

**ITEM NO.: I-11  
PUBLIC HEARING: ORDINANCE NO 708,  
AN ORDINANCE TO REPLACE CHAPTER  
5.50 OF THE CORNING MUNICIPAL  
CODE RELATING TO PERMANENT AND  
MOBILE VENDING IN THE CITY OF  
CORNING (First Reading & Introduction)  
March 12, 2024**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: BRANT MESKER, CITY MANAGER  
CHRISSE MEEDS, PLANNER II**

**BACKGROUND:**

At the October 17, 2023, Planning Commission Meeting, staff was directed to research Street Vending Ordinances in other cities. On December 9, 2023, the City Council passed an emergency moratorium on the issuance of mobile vending permits to allow staff time to conduct research and draft new ordinances to separate the Street vending and the Mobile vending.

Since that date, City Staff has conducted research, and attended a roundtable discussion about issues/concerns associated with, or caused by, mobile vending businesses in many cities throughout California. There were more than 200 cities represented in the roundtable discussion that have either just recently updated their mobile vending ordinances or are in the middle of updating ordinances.

Staff put together a list of the most common ideas from other cities for the Planning Commission and City Council to pull from to revise the Mobile Vending Ordinance that will best address the needs we have as a City.

A joint meeting was held between the Planning Commission and the City Council to discuss options within a new mobile food vending ordinance on January 16, 2024.

Ordinance 708 was brought back to City Council as a last study session on February 27<sup>th</sup> with no comment staff has moved forward and has Ordinance 708 before you this evening. If passed all current mobile vendors will be given 30 days from adoption to come into compliance with Ordinance 708.

**RECOMMENDATION:**

- **DIRECT CITY CLERK TO READ THE ORDINANCE BY TITLE; AND**
- **APPROVE ORDINANCE 708 TO REPLACE CHAPTER 5.50 OF THE CORNING MUNICIPAL CODE AND ADOPT ORDINANCE 708, AN ORDINANCE FOR PERMANENT AND MOBILE VENDING IN THE CITY OF CORNING.**

## ORDINANCE NO. 708

### AN ORDINANCE OF THE CITY COUNCIL OF CORNING, CALIFORNIA AMENDING CHAPTER 5.50 OF THE CORNING MUNICIPAL CODE RELATED TO PERMANENT AND MOBILE FOOD TRUCK VENDORS

**WHEREAS**, the City of Corning, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, Article XI, section 7 of the California Constitution grants the City broad discretionary power to “make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws”; and

**WHEREAS**, the City Council finds that mobile vending vehicles, also called food trucks, have been increasingly prevalent in recent years, but can create some health and safety concerns in their operation, including an increase in congestion and may endanger both motorists and the food truck patrons; and

**WHEREAS**, mobile vending businesses also create blight and noise in residential neighborhoods and commercial corridors; and

**WHEREAS**, mobile vending businesses, which includes those selling food, dry goods, and ice cream, attract attention in residential areas and cause residents to congregate around vehicles, often in the street, and frequently blocking or obstructing public roads and/or sidewalks; and

**WHEREAS**, mobile vending businesses have increased problems near schools, parks, and recreational facilities where children are present, and the operator of the mobile vending unit may not have the capacity to move in a timely manner; and

**WHEREAS**, the act of looking for prospective buyers while operating a food vending vehicle may make the operator less attentive to pedestrian and vehicular traffic and when done on public roadways this poses obvious traffic and safety risks to the public, which the City seeks to prevent; and

**WHEREAS**, mobile vendors usually have box like trucks that create line of sight problems for motorists if they are parked within 100 feet of an intersection, and using horns, whistles and other attention-getting sounds, mobile vending businesses can cause noise pollution in residential area; and

**WHEREAS**, for the health, safety, and welfare conditions set forth in this ordinance, the City seeks to regulate the use of mobile vending vehicles, or food trucks, within the City of Corning.

**NOW, THEREFORE**, the City Council of the City of Corning, California does hereby ORDAIN as follows:

Section 1. Chapter 5.50 “STREET VENDING” of Title 5 “BUSINESS TAXES, LICENSES AND REGULATIONS” is hereby repealed and replaced in its entirety with the following:

#### CHAPTER 5.50 – MOBILE VENDING VEHICLES

##### 5.50.010 – Purpose

[TO BE COMPLETED]

## 5.50.020 – Definitions

City- City of Corning

Mobile Truck

Mobile Truck Site- the location of operation of the Mobile Truck, which must be a commercial zoned property.

Vendor- the operator of the Mobile Truck

## 5.50.030 – Semi-Stationary Mobile Truck Requirements

A semi-stationary or semi-permanent Mobile Truck shall comply with the following requirements:

- A.** Mobile Truck Site must have Class-II road base and appropriate lighting.
- B.** Mobile Truck must have access to a toilet and handwashing facility within 200-feet of the Mobile Truck Site (California Retail Food Code) during the Mobile Trucks' business hours. Portable toilets are not allowed.
- C.** Mobile Truck shall not use or permit use of parking spaces on the Mobile Truck Site if doing so will adversely affect the on-site parking available for primary use as determined by the City.
- D.** Hours of operation at an approved Mobile Truck Site shall be no earlier than 7:00 AM and no later than 10:00 PM and the vehicle shall be moved each night out of public view.
- E.** There shall be no more than one motorized Mobile Food Truck within 300-feet of each other.
- F.** Mobile Truck shall be entirely self-sufficient regarding gas, water, and telecommunications.
- G.** The Vendor shall not discharge or allow discharge of items from any Mobile Truck onto the sidewalk, gutter, storm inlets, or streets. The Vendor shall not dispose or allow the disposal of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of the vendor.
- H.** Proof of current vehicle registration and insurance must be maintained by the Vendor of the Mobile Truck at all times.
- I.** Site plan with dimensions, indicating the location of all existing buildings, structures, driveways, parking spaces, traffic controls, and improvements, the location where the proposed vending activity and improvements will be located upon the site.
- J.** No permanent signs are permitted. Vendors may use a sandwich board or one flag sign to advertise if it does not impede the path of travel by foot, bicycle, vehicle and shall not be placed in the City right of way.
- K.** Mobile Trucks shall only operate at the location approved by the City.
- L.** Mobile vendors shall ensure that all customer queuing, waiting areas or lines do not block, hinder, interfere with pedestrian thoroughfare of a minimum of 48 inches of accessible path or travel on the sidewalk or vehicular traffic along, over, or across public or private property.
- M.** Mobile vendors shall not use any portable cooking equipment, gas fueled appliance, wood burning ovens, or any open flame unless approved and permitted

by the Fire Chief at the Corning Volunteer Fire Department and the County Environmental Health Department.

- N.** 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, road work or related work on a capital improvement project, the City may temporarily require the Mobile Truck to relocate to another location to protect the public's safety, health, or welfare.
- O.** Vendors shall not sell or vend any of the following pursuant to this Chapter:
  - 1. live animals,
  - 2. adult oriented material depicting, describing, or relating to anatomical areas or specified sexual activities,
  - 3. alcohol, Cannabis, Marijuana, or tobacco products that contain nicotine or any product used to smoke (or vape) nicotine, cannabis, or marijuana.
  - 4. weapons, including knives, guns, or explosive devices; airsoft guns, paintball guns, BB devices or imitation firearms.
  - 5. pharmaceuticals, Illegal or counterfeit merchandise, or any other food or merchandise or products prohibited by local, state, and federal laws.
  - 6. mobile Vendors are not allowed to use or operate or permit to be played, used, or operated, any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing of sound including horns, bells, whistles, or any other noise making device.
- P.** Mobile Truck shall not be allowed to park within 300 feet of a brick-and-mortar food/drink service business.
- Q.** Mobile Truck shall not be allowed to park within 500-feet of a school, farmer's market, special event, place of worship, child day care facility, recreation facility, or City Park without written consent from the property owner.
- R.** Mobile Truck shall not be allowed to do business in any location where the posted speed limit is greater than 35 mph. unless a turning lane is established.
- S.** Only one mobile vendor is allowed on any one individual private property at any given time.
- T.** All Mobile vendors are required to apply for a Conditional Use Permit and have their case heard in front of the Planning Commission.
- U.** No mobile vending in a residential zone.
- V.** All current Mobile Trucks in existence prior to enactment of this ordinance will be considered permissible non-compliant uses.
- W.** If a mobile vendor leaves a grandfathered location for more than 30 days the grandfathered location becomes void.

#### 5.50.40 – Non-Stationary Mobile Truck Requirements

- A.** Mobile vendors shall only conduct vending operations in the area or route approved by the City.
- B.** Any mobile vendor that is vending in the City for longer than one hour during any 24-hour period must be legally parked within 200-feet of a readily available restroom that has been approved by the City. The mobile vendor operator must provide written evidence to the City that they have permission for the use of the restrooms.

- C. Any mobile vending vehicle in a residential zone shall move continuously except when necessary to complete a sales transaction but must not exceed a maximum of 10 minutes.
- D. Vending may only occur when the mobile vending vehicle is legally parked. Mobile vendors shall comply with the California Vehicle Code along with Title 10 (vehicles and traffic) and Title 12 of the Corning Municipal Code (streets, sidewalks, and public places) including all posted signage related to parking, stopping, standing, loading/unloading zones, fire lanes, red curbs and or any other restrictions always.
- E. Mobile vending vehicles shall park in a manner which ensures that customers shall be able to order and pick up safely without stepping into a parking space, into a street, or into a landscaped area.
- F. Mobile vendors shall not utilize portable generators unless approved by the Fire Chief of the Corning Volunteer Fire Department.
- G. Mobile vendors shall only use a minimum number of light fixtures necessary for safe operation of the mobile vending activity. The mobile vendor shall not display flashing neon or electric display signs so as not to distract drivers and draw attention to the mobile vendor.
- H. For public safety concerns, including but not limited to pedestrian, vehicular, public, and mobile vendor safety, no mobile vending vehicle shall stop, park, or stand to make a sales transaction from the following locations, or within the number of feet designated below from the nearest portion of the following locations:
  - 1. Within 50 feet of any street intersection
  - 2. Within 50 feet of any traffic control device (including traffic signals and traffic signs)
  - 3. Within 50 feet of a fire hydrant.
  - 4. On any designated emergency vehicle access way
  - 5. Within 50 feet of any driveway or driveway apron
  - 6. Within 50 feet of a marked crosswalk
  - 7. Within 50 feet of a curb return or curb ramp
  - 8. Within 50 feet of any loading or unloading zone, parking space, or access ramp or parking space designed for individuals with disabilities.
  - 9. Within 50 feet of a bus stop, taxi stand, bus bench or bus shelter.
  - 10. Within 50 feet of any entrance, fire escape or emergency exit of any business during the hours that business is open to the public.
  - 11. Within 50 feet of another mobile vendor or sidewalk vendor
  - 12. Within 50 feet of a parking lot
  - 13. Within 50 feet of any railroad crossing or train tracks
  - 14. Within 50 feet of any outdoor dining
  - 15. Within 500 feet of any Emergency Operations Center
  - 16. When the posted speed limit is greater than 25 mph.
- I. Mobile Vending at an active Construction site is allowed as long as the active construction site that has a valid City building permit in a commercial, Industrial or Residential zone with written consent from the person who is legally in control of the property where the lawful construction activity with a valid City building permit has been issued for the property. The sole purpose of the mobile vendor is exclusively for the vending to the construction employees. The mobile vendor may not be parked for more than one hour and must be parked on private property.

#### 5.50.50 – Exemptions to Mobile Truck Requirements

- A.** This Chapter shall not apply to a person delivering goods, wares, merchandise, groceries, or prepared foods upon order of, or by agreement with, a customer from a fixed store, restaurant, or other fixed place of business, distribution, or warehouse.
- B.** This shall not apply to mobile vendors participating in any organized community event or a sidewalk vendor licensed through the City pursuant to Chapter 12.35 of the Corning Municipal Code.
- C.** The City may review and approve mobile vending activities as part of a special event and/or as a concessionaire conducted by a permitted mobile vendor on City property operated under the rules and regulations of this chapter.
- D.** This shall not apply to any mobile food truck currently doing business in the City at the time this ordinance goes into effect. Once a non-conforming truck moves from its location for more than 30 days its permissible non-conforming status will be extinguished for that location.

#### 5.50.060 - Mobile Truck Applicable Process

Every person, prior to engaging in, conducting, operating, maintaining, advertising, or carrying on the business as a mobile vendor (Semi Permanent, Moving, or Sidewalk Vending) shall file an application with the City. Such application shall be accompanied by a non-refundable permit application fee in the amount established by resolution of the City Council, and shall contain, at a minimum, the following information:

- A.** The legal name, date of birth, current mailing address and telephone number of the operator who will be solely responsible for the Mobile Vending Vehicle Permit regardless of that person being employed or engaged by another individual or a business or using a mobile vending vehicle owned by another individual or a business. The operator must be at least 18 years old.
- B.** If the operator is an agent of an individual, company, partnership, corporation, or other entity, the name, current telephone, email, and business address of the principal.
- C.** A copy of the operator's government-issued photo Identification, California driver license or identification number, which shall not be available to the public and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order.
- D.** The legal name, date of birth, current mailing address and telephone number of all persons who will be employed by the operator who will work as a mobile vendor.
- E.** A copy of any employee's government-issued photo Identification, California driver license or identification number, which shall not be available to the public and shall not be disclosed except as required to administer the permit or comply with a state law or state or federal court order.
- F.** Whether the operator tends to vend food, merchandise, or both.
- G.** If the mobile vendor is selling food, a description of the type of food to be sold, and whether such foods are prepared onsite or are prepackaged offsite.
- H.** If selling merchandise, a description of the merchandise to be sold.
- I.** The hours of operation per day and the day(s) per week which the operator proposes for vending activities.
- J.** Vehicle make, model, year, body type, license plate number, VIN.

- K.** If handling food, a certification of a food handler course
- L.** The operator shall maintain and provide proof of insurance with a minimum policy of one million per occurrence.

#### 5.50.070 – City Review of Application

- A.** The City shall determine within 30 calendar days review of the submission of any Mobile Vending Permit to determine if the application contains all the required documentation. Any application that is missing required documentation or is not accompanied by the required fee shall be deemed incomplete and will not be processed.
- B.** Investigation and Findings, upon receipt of a complete Mobile Vending Permit application the City shall conduct a thorough investigation of the application and shall make a determination upon the application in 30 days. The City may request supplemental information to make a determination.
- C.** The City shall approve the issuance of a mobile vending permit unless it is determined that any of the following disqualifications exist:
  - 1.** The operator has failed to submit any of the information, documentation, or fees required.
  - 2.** The operator does not possess all federal, state, and local permits, licenses, certificates, and/or approvals required to engage in the activity subject to the permit.
  - 3.** The operator has made one or more materially false, misleading, or fraudulent misstatements or misrepresentations in the application or supplemental information.
  - 4.** The conduct of the mobile vendor will unduly interfere with traffic or residents to the quiet and peaceful enjoyment of their property, or otherwise be detrimental to the public peace, health, safety, or general welfare.
  - 5.** The conduct of such mobile vending will require the diversion of police officers or firemen.

#### 5.50.080 – Denial of Permit

If a Mobile Vending Permit is denied, the operator will receive a written letter of notification along with the grounds for denial and will be mailed to the operator address listed on the application.

#### 5.50.090 – Term of Permit

A mobile vending permit shall automatically expire at the end of the year issued.

Any operator who has been issued a Mobile Vending Permit and seeks to continue vending must renew it before the end of January 31. If not renewed prior to Jan 31 the Mobile Vending Permit will become null and void.

#### 5.50.100 – Appeal of Denial or Revocation

- A.** Any person who has been denied a Mobile Vending Permit or who has had a mobile vending permit revoked may appeal such determination to the City Council, by filing a request for an appeal with the City Clerk and tendering a filing and appeal fee as set by resolution of the City Council, within 30 days of notice.
- B.** Appeals shall be in writing addressed to the City Clerk and include name, current mailing address, and telephone number of the appellant, the date of the denial or

revocation letter, a statement as to all grounds for appeal in sufficient detail to enable the City Council to understand the nature of the controversy and a signature of the appellant under penalty of perjury as to the contents of the request for appeal.

- C.** An appeal should be scheduled for a public hearing within 30 days.
- D.** The City shall give notice to the appellant of the hearing time and location of the hearing.
- E.** If the City Council chooses to overturn the decision, they shall state the specific reasons for the reversal.

#### 5.50.110 – Conditions on Mobile Truck Permit

- 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.
- B.** The conditions, restrictions and operating requirements set forth in this chapter are intended to protect the health, welfare and public 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 right-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 which is more likely to generate crowding on public sidewalks that would impede pedestrians and accessible use of sidewalks by disabled persons.
  - 6.** Reducing the chance pedestrians will enter vehicular right of ways or block the entrance or exit to a business.
  - 7.** Reducing the danger that children will enter into traffic and be injured or killed trying to reach a vendor especially near schools, day care facilities, parks and recreational facilities.
  - 8.** Reducing unnecessary or unanticipated slowing of vehicles approaching on-ramps, immediately adjacent to curb and sidewalk, or exiting freeway off-ramps where drivers are merging into oncoming traffic which is likely to cause accidents.
  - 9.** Reducing the possibility that drivers will be distracted in their line of site by a vendor in the way of oncoming traffic.
  - 10.** Causing visual distraction to the driving public such as lighting.
  - 11.** Causing excessive noise that disturbs the peace.
  - 12.** Eliminating litter, refuse and food waste from the public right of way and
  - 13.** Reducing the likelihood of contamination deposited into the City’s storm drain system.

#### 5.50.120 – Enforcement

- A.** Violations deemed a nuisance. It is unlawful and declared a public nuisance for any owner, operator, person to operate, conduct, or maintain a mobile vending vehicle contrary to the provisions of this chapter.



- B.** Any owner, operator or person who violates any provision of this chapter is guilty of a misdemeanor punishable by a fine of up to \$1,000.00, or by imprisonment in the County jail not exceeding 6 months, or by both; except the District Attorney, in their discretion, may prosecute a violation of this chapter as an infraction subject to the penalties in this code.
- C.** Administrative citations may be issued for violations of the provisions of this chapter.

**SECTION 2. CEQA.** The City Council finds and determines for the reasons stated in the recitals, that adoption of this Ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) of the CEQA Guidelines.

**Section 3.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council held on the 12<sup>th</sup> day of March, 2024

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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**Robert Snow, Mayor**

**ATTEST:**

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**Lisa M. Linnet, City Clerk**