

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community and Economic Development Department

Prepared by: Greg Minor, Assistant Director

City Manager Approval:  _____

TOPIC: ESTABLISHMENT OF MOBILE FOOD VENDING PROGRAM AND REVISED ORDINANCE

SUBJECT: INTRODUCTION OF (1) AN ORDINANCE AMENDING TITLE 10 (BUSINESSES, PROFESSIONS, OCCUPATIONS, INDUSTRIES AND TRADE) OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, TO ADOPT CHAPTER 10.50, MOBILE VENDING PERMIT PROGRAM; (2) A RESOLUTION TO ADD MOBILE VENDING PROGRAM FEES TO THE CITY'S MASTER FEE SCHEDULE FOR FISCAL YEAR 2025-2026; AND (3) A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL ENFORCEMENT MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF MARIN; CEQA DETERMINATION: EXEMPT PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3)

EXECUTIVE SUMMARY:

This report proposes the establishment of a Mobile Food Vending Program in San Rafael, through the adoption of an ordinance that would add Chapter 10.50 to the San Rafael Municipal Code, the addition of related fees to the City's Master Fee Schedule, and the execution of an agreement with the County of Marin to strengthen the City's enforcement capabilities. The proposed measures aim to regulate mobile vending within the City of San Rafael while complying with State regulations, ensuring health, safety, and maintaining sanitary conditions.

RECOMMENDATION:

Staff recommends that the City Council introduce the above-referenced ordinance, waive further reading of the ordinance, and refer to it by title and adopt the above-referenced resolutions to add mobile vending fees to the City's Master Fee Schedule for fiscal year (FY) 2025-26, and authorize the City Manager to enter into a memorandum of understanding (MOU) with the County of Marin.

BACKGROUND:

I. Recent State Legislation to Encourage Mobile Vending

Before 2019, local jurisdictions had sole authority to regulate or ban sidewalk vending. However, the State Legislature limited local control of sidewalk vending in 2019 when the Legislature passed [Senate Bill \(SB\) 946](#) to promote entrepreneurship and support immigrant and low-income communities. SB 946

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

decriminalized sidewalk vending, prohibited local governments from banning it, and limited local ordinances seeking to regulate sidewalk vending to those that address objective health, safety, or welfare concerns. Under SB 946, violations of a local authority's sidewalk vending ordinance may only be punished by a series of administrative fines that increase in scale as the number of violations increases, or by revocation of a sidewalk vending permit (See [Government Code Section 51039](#).) Furthermore, SB 946 established that violations of a local ordinance, including vending without a permit, may only be penalized with administrative fines and cannot be punished as infractions or misdemeanors. Despite these restrictions, SB 946 does provide the following expressly permitted regulations:

- Cities may prohibit stationary vendors in residential zones outright;
- Cities may prohibit sidewalk vendors from locating near certified farmers' markets;
- Cities may prohibit all sidewalk vending in a park (including beaches or open space areas) if a city has an exclusive concessionaire agreement for that site;
- Limitations on hours of operation that are not unduly restrictive;
- Requirements to maintain sanitary conditions and ensure compliance with the federal Americans with Disabilities Act;
- Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license; and
- Requiring compliance with other generally applicable laws (e.g., fire safety and health code requirements).

SB 946 also provides that cities can enact additional regulations, provided they serve the objective health, safety, and welfare concerns. The proposed ordinance incorporates the above-listed regulations and provides additional regulations that are directly tailored to the City's objective health, safety, and welfare concerns.

In 2022, the California Legislature passed [SB 972](#). SB 972 simplified the requirements for street vendors by introducing street vending, including a new type of retail food facility called "compact mobile food operation" (CMFO) into the food code, and limiting the equipment requirements originally established for food trucks. SB 972 defines a CMFO as a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance. Like SB 946, SB 972 limits violations of the California Retail Food Code for CMFOs to administrative fines.

In terms of local implementation, the Environmental Health Services Division within the County of Marin's Community Development Agency oversees the permitting of mobile vendors and enforces related laws. The Environmental Health Services Division derives its authority from [California Health and Safety Code Sections 101275 and 101280](#), which authorize Environmental Health staff to undertake inspections, enforcement, permitting, investigations, and emergency actions in accordance with state and local regulations.

II. San Rafael's Experience with Unpermitted Mobile Vending

Much like other local jurisdictions across California, San Rafael has seen a rise in mobile food vending following the passage of SB 946, resulting in both positive and negative outcomes. The principal benefit of increased mobile vending is expanded access to culturally relevant and affordable food options. This benefit is particularly critical in the Canal neighborhood, as it has the second-highest proportion of people living below the federal poverty level among all census tracts in Marin County.¹ Additional benefits of

¹ See Marin County Priority Communities Data Explorer:

<https://marincounty.maps.arcgis.com/apps/instant/lookup/index.html?appid=7fbb628711ac4d74a4f1ed4d6fa391a4>

mobile vending include increased neighborhood vitality through more eyes on the street, as well as entrepreneurial opportunities for food vendors.

Unfortunately, increased mobile vending has also led to a variety of negative impacts. For example, food consumed from food vendors not permitted by Marin County's Environmental Health Services Division has led to food-borne illnesses. Likewise, vendors operating without a permitted commissary have resulted in the improper disposal of grease and garbage in the public right-of-way, which has attracted vermin. Additionally, vending on narrow sidewalks can limit or prevent people in wheelchairs from using the sidewalk, and excessive noise and odors/fumes from late-night vending have disturbed residential neighbors. City staff have observed people walking into traffic or vehicles double-parked, which creates traffic hazards.

To address the negative impacts of unpermitted food vending, the Community and Economic Development (CED) Department's Code Enforcement Division has partnered with staff in Marin County's Environmental Health Services Division on numerous mobile vending educational and enforcement operations. These operations include educating vendors on health permitting requirements, issuing administrative citations, and seizing and disposing of unsanitary food. While these efforts have reduced the overall amount of unpermitted vending in the City, these operations redirect limited Code Enforcement staff resources from other City priorities, and unpermitted vending continues.

In May and June 2025, the City of San Rafael partnered with County Environmental Health Services, Code Enforcement, and Parking Enforcement to conduct several coordinated operations addressing unpermitted food vending. Across these operations, City staff contacted 36 vendors, issued 11 code enforcement citations, and gave 15 warnings. County staff confiscated food from 11 vendors. In addition, Parking Enforcement issued 20 citations, and one arrest was made for public intoxication.

Similarly, in July and August 2025, Code Enforcement coordinated morning and evening operations with County Environmental Health and the Police Department to address mobile vending. In these operations, City staff contacted 32 vendors, County staff impounded food from unpermitted vendors, and City staff issued eight administrative citations. Additionally, since August 1, SRPD has responded to 24 vendor-related incidents, most of which were calls for service, with varied outcomes. Of these, three were cancelled by the reporting party before officers arrived, one resulted in advice being given, three led to citations for other violations, six were gone on arrival, nine were handled, one was deemed unfounded, and one resulted in a warning.

City staff has prepared maps showing the locations of recent code enforcement complaints, which are provided as Attachment 4.

Most vendors were cooperative, and community members in the Canal neighborhood expressed appreciation for the City's efforts to promote health, safety, and fair use of public spaces. Staff estimates that roughly 25 percent of the vendors were from San Rafael, with the remainder coming from outside of the area.

Ultimately, as part of [the City of San Rafael's Fiscal Years 2025-2028 Strategic Plan](#), the City Council has adopted the following Goal: E.6.1 Revise the Street Food Vending Ordinance and develop an implementation, enforcement, and communications plan.

III. Impoundment of Equipment

To address unpermitted vendors undeterred by administrative citations or the impounding of their food, the CED Department has conferred with Marin County Environmental Health Services staff regarding the

impounding of equipment from unpermitted vendors, which the County has the legal authority to do. The County has communicated that they are open to exploring this strategy; however, they are currently unable to impound equipment due to operational capacity constraints. Consequently, City and County staff have developed a Memorandum of Understanding (MOU) to coordinate enforcement strategy with the County Environmental Health Services Division, and with the City assisting the County with the transport and storage of pounded food-handling equipment. The goal of the MOU is to establish procedures that protect the safety of consumers while respecting the rights of vendors, ensure the safety of inspectors, and pragmatically utilize available resources.

ANALYSIS:

Staff recommends adopting a three-prong approach to mobile vending in San Rafael: (i) strengthening the City's enforcement tools; (ii) providing multiple paths to legalization; and (iii) supporting local entrepreneurship.

I. Strengthening Enforcement Tools

A. Adopting a Mobile Vending Ordinance

Staff recommends adopting a mobile vending permitting ordinance to establish time, place, and manner restrictions for mobile vending to address the harmful impacts associated with unpermitted vending. For example, the proposed mobile vending ordinance requires mobile food vendors to comply with the health and safety requirements outlined in the California Retail Food Code, ensuring that the food sold by vendors is safe for consumption. Similarly, the proposed ordinance requires vendors to maintain a litter-free area within the vicinity of their vending location and properly dispose of any grease. Likewise, the proposed mobile vending permitting program requires vendors to provide sufficient space on sidewalks for the passage of people with disabilities. It prohibits late-night vending as well as vending that causes excessive noise. In terms of locations, the proposed mobile vending permitting program limits stationary vendors to commercial and industrial zones with buffers from bus stops, business entrances and exits, other vendors, schools, farmers' markets, and special events to minimize obstructions of the public right of way and egresses out of private property. Finally, the proposed ordinance also requires vendors to comply with business and sales tax requirements that apply to all businesses.

B. Partnering with the County of Marin and Adding Code Enforcement Resources

To ensure compliance with these requirements, staff recommend exploring both enhanced enforcement strategies and resources. With respect to new enforcement strategies, staff recommends that the City Council authorize the City Manager to enter an MOU with the County of Marin. The MOU will authorize CED Code Enforcement Division staff to support the work of the Marin County Environmental Health Services Division in temporarily storing equipment used by unpermitted food vendors. Unlocking this enforcement strategy is critical to addressing repeat violators who are undeterred by administrative citations to protect the public health and safety. Additionally, partnering with the County of Marin on enforcement operations offers "safety in numbers" for City and County staff, enhances communication across agencies, and maximizes bilingual resources to ensure government agencies can effectively communicate with vendors.

In addition to new enforcement strategies, in the short term, staff recommend utilizing \$50,000 in funding available in CED's contractual services budget to fund a third-party consultant to enforce mobile vending laws during peak vending seasons. This external resource is essential, as CED Code Enforcement staff are only available to address unpermitted mobile vending on overtime, as they are responsible for implementing various fee-based programs during their regular hours, namely the Housing Inspection Program (HIP), Massage Inspection Program (MIP), Short Term Rentals, and the Residential Building

Resale (RBR) Program. Staff will evaluate the effectiveness of utilizing a third-party consultant for mobile vending enforcement and incorporate CED's findings in the CED Department's fiscal year 2026-27 budget proposal if CED determines additional ongoing funding for these services is critical.

II. Providing Multiple Paths to Legalization

Beyond introducing local regulatory requirements, establishing a mobile vending program provides multiple paths to legalization for vendors, which in turn will offer San Rafael residents a variety of affordable food options. For instance, consistent with [SB 946](#), the proposed ordinance imposes no limit on the number of mobile vendors in the City. Additionally, the proposed ordinance allows mobile vendors to vend from both eligible sidewalk locations and private property, provided the property owner authorizes vending on their property. This private property option, administered under [San Rafael Municipal Code \(SRMC\) Section 14.17.130 \(Temporary Uses\)](#)², presents an opportunity for vendors to collaborate and create a food park destination for customers, similar to the successful Mitote Food Park in Santa Rosa. Ultimately, between private and public property locations, the proposed ordinance offers multiple opportunities for San Rafael residents to continue accessing affordable food.

III. Supporting Local Entrepreneurship

Establishing a mobile vending program also presents an opportunity for San Rafael to support local immigrant and low-income entrepreneurs, aligning with the intent of [SB 946](#). Accordingly, staff recommend utilizing \$25,000 in funds available in CED's contractual services budget to pilot a local vendor priority program. In this program, CED will collaborate with a community-based organization to identify local vendors, assist them in navigating mobile vending compliance requirements, and explore creating a food park destination on private or public property. This program thus offers a "win-win-win" scenario by improving local entrepreneurs' ability to succeed, reducing accessibility conflicts by directing foot traffic away from sidewalks, and ensuring compliance with food safety requirements through bilingual technical assistance.

In terms of timing, staff intend to lay the foundation for the local vending program over the fall and winter of 2025 and implement the program in the spring and summer of 2026 in time for peak vending season. Specifically, following City Council adoption of a mobile vending ordinance, staff will undergo a procurement process to identify a community-based organization to manage the project and then work with the organization to develop an outreach strategy with mobile vendors. The community-based organization will then work with vendors to ensure their compliance before the spring of 2026. Staff will implement this program on a one-year pilot basis and evaluate whether to continue or modify the program going forward.

IV. Fee Considerations

Staff recommends charging nominal application and permit fees during the initial phase of the mobile vending program to avoid discouraging vendors from obtaining a mobile vendor permit. Another reason to assess a nominal fee is that it is unlikely that mobile vending permitting fees will generate enough revenue to support the addition of staff positions. For additional context, Figure One below offers a comparison of mobile vendor permitting fees adopted by other local jurisdictions, which demonstrate that

² [SRMC Section 14.17.130 \(Temporary Uses\)](#) provides the CED Department Director with authority to impose performance standards on uses of one year or less, including traffic and litter control measures, emergency egress requirements, and hours of operation. If a temporary use is successful and the applicant seeks to extend beyond one year, the applicant can apply for a Conditional Use Permit with the CED Department.

local jurisdictions often charge a nominal permitting fee or avoid charging a permitting fee altogether, particularly at the inception of mobile vending programs.

Figure One: Local Jurisdictions' Mobile Vending Permitting Fees

Jurisdiction	Application/Permit Fee
Hayward	\$0
Novato	\$312-\$370
Oakland ³	\$412-\$497
Richmond	\$103.66
Santa Rosa	\$25

Staff recommends an application fee of \$25.00. In addition to the application fee, the mobile vending permitting ordinance requires mobile vendors to comply with existing business and sales tax requirements.

COMMUNITY OUTREACH:

Over the last year, the City has received and gathered feedback and insights on mobile vending in San Rafael from brick-and-mortar businesses, residents, and mobile vendors alike. This engagement included meetings with brick-and-mortar businesses in the Canal neighborhood who expressed frustration at the uneven playing field between their businesses and unregulated mobile vendors. Likewise, staff participated in a meeting with Voces del Canal to hear concerns regarding the lack of food safety and the need to educate mobile vendors on regulatory requirements. Finally, staff have engaged directly with mobile vendors through both the Together San Rafael Academy and Code Enforcement's educational and enforcement efforts. This item was also discussed at a meeting of the [Economic Development Subcommittee on September 25, 2025](#).

FISCAL IMPACT:

Adoption of the proposed legislation will have a minimal fiscal impact on the City, as CED's mobile vending enforcement efforts and the local vendor pilot program will rely on CED's existing Fiscal Year 2025-26 budget.

ENVIRONMENTAL DETERMINATION:

Both the proposed ordinance and resolutions are exempt from the California Environmental Quality Act (CEQA), pursuant to the "common sense exemption" in Section 15061(b)(3) of Title 14 of the California Code of Regulations, since it can be seen with certainty that there is no possibility that the adoption of this legislation may have a significant effect on the environment.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt the proposed legislation as drafted.
2. Adopt the proposed legislation with amendments.
3. Direct staff to return with more information.
4. Do not approve the proposed legislation.

³ During the City of Oakland's initial phase of its current mobile vending permitting program the City of Oakland did not require mobile vendors to submit any application or permitting fees.

RECOMMENDED ACTION:

Staff recommends that the City Council introduce the above-referenced ordinance, waive further reading of the ordinance, and refer to it by title and adopt the above-referenced resolutions to add mobile vending fees to the City's Master Fee Schedule for fiscal year (FY) 2025-26, and authorize the City Manager to enter into a memorandum of understanding (MOU) with the County of Marin.

ATTACHMENTS:

1. Draft Ordinance
2. Resolution to Adopt Mobile Vending Program Fees
3. Resolution Authorizing the City Manager to Enter into an Interlocal Enforcement Memorandum of Understanding with the County of Marin
4. Draft Interlocal Enforcement Memorandum of Understanding with the County of Marin
5. Maps of Vending Complaints
6. Ordinance Overview

ORDINANCE NO.

AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING TITLE 10 (BUSINESSES, PROFESSIONS, OCCUPATIONS, INDUSTRIES AND TRADE) OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, TO ADOPT CHAPTER 10.50, MOBILE VENDING PERMIT PROGRAM

WHEREAS, California Constitution, article XI, section 7, authorizes the City of San Rafael ("City") to adopt and enforce local police, sanitary, and other ordinances and regulations that are not in conflict with the general laws.

WHEREAS, Senate Bill (SB) 946 (2018), codified at Government Code section 51036, et seq. authorizes the City to regulate sidewalk vending to help protect public health and safety.

WHEREAS, the City has seen a rise in mobile vending, particularly unpermitted food vending, in recent years, resulting in the spread of food-borne illnesses, blockage of the public right of way, litter, and improper disposal of grease, among other nuisance issues; and

WHEREAS, mobile vending offers a low-cost pathway to entrepreneurship as well as affordable food options for community members; and

WHEREAS, the City now desires to add SRMC 10.50, Mobile Vending Permit Program, to help regulate the sale of food, goods, and merchandise to ensure compliance with health and safety requirements while ensuring the accessibility of affordable food options and local entrepreneurship opportunities; and

WHEREAS, it is necessary to adopt requirements regulating the time, place, and manner of sidewalk vending in order to protect public health, safety, and welfare; and

WHEREAS, Section 403.5.1 of the 2010 ADA Standards for Accessible Design generally requires sidewalks to have a minimum width of 3 feet for compliance with the Americans with Disabilities Act, and the City desires to protect access to public rights-of-way by disabled persons; and

WHEREAS, it is necessary to adopt additional requirements regulating the time, place, and manner of sidewalk vending in parks owned or operated by the City in order to: (1) address health, safety, and welfare concerns; (2) ensure the public's use and enjoyment of natural resources and recreational opportunities; and (3) prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the parks.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Section 1. Adoption of Regulation of Mobile Vendors

Section 10.50 of the Municipal Code of the City of San Rafael is hereby added to read as follows:

Chapter 10.50 REGULATIONS OF SIDEWALK VENDORS

10.50.010 Purpose.

- A. The purpose of this chapter is to establish a permitting and regulatory program for sidewalk and other mobile vendors that complies with Government Code Section 51036, et seq.
- B. The City Council finds that to promote the public health, safety and welfare, regulating mobile vending is necessary to ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, place of business, park, areas located within the immediate vicinity of a permitted certified farmers' market and a permitted swap meet, an area designated by a temporary special permit issued by the City, street to the sidewalk, and by persons exiting or entering parked or standing vehicles.
- C. Prohibiting sidewalk vending in streets and medians is necessary to protect the health and safety of vendors and their patrons, because they are at risk of being struck by vehicles and/or causing vehicular accidents if vending occurs in streets or medians.
- D. Limiting mobile vending hours of operation within residential neighborhoods to specific daylight hours consistent with a residential atmosphere is necessary to protect the safety of vendors and residents who would be more vulnerable to criminal activities during evening hours, and to promote the welfare of the residents by prohibiting commercial activities and associated noise and traffic during hours when residents should be able to enjoy peace and quiet.
- E. These regulations ensure continuous access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, firefighting apparatus, and mailboxes, as well as access to locations used for public transportation services.
- F. These regulations ensure such activities occur only in locations where they will not restrict sidewalk and pathway access and enjoyment by individuals with disabilities pursuant to the Americans with Disabilities Act of 1990 and other disability access standards.
- G. These regulations reduce exposure to the City for personal injury or property damage claims and litigation.

10.50.020 Definitions.

As used in this chapter, the following terms and phrases shall have the meaning ascribed to them in this section, unless the context in which they are used clearly requires otherwise. If a term or phrase is not defined in this section or elsewhere in this code, the most common dictionary definition is presumed to be correct.

"Above-ground structure" means any structure affixed to a sidewalk, including, but not limited to, a streetlight, tree well, parking meter, utility structure, utility box, bike rack, scooter corral, mailbox, trash can, elevator, kiosk, newspaper rack, picnic shelter, bench, table, wall, sign pole, traffic signal pole, signal pushbutton pole, and stairs.

"Alcoholic Beverage" shall have the same meaning as defined in Section 8.18.010 of this code, or any successor section.

"Applicant" means any person who has applied for a Mobile Vending Permit to be a mobile vendor in the City.

"Cannabis" means the substances defined in Section 10.96.040 of this code, or any successor section.

"City" means the City of San Rafael.

"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, or any successor chapter.

"Concessionaire" means the holder of an exclusive agreement with the City for the sale of food or merchandise in a City-owned park.

"Conveyance" means any non-motorized wheeled device used to carry persons or property and includes pushcarts, pedal-driven carts, and wagons.

"Civic Center" means the buildings, facilities, and parking lots or areas including City Hall location at 1400 Fifth Avenue, San Rafael, California, or at such other place as may be designated by the Council, fixed as the meeting place for all official meetings of the Council.

"Director" means the Director of Community and Economic Development Department, or their designated representative.

"Emergency vehicle access" means the roadway, path, or other surface that provides police or fire vehicular access from the dispatched point of origin to a facility, building, parcel, park or portion thereof. Emergency vehicle access includes, but is not limited to, fire lanes, public and private streets, parking lot lanes, access roadways, trails, and walkways.

"Food" means any type of human edible substance, including any food product or beverage as provided in Health and Safety Code Section 113781, or any successor section.

"Fire station" means any facility where fire engines and other equipment of the San Rafael Fire Department are housed.

"Goods" means items, personal property, merchandise, or any other similar item that is generally sold, including food and beverages.

"Hardscape" means paving material, including tiles, mortared pavers, decomposed granite, colored or patterned concrete with a tile, brick, or stone appearance, or a paving material with enhanced concrete that has an exposed aggregate, colored, or salt finish.

"Hearing officer" means an impartial individual designated to determine appeals .

"Heating element" means any device used to create heat.

"Impound" means to seize or take custody of mobile vending cart, equipment, utensils, food or merchandise (collectively classified as "items") because of a violation of any applicable law or regulation.

"Major transit stop" means the portion of a site designated as the passenger loading area that contains any of the following: an existing rail transit station, a bus or rail transit service, or the intersection of two or more major bus routes with a service interval of 15 minutes or less during the morning and afternoon peak commute periods.

"Merchandise" means any goods or item(s) that can be sold and immediately obtained from a mobile vendor, which is not considered food. Items for rent shall not be considered merchandise. Merchandise does not include services.

"Mobile Vending Permit" or "permit" means a permit established by this chapter that has been issued to any applicant engaging in mobile vending activities in the City.

"Mobile vendor" means a person(s) who sells food or merchandise from a vending cart or from one's person, upon a public sidewalk or on private property. It includes both roaming vendors and stationary vendors.

"Mobile vendor activities" or "mobile vending activity" means actions that qualify a person as a mobile vendor or actions done in anticipation of becoming a mobile vendor such as, but not limited to, installation, placement, or maintenance of any mobile vending cart.

"Park" means any area dedicated or established as a public park or open space owned or operated by the City, including, without limitation, active and passive parks.

"Pathway" or "pedestrian pathway" means a paved or improved path, or walkway used primarily for pedestrian travel, other than a sidewalk. Pathway or pedestrian pathway does not mean the grassy areas of parks.

"Person" means one or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnerships, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit or any other activity.

"Portable cooking equipment" means any gas-fueled appliance used to heat, cook, or prepare food or beverages on a conveyance by a mobile vendor.

"Public property" means all property owned or controlled by the City, including, but not limited to, alleys, parks, pathways, streets, parking lots, sidewalks, and trails.

"Public right-of-way" means a public easement for streets, alleys, or other uses, other than a sidewalk.

"Residential" means any area zoned exclusively as residential in the zoning code.

"Roaming mobile vendor" means a mobile vendor who moves from place-to-place and stops only to complete a transaction.

"School" means an institution of learning that offers instruction in those courses of study required by the education code or that is maintained pursuant to standards set by the State Board of Education. This definition does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college, or university.

"Services" means activities involving the performance of work for others or the provision of intangible items that cannot be returned once they are provided. Examples include, but are not limited to, hair braiding, face painting, massage, yoga, fortune telling, tattooing, and dog training.

"Sidewalk" means a public paved or hardscape sidewalk, parkway, pedestrian path, walkway or other public right-of-way specifically designed for the exclusive use of pedestrian travel. A sidewalk shall not include streets, alleys, medians, plazas, or City-owned parking lots or structures.

"Stationary mobile vendor" means a mobile vendor who vends from a fixed location.

"Street" means a public or private vehicular right-of-way other than an alley or private drive.

"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 chapter, or any successor chapter.

"Temporary special permit" means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public property, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, farmers' markets, swap meets, filming, fireworks show, parades, athletic events, public assemblies, carnivals, fairs, walks, runs and marathons, festivals, shows, seasonal or holiday events and outdoor concerts or performances.

"Trail" means a paved pathway (which may consist of decomposed granite) designed to be used primarily by bicyclists, horses and other modes of transportation including Class 1 (off street) trails and riding and hiking trails as denoted in the general plan other than primarily for pedestrian travel.

"Vend" or "vending" means to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase food or merchandise. Vend and vending does not include the offering of services.

"Vendor" or "vending cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending that is not a vehicle as defined in the vehicle code.

10.50.030 Permit Required.

- A. No person, for either themselves or any other person, shall engage in any mobile vendor activities within the City without first applying for and receiving a business license from the City's Finance Department, and a Mobile Vending Permit from the City's Community and Economic Development Department in accordance with this chapter.
- B. A Mobile Vending Permit is not required for a certified farmers' market, swap meet, or any activity or event authorized by a temporary special permit.

10.50.040 Permit Application.

Every person, prior to engaging in, conducting, or carrying on the business of mobile vending, shall file an application with the Community and Economic Development Department on a form approved by the City Manager or designee. Such an application shall be accompanied by a nonrefundable application permit fee if such a fee is adopted by the resolution of the City Council, and shall contain, at a minimum, identifying information about the applicant and business, the items that will be sold, the location of the mobile vending, including the location for fixed mobile vending and the route for roaming mobile vending, hours of operation, and other information deemed necessary to determine compliance with Chapter."

10.50.050 Investigation and Action Upon Permit Application.

- A. Determination of Completeness. The Director shall, within 30 calendar days of application submission, review the submission of any application for a Mobile Vending Permit to determine if the application contains all of the requisite information set forth in Section 10.50.040. Any application that is missing required information or that is not accompanied by the requisite fee shall be deemed incomplete and shall not be processed by the Director. In such case, the Director shall issue a notice of incompleteness to the applicant specifying the information that is missing resulting in the incomplete application. Failure of the applicant to submit the missing information within 30 calendar days of the notice of incompleteness shall be deemed an administrative withdrawal of the Mobile Vending Permit application by the applicant.
- B. Notwithstanding the provisions of this code, the Director shall approve the issuance of a Mobile Vending Permit unless the Director determines that any of the following disqualifications exist:

1. The applicant has failed to submit any of the information, documentation, or fees required pursuant to Section 10.50.040;
2. The applicant does not possess all federal, state, and/or local permits, licenses, certificates, and/or approvals required to engage in the activity subject to the permit;
3. The applicant has made one or more materially false, misleading, fraudulent, misstatements or misrepresentations in the application or supplemental information;
4. The applicant's proposed vending activity, as described in the application, is inconsistent with the standards, conditions, prohibitions, and requirements set forth in this chapter;
5. The applicant has failed to demonstrate an ability to conform to the standards, conditions, prohibitions, or requirements set forth in this chapter;
6. The conduct of the mobile vendor will interfere with traffic or pedestrian movement, or interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, which would result in a detriment to the public peace, health, safety, or general welfare;
7. The conduct of the mobile vendor will unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property;
8. The conduct of such mobile vending activity will constitute a fire hazard, even after all proper safety precautions are taken;
9. The conduct of such mobile vending activity will require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the City;
10. The applicant has had a Mobile Vending Permit revoked within the previous year;
11. The applicant has not paid all previous administrative fine(s), completed all community service, or completed any other alternative disposition associated in any way with a previous violation of this chapter;

10.50.060 Denial of Mobile Vending Permit.

- A. If a Mobile Vending Permit is denied pursuant to this chapter, the applicant shall be notified in writing of the denial of the permit, along with the grounds for denial. The notice shall also advise the applicant of the ability to appeal the denial in the manner set forth in Section 10.50.150(C). Notice shall be mailed to the applicant at the address listed in the application.

10.50.070 Term of Permit and Renewal.

- A. A Mobile Vending Permit issued pursuant to this chapter shall automatically expire one year from the date issued unless an earlier expiration date is noted on the permit.

- B. **Renewal of Permit.** Any applicant who has been issued a Mobile Vending Permit and seeks to continue mobile vending must renew the Mobile Vending Permit, before the Mobile Vending Permit has expired, through the same application process described in Section 10.50.040. A renewal is effective when approved by the Director, not when the application is submitted. Unless timely renewed, any Mobile Vending Permit issued pursuant to this chapter shall expire and become null and void at the end of its term.
- C. **Renewal of Permit After Revocation.** Any applicant whose Mobile Vending Permit is revoked may not renew their permit or apply for a new permit within one year from the date the permit is revoked.

10.50.080 Permit Non-Transferable.

- A. A Mobile Vending Permit issued pursuant to this chapter shall not be transferable to any other entity or person.
- B. Any change in ownership, sidewalk operation or vending activity of an issued Mobile Vending Permit requires the filing of a new permit application under this chapter.

10.50.090 Conditions and Restrictions Imposed on Permit; Health and Safety Justification.

- A. Mobile vendors shall adhere to all operating conditions and requirements set forth in this chapter, and all restrictions, limitations, and operating requirements set forth in this chapter shall constitute conditions upon any Mobile Vending Permit issued pursuant to this chapter.
- B. The conditions, restrictions and operating requirements set forth in this chapter are intended to protect the health and safety of vendors, their patrons, and the general public for reasons including, but not limited to:
 - 1. Reducing exposure to pedestrian versus vehicle contact;
 - 2. Ensuring better visibility of drivers entering or exiting driveways;
 - 3. Protecting access to public rights-of-way by disabled persons to comply with the Americans with Disabilities Act;
 - 4. Ensuring safe pedestrian pathways in areas commonly utilized by pedestrians;
 - 5. Preventing the appearance of "marketplace" vending on sidewalks which is more likely to generate crowding on public sidewalks that would impede pedestrians and disable use of sidewalks;
 - 6. Reducing the chance pedestrians will enter vehicular rights-of-way or block the entrance or exit of a business;
 - 7. Reducing the danger that school children will enter into traffic and be injured or killed trying to reach a vendor;
 - 8. Reducing unnecessary or unanticipated slowing of vehicles approaching onramps, immediately adjacent to curb and sidewalk, or exiting freeway off-

- ramps where drivers are merging into oncoming traffic, all of which are likely to cause accidents;
9. Reducing the possibility that drivers will be distracted in their line of sight by a vendor in the way of oncoming traffic;
 10. Causing visual distraction to the driving public;
 11. Causing excessive noise that disturbs the peace;
 12. Eliminating litter, refuse and food waste from the public rights-of-way; and
 13. Reducing the likelihood of contamination deposited into the City's storm drain system.

10.50.100 General Mobile Vendor Operating Requirements.

The following operating requirements and prohibitions shall constitute conditions of any Mobile Vending Permit:

- A. Sidewalk vendors shall operate in compliance with all applicable federal, state, county, and City laws, ordinances, and regulations.
- B. Stationary sidewalk vendors shall display a City-issued Mobile Vending Permit and business license on the street-side portion of the City-approved vending cart. The applicant who has been issued a Mobile Vending Permit shall always be at the approved location while conducting vending activities except as permitted by law for reasonable time away due to rest, restroom, and meal breaks.
- C. Roaming mobile vendors shall display a City-issued Mobile Vending Permit and business license on the City-approved vending cart; or if no vending cart is utilized, a roaming sidewalk vendor shall keep the City-issued Mobile Vending Permit and business license upon their person in a conspicuous manner at all times while conducting vending activities. The applicant who been issued a Mobile Vending Permit shall always be at the approved areas or route while conducting vending activities except as permitted by law for reasonable time away due to rest, restroom, and meal breaks.
 1. Roaming mobile vendors shall move continuously except when necessary to complete a sale. Notwithstanding the foregoing, the roaming mobile vendors shall immediately move when necessary to provide access to the sidewalk to avoid impeding the flow of pedestrian or other traffic.
 2. Roaming mobile vending within any residential areas of the City is prohibited daily between the hours of eight p.m. (8:00 p.m.) and eight a.m. (8:00 a.m.) of the following day.
- D. Mobile vendors shall comply with all applicable laws relating to the employment of minors. Any minor assisting with or engaged in vending shall be accompanied by a mobile vendor with a valid vending permit. Any and all actions of the minor related to vending, including any violations committed by the minor, are attributable to the sidewalk vendor.

- E. No stationary sidewalk vendor shall vend, and no roaming sidewalk vendor shall stop to make sales within the number of feet designated below from the nearest portion of the following locations:
1. Within 25 feet of a fire hydrant or connection, fire lane, fire call box, or other emergency facility;
 2. On any designated emergency vehicle accessway;
 3. Within three feet of the edge of any curb including areas of the curb to provide for unobstructed access for loading and unloading, parking space, access ramp designed for individuals with disabilities, public utility providers, deliveries, police, fire or other essential service activities;
 4. Within 25 feet of a bus stop, taxi stand, bus bench, or bus shelter;
 5. Within 25 feet of any entrance, fire escape or emergency exit of any business during the hours that the business is open to the public or to persons having or conducting lawful business therein;
 6. Sidewalk vendors shall not engage in sidewalk vending activities within 25 feet of another sidewalk vendor;
 7. Within 500 feet of any permitted certified farmers' market, permitted swap meet, or an area designated for use pursuant to a temporary special permit, during the operating hours or duration of the certified farmers' market, swap meet, or temporary special permit;
 8. Upon any sidewalk that is within 100 feet of the nearest property line of any property on which a school, a place of worship, or a child day-care facility is located;
 9. Upon any sidewalk that is within 100 feet of the nearest property line of any property on which a private and post-secondary education, college or university building or campus is located;
 10. Within or on any median strip or dividing section of any street;
 11. Within any landscaped area or on an unpaved surface;
 12. Within 25 feet of any active encroachment permit issued and displayed during the time and dates listed in the permit;
 13. Within 25 feet of any outdoor dining or patio area of a business;
 14. Within any public property that does not meet the definition of a sidewalk or pathway including, without limitation, any alley, median, trail, street, roadway, parking lot, or parking structure;
 15. Within any private property without having first obtained current and valid permits and licenses from the City for such activity and received express written consent of the property owner or lessee of the property;
- F. Mobile vendors shall not vend in a manner that blocks or obstructs the free movement of pedestrians on sidewalks and must maintain a minimum of three feet of accessible path of travel, without obstruction, along the sidewalk upon which the vendor is vending so as to enable persons to freely pass while walking, running, or using mobility assistance devices.

- G. Mobile vendors shall not block any entrances to buildings, driveways, parking spaces, or windows.
- H. Mobile vendors shall not vend to customers in vehicles unless said vehicles are lawfully parked and shall not cause vehicles to stop in traffic lanes or persons to stand in traffic lanes.
- I. Mobile vendors that sell food shall maintain a trash container in or on their mobile vending station and shall not empty their trash into public trash cans. The size of the vendor's trash container shall be considered when assessing the total size limit of a stationary mobile vending. Mobile vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation, and returning the site to the condition present at the time the mobile vendor arrived.
- J. Mobile vendors shall maintain the area immediately surrounding the vending area in a clean and sanitary condition. Prior to leaving any vending location, the mobile vendor shall pick up, remove, and lawfully dispose of all byproducts (including fats, oils, and grease) and litter generated by the vending operation (whether by the vendor or customer) within 25 feet of the vending location. Mobile vendors shall not cause, permit, or suffer any litter, food, or other discarded or abandoned object to be thrown, deposited, or left in or upon any street, sidewalk, gutter, storm drain, inlet, catch basin, or other drainage structure, or upon any public or private land in the City.
- K. Vending carts shall not be left unattended on the public right-of-way at any time.
- L. Mobile vendors engaged in the vending of food or beverages shall have hand sanitizer located in a conspicuous location readily available for use by customers.
- M. All food and merchandise shall be stored either inside or affixed to the mobile vendor station or carried by the mobile vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the mobile vendor station, the overall space taken up by the mobile vendor station shall not exceed the size requirements provided in this chapter.
- N. Roaming mobile vendors shall not use any portable cooking equipment, gas-fueled appliance, or any open flame unless approved and permitted by the Director, San Rafael City Fire Department and/or Marin County Environmental Health Services.
- O. Mobile vendors who vend any food, beverage, or liquid product must implement the following practices:
 - 1. Possess spill kits that are comprised of paper towels, cloth towels, cat litter, or sand at all times while vending;
 - 2. Remove all spill materials from the public right-of-way and sidewalks once the spilled material is absorbed off the ground;
 - 3. Capture and prevent spills leaving the area and moving into the surrounding streets from entering the stormwater conveyance system, including curbs, gutters, and storm drains;
 - 4. Properly dispose of grease, either by hiring and utilizing an on-site grease collector or collection system, or at an acceptable facility; and

5. Ensure that any water or rinse residue used for vending activities (e.g., cooler water, ice, food preparation water) is not disposed in the curbs, gutters, streets, drains, or on any public property.
- P. Mobile vendors shall ensure that all customer queuing, waiting areas, or lines do not block, hinder, or interfere with the free flow of pedestrian or vehicular traffic along, over, or across public property, and otherwise comply at all times with the location-related restrictions set forth in this chapter relative to sidewalk vending activities.
- Q. During an urgent or emergency public safety event or incident, including, but not limited to, a traffic accident, crime scene, medical emergency, gas leak, natural disaster, fire, on-site construction, sidewalk or road work or related work on a capital improvement project, the City may temporarily require the mobile vendors to relocate to another location or area if doing so is necessary to protect the public health, safety, or welfare.
- R. Mobile vendors may only use an umbrella or temporary covering for shade or protection from sun or rain over the vending cart, and it shall not exceed eight feet in height nor five feet in diameter. Furthermore, the use of such an umbrella or temporary covering shall be fire rated as flame-resistant as approved by the San Rafael Fire Department for any vending activities while an approved heating element or portable cooking equipment is in use.
- S. Notwithstanding any specific requirements, conditions or prohibitions contained in this chapter, mobile vending is prohibited at any location, public property or area where the operation of mobile vending activities creates a reasonable danger to the health, safety or general welfare of the public or property.
- T. Mobile vendors shall present, upon request, a valid government-issued photo identification, California driver's license or identification card, Mobile Vending Permit, business license, and other applicable license or permit, to any City official including a City code compliance officer, building inspector, police officer, firefighter, fire prevention specialist or examiner, Marin County health inspector authorized to enforce this chapter including to ensure the safe operation and any heating elements or portable cooking equipment used to prepare food, as well as to any person to whom they are vending.

10.50.110 Stationary Mobile Vendor Operating Requirements.

In addition to the general operating requirements set forth in Sections 10.50.100, 10.50.120 and 10.50.130, stationary mobile vendors shall comply with the following operating requirements and prohibitions, and each of these operating requirements and prohibitions shall constitute conditions of any Mobile Vending Permit for a stationary sidewalk vendor.

- A. Stationary sidewalk vending activity is prohibited from operating or establishing in any residential areas of the City, defined as zoning districts R, DR, MR, and HR

under San Rafael Municipal Code Section 14.04.020 et seq., or within the Downtown Precise Plan area.

- B. Stationary mobile vendors may vend on private property under the following conditions:
1. The applicant provides written authorization from the property consenting to vending activity on their property.
 2. The applicant complies with the requirements of [San Rafael Municipal Code \(SRMC\) Section 14.17.130 \(Temporary Uses\)](#), including obtaining complying with any performance standards or conditions attached to the approval of the temporary use permit.
- C. Any vending cart used in the vending activity shall be removed from the sidewalk each day at the close of business.
- D. Stationary mobile vendors shall not cause, allow, or suffer the placement of chairs, fences, shade structures, umbrellas, other furniture not used to display merchandise, rugs, towels, or fabric of any kind upon the sidewalk in conjunction with the vending operation (whether for the display of goods or any other reason).
- E. Stationary mobile vendors shall not cause, allow, or suffer the erection or placement of any signs upon the sidewalk or a vending cart, unless allowed or approved pursuant to Chapter 14.19.
- F. Stationary mobile vendors shall not attach or use any water lines, electrical lines, or gas lines located on public property or owned by the City, or belonging to any other entity or person, during the vending activity.
- G. No vending cart may exceed an overall height of five feet, a total width of five feet, and a total length of five feet. It may not include attachments such as balloons, streamers, ribbons, or pinwheels.
- H. Vending activities shall only occur on sidewalks or pathways where it is possible to maintain a minimum of three feet of accessible path of travel, without obstruction, along the sidewalk upon which the vendor is vending.
- I. Vendors shall only use any portable cooking equipment or heating element as approved by the Director, San Rafael City Fire Department and/or Marin County Environmental Health Services. The following additional conditions apply:
1. The equipment shall be kept at least 20 feet from any permanent structure and at least 30 feet from any dry grass, grain, brush, or forested area;
 2. The equipment shall not be unattended;
 3. No vendor shall smoke or vape or allow any person to smoke or vape within 20 feet;
 4. The vendor shall regularly clean the portable cooking equipment to remove grease and food buildup;
 5. The equipment shall only use propane, natural gas, or butane cylinder tanks;
 6. The vendor shall use or store only propane, natural gas, or butane tanks of 20 gallons or less, with a limit of two 20-gallon tanks on a conveyance;

7. Tanks shall be stored in an upright position during use and positioned in such a way as to prevent falling, tipping, and tampering;
 8. Tanks shall be disconnected while the conveyance is in transit or not in use;
 9. Only tanks with a shut-off valve and a pressure regulator, having hoses of a type approved for use by the manufacturer with the equipment are allowed;
 10. All connections to the tank shall be tested for potential leaks before each use using soap and water; and
 11. Any conveyance that stores a tank shall have two ventilation openings on opposite sides at the cylinder valve level and at least one ventilation opening at the floor level. Each opening shall be a minimum of 10 square inches, screened with a minimum 16 mesh and shall vent to the exterior of the conveyance.
- J. Stationary mobile vendors shall comply with the following fire extinguisher requirements:
1. An easily accessible, properly charged and maintained 2A-10BC-rated five pound fire extinguisher shall be kept at the vending cart at all times and be familiar with its proper use. Stationary sidewalk vendors shall ensure the extinguisher has been serviced within the last year and has a valid California State Fire Marshal service tag attached;
 2. Deep-fat fryers or woks with cooking oil capacity of six inches depth or greater using combustible cooking media, vegetable or animal oils or fats, shall be provided with a Class K fire extinguisher;
 3. The extinguisher shall be mounted securely to the vending cart or equipment; and
 4. The extinguisher shall be located away from the cooking area but within reasonable reach to prevent the spread of fire.

10.50.120 Operating Requirements for Mobile Vendors Within a Park.

Mobile vendors shall comply with the following operating requirements and prohibitions, and each of these operating requirements and prohibitions shall constitute conditions of any Mobile Vending Permit for a sidewalk vendor within a park.

- A. Mobile vendors are prohibited from operating within any portion of a City park for which the City has signed an agreement for concessions that exclusively permits the sale of merchandise or food by the concessionaire.
- B. Mobile vendors operating within a City park shall comply with all operating requirements and prohibitions set forth in Sections 10.50.100, 10.50.110 and 10.50.130.
- C. Roaming sidewalk vendors shall not vend within 50 feet of any portion of a park for which the City has signed an agreement for concessions that exclusively permits the sale of merchandise or food by the concessionaire.
- D. Mobile vendors shall not vend in the following locations within a park:

1. Within 25 feet of any field, court, or pitch that is primarily designed for use in a sporting activity (including, but not limited to, baseball field, softball field, basketball court, tennis court, soccer pitch, volleyball court, pickleball court, horseshoe pits, lawn bowling and handball court), while said area is in use;
 2. Within 25 feet of any playground, recreational water features, or exercise area, while said area is in use;
 3. Within 25 feet of any restroom facilities;
 4. Within 25 feet of any community building or structure, indoor gym, dance rooms, meeting rooms, arts and craft rooms, banquet halls, lounge, shaded structures, patios, awnings, gazebos, BBQ stations, picnic pavilion, picnic tables, recreation rooms, dog park, and bandshells;
 5. Within 25 feet of any abutting residential parcel adjacent to a park.
- E. Mobile vending within any park is prohibited daily between the hours of eight p.m. (8:00 p.m.) and eight a.m. (8:00 a.m.) of the following day.
- F. Notwithstanding Section 10.50.100(E)(18), mobile vendors of merchandise may conduct mobile vending on unpaved portions of a park, so long as the vendor adheres to all other mobile vendor operating requirements and park regulations. Mobile vendors of food may not conduct mobile vending on unpaved portions of a park.

10.50.130 Prohibited Activities.

The following activities are prohibited, which are directly related to objective of health, safety, and welfare concerns, including, but not limited to, health, safety and welfare of vendors, their prospective patrons, pedestrians, those protected by the Americans with Disabilities Act, those operating motor vehicles at intersections and in rights-of-way adjacent to sidewalks, and the public at large. Mobile vendors shall not:

- A. Sell or offer to sell services, or engage in or offer to engage in any type of rental activity, including the rental of any goods or services;
- B. Display merchandise or food that is not available for immediate sale;
- C. Utilize outdoor wood burning ovens, charcoal barbecues;
- D. Utilize gasoline or kerosene;
- E. Utilize portable generators unless approved by the Director, San Rafael Fire Department and/or Marin County Environmental Health Services;
- F. Except as otherwise specified in this chapter, conduct sidewalk vending activities between the hours of eight p.m. (8:00 p.m.), and eight a.m. (8:00 a.m.) of the following day, with the exception that sidewalk vending in nonresidential areas may operate during hours consistent with the hours of operation of the businesses on the same street block;
- G. Utilize a motorized mobile vending cart;
- H. Use any flashing lights or any other animated devices. Mobile vendors shall only utilize the minimum amount of luminaires necessary for the safe operation of sidewalk vending activities as determined by the City;

- I. Sell, use, or vend any of the following:
 - 1. Live animal(s),
 - 2. Adult-oriented material depicting, describing, or relating to specified anatomical areas or specified sexual activities ,
 - 3. Alcoholic beverages, cannabis, marijuana, or tobacco products that contain nicotine or any product used to smoke (or "vape") nicotine or marijuana,
 - 4. Weapons, including knives, guns, or explosive devices; airsoft guns, paintball guns, BB devices or imitation firearms,
 - 5. Pharmaceuticals,
 - 6. Illegal or counterfeit merchandise, or
 - 7. Any other merchandise or products prohibited by local, state and federal laws;
- J. Utilize sound in violation of any City noise standard.
- K. Allow a vending cart or other accessory equipment to touch, lean against or be affixed or fastened at any time to any building, structure or above-ground structure, including, but not limited to, poles, trees, lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans, waste receptacles, or traffic barriers located in the public right-of-way;
- L. Set up a customer seating area, such as, but not limited to, equipment, tables, chairs, tents, or canopies;
- M. Enter private property to solicit at any dwelling, including, but not limited to, a house, apartment, duplex, condominium, gated community, or business without explicit permission of the property owner or their designee.

10.50.140 Violations and Penalties.

- A. By Persons With a Current and Valid Permit. A violation of this chapter, by a sidewalk vendor who has a current and valid Mobile Vending Permit issued by the City pursuant to this chapter, is punishable by an administrative citation under this code, in the following amounts:
 - 1. An administrative fine not exceeding \$100.00 for a first violation;
 - 2. An administrative fine not exceeding \$200.00 for a second violation within one year of the first violation; and
 - 3. An administrative fine not exceeding \$500.00 for each additional violation within one year of the first violation.
- B. By Persons Without a Current and Valid Permit. Any person engaged in mobile vending without a current and valid Mobile Vending Permit issued pursuant to this chapter is punishable by an administrative citation pursuant to Chapter 1.44 of this code, in the following amounts:
 - 1. An administrative fine not exceeding \$250.00 for a first violation;
 - 2. An administrative fine not exceeding \$500.00 for a second violation within one year of the first violation; and
 - 3. An administrative fine not exceeding \$1,000.00 for each additional violation within one year of the first violation.

4. Upon proof of a valid permit issued by the City, pursuant to this chapter, the administrative fines set forth in this subsection B shall be reduced to the administrative fines set forth in subsection A of this section, or any successor sections, if such conduct would still constitute a violation of this chapter.
- C. The Director may revoke a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.
- D. A violation of this chapter shall not be punishable as an infraction or misdemeanor and a person alleged to have violated any provision of this part shall not be subject to arrest except when otherwise permitted under law. Further, failure to pay an administrative citation issued pursuant to this chapter shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.
- E. Any administrative citation issued pursuant to this chapter shall be accompanied with notice of and instruction regarding the citee's right to request an ability-to-pay determination. When assessing administrative citations pursuant to this chapter, the administrative hearing officer shall take into consideration the person's ability to pay the fine. 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.
- F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor sections, the City shall accept, in full satisfaction, 20% of an administrative citation imposed pursuant to this chapter.

10.50.150 Ability-to-Pay Determination and Appeals.

- A. Ability-to-Pay Determination. Any person issued an administrative citation pursuant to this chapter may request a determination on the person's ability to pay the administrative fine. The person may request an ability-to-pay determination at any time prior to payment of the fine, including when a fine is delinquent or has been referred to a comprehensive collection program.
 1. The Director or hearing officer shall reduce the fine to 20% of the total if the citee meets either of the following criteria:
 - a. The citee is receiving public benefits under Government Code Section 68632(a), or any successor section; or
 - b. The citee has a monthly income which is 200% or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services.
- B. Appeal of Administrative Citation. Any person issued an administrative citation pursuant to this chapter shall have the right to appeal the issuance of the administrative citation in accordance with and the time limits set forth in Chapter 1.44 of this code.

1. Notwithstanding the provisions of Chapter 1.44 of this code, upon the submission of proof of a valid permit issued by the City pursuant to this chapter, any administrative fine imposed upon a mobile vendor who did not have a valid permit at the time the administrative citation was issued shall be reduced in accordance with Section 10.50.140(B)(4).
2. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the hearing officer shall accept, in full satisfaction, 20% of the administrative fine imposed pursuant to this chapter.
3. The hearing officer 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.

C. Appeal of Denial or Revocation of Mobile Vending Permit.

1. Any person who has been denied a Mobile Vending Permit or who has had a Mobile Vending Permit revoked by the Director or designee, or has had their mobile vending cart, food, equipment, utensils, goods or merchandise (collectively classified as "items") impounded pursuant to this chapter may appeal such determination to the hearing officer, by filing a request for an appeal with the City Clerk, and paying an appeal fee as set by resolution of the City Council, within 21 calendar days of service of the notice of such denial, revocation . The request for an appeal shall contain, at a minimum, the following:
 - a. The name, current mailing address, and telephone number of the appellant;
 - b. As applicable, the date of denial or rescission by the Director or designee, ;
 - c. A statement as to all grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy; and
 - d. The signature of the appellant under penalty of perjury as to the contents of the request for appeal.
2. An appeal shall be scheduled for a hearing before the hearing officer within 30 calendar days of the filing of the appeal unless both the appellant and the hearing officer consent to a later date.
3. The hearing officer shall give notice in writing to the appellant of the time and location of the appeal hearing. At the hearing, the hearing officer shall review the record of the decision for denial of a Mobile Vending Permit or revocation of a Mobile Vending Permit by the Director and hear testimony of the appellant, if any, the applicant, and any other interested party. The appeal shall be reviewed and determined on a de novo basis.

D. After the hearing, the hearing officer shall affirm, modify, or reverse the original denial or revocation t. When a denial or revocation is modified or reversed, the hearing officer shall state the specific reasons for modification or reversal. .

Decisions on appeals shall be rendered within 30 calendar days of the close of the hearing. The hearing officer shall mail notice of a decision to the appellant. Such notice shall be mailed within five working days after the date of the decision to the appellant. The decision of the hearing officer shall be final.

DIVISION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

This Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to the “common sense exemption” in Section 15061(b)(3) of Title 14 of the California Code of Regulations, since it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

DIVISION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council of the City of San Rafael hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

DIVISION 4. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael, and shall be in full force and effect on December 3, 2025. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 20th day of October 2025, and was passed and adopted at a regular meeting of the San Rafael City Council on the 3rd day of November 2025 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Attest:

Kate Colin, Mayor

LINDSAY LARA, City Clerk

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADDING MOBILE VENDING PERMIT PROGRAM FEES TO THE CITY'S MASTER FEE SCHEDULE FOR FISCAL YEAR 2025-2026

WHEREAS, the City of San Rafael (City) seeks to establish a mobile vending permit program to regulate the sale of food, goods, and merchandise to protect public health and safety; and

WHEREAS, the City will incur costs in the process of regulating mobile vendors, including the cost of reviewing and processing mobile vending permit applications as well as inspecting mobile vendors for compliance with permitting requirements;

WHEREAS, in December 2022, following a comprehensive fee study, the City Council adopted [Resolution 15178](#), a resolution authorizing updates to its Master Fee Schedule, which has subsequently been updated, most recently [through Resolution No. 15421](#); and

WHEREAS, City staff calculated the fee amounts identified in Exhibit A (and described in the staff report accompanying this resolution) in accordance with the requirements of State law; and,

WHEREAS, the proposed revised mobile vending fees do not qualify as a "tax" as set forth in Proposition 26 (California Constitution Article XIII C, Section 1(e)) since the fee amounts do not exceed the reasonable regulatory costs in issuing permits, performing inspections, and administrative enforcement thereof.

WHEREAS, adoption of this MOU is exempt from environmental review pursuant to California Environmental Quality Act Guideline 15061(b)(3); and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of San Rafael does hereby find that the foregoing recitals are true and correct, approve and authorize the adoption of "Mobile Vending Permit" fees in the Fiscal Year 2025-2026 Master Fee Schedule, as reflected in Exhibit A attached hereto, to be effective immediately.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular

meeting of the City Council of the City of San Rafael, held on October 20, 2025, by the following vote, to wit:

AYES: **Councilmembers:**
NOES: **Councilmembers:**
ABSENT: **Councilmembers:**

Lindsay Lara, City Clerk



City of San Rafael
Planning Services

Service Name	Fee Description	Fee	Recovery %
Streamlined Housing Development			
SB 330 Application	Deposit + Hourly	\$ 2,242	100%
SB 9 Housing Development Application	Deposit + Hourly	\$ 6,061	100%
SB 9 Lot Split	Flat Fee	\$ 14,465	100%
SB 35 Housing Development Application	Deposit + Hourly	\$ 15,910	100%
Subdivision			
Lot Line Adjustment & Merger	Flat Fee	\$ 6,530	100%
Small Subdivision	Flat Fee	\$ 14,465	100%
Tentative Map / Subdivision Map	Deposit + Hourly	\$ 18,905	100%
Map Amendment and Extensions	Flat Fee	\$ 8,420	100%
Certificates of Compliance	Flat Fee	\$ 6,065	100%
Exception (Subdivision Ordinance)	Flat Fee	\$ 7,266	100%
Planning Policy			
General Plan Amendment	Deposit + Hourly	\$ 19,229	100%
Development Agreement	Deposit + Hourly	\$ 30,748	100%
Rezoning/Pre-Zoning/Preannexation	Deposit + Hourly	\$ 19,229	100%
Planned Development District	Deposit + Hourly	\$ 20,292	100%
Use Permit			
Use Permit - Administrative/Temporary	Flat Fee	\$ 1,977	100%
Use Permit - Zoning Administrator	Deposit + Hourly	\$ 2,910	60%
Use Permit - Planning Commission	Deposit + Hourly	\$ 9,475	100%
Variances			
Minor Variance - Zoning Administrator	Flat Fee	\$ 4,556	100%
Variance - Planning Commission	Flat Fee	\$ 9,475	100%
Reasonable Accommodation Request	Flat Fee	\$ 1,036	26%
Exception (Zoning)	Flat Fee	\$ 1,977	100%
Exception (Hillside)	Flat Fee	\$ 2,948	100%
Environmental and Design Review			
Environmental and Design Review (Administrative)	Deposit + Hourly	\$ 3,158	100%
Environmental and Design Review - Zoning Administrator	Deposit + Hourly	\$ 6,061	100%
Environmental and Design Review - Planning Commission	Deposit + Hourly	\$ 16,287	100%
Sign Review			
Sign Review - Staff	Flat Fee	\$ 268	100%
Sign Program - Minor (Staff)	Flat Fee	\$ 1,503	100%
Sign Program - Major (Planning Commission)	Flat Fee	\$ 8,640	100%
Sign Review - Minor Exception	Flat Fee	\$ 1,503	100%
Sign Review - Major Exception	Flat Fee	\$ 8,640	100%
Temporary Banner Permit	Flat Fee	\$ 201	100%
Appeal Fees			
Appeal to Planning Commission Filing Fee	Flat Fee	\$ 376	5%
Appeals Planning Commission	Deposit + Hourly	\$ 5,374	65%
Appeal to City Council Filing Fee	Flat Fee	\$ 376	4%
Appeals to City Council	Deposit + Hourly	\$ 5,374	57%
California Environmental Quality Act Review			
Negative Declaration	Deposit + Hourly	\$ 18,980	100%
Environmental Impact Report	Deposit + Hourly	Consultant Cost +25%	100%
Monitoring of Mitigation Measures And Conditions of Approval	Deposit + Hourly	\$ 6,956	100%
Other Planning Services			
Misc. Staff Time Hourly Rate / Planning Manager ³	FBHR	\$ 272	100%
Misc. Staff Time Hourly Rate / Principal Planner ³	FBHR	\$ 215	100%
Misc. Staff Time Hourly Rate / Associate Planner ³	FBHR	\$ 172	100%
Misc. Staff Time Hourly Rate / Assistant Planner ³	FBHR	\$ 172	100%
Pre Application Meeting/Letter	Flat Fee	\$ 2,241	30%
Licensing Agreement (Outdoor Dining)	Flat Fee	\$ 1,845	100%
Certificate of Appropriateness for Alteration of Historic Structure	Deposit + Hourly	\$ 10,269	100%
Certificate of Public Convenience and Necessity for Alcoholic Beverage License	Deposit + Hourly	\$ 3,216	100%
Neighborhood Meeting	Deposit + Hourly	\$ 3,005	100%
Contract Planner/Consultant Administration	Deposit + Hourly	Consultant Cost +10%	100%
Building Permit - Plan Checks	% of Permit Fee	20%	100%
Planning/Zoning Research	Per Hour	\$ 169	100%
General Plan Maintenance Fee	% of Permit Fee	35%	100%
Planning Review of Building Permits - Multi-Family	% of Permit Fee	10%	50%
Planning Review of Building permits - All Others	% of Permit Fee	20%	100%
Specialized Consultant - Including Archaeology Referral	Deposit + Hourly	Consultant Cost +10%	100%
Zoning Verification Letter	Per 1.5 Hours	\$ 252	100%
Small Wireless Facilities	Deposit + Hourly	\$ 5,342	100%
Wireless Communication Facilities	Flat Fee	\$ 1,075	100%
Mobile Vending Permit Application	Flat Fee	\$ 25	13%
Mobile Vending Annual Permit	Flat Fee	\$ 25	10%



City of San Rafael
Planning Services

Service Name	Fee Description	Fee	Recovery %
Mobile Vending Appeal	Flat Fee	\$ 202	100%

Footnotes

FBHR = Fully Burdened Hourly Rate For Staff Positions (Applicable Average Salary + Fringe Benefits + 10% Overhead Rate)

Deposit + Hourly = Applicant is to pay all City costs, including FBHR based on the time staff spends on the project, 100% of consultant costs, which include but not limited to environmental consultants, archaeologists, outside legal counsel, contract planners, etc. and materials. The initial deposit is listed in the Fee Column.

Note: Multiple application discount: when multiple applications are filed simultaneously, a 25% discount on each deposit-based application type will apply.

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL ENFORCEMENT MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF MARIN

WHEREAS the City of San Rafael (City) seeks to more effectively regulate mobile vending in the City to protect public health and safety; and

WHEREAS, “enforcement officers” have authority to enforce provisions of the California Retail Food Code (See, e.g., Article 2 of Chapter 13 of Part 7 of Division 104 of the Health and Safety Code); and

WHEREAS, Health and Safety Code section 113774 defines “enforcement officer” as “the director, agents, or environmental health specialists appointed by the State Public Health Officer, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees;” and

WHEREAS, the City has not appointed a health officer pursuant to Health and Safety Code section 101460; and

WHEREAS, the City has made arrangements for the County health officer and his/her/their deputies to exercise the same powers and duties in the City as are conferred upon City health officers by law, pursuant to Health and Safety Code sections 101375, 101400, 101405, and 101460; and

WHEREAS, the County is currently unable to transport or store food, equipment, or utensils impounded in the City’s jurisdiction due to logistical constraints; and

WHEREAS, the City and County have seen a recent proliferation of sidewalk vendors, including compact mobile food operations and temporary food service operations, with a corresponding proliferation of unpermitted food vendor activity, and increased requests for protection received by County enforcement officers in the field; and

WHEREAS, the City and County desire the City to enforce provisions of the California Retail Food Code (Part 7 of Division 104 of the Health and Safety Code) related to Compact Mobile Food Operations (including, but not limited to, Chapter 11.7

of Part 7 of Division 104 of the Health and Safety Code) within the boundaries of the City; and

WHEREAS, City hereby warrants to County that City is skilled and able to exercise the powers and duties described in the Interlocal Enforcement Memorandum of Understanding (MOU); and

WHEREAS, in recognition of the City and County's ability to contract for City performance of County health functions (see, e.g., Health & Saf. Code § 101415), and in recognition of the City's authority to exercise the powers and duties conferred upon city health officers by law, County desires to delegate enforcement authority to the City pursuant to this Agreement to exercise the powers and duties described in the MOU, subject to the terms and conditions of the MOU.

WHEREAS, adoption of this MOU is exempt from environmental review pursuant to California Environmental Quality Act Guideline 15061(b)(3); and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of San Rafael hereby finds that the foregoing recitals to be true and correct and authorizes the City Manager to enter into an Interlocal Enforcement MOU with the County of Marin as described in Exhibit One attached hereto, to be effective immediately.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on October 20, 2025, by the following vote, to wit:

AYES: **Councilmembers:**
NOES: **Councilmembers:**
ABSENT: **Councilmembers:**

Lindsay Lara, City Clerk

INTERLOCAL ENFORCEMENT MEMORANDUM OF UNDERSTANDING

RE: California Retail Food Code (Health & Saf. Code §§ 113700-114437)

This INTERLOCAL ENFORCEMENT MEMORANDUM OF UNDERSTANDING (“**Agreement**”) is entered into as of the _____ day of _____, 2025, by and between the County of Marin (“**County**”), and the City of San Rafael (“**City**”), a California municipal corporation, (collectively “**Parties**” or individually, “**Party**”) with reference to the following facts, understandings and intentions.

Recitals

WHEREAS, “enforcement officers” have authority to enforce provisions of the California Retail Food Code (See, e.g., Article 2 of Chapter 13 of Part 7 of Division 104 of the Health and Safety Code); and

WHEREAS, Health and Safety Code section 113774 defines “enforcement officer” as “the director, agents, or environmental health specialists appointed by the State Public Health Officer, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees”; and

WHEREAS, the City has not appointed a health officer pursuant to Health and Safety Code section 101460; and

WHEREAS, pursuant to an agreement the City and County entered into on August 13, 1973, the County health officer and his/her/their deputies enforces and observes in the City’s jurisdiction all public health statutes and ordinances and related inspections, and exercises the same powers and duties in the City as are conferred upon city health officers by law, pursuant to Health and Safety Code sections 101375, 101400, 101405, and 101460; and

WHEREAS, the County Public Health Officer delegates enforcement of the Retail Food Code to the County’s Director of Environmental Health Services, who directs and manages the operations of the County’s Registered Environmental Health Specialists (REHSs), including execution of their duties under the California Health and Safety Code, and the County warrants that its REHSs have authority under the Health and Safety Code to exercise the powers and duties described in Section 3 of this Agreement; and

WHEREAS, the County is currently unable to transport or store food, equipment, or utensils impounded in the City’s jurisdiction due to logistical constraints; and

WHEREAS, the City and County have seen a recent proliferation of sidewalk vendors, including compact mobile food operations and temporary food service operations, with a corresponding proliferation of unpermitted food vendor activity, and increased requests for protection received by County enforcement officers in the field; and

WHEREAS, the City and County seek to enforce provisions of the California Retail Food Code (Part 7 of Division 104 of the Health and Safety Code) related to permitting of compact mobile food operations and temporary food service operations (including, but not limited to,

Chapter 11 and 11.7 of Part 7 of Division 104 of the Health and Safety Code) within the boundaries of the City; and

WHEREAS, in recognition of the City and County's ability to contract with each other for performance of functions related to public health (see, Health & Saf. Code § 101400 et seq.), and in recognition of their respective authority to exercise the powers and duties conferred upon city and county health officers by law, the Parties desire to establish procedures to protect the health and safety of consumers, while respecting the rights of vendors, ensuring the safety of inspectors, and prudently and pragmatically utilizing the resources offered by health inspectors, code enforcement, and law enforcement.

Memorandum of Understanding ("MOU")

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals and all defined terms set forth above are hereby incorporated into this MOU as if set forth herein in full.

2. Powers and Authorities. Health and Safety Code 114393 authorizes the County Public Health Officer, and the REHSs under their authority, to impound certain food, equipment, and utensils.

3. Project Coordination. The Parties agree to cooperate and share resources in furtherance of execution of the services the County provides the City under the 1973 Agreement and of enforcement of permitting requirements for unpermitted compact mobile food operations and unpermitted temporary food service operations (See Chapter 11 and 11.7 of Part 7 of Division 104 of the Health and Safety Code). For these purposes, the authorized representatives identified below shall represent County and City in matters pertaining to the administration of this MOU.

A. County. The County Executive or his/her/their designee shall represent the County for all purposes under this MOU, except (1) where approval for the County is specifically required by the Board of Supervisors by the Health and Safety Code; or (2) where approval of the County's Public Health Officer (whose powers under the Retail Food Code are delegated to the County's Director of Environmental Health Services) is required by the Health and Safety Code.

B. City. The City Manager or his/her/their designee shall represent City for all purposes under this MOU.

C. Food Safety Field Checks. City and County will collaborate and cooperate to conduct field operations ("Food Safety Field Checks") to ensure compliance with permitting requirements set forth in the Retail Food Code.

4. Performance of Food Safety Field Checks

A. Scope of Joint Enforcement Services. During the term of this Agreement, City shall have the authority to perform the powers and duties set out in the “Scope of Joint Enforcement Services” attached hereto as **Exhibit A** and incorporated herein by reference.

B. Time of Performance. City’s performance of the enforcement powers and duties, as described in **Exhibit A**, are to commence upon final execution of this MOU.

C. Standard of Quality. All duties performed by City under this MOU shall be performed: (1) with due diligence, using its best efforts to perform and coordinate all activities in a timely manner, based on available resources; (2) in accordance with all applicable legal requirements; and (3) with the standard of quality ordinarily expected of City or County health officers.

D. Performance not Required. Nothing in this MOU requires the parties to perform the enforcement described in **Exhibit A**. Further, nothing in this MOU modifies the County’s existing regulation and permitting of food facilities in the City’s jurisdiction, pursuant to the 1973 Agreement of the parties.

5. Compensation. No compensation shall paid to either party for performance of the enforcement powers and duties under this MOU.

6. Term. This Agreement shall commence upon its execution by both parties and shall continue in full force and effect until terminated as provided herein.

7. Employment of Other Consultants, Specialists or Experts. City will not employ or otherwise incur an obligation to pay other consultants, specialists or experts for services in connection with this MOU without the prior written approval of the County.

8. Independent Contractor. It is expressly agreed that City, in the performance of the work and services agreed to be performed by City, shall not be considered an agent or employee of County and shall have responsibility for and control over the details and means of providing its services under this MOU. City shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the successful completion of the services under this MOU. City, or any officer, elected official, employee, agent, or subcontractor of City, shall obtain no rights to retirement benefits or other benefits which accrue to County’s employees, and City hereby expressly waives any claim it may have to any such rights. City, its officers, employees and agents shall not have any power to bind or commit the County to any decision.

9. Compliance with Laws.

A. General. City shall use the standard of care applicable to local governments to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. City represents and warrants to County that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and certifications which are legally required for City to comply with its duties. County is not

responsible or liable for City's failure to comply with any or all of the requirements contained in this paragraph or in this MOU.

B. Workers' Compensation. City certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and City certifies that it will comply with such provisions before commencing performance of the MOU and at all times in the performance of the MOU.

C. Prevailing Wage. City and City's subcontractors (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at the County's office of the County Clerk.

10. Confidential Information. All data, documents, discussions or other information developed or received by or for City in performance of this MOU are confidential unless required to be disclosed pursuant to State or Federal law.

11. Assignment. Neither party shall assign, delegate, transfer, or convey its powers, duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the other's prior written consent.

12. Termination of MOU Default. This MOU and all obligations hereunder may be terminated at any time, with or without cause, by either party upon thirty (30) days' written notice to the other party.

13. Merger; Amendment. This MOU constitutes the complete and exclusive statement of the agreement between County and City concerning the subject matter of this MOU and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the County and City. All provisions of this MOU are expressly made conditions.

14. Interpretation. This MOU shall be interpreted as though it was a product of a joint drafting effort, and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

15. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first-class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party in writing of the change of address. Notice shall be deemed communicated within seventy-two (72) hours from the time of mailing if mailed as provided in this section.

If to County:

County Clerk's Office

County of Marin
3501 Civic Center Drive, Suite 234
San Rafael, CA 94903

If to City:

City Clerk's Office
City of San Rafael
1400 Fifth Avenue, Room 209
San Rafael, CA 94901

16. MOU Is Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, delegees, and subcontractors of both parties.

17. Equal Employment Opportunity. City is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. City will not discriminate against any employee or applicant for employment because of race, religion, age, sex, creed, color, sexual orientation, marital status or national origin. City will take affirmative action to ensure that applicants are treated during such employment without regard to race, religion, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

18. Non-Exclusive MOU. This is a non-exclusive agreement. County reserves the right to also exercise the powers and duties described in Section 3 of this MOU. There are no third party beneficiaries of this MOU and nothing in this MOU, express or implied, is intended to confer on any person or entity other than the parties hereto.

19. Remedies/Waiver. No failure on the part of either party to exercise any term, covenant, condition, right or remedy hereunder shall operate as a waiver of any other term, covenant, condition, right or remedy that such party may have hereunder. All remedies permitted or available under this MOU, or at law or in equity, are cumulative and alternative.

20. Mutual Indemnification.

A. Indemnification. To the fullest extent permitted by law, each Party shall indemnify, defend and hold the other Party ("**Other Party**") harmless from any and all liability (including liability for claims, demands, damages, obligations, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including reasonable attorneys' fees and costs, court costs, interest, defense costs and expert witness fees) of any nature ("**Liability**") that such Other Party may suffer, sustain or become subject to as a result of the Party's action or inaction, which is attributable to the Liability. This indemnification is an independent covenant between the parties and will survive any termination of this MOU.

B. Dispute Resolution. Nothing in this MOU gives rise to a claim for breach or other theories of liability under contract law. Any disputes concerning execution of services provided for herein, or rights and duties governing the services provided for herein, shall be resolved by use of a mediator agreed to by both parties, whose expenses shall be shared equally by each party, or by an in-person settlement conference.

21. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

22. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

A. **Exhibit A:** Scope of Joint Enforcement Services

23. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. The parties hereby expressly agree to the use of electronic signatures, which shall be deemed to have the same effect as an original signature.

24. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he/she/they is/are duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

IN WITNESS WHEREOF, County and City have executed this Agreement as of the date first above written.

COUNTY OF MARIN

By: _____
Name: Derek Johnson
Title: County Executive
Date:

ATTEST:

By: _____
County Clerk

CITY OF SAN RAFAEL

By: _____
Name: Cristine Alilovich
Title: City Manager
Date:

ATTEST:

By: _____
City Clerk

EXHIBIT A

Scope of Joint Enforcement Services

1. Food Safety Field Check.
 - a. For each Food Safety Field Check, the Parties shall jointly decide and agree upon the date, time, and location, and the type and number of personnel attending each Food Safety Field Check, no less than seven (7) days before the event commences, unless the Parties mutually agree to a shorter time frame.
 - b. Each Food Safety Field Check shall occur within the boundaries of the City.
 - c. Prior to commencing any Food Safety Field Checks, the City and County shall cooperate in the establishment of an administrative process for compliance with Health and Safety Code section 114393, and protocols for ensuring protection of vendors' due process rights.
 - d. Each Party shall bear their own expenses related to any Food Safety Field Check, unless otherwise agreed in writing in advance of the enforcement activity.
2. Responsibilities.
 - a. The County shall be responsible for providing Registered Environmental Health Specialists. (See Health & Safety Code § 106615).
 - i. REHSs shall identify violations of Health and Safety Code section 114387.
 - ii. REHSs shall identify food from Unapproved Food Sources, as the term is defined in [H&S], and make all determinations about the impoundment of food and equipment.
 - b. The City shall be responsible for the following:
 - i. Providing code enforcement personnel for each Food Safety Field Check.
 - ii. Providing law enforcement personnel for each Food Safety Field Check.
 - iii. The impoundment of food and equipment identified by the County's Enforcement Officers pursuant to Health and Safety Code sections 114390-114399.



Unpermitted Food Vending Complaints 2024-2025

This data and the related maps show reports of unpermitted food vending in San Rafael. The information comes from complaints submitted to the City through the Code Enforcement form, by email, or by phone. Staff reviewed and mapped these reports to show where complaints were made and where they were most common.

Data only includes reports from people who knew how to contact the City, so it may not show every location where unpermitted food vending occurs.

Tracking started with the first complaint in 2024, and the 2025 data includes reports from January through September.

Table 1. Unpermitted Food Vending Complaints – 2024

Unpermitted Food Vending Complaints 2024	
August	1
September	7
October	4
November	4
December	3
Total Unpermitted Food Vending Complaints 2024 : 19	

Monthly number of complaints about unpermitted food vending in San Rafael for 2024. Data comes from reports made through the City's Code Enforcement form, email, and phone calls.

Table 2. Unpermitted Food Vending Complaints – 2025 (January – September)

Unpermitted Food Vending Complaints 2025	
January	2
February	7
March	5
April	5
May	6
June	6
July	5
August	4
September	14
2025 Total: 54	

Monthly count of complaint-based reports related to unpermitted food vending activity in San Rafael from January through September 2025. Data reflects complaints received through the City’s Code Enforcement form, email, and phone calls.

Reported Unpermitted Food Vending Complaints Maps (2024–2025)

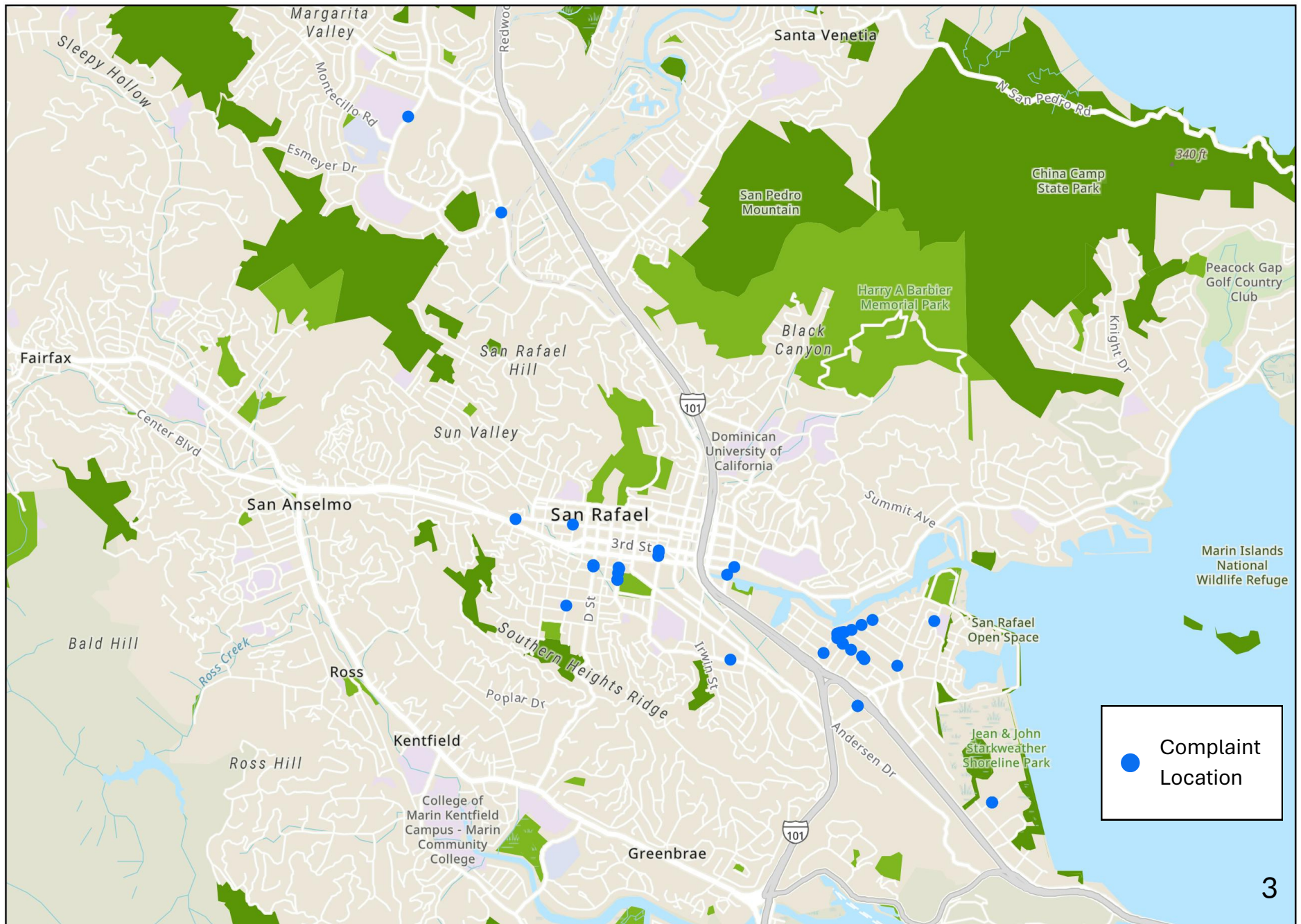
Complaint Location Maps

These maps show all the different places where one or more complaints about unpermitted food vending were reported. Each point marks a location connected to at least one complaint.

Heat Maps

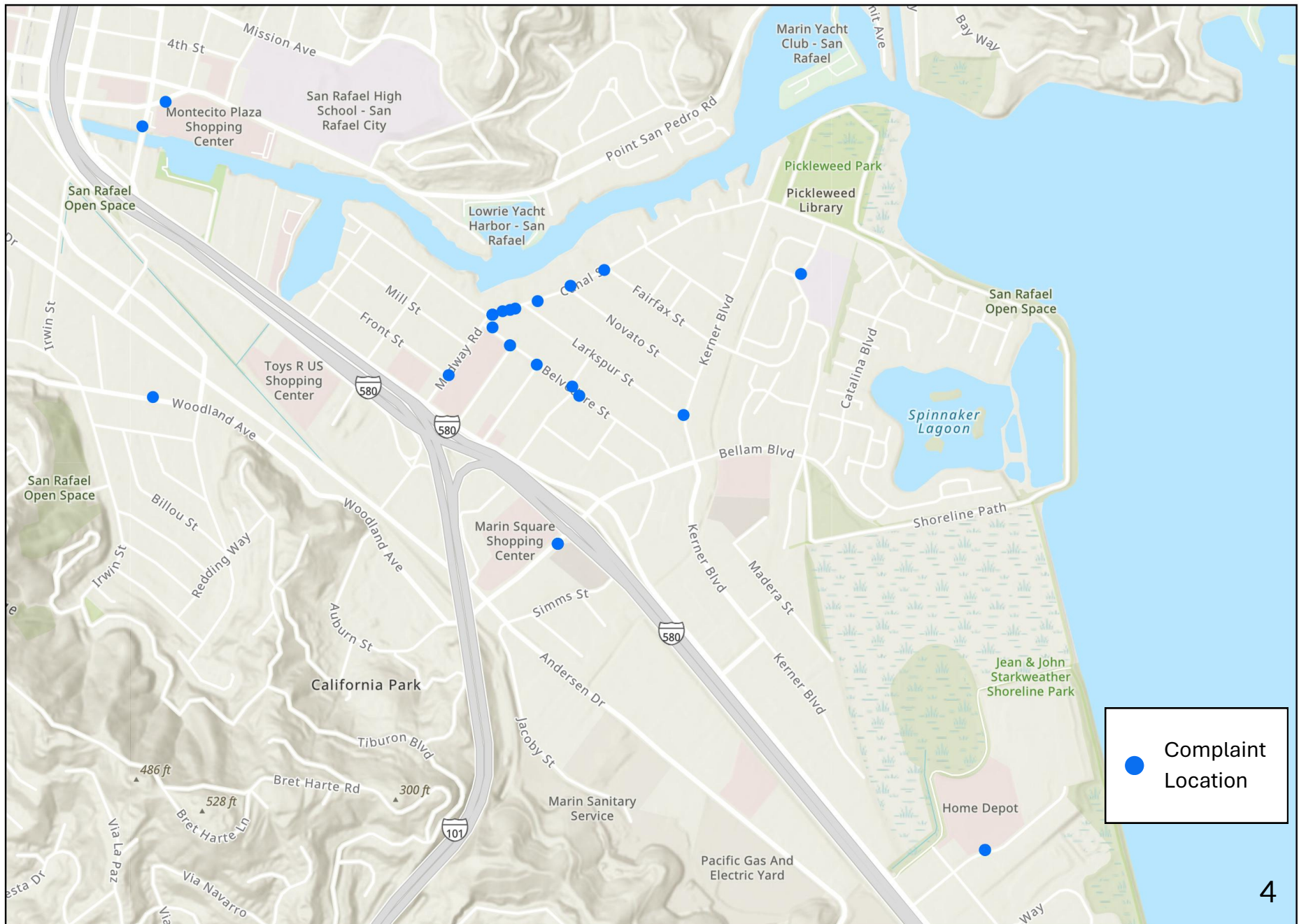
These maps show where complaints about unpermitted food vending are concentrated. Brighter areas mean more complaints were received in those parts of the city.

Locations of Reported Unpermitted Food Vending Complaints (2024–2025*)



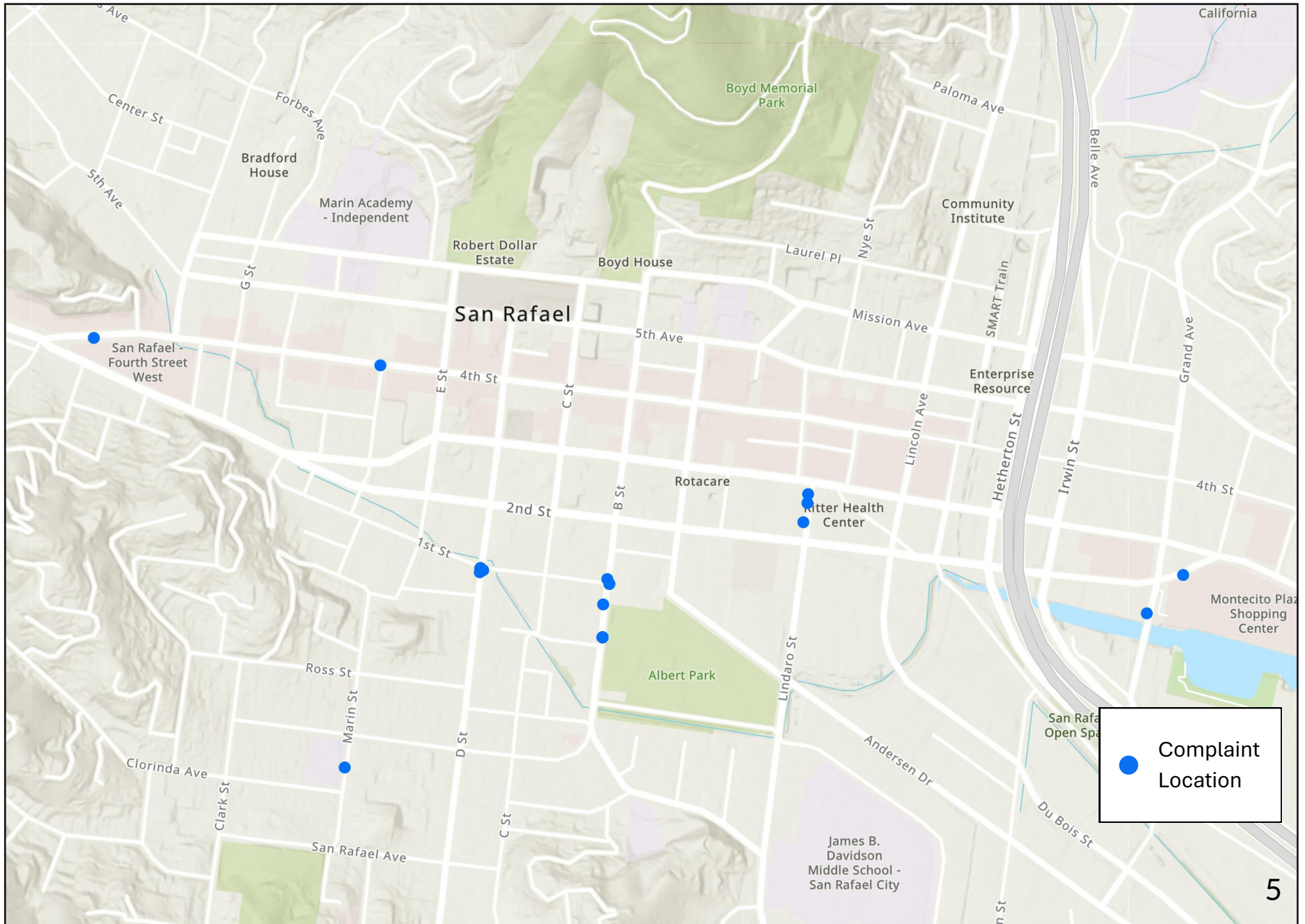
*2025 Data (January - September 2025)

Locations of Reported Unpermitted Food Vending Complaints in the Canal Neighborhood (2024–2025*)



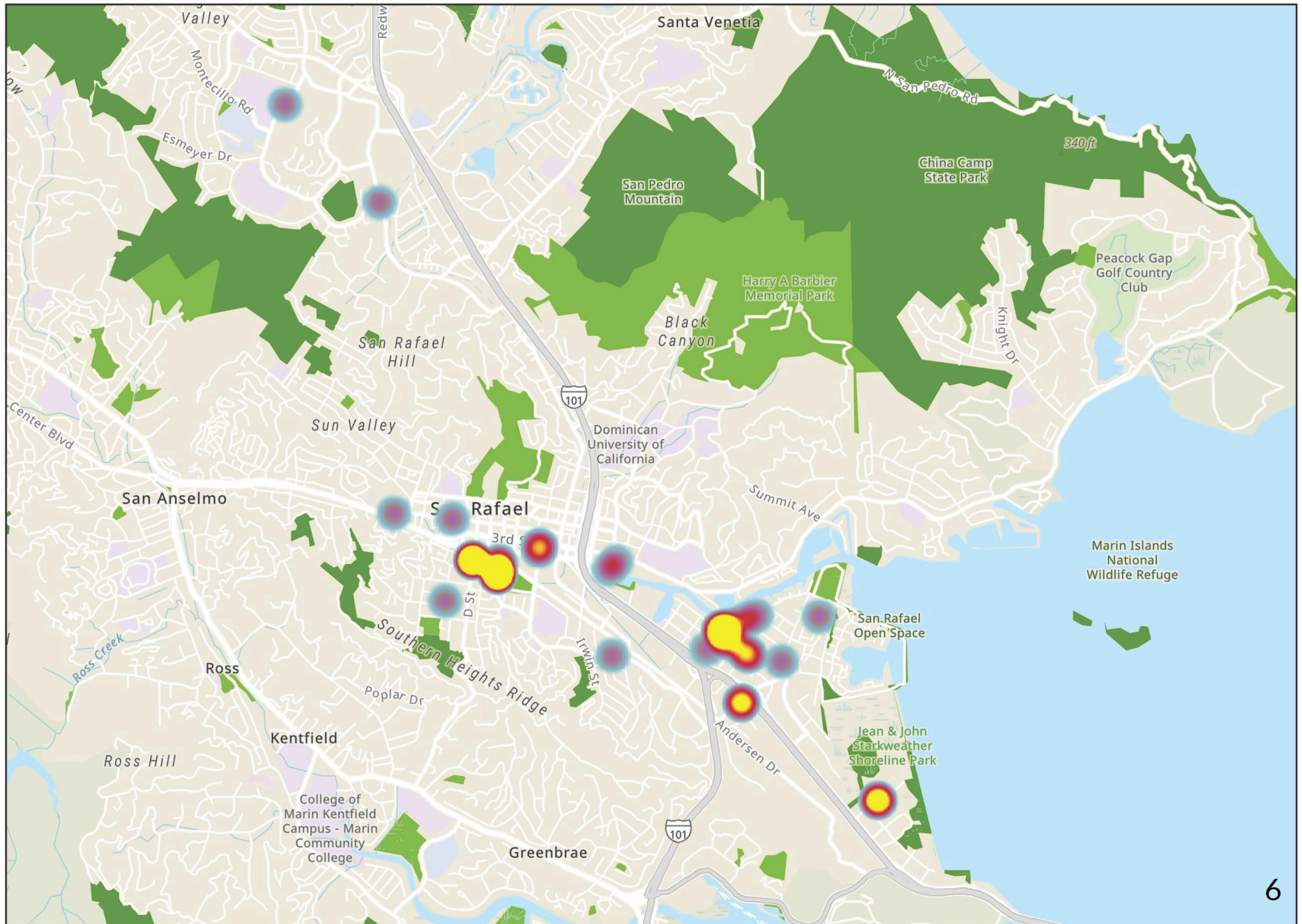
*2025 Data (January - September 2025)

Locations of Reported Unpermitted Food Vending Complaints in Downtown San Rafael (2024–2025*)



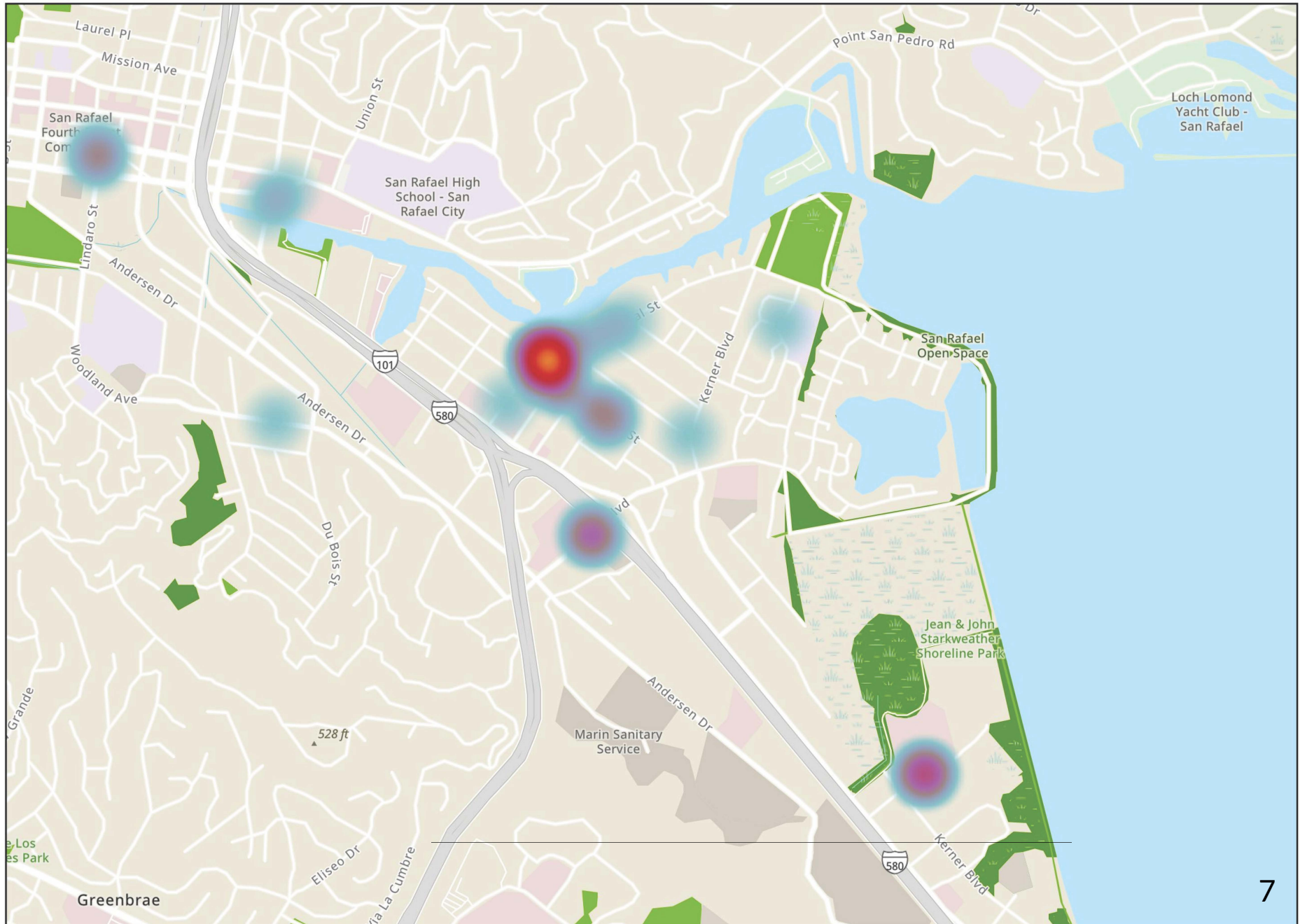
*2025 Data (January - September 2025)

Citywide Heat Map – Reported Unpermitted Food Vending Complaints (2024–2025*)



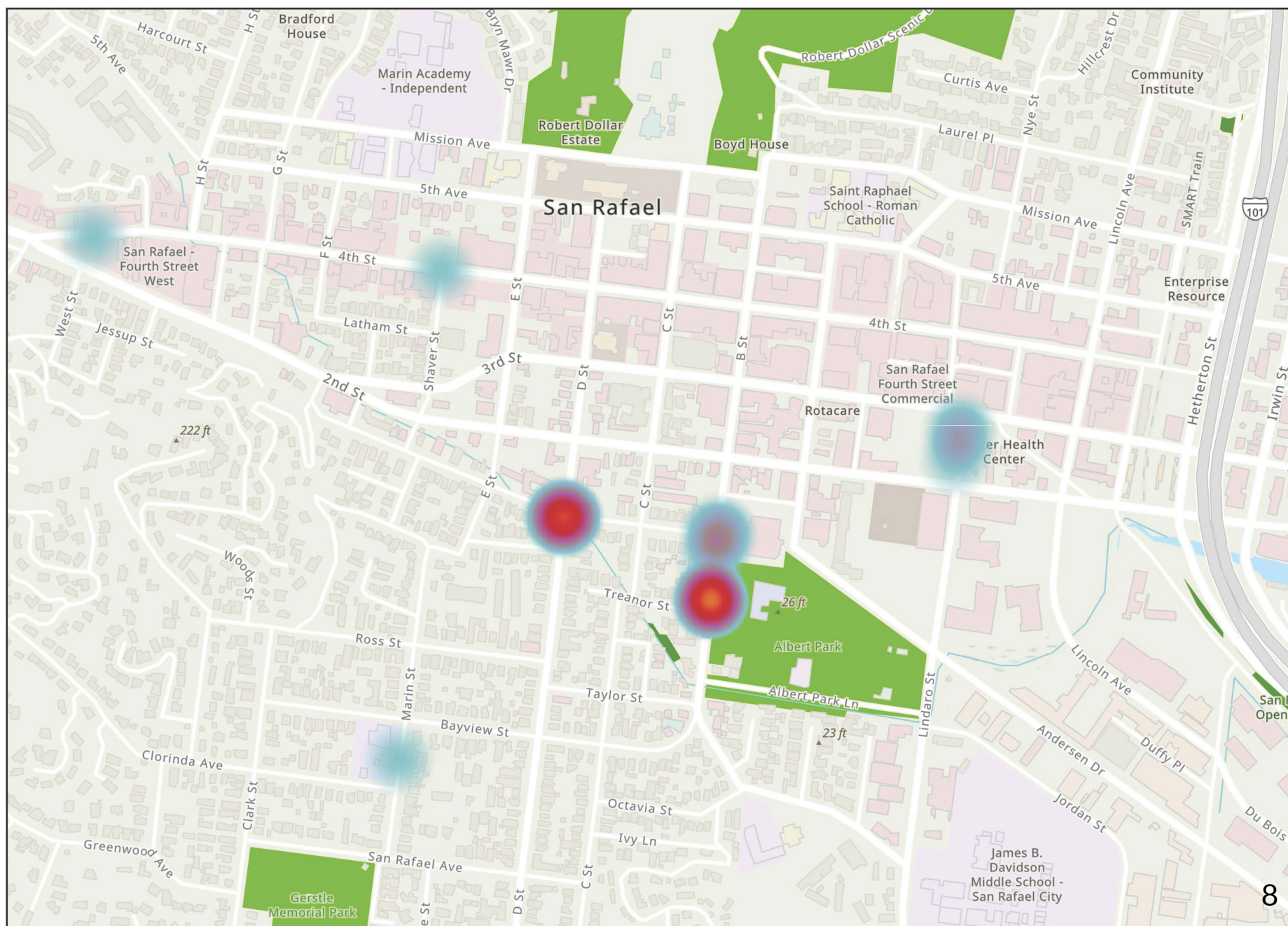
*2025 Data (January - September 2025)

Canal Neighborhood Heat Map – Reported Unpermitted Food Vending Complaints (2024–2025*)



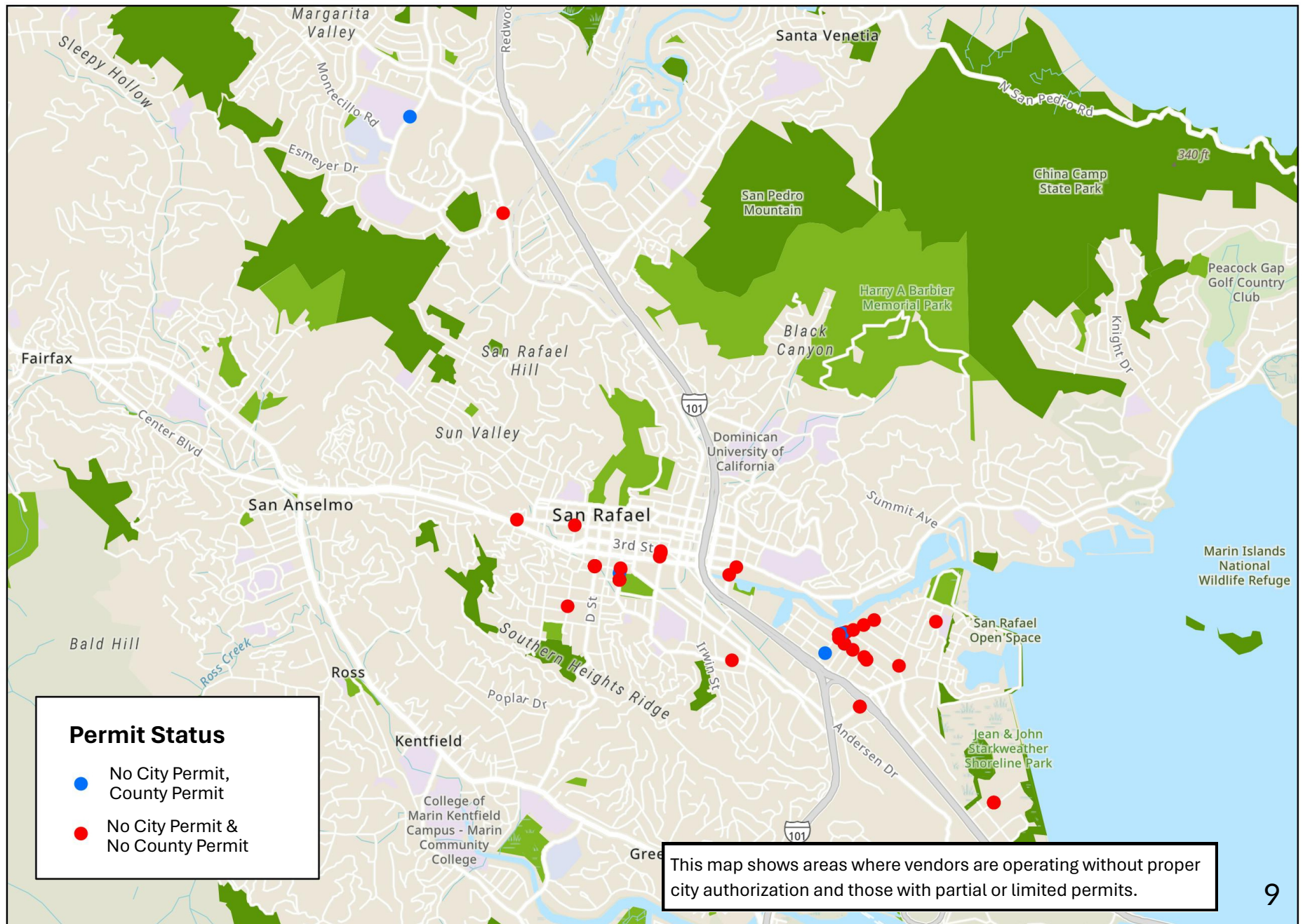
*2025 Data (January - September 2025)

Downtown San Rafael Heat Map – Reported Unpermitted Food Vending Complaints (2024–2025*)



*2025 Data (January - September 2025)

Reported Unpermitted Food Vending Complaints by Permit Type (2024–2025)*



*2025 Data (January - September 2025)

Summary of Proposed Mobile Vending Ordinance

- 10.50.010 Purpose.
 - Identifies that the purpose of the ordinance is to establish a permitting framework for mobile vendors in compliance with state law and makes findings for the necessity of the ordinance and its components.
- 10.50.020 Definitions.
 - Establishes definitions for terms used in the mobile vending ordinance.
- 10.50.030 Permit Required.
 - Establishes that mobile vendors must obtain a mobile vending permit in order to undertake mobile vending activities, unless the mobile vending activity falls within a temporary special event permit.
- 10.50.040 Permit Application.
 - Requires mobile vendors to submit a permit application prior to operating and establishes the basic application requirements.
- 10.50.050 Investigation and Action Upon Permit Application.
 - Outlines the process for reviewing the permit application and the bases for denying an application.
- 10.50.060 Denial of Mobile Vending Permit.
 - Prescribes the process for notifying a permit applicant if their permit application is denied and how they can appeal that determination.
- 10.50.070 Term of Permit and Renewal.
 - Establishes that mobile vending permits are valid for a one-year period and how mobile vendors can renew their permit annually.
- 10.50.080 Permit Non-Transferable.
 - Clarifies that mobile vending permits are not transferable and that applicants must submit a new application upon changes in ownership or vending activity.
- 10.50.090 Conditions and Restrictions Imposed on Permit; Health and Safety Justification.

- Outlines the public health and safety basis for establishing time, place, and manner restrictions on mobile vending.
- 10.50.100 General Mobile Vendor Operating Requirements.
 - Prescribes various operational requirements for mobile vendors. These include complying with state laws, locating prescribed distances from sensitive uses such as fire hydrants, bus stops, entrances and exits, and schools, as well as proper disposal of litter and grease.
- 10.50.110 Stationary Mobile Vendor Operating Requirements.
 - Prohibits stationary vending in residential zones, requires stationary vendors to comply with fire safety, and mandates that stationary vending provide sufficient space in the public right of way for people with disabilities to pass.
 - Allows for vending on private property with consent of the property owner and obtaining a temporary use permit.
- 10.50.120 Operating Requirements for Mobile Vendors Within a Park.
 - Establishes location restrictions for vending in parks and hours of operation.
- 10.50.130 Prohibited Activities.
 - Outlines prohibited activities, such as late night vending and selling of drugs, firearms or stolen goods.
- 10.50.140 Violations and Penalties.
 - Outlines the amount of fines per each violation of the ordinance, which is governed by state law.
- 10.50.150 Ability-to-Pay Determination and Appeals.
 - Provides an option for lower income individuals to request a lower fine upon demonstrating they meet specified poverty criteria, which is defined by state law.
 - Outlines the process for appealing permit suspensions and appeals before an administrative hearing officer.