 6:31 p.m.**

**B. ROLL CALL:**

**Commissioners: Barron  
Poisson  
Mesker  
Pendergraft  
Chairman: Robertson**

All members were present except Commissioner Robertson and Commissioner Pendergraft who has resigned from the Commission effective February 14, 2022.

**C. BUSINESS FROM THE FLOOR: None.**

**D. MINUTES:**

- 1. Waive the reading and approve the Minutes of the November 16, 2021 Planning Commission Meeting with any necessary corrections.**

Commissioner Mesker moved to approve the Minutes as written; Commissioner Poisson seconded the motion. **Ayes: Barron, Poisson, and Mesker. Absent: Robertson. Abstain: None. Motion was approved by a 3-0 vote with Robertson absent and one vacancy on the Commission.**

**E. PUBLIC HEARINGS AND MEETINGS:**

- 2. Public Hearing: Two Year Extension Request; Tentative Tract Map 08-1000, Corning Crossroads located on the west side of I-5 approximately 200 feet southeast of the Corning Road/Barham Avenue Intersection. APN's: 69-210-43 & 49 and 69-220-01 & 08.**

The Public Hearing was opened at 6:35 p.m. Planner I Christina Meeds presented this item briefing the Commission on the history of Tentative Track Map 08-1000. With no further discussion, the Public Hearing was closed at 6:37 p.m.

Commissioner Mesker moved to recommend that the City Council approve a two-year time extension for Tentative Tract Map 18-1000 subject to the original 68 Conditions adopted by the City Council on March 13, 2018. Commissioner Poisson seconded the motion. **Ayes: Barron, Poisson, and Mesker. Absent: Robertson. Abstain: None. Motion was approved by a 3-0 vote with Robertson absent and one vacancy on the Commission.**

- 3. Public Hearing: Ordinance No. 699, an Ordinance adding Chapter 15.5 "Electric Vehicle Charging Stations" to provide expedited permitting process consistent with State Law.**

The Public Hearing was opened at 6:40 p.m. and Planner 1 Christina Meeds presented this item stating that this is being proposed to bring the City into compliance with State Law. She stated that this also applies to home charging stations. The Public Hearing was closed at 6:47 p.m.

Commissioner Poisson moved to recommend that the City Council approve and adopt Ordinance 697 and associated Checklist and authorize City Staff to make the associated changes required by State Law from time to time. Commissioner Mesker seconded the motion. **Ayes: Barron, Poisson, and Mesker. Absent: Robertson. Abstain: None. Motion was approved by a 3-0 vote with Robertson absent and one vacancy on the Commission.**

**F. REGULAR AGENDA:**

**4. Discussion of City's Mobile Street Vending Ordinance and provide direction to Staff.**

Presented by Planner 1 Christina Meeds who stated that this was initiated in response to a Vendor that was located in an area not approved for this use and without the required documents, i.e., business license, etc. The Vendor was contacted and met with herself and City Manager Kristina Miller. This situation was also discussed on Facebook. She stated that Commissioner Mesker asked that this be brought before the Commission for discussion. Ms. Meeds stated that no action can be taken tonight other than giving direction to Staff.

Commissioner Mesker stated some of his concerns such as the requirement for the Vendor to have access to a restroom. His concerns are:

1. The Vendor that has popped up on the corner of Second & Fig St. across from Bell Carter. (Taco's & Pupusa's)
2. Vendors by Code must remove all tables, trailer, etc. and leave the area clean at the end of each day.
3. Bubba Q's with a permanent structure;
4. Bartel's trailer and barricades that are not removed; and
5. Donovan & Hwy. 99W Food Truck by the former Green Doors.
6. Johnny Boy's at the Liquor Cabinet across from the Olive Pit which leaves tables, chairs, and carport (held down by cement buckets) left at the end of the day.

Commissioner Poisson asked if it is Commissioner Mesker's wish to enforce the existing Code, or to revise the Code. Commissioner Mesker stated he feels commercial businesses should comply; however, those Vendors removing their items and storing it in front of their residence, (i.e., trailers/mobile vehicles) should be allowed to park/store at their residence. Commissioner Poisson stated her concerns that we must be consistent across the board otherwise it would be difficult to enforce. Following discussion, Commissioner Mesker stated basically that he would like to see the Code enforced.

During discussion the following was suggested:

- Placing a cap on the number allowed;
- Consideration of adding more conditions;
- Review Ordinances from other jurisdictions of similar size relating to this subject to see what is working for them.
- Possibly require proof of satisfactory environmental health inspection when renewing Business Licenses.

The Commission directed the Planning Department to research what other jurisdictions are doing and bring recommendations back to the Commission for discussion.

**G. PUBLIC COMMENTS AND BUSINESS FROM THE FLOOR: None.**

**H. ADJOURNMENT!: 7:20 p.m.**

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**Lisa M. Linnet, City Clerk**

**ITEM NO: E-2  
USE PERMIT APPLICATION 2022-301;  
TO ESTABLISH A RESIDENCE IN AN  
INDUSTRIAL BUILDING WHERE THE  
OWNER'S BUSINESS IS BEING  
LOCATED. APN: 073-163-008;  
ADDRESS: 1577 SECOND STREET  
March 15, 2022**

**TO: COMMISSIONERS OF THE CITY OF CORNING**  
**FROM: CHRISSE MEEDS, PLANNER II *cm***  
**KRISTINA MILLER, CITY MANAGER**

**PROJECT DESCRIPTION:**

Henry Telliz who owns and operates Telliz Towing and Pupusas El Pulgarcito Food Trailer, has applied to establish a residence in the building located on the lot where the businesses are being established. The Towing business provides vehicle towing, and the Pupusas El Pulgarcito Food Trailer provides mobile food vending. The building is located along the north side of Fig Lane at the northeast corner of the Fig Lane / 2nd St. intersection. APN: 73-163-08 Address: 1577 Second St.

**GENERAL PLAN LAND USE DESIGNATION:**

I – Industrial

**ZONING:**

M-1 – Light Industrial District. The M-1 District allows commercial retail uses as allowed in C-1, C-2, and C-3 upon the securing of a Conditional Use Permit. The C-1, C-2, and C-3 Zoning Districts, as well as the M-1 District allow a wide variety of commercial and light industrial uses, but none specifically designate a towing business as a permitted use outright. The C-3 District does permit the Planning Commission to permit uses that are of similar character to a list of permitted uses, one of which is “*Commercial repair garages, and incidental service uses*”. The City has historically interpreted the Code to allow for the towing use in an M-1 Zone. The City’s Municipal Code allows for tow yards in the M-2 General Industrial District.

The property is surrounded by Industrial uses. To the North is a vehicle repair business, to the West and South is the Bell Carter Olive Packing Facility, and to the East is a parking lot that serves the Bell Carter employees. Industrial zones are generally not meant for living quarters as a residential property is a sensitive receptor.

The M-1 District, Permitted Uses, Section 17.26.020 (A) states “*Upon securing a Conditional Use Permit, an on-site residence not to exceed one-third the square footage of an active business establishment and occupied by the owner/proprietor or their agent, such residence are to be a secondary use to an active commercial enterprise, either upstairs or in the rear, with storefront remaining commercial. No residential garages shall be permitted.*”

In the above paragraph it does state, such residence is to be a secondary use to an ACTIVE commercial enterprise. The businesses are active, however, they are also operating illegally as they are not in compliance with the City’s Code. and The

applicants are currently living in the building without the required Conditional Use Permit.

**DISCUSSION:**

The applicants originally came in asking about having the two businesses at this particular location in 2021 and were told several times they would need to apply for a Use Permit. In December of 2021 staff received a complaint of a shed being built at the location with no permit. Upon inspection, it was discovered that both businesses were in operation and an unpermitted residence established within the building. Staff pushed forward with a code enforcement file. After no response, staff prepared a second letter with a citation. The applicant showed up at the office willing to apply for the Use Permit at that time. A meeting was scheduled to explain the residence can not be larger than 1/3 of the business and an inspection time was set for the following week. Staff arrived for the inspection and found nothing had been done. After another conversation and a second inspection set for Monday, March 7, 2022 it appears that the reduction of living quarters has been completed, but it is still about 200 square feet shy of what the code requires. See attached photos Exhibit B. They are using the building space for office and storage.

The square footage that the two businesses take up is currently 3000 square feet. Due to the building size in comparison to the business usage, the applicants have been told they must figure out a way for the residence to not be more than 1/3 of the business.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

Section 21084 of the Public Resources Code requires a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. The Secretary of Resources has classified projects that do not have a significant effect on the environment and are declared to be categorically exempt from the requirement for the preparation of environmental documents.

CEQA, Section 15301, Existing Facilities, Class 1 provides exemptions for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

This project will allow the owners of the building to establish a residence in an existing building where they established a towing business and a pupusas food trailer. The residence will be occupied by the owners and their two children only. Permitting a residence within this building for the owners to enable the establishment of businesses is a negligible expansion of the existing use and therefore exempt from CEQA pursuant to Section 15301, Class 1.

**Should the Planning Commission desire to allow the residence the Planning Commission should adopt the following, or similar, Factual Subfindings and Legal Findings for Use Permit 2022-301. Please note, there are building code violations that will need to be addressed if Use Permit 2022-301 is granted.**

**Legal Finding #1:**

The granting of Use Permit 2022-301, permitting the owners of the property located at 1577 Second St. to establish a residence for themselves and two children is a negligible expansion of the existing use of this building and therefore exempt from CEQA pursuant to Section 15301, Class 1.

**Factual Subfinding #1:**

This project will allow the owners of the building to establish a residence in an existing building where they are establishing a towing business and a pupusas food trailer. The residence will be occupied by the owners and their two children only.

**Legal Finding #2:**

The establishment of an on-site residence for the owner and proprietor of a business established in the building is a permitted use in the M-1 Zoning District upon the granting of a Use Permit pursuant to Section 17.26.020 (A) of the Corning Municipal Code.

**Factual Subfinding #2:**

The parcel and building where the proposed residence will be established is zoned M-1 Light Industrial District.

**Legal Finding #3:**

The existing building is adequate in size, shape, and topography to allow the establishment of a residence for the proposed businesses

**Factual Subfinding #3:**

The applicants propose to establish a residence in the building where they are establishing a Towing Service and a Pupusa Food Trailer.

**Legal Finding #4:**

Fig Lane and 2nd Street are existing public roads adequate in width and pavement to carry the very minimal traffic generated by the establishment of a residence within the existing building.

**Factual Subfinding #4:**

The existing building proposed for the establishment of a residence is located along the north side of Fig Lane, at the northeast corner of the Fig Lane and 2nd<sup>th</sup> St. intersection.

**Legal Finding #5:**

Establishing a residence of an existing building for the owners and operators of the proposed businesses will not have an adverse effect upon the use, enjoyment, or valuation of adjacent or neighboring properties or upon the public welfare.

**Factual Subfinding #5:**

The existing building where the residence will be established is located in an area that is developed with industrial businesses in Corning.

**ACTION:**

**Move to adopt the five (5) Factual Subfindings and Legal Findings as presented in the staff report and approve Use Permit 2022-301 permitting the establishment of a residence in the building located at 1755 Second Street subject to theseventeen (17) Conditions of Approval as recommended by staff.**

or;

**Move to adopt findings and deny the issuance of Use Permit 2022-301. If denied staff will turn the matter over to the City Manager and City Attorney.**

## RECOMMENDED CONDITIONS OF APPROVAL

**CONDITION #1 – BUILDING AND FIRE CODE COMPLIANCE:** Owner must obtain a Building Permit and comply with all applicable requirements of the Uniform Building and Fire Codes as adopted by the City of Corning.

**CONDITION #2 – LIMITED RESIDENTIAL USE WITH EXISTING COMMERCIAL USE:** The number of occupants living in the residence is four (4) people. At all times, at least one person living in the residence (as their primary residence) must be the owner of the commercial business occupied and operating on the property. A business closed for two or more weeks in any given month is deemed non-operational for purposes of this Use Permit.

**CONDITION #3- USE PERMIT ISSUANCE:** Use Permit 2022-301 is conditional on the existence of the commercial businesses in operation on the property with the common ownership existing as required in Condition No. 2 above.

**CONDITION #4 - ANNUAL INSPECTIONS:** The Planning & Building Officials and/or the Fire Chief for the City of Corning has the discretion to set up annual inspections to assure that the residence is in compliance with applicable building and fire codes and conditions of the Use Permit.

**CONDITION #5- LIMITED SIZE OF RESIDENCE/STORAGE:** The residential unit cannot be any larger than one-third the size of the established businesses on the property. Commercial storage of products used or sold in the commercial business, except flammable liquids, are permitted to be stored on the property.

**CONDITION #6 – PARKING RESTRICTIONS:** No Boats, Recreational Vehicles, Trailers, or Motorhomes are allowed to be parked on the property, adjacent properties, or public right-of-ways in the vicinity of the building.

**CONDITION #7 – COMPLIANCE WITH ALL STATE AND LOCAL LAWS:** The use, occupancy, and habitation of the residence shall occur in compliance with all State and local laws. A violation of any such laws, proven through administrative or judicial procedure, as applicable, is grounds to revoke the Use Permit.

**CONDITION #8 SIGN REGULATIONS:** The business must comply with the City of Corning Sign Regulations established by Resolution 10-25-05-01.

**CONDITION #9 LANDSCAPE SCREENING:** Prior to the issuance of a Certificate of Occupancy for the towing business, a landscape plan that provides screening around the area where towed vehicles will be stored on site must be submitted and approved by City staff.

**CONDITION #10:** No dismantling of stored vehicles is permitted at this location.

**CONDITION #11:** No stacking of stored vehicles is permitted. No more than three (3) towed vehicles can be stored at the property.

**CONDITION #12 HAZARDOUS MATERIALS:** The operators of the towing business must obtain a Hazardous Materials Handlers Permit from the Tehama County Environmental Health Department.



**CONDITION #13 FUGITIVE DUST CONTROL:** The operator of the towing business shall obtain a Fugitive Dust Control Permit from the Tehama County Air Pollution Control District.

**CONDITION #14 TIN FENCING:** No tin or metal fencing will be permitted on the site.

**CONDITION #15 SAFE/FENCED SPACE FOR CHILDREN:** Owners must submit a plan to the City to show a safe and fenced area for the children to play. The safe fenced space for children must be constructed within 30 days of issuance of the Use Permit. All residential uses shall be kept separate from business area (swingset, toys, etc.)

**CONDITION #16 SIDEWALK IMPROVEMENTS:** Owners must install 5' wide sidewalk per Public Works Standard S-1 along 2<sup>nd</sup> Street for the entire length of the property frontage and install a new accessible pedestrian ramp at the northeast corner of 2<sup>nd</sup> Street and Fig Lane per Public Works Standard S-2. Prior to construction the owner and/or Contractor must apply for an encroachment permit for the improvements.

**CONDITION #17 VISUAL**

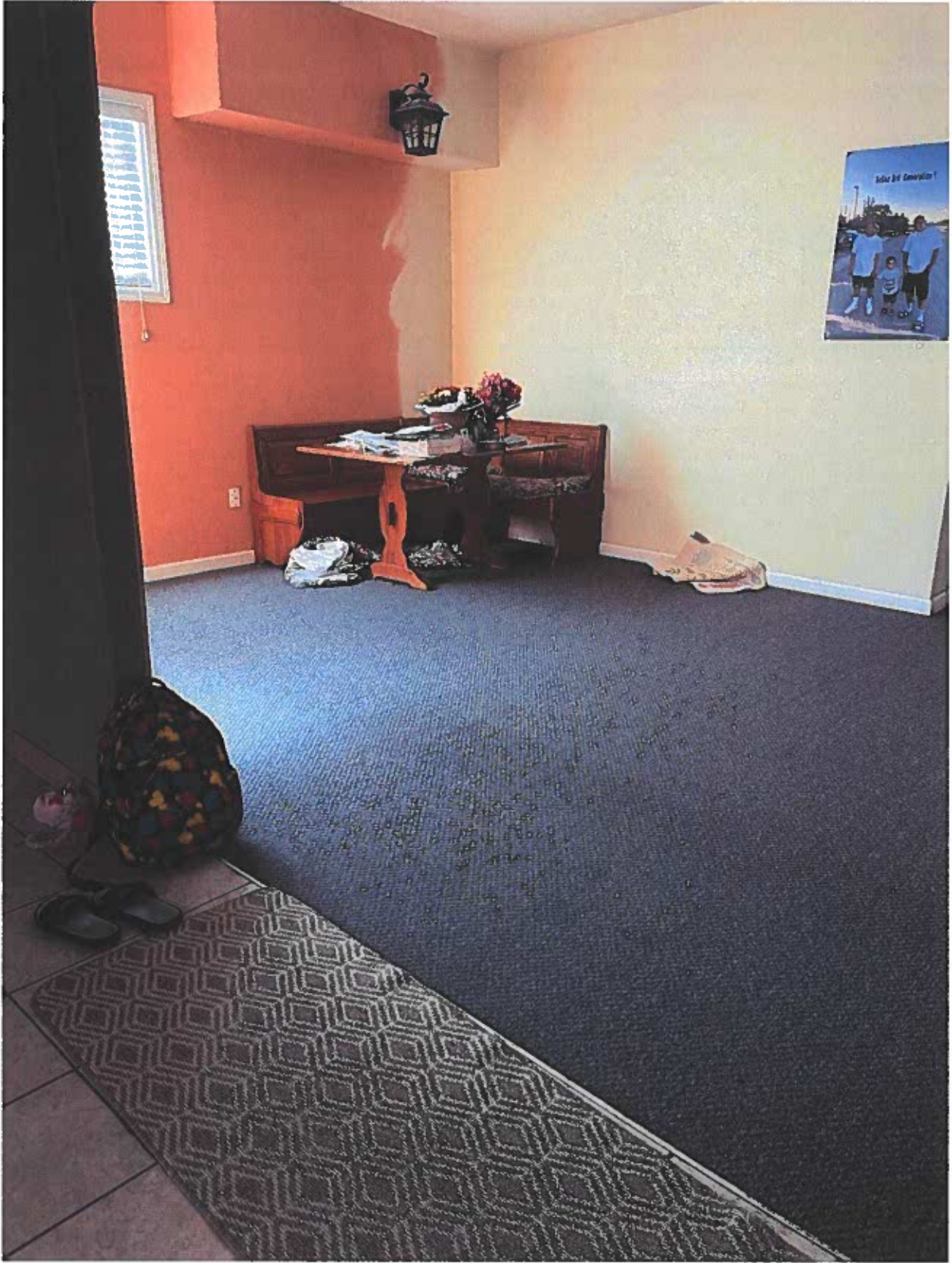
**Business shall not contribute to visual blight, business must be kept in a neat and tidy fashion, No trash, loose debris, tarps, sheets, or any other unsightly debris.**

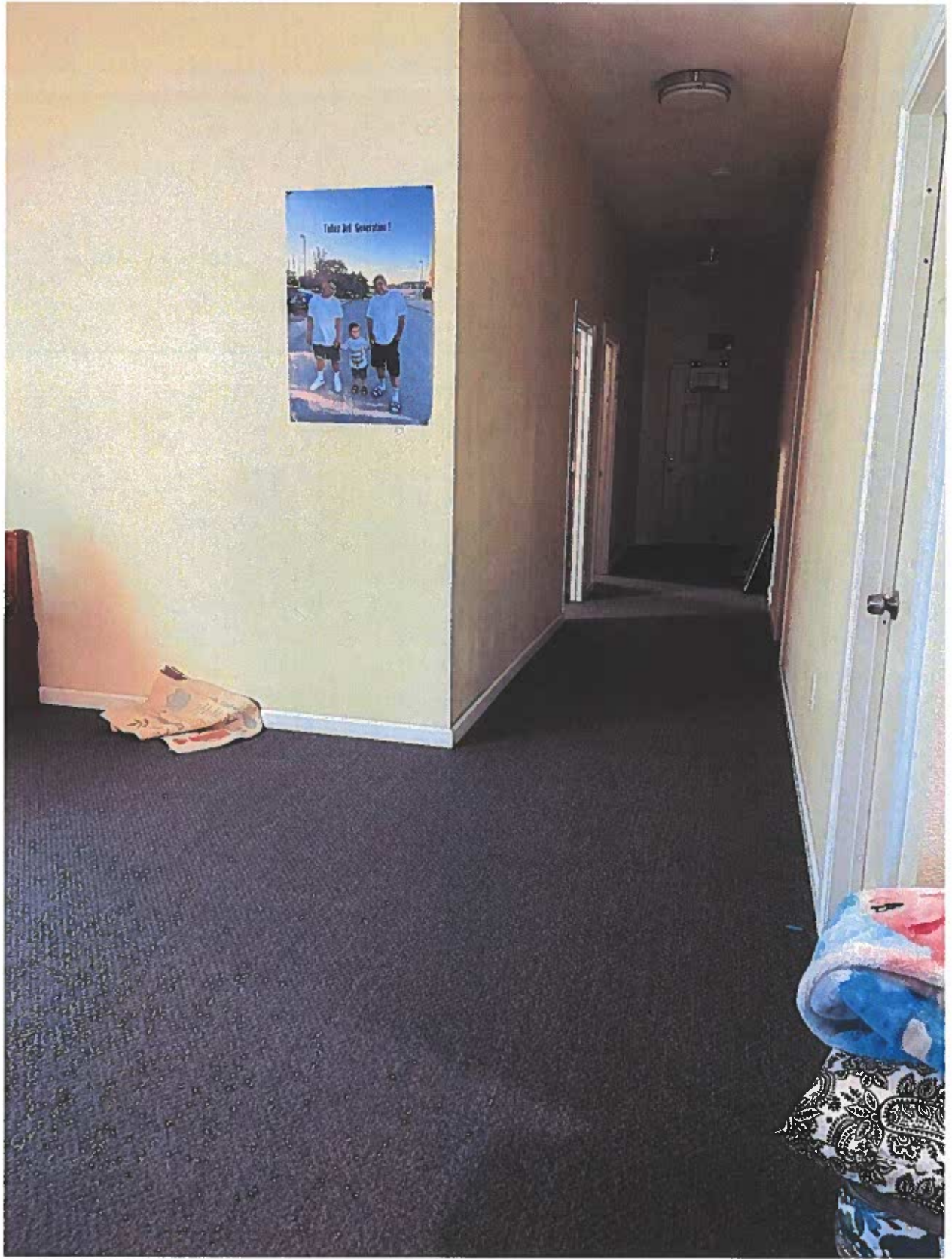
**ATTACHMENTS**

Exhibit "A": Use Permit Application & Location Map.

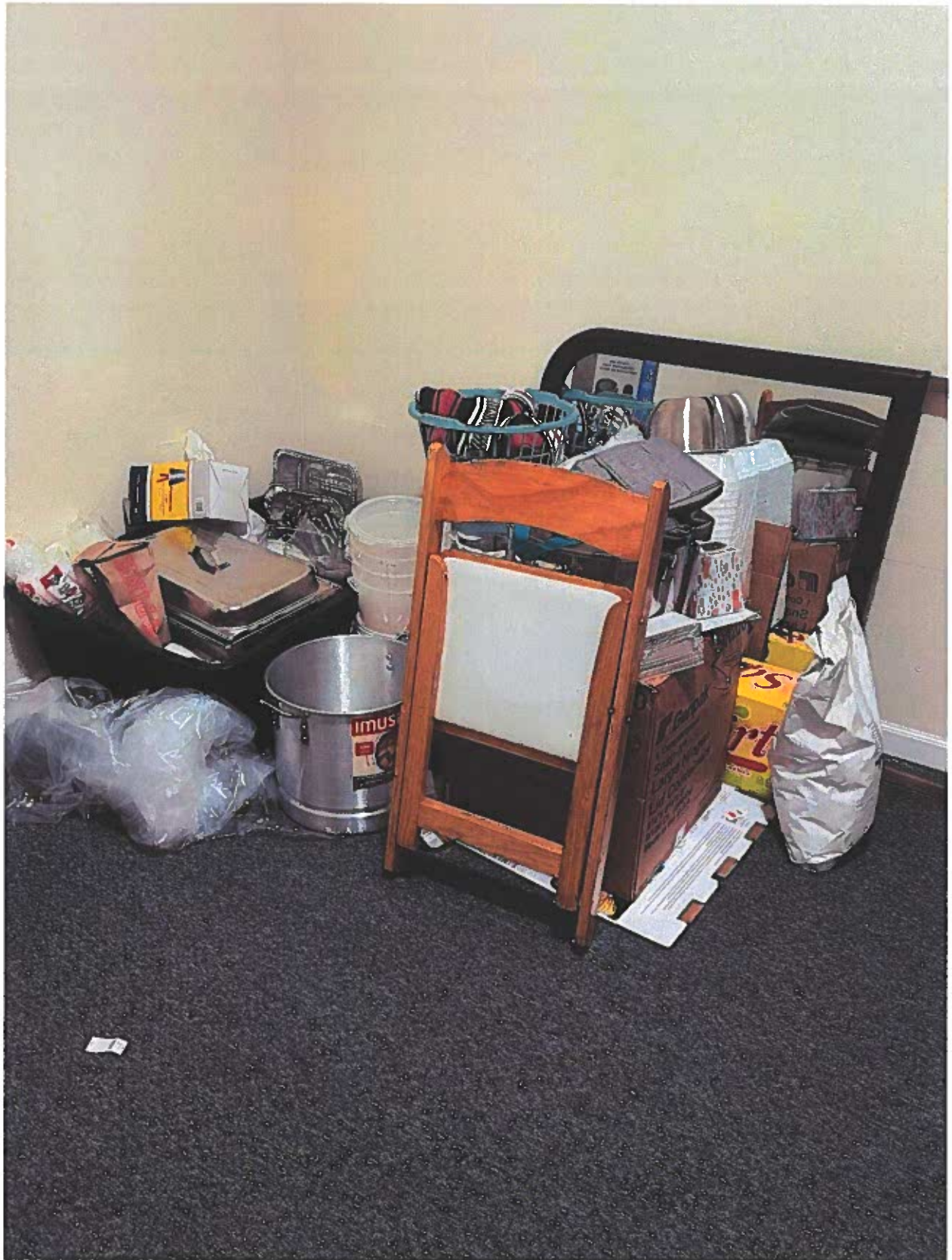
Exhibit "B": Photos.

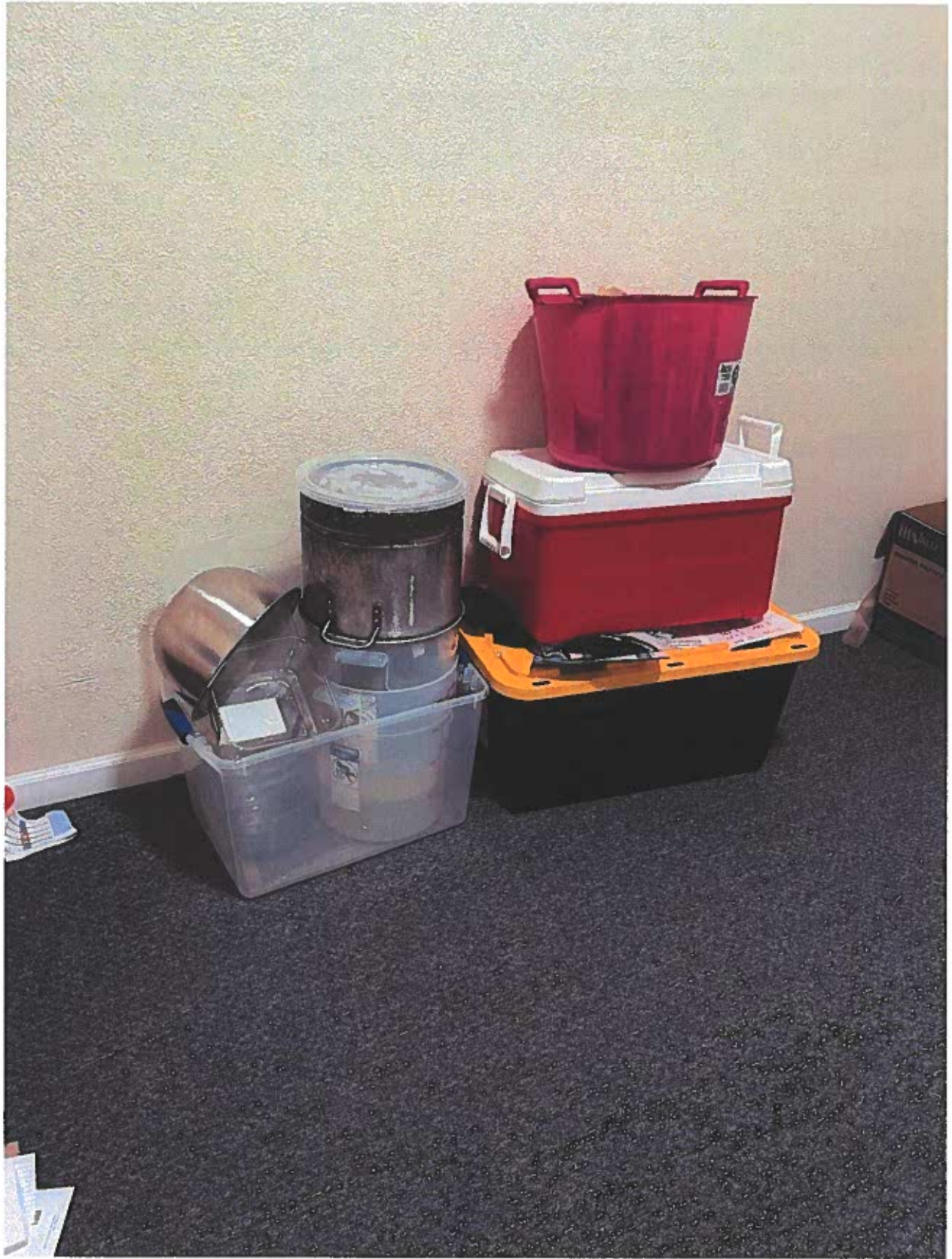




















**ITEM NO.: F-3  
REPORT ON STAFF FINDINGS  
REGARDING MOBILE VENDORS  
March 15, 2022**

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS**  
**FROM: CHRISSY MEEDS, PLANNER 2** *CM*  
**KRISTINA MILLER, CITY MANAGER**

**SUMMARY:**

At the February 15, 2022 Planning Commission Meeting, staff was directed to research Street Vending Ordinances in other cities.

In light of a recent incident regarding a Mobile Vender, staff received an e-mail from Commissioner Mesker requesting further review of the Mobile/Street Vending Ordinance. Commissioner Mesker mentioned a number of mobile vendors having items that have become permanent, which is not permissible within Chapter 5.50.040 of the Corning Municipal Code (CMC). Commissioner Mesker suggests enforcement on all vendors per the CMC or update the CMC.

Current levels of staffing for minor violations (removal of all evidence at the end of the workday) depend on voluntary compliance and is complaint driven as many vendors operate beyond the 8 AM-5 PM workday of City staff. Current City staffing does not allow for a significant amount of code enforcement for mobile vendors.

Other concerns about street vending have been mentioned to staff as well. Some feel it is unfair that in most zones, stationary street vending does not require frontage improvements, but permanent storefronts do. Staff understands the concern about mobile street vending. After discussing the concerns of the Planning Commission regarding street vending; by consensus of the Commission Staff was directed to review Street Vending Ordinances in other jurisdictions' and prepare a report to the Planning Commission outlining suggested improvements to the City's existing Street Vending Ordinance for possible recommendation to City Council.

**BACKGROUND:**

According to Chapter 5.50 of the Corning Municipal Code, to become a Street Vendor in the City of Corning, the following is required.

1. An application for a City Business License;
2. A valid Tehama County Environmental Health Department Permit;
3. A site plan showing where the mobile vending unit will be located;
4. Written approval from the property owner of the location site; and
5. Provide location of restrooms within 100 feet for employees of the Mobile Food Vendor.

Chapter 5.50.030 of the (CMC) further sets location requirements for no vending in a City Park, roadway, public right-a-way, or City Property.

Senate Bill 946 (attached) further limits the City's ability to regulate non-motorized sidewalk vending in 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 in the Bill. Senate Bill 946 is provided for background purposes for the Planning Commission to better understand the regulatory authority of the City. Amendments to the Corning Municipal Code are needed to avoid conflict with Senate Bill 946 in terms of non-motorized sidewalk vending (e.g., push carts).

In certain zoning districts there are other requirements for motorized stationary vending. For example, in the Corning Business Development Zone all uses require a Use Permit and frontage improvements to be made.

## DISCUSSION:

Staff has completed research of other cities' street vending ordinances. As a whole, other cities' street vending ordinances are more restrictive than the City of Corning. Below is a summary of requirements in other cities (Staff believes that the bolded items would be valuable).

- **Penalties for not following the Ordinance.** Penalties, first violation \$100 with a maximum penalty up to \$500 if a second violation occurs within a year of the first one. Vending without a permit penalty, \$200 for the first violation, \$500 for a second violation within a year of the first one.
- **Penalties and Revocation of Permit for not paying sales tax.**
- **Mobile Vending Permits are separate from the annual business license. They are effective for a certain period of time (typically 1-2 years) and must be displayed. There is also a cost for the mobile vending permit.**
- The applicant must have valid identification.
- No vending within 500 ft. of a School or Freeway entrance & exit.
- Vendors must comply with ADA.
- **Vendors must have a seller's permit.**
- **Definitions, explaining the differences in vending vehicles (mobile truck, mobile cart, etc.)**
- Hours and Days of operation.
- **Require Indemnification Agreements.**
- **No vending within a certain number of feet (e.g., 200 feet) of a permanent food facility (could be limited to similar type of food).**
- Limit the size of the mobile unit.
- Require Insurance on the actual mobile vehicle.
- **Mobile Vendor Permits are nontransferable.**
- May request the use of a small table for condiments but must be removed at the end of every day.
- **The City may suspend and or revoke a Mobile Vendor Permit for failing to meet any of the requirements, in accordance with Government Code Sections 51038 & 51039.**
- Limitations or ban of picnic tables, Pop Ups, and Signs.
- Limit mobile vending to certain areas of town.
- **Do Not contribute to visual blight (no shanty towns)**

If the Planning Commission chooses to recommend amendment of the current City of Corning Ordinance #635, the current Mobile Vendors will be given 60 days to comply to the new regulations or have their business license revoked.

While City staff desires to implement any new requirements and ensure that all Mobile Vendors are compliant, please be aware of the staffing levels at City Hall. The City currently does not have a dedicated Code Enforcement Officer for monitoring and enforcement; most of the current violations occur during non-business hours.

## RECOMMENDATION:

**APPROVE RECOMMENDATION TO CITY COUNCIL TO AMEND CITY ORDINANCE 635 – STREET VENDING TO REFLECT THE PRESENTED STAFF SUGGESTIONS.**



**SB-946 Sidewalk vendors.** (2017-2018)

SHARE THIS:



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.